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

FORM 10-Q

(Mark One)

☒ **Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended June 30, 2009

OR

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Commission File Number: 0-19756

PDL BIOPHARMA, INC.
(Exact name of registrant as specified in its charter)

Delaware	**94-3023969**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

932 Southwood Boulevard
Incline Village, Nevada 89451
(Address of principal executive offices and Zip Code)

(775) 832-8500
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days: Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒	Accelerated filer ☐	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of July 28, 2009, there were 119,506,826 shares of the Registrant's Common Stock outstanding.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

PDL BIOPHARMA, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)
(in thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Revenues				
Royalties	$113,403	$105,782	$175,701	$ 155,970
License and other	12,461	750	12,785	750
Total revenues	125,864	106,532	188,486	156,720
General and administrative expenses	5,590	10,925	10,283	23,634
Operating income	120,274	95,607	178,203	133,086
Gain on repurchase of convertible notes	1,195	—	1,195	—
Interest and other income, net	310	4,467	646	9,331
Interest expense	(3,357)	(3,555)	(6,931)	(7,110)
Income from continuing operations before income taxes	118,422	96,519	173,113	135,307
Income tax expense	41,185	1,673	58,419	2,707
Income from continuing operations	77,237	94,846	114,694	132,600
Loss from discontinued operations, net of income taxes (Note 12)	—	(60,914)	—	(160,543)
Net income (loss)	$ 77,237	$ 33,932	$114,694	$ (27,943)
Income (loss) per basic share				
Continuing operations	$ 0.65	$ 0.80	$ 0.96	$ 1.12
Discontinued operations	—	(0.51)	—	(1.36)
Net income (loss) per basic share	$ 0.65	$ 0.29	$ 0.96	$ (0.24)
Income (loss) per diluted share				
Continuing operations	$ 0.47	$ 0.63	$ 0.69	$ 0.90
Discontinued operations	—	(0.39)	—	(1.06)
Net income (loss) per diluted share	$ 0.47	$ 0.24	$ 0.69	$ (0.16)
Cash dividends declared per common share	$ —	$ —	$ 1.00	$ —
Shares used to compute income (loss) per basic share	119,357	118,827	119,342	118,176
Shares used to compute income (loss) per diluted share	169,566	152,455	171,053	152,056

See accompanying notes.

PDL BIOPHARMA, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	June 30, 2009 (unaudited)	December 31, 2008 (Note 1)
Assets		
Current assets:		
Cash and cash equivalents	$ 174,433	$ 129,058
Restricted cash	—	3,469
Short-term investments	18,269	15,000
Receivables from licensees	150	13,500
Deferred tax assets	12,489	17,996
Prepaid and other current assets	2,400	1,658
Total current assets	207,741	180,681
Property and equipment, net	239	1,123
Long-term deferred tax assets	3,914	3,913
Other assets	6,001	5,425
Total assets	$ 217,895	$ 191,142
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable	$ —	$ 1,717
Accrued compensation	1,802	7,856
Accrued interest	3,900	4,434
Other accrued liabilities	2,154	17,406
Deferred revenue	—	100
Dividends payable	59,821	—
Total current liabilities	67,677	31,513
Convertible notes payable	445,000	499,998
Long-term deferred revenue	1,500	1,500
Other long-term liabilities	10,700	10,700
Total liabilities	524,877	543,711
Stockholders' deficit:		
Common stock, par value $0.01 per share, 250,000 shares authorized; 119,357 and 119,305 shares issued and outstanding at June 30, 2009 and December 31, 2008, respectively	1,194	1,193
Additional paid-in capital	100,088	169,196
Accumulated deficit	(408,264)	(522,958)
Total stockholders' deficit	(306,982)	(352,569)
Total liabilities and stockholders' deficit	$ 217,895	$ 191,142

See accompanying notes.

PDL BIOPHARMA, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Six Months Ended June 30,	
	2009	2008
Cash flows from operating activities		
Net income (loss)	$ 114,694	$ (27,943)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Asset impairment charges	—	3,785
Depreciation expense	923	12,763
Amortization of convertible notes offering costs	1,141	1,172
Amortization of intangible assets	—	824
Gain on repurchase of convertible notes	(1,195)	—
Loss on sale of assets, net	—	14,897
Stock-based compensation expense	402	8,429
Loss on disposal of equipment	—	150
Tax benefit from stock-based compensation arrangements	50,664	30,372
Net excess tax benefit from stock-based compensation	(56,753)	(29,709)
Changes in assets and liabilities:		
Accounts receivable, net	—	17,200
Receivables from licensees	13,350	—
Prepaid and other current assets	(742)	(6,448)
Deferred tax asset	4,577	—
Other assets	—	573
Accounts payable	(1,717)	(7,030)
Other accrued liabilities	(21,871)	(14,886)
Other long-term liabilities	—	5,835
Deferred revenue	(100)	(2,470)
Total adjustments	(11,321)	35,457
Net cash provided by operating activities	103,373	7,514
Cash flows from investing activities		
Purchases of investments	(3,269)	(292)
Maturities of investments	—	58,066
Sale of commercial assets	—	272,945
Sale of manufacturing assets	—	236,560
Purchase of property and equipment	(39)	(2,434)
Release of restricted cash	3,469	10,000
Net cash provided by investing activities	161	574,845
Cash flows from financing activities		
Proceeds from issuance of common stock, net of cancellations	256	15,631
Dividend paid	(59,679)	(506,382)
Repurchase of convertible notes	(53,462)	—
Payments for debt issuance costs	(2,027)	—
Payments on other long-term liabilities	—	(342)
Net excess tax benefit from stock-based compensation	56,753	29,709
Net cash used in financing activities	(58,159)	(461,384)
Net increase in cash and cash equivalents	45,375	120,975
Cash and cash equivalents at beginning of the period	129,058	340,634
Cash and cash equivalents at end of the period	$ 174,433	$ 461,609

See accompanying notes.

PDL BIOPHARMA, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
June 30, 2009
(unaudited)

1. Summary of Significant Accounting Policies

Organization and Business

We were organized as a Delaware corporation in 1986 as Protein Design Labs, Inc. and, in 2006, we changed our name to PDL BioPharma, Inc. Our business is the management of antibody humanization patents and royalty assets which consist of our Queen et al. patents and our license agreements with numerous biotechnology and pharmaceutical companies. We receive royalties based on sales of humanized antibody products pursuant to certain rights we have licensed under our patents and may also receive royalty payments on new humanized antibody products launched before final patent expiry in 2014. Generally, our license agreements cover antibodies targeting antigens specified in the license agreements.

Under most of our licensing agreements, we are entitled to receive a flat-rate royalty based upon our licensees' net sales of covered antibodies. These licensing agreements have contributed to the development of nine marketed products by our licensees. Eight of these products are currently approved for use by the U.S. Food and Drug Administration (FDA) and eight are approved for use by other regulatory agencies outside the United States. We have also entered into licensing agreements pursuant to which we have licensed certain rights under our patents for development stage products that have not yet reached commercialization including products that are currently in Phase III clinical trials.

Until December 2008, our business included biotechnology operations which were focused on the discovery and development of novel antibodies which we spun off (the Spin-Off) to Facet Biotech Corporation (Facet). From March 2005 until March 2008, we also had commercial operations consisting of the manufacture and sale of commercial products (the Commercial Assets) and development stage products which we partially divested in 2006 and fully divested in 2008. The financial results of our former commercial and biotechnology operations are presented as discontinued operations in the Condensed Consolidated Statement of Operations. For further information, see Note 12.

Basis of Presentation

The accompanying condensed consolidated financial statements are unaudited, but include adjustments (consisting only of normal, recurring adjustments) that we consider necessary for a fair presentation of our financial position at June 30, 2009 and December 31, 2008, the operating results for the three and six months ended June 30, 2009 and 2008, and the cash flows for the six months ended June 30, 2009 and 2008. Certain information normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States (GAAP) has been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission (SEC) for quarterly reporting. The Company has evaluated subsequent events through July 30, 2009, which is the date these financial statements and Form 10-Q have been filed with the SEC. No material subsequent events have occurred since June 30, 2009 that required recognition or disclosure in these financial statements.

The information included in this Quarterly Report on Form 10-Q should be read in conjunction with the consolidated financial statements and accompanying notes included in our Annual Report on Form 10-K for the year ended December 31, 2008 filed with the SEC. The Condensed Consolidated Balance Sheet as of December 31, 2008 is derived from our audited consolidated financial statements as of that date.

Our revenues, expenses, assets and liabilities vary during each quarter of the year. Therefore, the results and trends in these interim condensed consolidated financial statements may not be indicative of results for any other interim period or for the entire year. For example, we receive a substantial portion of our royalty revenues on sales of the product Synagis®, marketed by MedImmune, LLC, a subsidiary of AstraZeneca plc (MedImmune) in our first and second quarters.

Additionally, our master patent license agreement with Genentech, Inc. (Genentech), a subsidiary of F. Hoffman-La Roche Ltd. (Roche), provides for a royalty structure that has four tiers under which the royalty rate paid by Genentech on royalty-bearing products sold in the United States or manufactured in the United States and sold elsewhere (U.S.-based Sales) in a given calendar year decreases during that year on incremental U.S.-based Sales above certain net sales thresholds. As a result, Genentech's average annual royalty rate during a year declines as Genentech's cumulative U.S.-based Sales increase during that year. Because we receive royalties one quarter in arrears, the average royalty rate for payments we receive from Genentech in the second calendar quarter for Genentech's sales from the first calendar quarter is higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech is generally lowest in the fourth and first calendar quarters for Genentech's sales from the third and fourth calendar quarters when Genentech's U.S.-based Sales bear royalties at the lowest royalty rate. With respect to royalty-bearing products that are both manufactured and sold outside of the United States (ex-U.S.-based Manufacturing and Sales), the royalty rate that we receive from Genentech is a fixed rate based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales as well as the manufacturing location are outside of our control and have fluctuated in the past and may continue to fluctuate in the future, particularly in light of the recent acquisition of Genentech by Roche. For example, in July 2009 Roche announced its decision to partially close its manufacturing site in Vacaville, California.

Principles of Consolidation

Prior to the divestiture of our commercial and biotechnology operations, the consolidated financial statements include the accounts of PDL BioPharma, Inc. and its wholly-owned subsidiaries after elimination of inter-company accounts and transactions. Subsequent to the divestitures, PDL no longer has any wholly-owned subsidiaries.

Management Estimates

The preparation of financial statements in conformity with GAAP requires the use of management's estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Customer Concentration

The following table summarizes revenues from our licensees' products which individually accounted for 10% or more of our total revenues from continuing operations for the three and six months ended June 30, 2009 and 2008:

		Three Months Ended June 30,		Six Months Ended June 30,	
Licensee	Product Name	2009	2008	2009	2008
Genentech	*Avastin*®	28%	29%	26%	26%
	Herceptin®	26%	32%	26%	31%
	Lucentis®	10%	10%	9%	9%
MedImmune	*Synagis*®	15%	16%	19%	21%

In December 2008, MedImmune brought suit seeking a declaratory judgment that it is not liable to pay a royalty to us on sales of Synagis and a second generation product, when approved, because the Queen et al. patents are not valid or not infringed. In February 2009, we received a letter from MedImmune asserting that it may be entitled to pay a lower royalty rate on sales of its product, Synagis, because of our settlement with Alexion Pharmaceuticals, Inc. (Alexion). In April of 2009, we sent a letter notifying MedImmune of the exercise of certain rights under our license agreement, the exercise of which we believe precludes MedImmune from being entitled to a lower royalty rate based on the Alexion settlement. In the event that MedImmune prevails on the claims in its December 2008 complaint, we expect that MedImmune would request the court to order a recoupment of payments made to PDL which represent obligations under its license to the Queen et al. patents that have accrued since the date of their claim. If MedImmune is successful in showing that it has made payments to PDL at a higher royalty rate than required pursuant to its license obligations, we expect that MedImmune would request the court to order recoupment of such excess payments. No amounts have been accrued as of June 30, 2009 related to this contingency.

Reclassification

Certain amounts in the prior year's condensed consolidated financial statements have been reclassified to conform to the current year's presentation. The reclassification had no impact on the previously reported net income.

Recent Accounting Pronouncements

In June 2009, the Financial Accounting Standards Board (FASB) issued SFAS No. 168, "The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles – A Replacement of FASB Statement No. 162" (SFAS 168). SFAS 168 establishes the *FASB Accounting Standards Codification™* (the Codification) as the single source of authoritative U.S. generally accepted accounting principles (U.S. GAAP) recognized by the FASB to be applied by nongovernmental entities. Rules and interpretive releases of the SEC under authority of federal securities laws are also sources of authoritative U.S. GAAP for SEC registrants. SFAS 168 and the Codification are effective for financial statements issued for interim and annual periods ending after September 15, 2009. When effective, the Codification will supersede all existing non-SEC accounting and reporting standards. All other nongrandfathered non-SEC accounting literature not included in the Codification will become nonauthoritative. Following SFAS 168, the FASB will not issue new standards in the form of Statements, FASB Staff Positions, or Emerging Issues Task Force Abstracts. Instead, the FASB will issue Accounting Standards Updates, which will serve only to: (*a*) update the Codification; (*b*) provide background information about the guidance; and (*c*) provide the bases for conclusions on the change(s) in the Codification. The adoption of SFAS 168 will not have a material impact on the Company's consolidated financial statements.

In May 2009, the FASB issued Statement of Financial Accounting Standards (SFAS) No. 165, “Subsequent Events” (SFAS No. 165), which establishes the accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. It requires the Company to disclose the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The provisions of SFAS No. 165 are effective for interim or annual financial periods ending after June 15, 2009. Upon adoption, there was no material impact on the Company’s financial statements.

In April 2009, the FASB issued FASB Staff Position (FSP) No. 115-2 and FAS 124-2, “Recognition and Presentation of Other-Than-Temporary Impairments” (FSP SFAS No. 115-2 and FAS 124-2), which requires the Company to disclose information for interim and annual periods that enables users of its financial statements to understand the types of available-for-sale and held-to-maturity debt and equity securities held, including information about investments in an unrealized loss position for which an other-than-temporary impairment has or has not been recognized. The provisions of FSP SFAS No. 115-2 and FAS 124-2 are effective for interim reporting periods ending after June 15, 2009. Upon adoption, there was no material impact on the Company’s financial statements.

In April 2009, the FASB issued FSP No. FAS 107-1 and APB 28-1, “Interim Disclosures about Fair Value of Financial Instruments” (FSP SFAS No. 107-1 and APB 28-1), which requires publicly traded companies to include disclosures about the fair value of its financial instruments whenever it issues summarized financial information for interim reporting periods. The provisions of FSP SFAS No. 107-1 and APB 28-1 are effective for interim reporting periods ending after June 15, 2009. Upon adoption, there was no material impact on the Company’s financial statements or related disclosures.

2. Stock-Based Compensation

Stock-based compensation expense recognized under SFAS No. 123, “Share-Based Payment (Revised 2004)” (SFAS No. 123(R)) for employees and directors was as follows:

(in thousands)	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008
General and administrative	$ 200	$ 226	$ 384	$ 624
Discontinued operations	—	2,054	—	7,804
Total stock-based compensation expense	200	2,280	384	8,428
Tax benefit related to current year stock-based compensation	(70)	—	(134)	—
Stock-based compensation expense included in net income (loss)	$ 130	$ 2,280	$ 250	$ 8,428

Stock-based compensation expense for the three and six months ended June 30, 2008 included stock option modification charges totaling $0.7 million and $4.5 million, respectively. These stock option modification charges resulted from accelerated vesting and extended exercise periods for certain stock options in connection with the termination of certain employees due to restructuring and the divestiture of our commercial and biotechnology operations. See Note 12 for further information.

Stock Option Activity

Stock option activity for the period is summarized below:

(in thousands)	Stock Options: Number of Shares	Stock Options: Weighted Average Exercise Price
Outstanding as of December 31, 2008	5,776	$ 18.04
Exercised	(53)	$ 4.87
Forefeited	(3,946)	$ 17.91
Outstanding as of June 30, 2009	1,777	$ 18.72
Exercisable as of June 30, 2009	1,730	$ 19.07

Excluding potential forfeitures, total unrecognized compensation cost for unvested stock options outstanding as of June 30, 2009 that we expect to recognize over a weighted-average period of one year was $0.1 million.

Restricted Stock Activity

Restricted stock activity for the period is summarized below:

(in thousands)	Restricted Stock	
	Number of Shares	Weighted Average Grant Date Fair value
Unvested at December 31, 2008	—	$ —
Awards granted	154	$ 6.48
Awards forfeited	(4)	$ 6.36
Unvested at June 30, 2009	150	$ 6.48

Excluding potential forfeitures, total unrecognized compensation cost for unvested restricted stock outstanding as of June 30, 2009 that we expect to recognize over a weighted-average period of 1.3 years was $0.8 million.

Stock-Based Incentive Plans

In June 2009, our stockholders approved amendments to the Company's 2005 Equity Incentive Plan to expand persons eligible to participate in the plan to include our outside directors.

In April 2009, our Compensation Committee reviewed the number of available shares in our four active stock-based incentive plans in light of the fewer number of employees subsequent to the spin-off and approved the reduction in the number of available shares for the 1999 Stock Option Plan and the 1999 Non-statutory Option Plan by 4.2 million and 5.9 million, respectively. In addition, in February 2009, our Compensation Committee terminated the 2002 Outside Directors Stock Option Plan, subject to any outstanding options. The total number of shares of common stock authorized for issuance, shares of common stock issued upon exercise of options or as restricted stock that have vested and are no longer subject to forfeiture, shares subject to outstanding awards and available for grant under each of these plans as of June 30, 2009 after the reduction in the number of available shares is set forth in the table below:

Title of Plan	Total Shares of Common Stock Authorized	Total Shares of Common Stock Issued	Total Shares of Common Stock Subject to Outstanding Awards	Total Shares of Common Stock Available for Grant
2005 Equity Incentive Plan[1]	5,200,000	310,525	—	4,889,475
2002 Outside Directors Stock Option Plan[2]	239,500	73,250	166,250	—
1999 Non-statutory Stock Option Plan	5,075,707	4,966,183	109,524	—
1999 Stock Option Plan	5,409,642	3,559,904	1,500,815	348,923
1991 Nonstatutory Stock Option Plan[3]	13,994,479	13,994,479	—	—
	29,919,328	22,904,341	1,776,589	5,238,398

(1) As of June 30, 2009, there were 149,687 shares of unvested restricted stock awards outstanding.

(2) This plan was terminated in 2009 subject to options outstanding under this plan.

(3) This plan expired in 2001 and we no longer may grant awards under this plan.

Employee Stock Purchase Plan (ESPP)

The stock-based compensation expense in connection with our ESPP was zero and $0.3 million for the three and six months ended June 30, 2008, respectively. No shares were purchased during the three and six months ended June 30, 2009. At its June 3, 2009 meeting, the Company's Compensation Committee terminated the Company's ESPP.

3. Net Income (Loss) per Share

In accordance with SFAS No. 128, "Earnings per Share" (SFAS 128), we compute basic net income (loss) per share using the weighted-average number of shares of common stock outstanding during the periods presented less the weighted-average number of shares of restricted stock that are subject to repurchase. We compute diluted net income (loss) per share for our continuing operations using the sum of the weighted-average number of common and common equivalent shares outstanding. Common equivalent shares used in the computation of diluted net income per share result from the assumed exercise of stock options, the issuance of restricted stock, the assumed issuance of common shares under our ESPP using the treasury stock method, and the assumed conversion of our 2.00%, Convertible Senior Notes (the 2012 Notes) and our 2.75%, Convertible Subordinated Notes (the 2023 Notes), including both the effect on interest expense and the inclusion of the underlying shares using the if-converted method. Following is a reconciliation of the numerators and denominators of the basic and diluted income from continuing operations per share computations for the three and six months ended June 30, 2009 and 2008:

(in thousands)	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008
Numerator				
Income from continuing operations used to compute income per basic share from continuing operations	$ 77,237	$ 94,846	$ 114,694	$ 132,600
Add back interest expense for convertible notes, net of estimated tax of $1.0 million and $1.1 million for the three months ended June 30, 2009 and 2008, respectively, and $2.0 million and $2.1 million for the six months ended June 30, 2009 and 2008, respectively (see Note 9)	1,819	1,915	3,761	3,830
Income used to compute income from continuing operations per diluted share	$ 79,056	$ 96,761	$ 118,455	$ 136,430
Net income (loss)	$ 77,237	$ 33,932	$ 114,694	$ (27,943)
Add back interest expense for convertible notes, net of estimated tax of $1.0 million and $1.1 million for the three months ended June 30, 2009 and 2008, respectively, and $2.0 million and $2.1 million for the six months ended June 30, 2009 and 2008, respectively (see Note 9)	1,819	1,915	3,761	3,830
Income used to compute net income (loss) per diluted share	$ 79,056	$ 35,847	$ 118,455	$ (24,113)
Denominator				
Total weighted-average shares used to compute income (loss) per basic share	119,357	118,827	119,342	118,176
Effect of dilutive stock options	17	125	10	377
Restricted stock outstanding	30	—	19	—
Assumed conversion of convertible notes	50,162	33,503	51,682	33,503
Shares used to compute income (loss) per diluted share	169,566	152,455	171,053	152,056

We have excluded 2.1 million and 10.6 million of outstanding stock options and restricted stock from our diluted earnings per share calculations for the three months ended June 30, 2009 and 2008, respectively, and we have excluded 3.6 million and 11.6 million of outstanding stock options and restricted stock from our diluted earnings per share calculations for the six months ended June 30, 2009 and 2008, respectively, because the average price of the common stock obtainable upon exercise of the options is above the exercise price.

4. Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) adjusted for other comprehensive income (loss) which includes the changes in unrealized gains and losses on our investments in marketable securities, which are excluded from our net loss. In addition, other comprehensive loss includes the liability that has not yet been recognized as net periodic benefit cost for our post-retirement benefit plan. As of December 31, 2008, we had no unrealized gains or losses on investments and we had assigned the rights and obligations under our former post-employment benefit plan to Facet in connection with the Spin-Off; therefore, our accumulated other comprehensive income (loss) as of December 31, 2008 and June 30, 2009 was zero.

The following table presents the calculation of our comprehensive income (loss):

(in thousands)	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008
Net income (loss)	$ 77,237	$ 33,932	$ 114,694	$ (27,943)
Other comprehensive income (loss):				
Change in unrealized gains and losses on marketable securities, net of taxes	—	(112)	—	(30)
Change in postretirement benefit liability not yet recognized in net periodic benefit expense	—	19	—	37
Total comprehensive income (loss)	$ 77,237	$ 33,839	$ 114,694	$ (27,936)

5. Restructuring Charges

During 2008, we implemented certain restructuring plans under which we recognized involuntary termination benefits and idle facilities charges. As the majority of restructuring charges have been allocated to our former commercial and biotechnology operations, they are classified as discontinued operations (see Note 12). During the three and six months ended June 30, 2008, we recognized $2.9 million and $10.2 million, respectively, of restructuring expense attributable to discontinued operations and we recognized approximately $0.1 million and $0.2 million, respectively, of restructuring charges attributable to continuing operations, which is classified as general and administrative expenses. No restructuring expenses were recorded in the three or six months ended June 30, 2009. The restructuring accrual as of June 30, 2009 was approximately $28,000 which we expect to pay by the end of 2009.

The following table summarizes the restructuring activity discussed above, as well as the remaining restructuring accrual balance at June 30, 2009:

(in thousands)	Personnel Costs	Facilities Related	Total
Balance at December 31, 2008	$ 40	$ 64	$ 104
Payments and adjustments	(12)	(64)	(76)
Balance at June 30, 2009	$ 28	$ —	$ 28

6. Cash Equivalents, Investments and Restricted Cash

At June 30, 2009 and December 31, 2008, we had invested in money market funds and certificates of deposit. Our securities are classified as available-for-sale. Available-for-sale securities are carried at estimated fair value, with unrealized gains and losses reported in accumulated other comprehensive loss in stockholders' deficit. The estimated fair value is based upon quoted market prices for these or similar instruments. The amortized cost of debt securities is adjusted for amortization of premiums and discounts to maturity. Such amortization is included in interest income. The cost of securities sold is based on the specific identification method. To date, we have not experienced credit losses on investments in these instruments. In addition, we do not require collateral for our investment activities.

A summary of our available-for-sale securities at June 30, 2009 and December 31, 2008 is presented below:

(in thousands)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
June 30, 2009				
Money market funds	$171,759	$ —	$ —	$171,759
Certificate of deposit	18,269	—	—	18,269
Total marketable securities	$190,028	$ —	$ —	$190,028
Classification on Condensed Consolidated Balance Sheets:				
Cash equivalents				$171,759
Short-term investments				18,269
Total				$190,028
December 31, 2008				
Money market funds	$107,041	$ —	$ —	$107,041
Certificate of deposit	15,000	—	—	15,000
Total marketable securities	$122,041	$ —	$ —	$122,041
Classification on Condensed Consolidated Balance Sheets:				
Cash equivalents				$107,041
Short-term investments				15,000
Total				$122,041

During the six months ended June 30, 2009 and the year ended December 31, 2008, we did not recognize any gains or losses on sales of available-for-sale securities.

As of December 31, 2008, we had restricted cash of $3.3 million which was supported by letters of credit for the Redwood City, California leases. The letters of credit were released during the first quarter of 2009 and, therefore, the restricted cash balance at June 30, 2009 was zero.

7. Fair Value Measurements

As of January 1, 2008, we adopted FASB Statement No. 157, "Fair Value Measurements" (SFAS No. 157). SFAS No. 157 established a framework for measuring fair value in accordance with GAAP and clarified the definition of fair value within that framework. SFAS No. 157 does not require any new fair value measurements in GAAP; however, SFAS No. 157 introduced, or reiterated, a number of key concepts which form the foundation of the fair value measurement approach to be used for financial reporting purposes. The fair values of our financial instruments are estimates of the amounts that would be received if we were to sell an asset or we paid to

transfer a liability in an orderly transaction to market participants at the measurement date (exit price). SFAS No. 157 also established a fair value hierarchy that prioritizes the use of inputs used in valuation techniques into the following three levels:

- Level 1—quoted prices in active markets for identical assets and liabilities
- Level 2—observable inputs other than quoted prices in active markets for identical assets and liabilities
- Level 3—unobservable inputs

At June 30, 2009 and December 31, 2008, our financial assets consisted primarily of money market funds which are considered to be Level 1 assets under SFAS No. 157 and are classified as cash and cash equivalents in our Condensed Consolidated Balance Sheets. At June 30, 2009 and December 31, 2008, we also held $18.3 million and $15.0 million, respectively, of certificates of deposit which are considered to be Level 2 assets.

8. Other Accrued Liabilities

Other accrued liabilities consisted of the following:

(in thousands)	June 30, 2009	December 31, 2008
Consulting and services	$ 1,780	$ 5,357
Payable to Facet Biotech Corporation	—	1,100
Restructuring accruals	28	104
Accrued income taxes	—	7,340
Other	346	3,505
Total	$ 2,154	$ 17,406

9. Convertible Notes

2012 Convertible Notes

In February 2005, we issued 2.00% Convertible Senior Notes due February 15, 2012 with a principal amount of $250.0 million (2012 Notes). The 2012 Notes are convertible at any time, at the holders' option, into our common stock at a conversion price of 89.165 per share, as adjusted from the cash dividend declared in February 2009, and subject to further adjustment in certain events. Interest on the 2012 Notes is payable semiannually in arrears on February 15 and August 15 of each year. The 2012 Notes are our senior unsecured debt and are redeemable by us in whole or in part on or after February 19, 2010 at 100.57% of principal amount if redeemed between February 19, 2010 and February 14, 2011 and at 100.29% of principal amount if redeemed between February 15, 2011 and the maturity date. The 2012 Note are not puttable other than in the context of a fundamental change resulting in the reclassification, conversion, exchange or cancellation of our common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL's outstanding common stock, and the change of a majority of PDL's board of directors without the approval of the board of directors.

In the second quarter of 2009, the Company repurchased an aggregate of $5.0 million face value of our 2012 Notes, at an overall discount of approximately 10.75 percent from face value in a privately negotiated transaction with an institutional holder, for aggregate consideration of $4.5 million in cash, plus accrued but unpaid interest. The Company recorded a net gain of $0.5 million from the purchase of the debt.

2023 Convertible Notes

In July 2003, we issued 2.75% Convertible Subordinated Notes due August 16, 2023 with a principal amount of $250.0 million (2023 Notes). The 2023 Notes are convertible at any time, at the holders' option, into our common stock at a conversion price of 123.715 per share, as adjusted from the cash dividend declared in February 2009, and subject to further adjustment in certain events. Interest on the 2023 Notes is payable semiannually in arrears on February 16 and August 16 of each year. The 2023 Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The 2023 Notes are redeemable at our option, in whole or in part, beginning on August 16, 2008 at par value. Holders of the 2023 Notes may require us to repurchase all or a portion of their 2023 Notes at 100% of their principal amount, plus any unpaid interest, on August 16, 2010, August 16, 2013 and August 16, 2018, and upon the occurrence of a repurchase event in which a change in control has occurred or our common stock is neither listed on a U.S. national securities exchange nor approved for trading over-the-counter. For any 2023 Notes to be repurchased in August 2010, we must pay for the repurchase in cash, and we may pay for the repurchase of the 2023 Notes to be repurchased in August 2013 and August 2018, at our option, in cash, shares of our common stock or a combination of cash and shares of our common stock.

In the second quarter of 2009, the Company repurchased an aggregate of $50.0 million face value of our 2023 Notes, at an overall discount of approximately 2 percent from face value in privately negotiated transactions with institutional holders, for aggregate consideration of $49.3 million in cash, plus accrued but unpaid interest. The Company recorded a net gain of $0.7 million from the purchase of the debt.

The following table summarizes the repurchase activity of the 2012 Notes and the 2023 Notes discussed above, as well as the balance at June 30, 2009:

(in thousands)	2012 Notes	2023 Notes	Total
Balance at December 31, 2008	$250,000	$249,998	$499,998
Repurchases	(5,000)	(49,998)	(54,998)
Balance at June 30, 2009	$245,000	$200,000	$445,000
Fair value[1]	$210,088	$203,750	$413,838

(1) The fair value of the remaining payments under our convertible notes is based on the trading value of our notes at June 30, 2009.

As of June 30, 2009 there was $3.9 million of unamortized debt issuance costs remaining to be amortized as interest expense.

10. Commitments and Contingencies

Lease Guarantee

In connection with the Spin-Off, we entered into amendments to the leases for our former facilities in Redwood City, California, under which Facet was added as a co-tenant under the leases, and a Co-Tenancy Agreement, under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the Spin-Off date. Should Facet default under its lease obligations, we would be held liable by the landlord as a co-tenant, and thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities. As of June 30, 2009, the total lease payments for the duration of the guarantee, which runs through December 2021, are approximately $135.6 million. We would also be responsible for lease related costs including utilities, property taxes, and common area maintenance which may be as much as the actual lease payments if Facet were to default.

We have recorded a liability of $10.7 million on our Condensed Consolidated Balance Sheets as of December 31, 2008 and June 30, 2009 related to the estimated fair value of this guarantee. We prepared a discounted, probability-weighted cash flow analysis to calculate the estimated fair value of the lease guarantee as of the Spin-Off. We were required to make assumptions regarding the probability of Facet's default on the lease payment, the likelihood of a sublease being executed, and the times at which these events could occur. These assumptions are based on information that we received from real estate brokers and the current economic conditions, as well as expectations of future economic conditions. The fair value of this lease guarantee was charged to additional paid in capital upon the Spin-Off and any future adjustments to the carrying value of the obligation will be recorded to additional paid in capital. On a quarterly basis, we evaluate the underlying cash flow analysis assumptions and update them if necessary.

Pierre Fabre - Sales Rebate

Until the March 2008 assignment and sale of Busulfex by PDL to Otsuka Pharmaceuticals, Pierre Fabre Medicament (Pierre Fabre) was PDL's exclusive distributor for Busulfex in Italy (see note 12, Discontinued Operations). In 2005, Pierre Fabre negotiated a pricing and sales volume agreement with the Agenzia Italiana del Farmaco (AIFA) related to its distribution of Bulsufex in which Pierre Fabre agreed to a maximum amount of ex-factory sales of Busulfex in Italy. During 2006 and 2007, Pierre Fabre exceeded those sales limits and in October 2008 Pierre Fabre received notification to repay EUR 2.13 million to the local Italian authorities for such excess sales. In May 2009, Pierre Fabre sent a letter to PDL requesting that it pay 40% of the total amount paid by Pierre Fabre. In July 2009, the Company responded to Pierre Fabre declining to make payment and stating that there is no basis in PDL's contractual arrangement with Pierre Fabre. We are unable to predict the outcome of this matter and, as such, no amounts have been accrued.

11. Income Taxes

Income tax expense attributable to our continuing operations for the three and six months ended June 30, 2009 was $41.2 million and $58.4 million, respectively, which resulted primarily from applying the federal statutory income tax rate to income from operations. Income tax expense from continuing operations for the three and six months ended June 30, 2008, was $1.7 million and $2.7 million, respectively, which resulted primarily from applying the federal and state alternative minimum tax rates to income from operations. We recognized income tax expense from our discontinued operations for the three and six months ended June 30, 2008 of $11.7 million and $39.7 million, respectively. See Note 12 for further discussion.

Due to our lack of earnings history prior to the Spin-Off in December 2008, our gross deferred tax assets had been fully offset by a valuation allowance on our Condensed Consolidated Balance Sheet. However, as a result of the Spin-Off, we believe that our history of royalty revenues and the significantly lowered cost structure to support our intellectual property, manage our licensing operations and provide for certain essential reporting and management functions of a public company provided a basis to recognize deferred tax assets that the company expects are more likely than not to be realized.

Following the relocation of our principal place of business to Incline Village, Nevada in December 2008, we have no continuing operations in California. Nevada does not impose an income tax and, accordingly, we no longer have any ongoing material state income tax expense.

12. Discontinued Operations

Biotechnology Operations

In December 2008, we spun-off our former biotechnology operations to Facet. For further information on the Spin-Off, see Note 1. The significant components of our former biotechnology operations, presented as discontinued operations, were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
(in thousands)	2009	2008	2009	2008
Net revenues[1]	$ —	$ 5,361	$ —	$ 12,502
Total costs and expenses[2]	—	(49,747)	—	(65,071)
Income tax benefit	—	309	—	339
Loss from discontinued operations	$ —	$ (44,077)	$ —	$(52,230)

(1) Net revenues for the three and six months ended June 30, 2008 included revenues of $5.2 million and $10.3 million, respectively, recognized under the collaboration agreement with Biogen Idec, Inc. (Biogen Idec), which was effective starting in September 2005. Under this agreement, we determined that all elements should be accounted for as a single unit of accounting under Emerging Issues Task Force (EITF) Issue No. 00-21. As we had continuing obligations under the collaboration agreement, we recorded the upfront license fees as deferred revenue, and we were recognizing the amounts over the respective estimated development periods. The upfront license fees from Biogen Idec were $40 million. In addition in the first quarter of 2008 we received $2.0 million in milestone payments from certain of our licensees.

(2) Included within total costs and expenses for the six months ended June 30, 2008 is a pre-tax gain of $49.7 million upon the close of the sale of our former manufacturing and related administrative facilities in Brooklyn Park, Minnesota to Genmab A/S in March 2008. In addition, total costs and expenses included $0.3 million and $3.8 million of asset impairment charges for the three and six months ended June 30, 2008, respectively. These charges were associated with the cost of certain research equipment and technologies that were expected to have no future useful life and certain information technology projects that were terminated and have no future benefit to us. Also included in total costs and expenses for the three and six months ended June 30, 2008 are restructuring charges of approximately $2.9 million and $8.4 million, respectively (see Note 5).

Commercial Operations

In March 2008, we finalized the sales of our Commercial Assets to Otsuka Pharmaceutical Co., Ltd. (Otsuka) and to EKR Therapeutics, Inc. (EKR) and recognized a pre-tax loss of $64.6 million in connection with these sales. This loss consisted of the total upfront consideration received of $280.4 million plus the write-off of $10.6 million in net liabilities, less the book values of intangible assets and inventories of $268.2 million, the write-off of goodwill of $81.7 million, and transaction fees of $5.7 million.

In connection with the divestiture of our Commercial Assets, we entered into agreements with both Otsuka and EKR to provide certain transition services which we provided in 2008. Any fees or cost reimbursements received for transition services have been presented as discontinued operations. In connection with the Spin-Off, we assigned all rights and obligations under the EKR sale agreement to Facet. Therefore, we will not receive any potential future milestone payments or royalties under the agreement with EKR.

The significant components of our commercial operations, presented as discontinued operations, were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
(in thousands)	2009	2008	2009	2008
Net revenues	$ —	$ 375	$ —	$ 39,734
Total costs and expenses[1]	—	(5,188)	—	(107,995)
Income tax expense[2]	—	(12,024)	—	(40,052)
Loss from discontinued operations	$ —	$ (16,837)	$ —	$(108,313)

(1) Included within total costs and expenses for the six months ended June 30, 2008 is a loss of $64.6 million that we recognized in connection with the sale of the commercial operations as discussed above. Also included in total costs and expenses for the three and six months ended June 30, 2008 are restructuring charges of approximately zero and $1.8 million, respectively (see Note 5).

(2) Income tax expense attributable to our discontinued operations during the six months ended June 30, 2008 was primarily related to the tax gain on the sale of the Commercial Assets. Although we recognized a loss on the sale of these assets for financial reporting purposes, for tax purposes, we included the fair value of the contingent consideration from EKR in our proceeds, which included potential future milestone payments as well as potential future royalties on certain Cardene and ularitide product sales. In addition, the tax basis in the Commercial Assets was less than the book value recorded for financial reporting purposes. Therefore, we recognized a taxable gain and incurred alternative minimum tax on the sale of the Commercial Assets. The income tax payable attributable to our discontinued operations for the second quarter of 2008 was $5.4 million. The $34.6 million difference between the income tax payable and the income tax expense represents the tax benefit of certain tax deductions in connection with stock-based compensation, and such difference has been credited to additional paid-in capital.

13. Dividends Payable

On February 26, 2009, our board of directors declared two cash dividends of $0.50 per share payable on April 1, 2009 and October 1, 2009. We paid $59.7 million to our stockholders on April 1, 2009. The record date for the October 1, 2009 dividend is September 17, 2009 as determined by the board of directors at its June 4, 2009 meeting. As of June 30, 2009, we accrued $59.8 million in dividends payable for the October 2009 dividend payment.

Effective March 17, 2009, in connection with the payment of the dividend in April 2009, the conversion rates for our outstanding 2012 Notes and 2023 Notes (the Notes) were adjusted to 89.165 and 123.715 shares of common stock per $1,000 principal amount of the Notes, respectively. The adjustment was based on the amount of the dividend and the trading price of our stock in certain periods pursuant to the terms of the applicable indenture. The conversion rates for the Notes will be further adjusted on September 18, 2009 in connection with the October 2009 dividend payment.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This report includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts are "forward looking statements" for purposes of these provisions, including any projections of earnings, revenues or other financial items, any statements of the plans and objectives of management for future operations, any statements concerning new products or licensing, any statements regarding future economic conditions or performance, and any statement of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as "believes," "may," "will," "expects," "plans," "anticipates," "estimates," "potential," or "continue" or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements contained in this report are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct, and actual results could differ materially from those projected or assumed in the forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties, including but not limited to the risk factors set forth below, and for the reasons described elsewhere in this report. All forward-looking statements and reasons why results may differ included in this report are made as of the date hereof, and we assume no obligation to update these forward-looking statements or reasons why actual results might differ.

OVERVIEW

Our business is the management of antibody humanization patents and royalty assets which consist of our Queen et al. patents and our license agreements with numerous biotechnology and pharmaceutical companies. We receive royalties based on sales of humanized antibody products marketed today pursuant to certain rights we have licensed under our patents and may also receive royalty payments on additional humanized antibody products launched before final patent expiry in 2014. Generally, our license agreements cover humanized antibodies targeting antigens specified in the license agreements.

Under most of our licensing agreements, we are entitled to receive a flat-rate royalty based upon our licensees' net sales of covered antibodies. These licensing agreements have contributed to the development of nine marketed products by our licensees. Eight of these products are currently approved for use by the U.S. Food and Drug Administration (FDA) and eight are approved for use by other regulatory agencies outside the United States. We have also entered into licensing agreements pursuant to which we have licensed certain rights under our patents for development stage products that have not yet reached commercialization including products that are currently in Phase III clinical trials.

Until December 2008, our business included biotechnology operations which were focused on the discovery and development of novel antibodies and which we spun off (the Spin-Off) to Facet Biotech Corporation (Facet). From March 2005 until March 2008, we also had commercial operations consisting of the manufacture and sale of commercial products (the Commercial Assets) and development stage products which we partially divested in 2006 and fully divested in 2008. The financial results of our former commercial and biotechnology operations are presented as discontinued operations in the Condensed Consolidated Statement of Operations.

Recent Developments

As a result of the Spin-Off in December 2008, we significantly downsized our operations and currently have fewer than ten employees managing our intellectual property, our licensing operations, and efforts to monetize our antibody humanization patents and royalties assets, as well as providing for certain essential reporting and management functions of a public company. In December 2008, we moved our principal place of business to Incline Village, Nevada. We operate as an independent, publicly traded Delaware company located in Nevada.

In December 2008, we entered into a definitive license agreement and settlement agreement with Alexion Pharmaceuticals, Inc. (Alexion) that resolved the legal disputes between us relating to Alexion's humanized antibody Soliris® (eculizumab) and our Queen et al. patents. In consideration for this license, Alexion agreed to pay $25 million, of which it paid $12.5 million in January 2009 and we recognized in the fourth quarter of 2008 and $12.5 million which it paid in May 2009 and we recognized in the second quarter of 2009. In addition, Alexion took an option for up to four additional licenses under the Queen et al. patents at a 4 percent royalty rate.

In December 2008, MedImmune, LLC, a subsidiary of AstraZeneca plc, (MedImmune) brought suit seeking a declaratory judgment that it is not liable to pay a royalty to us on sales of Synagis and a second generation product, when approved, because the Queen et al. patents are not valid or infringed. In February 2009, we received a letter from MedImmune asserting that it may be entitled to pay a lower royalty rate on sales of its product, Synagis®, because of our settlement with Alexion. In April 2009, we sent a letter notifying MedImmune of the exercise of certain of our rights under our license agreement, the exercise of which we believe precludes MedImmune from being entitled to a lower royalty rate based on the Alexion settlement. On May 7, 2009, we filed our answer to MedImmune's lawsuit asserting certain counterclaims and affirmative defenses and requested that the court find (a) that Synagis and motovizumab fall under the scope of the Queen et al. patents and that the sale thereof requires that MedImmune pay us royalties as specified in our license agreement with them; (b) that the claims we are asserting against MedImmune are valid; (c) that MedImmune is not entitled to different terms, including a lower royalty rate, as a result of our settlement with Alexion; and (d) that MedImmune is liable for attorney's fees and costs related to the action. The court has scheduled a *Markman* claim construction hearing for October 1, 2009.

We intend to distribute our income, net of operating expenses, debt service and income taxes, to our stockholders. On February 26, 2009, our board of directors declared two cash dividends of $0.50 per share payable on April 1, 2009 and October 1, 2009. Using proceeds from our annual 2008 and first half 2009 earnings and based on the total shares outstanding as of the March 16, 2009 record date, we paid $59.7 million to our stockholders on April 1, 2009. The record date for the October 1, 2009 dividend is September 17, 2009 as determined by the board of directors at its June 4, 2009 meeting. As of June 30, 2009, we accrued $59.8 million in dividends payable for the October dividend payment.

Effective March 17, 2009, in connection with the payment of the dividend in April 2009, the conversion rates for our outstanding 2012 Notes and 2023 Notes (the Notes) were adjusted to 89.165 and 123.715 shares of common stock per $1,000 principal amount of the Notes, respectively. The adjustment was based on the amount of the dividend and the trading price of our stock in certain periods pursuant to the terms of the applicable indenture. The conversion rates for the Notes will be further adjusted on September 18, 2009 in connection with the October 2009 dividend payment.

We are evaluating opportunities to monetize our antibody humanization patent and royalties assets through a potential sale and/or securitization transaction. Should we pursue and complete any such transaction, we intend to distribute the net proceeds to our stockholders, after payment of any obligations due, and after retaining a portion of such proceeds for debt service, working capital, and other general purposes. A sale transaction would decrease our revenues, while a securitization transaction would increase our expenses as we would become obligated to make interest payments on any notes issued in connection with such securitization.

On April 8, 2009, Genentech, Inc. (Genentech), a subsidiary of F. Hoffman-La Roche Ltd. (Roche) announced that it was voluntarily withdrawing Raptiva® from the United States marketplace. Approval of this drug for the treatment of chronic moderate-to-severe plaque psoriasis was previously suspended in the European Union and Canada. As a result of these market withdrawals and suspensions of approval, we do not expect to receive material amounts of royalties on future sales of Raptiva.

Patents and Technology Outlicense Agreements

Patents

We have been issued patents in the United States and elsewhere, covering the humanization of antibodies, which we refer to as our Queen et al. patents. The Queen et al. patent estate is enforceable up to 2014 and covers among other things, humanized antibodies, methods for humanizing antibodies, polynucleotide encoding in humanized antibodies and methods of producing humanized antibodies. The following is a list of our U.S. and European patents within our Queen et al. patent portfolio.

Application Number	Filing Date	Patent Number	Issue Date	Jurisdiction
08/477,728	06/07/95	5,585,089	12/17/96	United States
08/474,040	06/07/95	5,693,761	12/02/97	United States
08/487,200	06/07/95	5,693,762	12/02/97	United States
08/484,537	06/07/95	6,180,370	01/30/01	United States
09/718,998	11/22/00	7,022,500	04/04/06	United States
90903576.8	12/28/89	0 451 216	01/24/96	Europe
95105609.2	12/28/89	0 682 040	08/25/99	Europe

Our European Patent No. 0 451 216 (the ‘216 Patent) and European Patent No. 0 682 040 (the ‘040 Patent) expire in December 2009. We have applied for and been granted Supplemental Protection Certificates (SPCs) with respect to the Herceptin®, Synagis®, Xolair®, Raptiva® , Avastin®, Tysabri® and Lucentis® products in many of the jurisdictions in the European Union based on our ‘216 patent. These SPCs, upon grant thereof, effectively extend the patent protection with respect to these products generally until December 2014, except that the SPCs for Raptiva, Herceptin and Synagis will generally expire in March 2013, July 2014, and August 2014, respectively. Because SPCs are granted on a jurisdiction-by-jurisdiction basis, the duration of the extension varies slightly in certain jurisdictions. We have filed or plan to file applications for SPCs on other humanized antibodies covered by our ‘216 Patent or ‘040 Patent which are approved for marketing in Europe prior to the expiration of our ‘216 Patent or ‘040 Patent in December 2009. We will not be able to file applications for any SPCs after December 2009. Therefore, if a product is first approved for marketing after December 2009 in a jurisdiction that issues SPCs, then we would not have any patent protection or SPC protection in this jurisdiction with respect to this product. We may still be eligible for royalties notwithstanding the unavailability of SPC protection if the relevant royalty-bearing humanized antibody product is also made, used, sold or offered for sale in or imported from a jurisdiction in which we have an unexpired Queen et al. patent such as the United States.

We are currently in two separate opposition proceedings with respect to the ‘216 Patent and the ‘040 Patent at the European Patent Office. MedImmune filed a declaratory judgment against us related to the Queen et al. patents in December 2008. In February 2009, the U.S. Patent and Trademark Office declared an interference proceeding between our U.S. Patent No. 5,585,089 and a patent application pending to Adair et al., which is assigned to UCB Pharma S.A. See “Part II. Other Information, Item 1, Legal Proceedings.”

Licensing Agreements

We have entered into licensing agreements with numerous entities that are independently developing or have developed humanized antibodies pursuant to which we have licensed certain rights under our Queen et al. patents to make, use, sell, offer for sale and import humanized antibodies. In general, these agreements cover antibodies targeting antigens specified in the license agreements. Under most of our licensing agreements, we are entitled to receive a flat-rate royalty based upon our licensees’ net sales of covered antibodies. We also expect to receive minimal annual maintenance fees from licensees of our Queen et al. patents.

Licensing Agreements for Marketed Products

We currently receive royalties on sales of the nine humanized antibody products listed below, eight of which are currently approved for use by the FDA and eight are approved by other regulatory agencies outside the United States. Approval for Raptiva was suspended in the European Union and Canada in February 2009 and the product was withdrawn from the United States market in April 2009. Thus, we do not expect to receive material amounts of royalties on future sales of Raptiva. In 2008, royalties attributable to Raptiva totaled $3.9 million or 1.3% of total revenue from continuing operations. For the three and six months ended June 30, 2009 and 2008, our most significant licensees were as follows:

Licensee	Product Name
Genentech, Inc. (Genentech)	*Avastin*®
	Herceptin®
	Xolair®
	Raptiva®
	Lucentis®
MedImmune, LLC (MedImmune)	*Synagis*®
Wyeth	*Mylotarg*®
Elan Corporation, plc (Elan)	*Tysabri*®
Chugai Pharmaceutical Co., Ltd.	*Actemra*™

Genentech

Our master patent license agreement with Genentech provides for a tiered royalty structure under which the royalty rate Genentech must pay on royalty-bearing products sold in the United States or manufactured in the United States and used or sold anywhere (U.S.-based Sales) in a given calendar year decreases on incremental U.S.-based Sales above certain net sales thresholds. The net sales thresholds and the applicable royalty rates are outlined below:

Aggregate Net Sales	Royalty Rate
Net sales up to $1.5 billion	3.0%
Net sales between $1.5 billion and $2.5 billion	2.5%
Net sales between $2.5 billion and $4.0 billion	2.0%
Net sales exceeding $4.0 billion	1.0%

As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year will decline as Genentech's U.S.-based Sales increase during that year. Because we receive royalties one quarter in arrears, the average royalty rate for the payments we receive from Genentech in the second calendar quarter for Genentech's sales from the first calendar quarter has been and is expected to continue to be higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech is generally lowest in the fourth and first calendar quarters for Genentech's sales from the third and fourth calendar quarter when more of Genentech's U.S.-based Sales bear royalties at the lowest royalty rates.

With respect to royalty-bearing products that are both manufactured and sold outside of the United States (ex-U.S.-based Manufacturing and Sales), the royalty rate that we receive from Genentech is a fixed rate of 3.0% based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the recent acquisition of Genentech by Roche. For example, in July 2009 Roche announced its decision to partially close its manufacturing site in Vacaville, California.

The mix of U.S.-based Sales and ex-U.S. based Manufacturing and Sales is outlined in the following table:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
U.S.-based Sales	87%	84%	90%	88%
Ex-U.S.-based Manufacturing & Sales	13%	16%	10%	12%

The information in the table above is based on information provided to us by Genentech. We were not provided the reasons for the shift in the manufacturing split between U.S.-based Sales and ex-U.S.-based Manufacturing and Sales.

Currently, two of Genentech's licensed products, Herceptin and Xolair, generate ex-U.S.-based Manufacturing and Sales. Roche (Genentech's ex-U.S. licensee of Avastin) announced that its new Avastin production facility in Basel, Switzerland will commence commercial production in 2009. As such, we expect Avastin to begin generating ex-U.S.-based Manufacturing and Sales royalties and subsequent increases in the amount of Avastin product manufactured and sold outside the U.S. due to the expected production ramp-up at Roche's Basel, Switzerland facility. In addition, there is a new plant in Singapore for the production of Lucentis.

The Genentech agreement continues until the expiration of the last patent to expire of our Queen et al. patents but may be terminated by Genentech prior to such expiration upon 60 days written notice or by us upon a material breach by Genentech. Either party may terminate upon the occurrence of certain bankruptcy-related events.

MedImmune

We entered into a patent license agreement, effective July 17, 1997, with MedImmune pursuant to which we granted to MedImmune a license under our Queen et al. patents to make, use, and sell antibodies that bind to respiratory syncytial virus. Pursuant to the agreement, we are entitled to receive a flat royalty rate in the low single digits based on MedImmune's net sales of its Synagis product. The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated by MedImmune prior to such expiration upon thirty days written notice. Either party may terminate the agreement upon a material breach by the other party or upon the occurrence of certain bankruptcy-related events.

MedImmune filed for approval of its motavizumab product, a second generation of Synagis, in the United States in January 2008 and received a Complete Response Letter from the FDA on December 1, 2008 asking for additional information on motavizumab. Astra Zeneca, which owns MedImmune, said it plans to continue discussions with the FDA and, subject to the outcome of those discussions, expected to resubmit the application for approval in the second half of 2009. There have been no further announcements from Astar Zeneca regarding the approval of motavizumab in the United States. We believe that sales of motavizumab will require payment to us of the royalty specified by the MedImmune agreement.

In December 2008, MedImmune filed a lawsuit against us seeking a declaratory judgment that the U.S. Queen et al. patents are invalid and/or not infringed by its Synagis and motavizumab products. MedImmune has further asserted that it may be entitled to pay a lower royalty rate because of our settlement with Alexion. In April 2009, we sent a letter notifying MedImmune of the exercise of certain of our rights under our license agreement, the exercise of which we believe precludes MedImmune from being entitled to a lower royalty rate based on the Alexion settlement. On May 7, 2009, we filed our answer to MedImmune's lawsuit asserting certain counterclaims and affirmative defenses and requested that the court find (a) that Synagis and motovizumab fall under the scope of the Queen et al. patents and that the sale thereof requires that MedImmune pay us royalties as specified in our license agreement with them; (b) that the claims we are asserting against MedImmune are valid; (c) that MedImmune is not entitled to different terms, including a lower royalty rate, as a result of our settlement with Alexion; and (d) that MedImmune is liable for attorney's fees and costs related to the action. The court has scheduled a *Markman* claim construction hearing for October 1, 2009. MedImmune has paid us a total of $280.8 million in royalties under the MedImmune agreement with respect to sales of Synagis on a quarterly basis since the fourth quarter of 1998 through the second quarter of 2009, but we cannot assure you that MedImmune will continue to pay us royalties. See "Part II. Other Information. Item 1. Legal Proceedings."

Elan

We entered into a patent license agreement, effective April 24, 1998, with Elan pursuant to which we granted to Elan a license under our Queen et al. patents to make, use, and sell antibodies that bind to the cellular adhesion molecule $_{a}$4. Pursuant to the agreement, we are entitled to receive a flat royalty rate in the low single digits of Elan's net sales of the Tysabri product. The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated by Elan prior to such expiration upon sixty days written notice, by either party upon a material breach by the other party or upon the occurrence of certain bankruptcy-related events.

Licensing Agreements Relating To Non-Marketed Products

We have also entered into licensing agreements pursuant to which we have licensed certain rights under our Queen et al. patents to make, use, and sell certain products in development that have not yet reached commercialization. Certain of these development stage products are currently in Phase III clinical trials. With respect to these agreements, we may receive milestone payments based on certain development milestones. We may also receive royalty payments if the licensed products receive marketing approval and generate sales before the expiration of our Queen et al. patents. For example, both Eli Lilly and Company's and Wyeth Pharmaceuticals, Inc. have licensed antibodies for the treatment of Alzheimer's disease that are currently in Phase III clinical trials.

Economic and Industry-wide Factors

Various economic and industry-wide factors are relevant to us and could affect our business, including the factors set forth below.

- The manufacture of drugs and antibodies for use as therapeutics in compliance with regulatory requirements is complex, time-consuming and expensive. If our licensees are unable to manufacture product or product candidates in accordance with FDA and European good manufacturing practices, they may not be able to obtain or retain regulatory approval for products licensed under our patents.
- Our licensees are subject to stringent regulation with respect to product safety and efficacy by various international, federal, state and local authorities and may be unable to maintain regulatory approvals for currently licensed products or obtain regulatory approvals for new products. Safety issues could also result in the failure to maintain regulatory approvals or decrease revenues. For example, due to safety concerns, Genentech suspended the marketing authorization for Raptiva in the European Union and Canada February 2009 and began a phased withdrawal of the drug from the United States market in April 2009.
- Our business success is dependent in significant part on our success in establishing intellectual property rights and protecting our intellectual property rights. If we are unable to protect or defend our intellectual property, our royalty revenues and operating results would be adversely affected. Assertion and defense of our intellectual property rights can be expensive and could result in a significant reduction in the scope or invalidation of our patents, which could adversely affect our results of operations.
- To be successful, we must attract, retain, and integrate qualified personnel. Our business is managing our antibody humanization patents and royalties assets which requires a small number of employees. If we cannot recruit and retain qualified personnel, results from our operations could be adversely impacted.
- Our business success is also dependent on overall economic conditions. The global financial downturn could adversely affect product sales by our licensees.

See also the "Risk Factors" section of this quarterly report for additional information on these economic and industry-wide and other factors and the impact they could have on our business and results of operations.

CRITICAL ACCOUNTING POLICIES AND THE USE OF ESTIMATES

The preparation of our financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the amounts reported in our financial statements and accompanying notes. Actual results could differ materially from those estimates. The items in our financial statements requiring significant estimates and judgments are as follows:

Income Taxes

Our income tax provision is based on income before taxes and is computed using the liability method in accordance with SFAS No. 109, “Accounting for Income Taxes.” Deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using tax rates projected to be in effect for the year in which the differences are expected to reverse. Significant estimates are required in determining our provision for income taxes. Some of these estimates are based on interpretations of existing tax laws or regulations, or the expected results from any future tax examinations. Various internal and external factors may have favorable or unfavorable effects on our future provision for income taxes. These factors include, but are not limited to, changes in tax laws, regulations and/or rates, the results of any future tax examinations, changing interpretations of existing tax laws or regulations, changes in estimates of prior years’ items, past levels of research and development spending, acquisitions, changes in our corporate structure and state of domicile, and changes in overall levels of income before taxes all of which may result in periodic revisions to our provision for income taxes. Uncertain tax positions are accounted for in accordance with Financial Accounting Standards Board (FASB) Interpretation No. 48, “Accounting for Uncertainty in Income Taxes.” We accrue tax related interest and penalties associated with uncertain tax positions and include these with income tax expense in the Condensed Consolidated Statements of Operations.

Due to our lack of earnings history prior to the Spin-Off, our gross deferred tax assets had been fully offset by a valuation allowance on our Condensed Consolidated Balance Sheet. However, as a result of the Spin-Off, we believe that our history of royalty revenues and the significantly lowered cost structure to support our intellectual property, manage our licensing operations and provide for certain essential reporting and management functions of a public company provided a basis to reverse the valuation allowance on our deferred tax assets. As a result, we expect that our effective income tax rate going forward will continue to be approximately 35%.

Royalty Revenues

Under most of our patent license agreements, we receive royalty payments based upon our licensees’ net sales of covered products. Generally, under these agreements we receive royalty reports from our licensees approximately one quarter in arrears; that is, generally in the second month of the quarter after the licensee has sold the royalty bearing product. We recognize royalty revenues when we can reliably estimate such amounts and collectibility is reasonably assured. Accordingly, we recognize royalty revenues in the quarter reported to us by our licensees (i.e., generally royalty revenues are recognized one quarter following the quarter in which sales by our licensees occurred). Under this accounting policy, the royalty revenues we report are not based upon our estimates and such royalty revenues are typically reported in the same period in which cash is received from our licensees.

Lease Guarantee

In connection with the Spin-Off, we entered into amendments to the leases for our former facilities in Redwood City, California, under which Facet was added as a co-tenant under the leases, and a Co-Tenancy Agreement, under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the Spin-Off date. Should Facet default under its lease obligations, we would be held liable by the landlord as a co-tenant, and thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities. As of June 30, 2009, the total lease payments for the duration of the guarantee, which runs through December 2021, are approximately $135.6 million. We would also be responsible for lease related costs including utilities, property taxes, and common area maintenance which may be as much as the actual lease payments if Facet were to default.

We recorded a liability of $10.7 million on our Condensed Consolidated Balance Sheet as of December 31, 2008 and June 30, 2009 related to the estimated fair value of this guarantee. We prepared a discounted, probability-weighted cash flow analysis to calculate the estimated fair value of the lease guarantee as of the Spin-Off. We were required to make assumptions regarding the probability of Facet’s default on the lease payment, the likelihood of a sublease being executed, and the times at which these events could occur. These assumptions are based on information that we received from real estate brokers and the current economic conditions, as well as expectations of future economic conditions. The fair value of this lease guarantee was charged to additional paid in capital upon the Spin-Off and any future adjustments to the carrying value of the obligation will be recorded to additional paid in capital. On a quarterly basis, we evaluate the underlying cash flow analysis assumptions and update them if necessary. In future periods, we may increase the recorded liability for this obligation if we conclude that a loss, which is larger than the amount recorded, is both probable and estimable.

RESULTS OF OPERATIONS

Three and Six Months Ended June 30, 2009 and 2008

Revenues

Revenues from continuing operations consist of royalty revenues as well as license and other revenues. During the three and six months ended June 30, 2009 and 2008, our royalty revenues consisted almost entirely of royalties and maintenance fees earned on sales of products under license agreements for our Queen et al. patents. Over these same periods, we also had license and other revenues consisting primarily of the $12.5 million settlement from Alexion and milestone payments from licensees under our patent license agreements. In addition, in 2008, we had two active collaboration agreements before the Spin-Off with Biogen Idec Inc. (Biogen Idec) and with Bristol-Myers Squibb Company which are now classified as discontinued operations. Since these collaboration agreements related to our biotechnology operations, they were assigned to Facet in connection with the Spin-Off and, therefore, Facet assumed all obligations under these agreements and will recognize all collaboration-related revenues in future periods. In addition, certain other license agreements were assigned to Facet and Facet will receive any potential future milestone and royalty revenues under these agreements. We will not recognize revenues under any of these agreements in future periods, and the revenues that we previously recognized in 2008 have been classified as discontinued operations.

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2009	2008	Change from Prior Year %	2009	2008	Change from Prior Year %
Revenues						
Royalties	$113,403	$105,782	7.2%	$175,701	$155,970	12.7%
License and other	12,461	750	1561.5%	12,785	750	1604.7%
Total revenues	$125,864	$106,532	18.1%	$188,486	$156,720	20.3%

Our royalty revenue growth was driven primarily by higher product sales of Avastin and Lucentis, which are marketed by Genentech, sales of Synagis, which is marketed by MedImmune, and sales of Tysabri, which is marketed by Elan. License and other revenue for the three and six months ended June 30, 2009 includes $12.5 million from Alexion for the license and settlement agreement.

Royalties from licensed product sales exceeding more than 10% of our total revenues are set forth below (by licensee and product, as a percentage of total revenue):

		Three Months Ended June 30,		Six Months Ended June 30,	
Licensee	Product Name	2009	2008	2009	2008
Genentech	*Avastin*®	28%	29%	26%	26%
	Herceptin®	26%	32%	26%	31%
	Lucentis®	10%	10%	9%	9%
MedImmune	*Synagis*®	15%	16%	19%	21%

Under most of the agreements for the license of rights under our humanization patents, we receive a flat-rate royalty based upon our licensees' net sales of covered products. Royalty payments are generally due one quarter in arrears; that is, generally in the second month of the quarter after the licensee has sold the royalty-bearing product. Our agreement with Genentech provides for a tiered royalty structure under which the royalty rates Genentech must pay on the U.S.-based Sales in a given calendar year decreases on incremental U.S.-based Sales above several net sales thresholds. As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year will decline as Genentech's U.S.-based Sales increase during that year. Because we receive royalties in arrears, the average royalty rate for the payments we receive from Genentech in the second calendar quarter for Genentech's sales from the first calendar quarter has been and is expected to continue to be higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech are generally lowest in the fourth and first calendar quarters for Genentech's sales from the third and fourth calendar quarters when more of Genentech's U.S.-based Sales bear royalties at the lowest royalty rate. With respect to the ex-U.S.-based Manufacturing and Sales, the royalty rate that we receive from Genentech is a fixed rate of 3% based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the recent acquisition of Genentech by Roche. For example, in July 2009 Roche announced its decision to partially close its manufacturing site in Vacaville, California.

General and Administrative Expenses

(Dollars in thousands)	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Change from Prior Year %	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008	Change from Prior Year %
General and administrative expenses	$ 5,590	$ 10,925	-48.8%	$ 10,283	$ 23,634	-56.5%

The decreases in general and administrative expenses was primarily driven by our significantly reduced cost structure. We expect that our general and administrative expenses for 2009 will continue to be substantially lower due to the Spin-Off and the large reduction in our cost structure. Since the Spin-Off, we significantly downsized our operations including downsizing our office and we currently have fewer than ten employees managing our intellectual property, our licensing operations, and efforts to monetize our antibody humanization patents and royalties assets, as well as providing for certain essential reporting and management functions of a public company. In addition, in the first quarter of 2009 we recorded depreciation of $0.9 million on certain software assets which were fully depreciated as of March 31, 2009 and are no longer in use. We expect our quarterly depreciation expense will be less than $35,000 in future quarters.

Individual components of general and administrative expenses for the three and six months ended June 30, 2009 comprise:

(in thousands)	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Legal fees	$ 2,658	$ 4,218
Professional fees and insurance	952	1,932
Compensation and benefits	844	1,571
Depreciation	35	922
Stock-based compensation	206	402
Monetization	283	283
Other	612	955
Total general and administrative expenses	$ 5,590	$ 10,283

Non-operating Income and Expense, Net

(Dollars in thousands)	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Change from Prior Year %	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008	Change from Prior Year %
Gain on repurchase of convertible notes	$ 1,195	$ —	100.0%	$ 1,195	$ —	100.0%
Interest and other income, net	310	4,467	-93.1%	646	9,331	-93.1%
Interest expense	(3,357)	(3,555)	-5.6%	(6,931)	(7,110)	-2.5%
Total non-operating income (expense)	$ (1,852)	$ 912	-303.1%	$ (5,090)	$ 2,221	-329.2%

The gain on repurchase of convertible notes for the three and six months ended June 30, 2009 resulted from the repurchase of $50.0 million face value of our 2023 Notes and $5.0 million face value of our 2012 Notes.

Interest and other income, net, for the three and six months ended June 30, 2009 decreased from the same period in 2008 due to lower average investment balances as well as lower interest rates earned on our investments.

Interest expense included amounts related to our 2.00%, Convertible Senior Notes due 2012 and our 2.75%, Convertible Subordinated Notes due 2023.

Income Taxes

Income tax expense attributable to our continuing operations during the three and six months ended June 30, 2009 was $41.2 million and $58.4 million, respectively, which resulted primarily from applying the federal statutory income tax rate to income from operations. Income tax expense from continuing operations for the three and six months ended June 30, 2008, was $1.7 million and $2.7 million, respectively, which resulted primarily from applying the federal and state alternative minimum tax rates to income from operations. We recognized income tax expense from our discontinued operations for the three and six months ended June 30, 2008 of $11.7 million and $39.7 million, respectively. See Note 12 to the Condensed Consolidated Financial Statements for further information associated with our discontinued operations.

Due to our lack of earnings history prior to the Spin-Off in December, our gross deferred tax assets had been fully offset by a valuation allowance on our Condensed Consolidated Balance Sheet. However, as a result of the Spin-Off, we believe that our history of royalty revenues and the significantly lowered cost structure to support our intellectual property, manage our licensing operations and provide for certain essential reporting and management functions of a public company provided a basis to recognize deferred tax assets that the company expects are more likely than not to be realized.

Following the relocation of our principal place of business to Incline Village, Nevada in December 2008, we have no continuing operations in California. Nevada does not impose an income tax and, accordingly, we no longer have any ongoing material state income tax expense.

Discontinued Operations

Biotechnology Operations

On December 18, 2008, we spun off our former biotechnology operations to Facet. See Note 1 to the Condensed Consolidated Financial Statements for more details on the Spin-Off. The significant components of our former biotechnology operations, presented as discontinued operations, were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
(in thousands)	2009	2008	2009	2008
Net revenues	$ —	$ 5,361	$ —	$ 12,502
Total costs and expenses	—	(49,747)	—	(65,071)
Income tax benefit	—	309	—	339
Loss from discontinued operations	$ —	$ (44,077)	$ —	$ (52,230)

Commercial Operations

In March 2008, we completed the sale of our former commercial operations. The significant components of our former commercial operations, presented as discontinued operations, were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
(in thousands)	2009	2008	2009	2008
Net revenues	$ —	$ 375	$ —	$ 39,734
Total costs and expenses	—	(5,188)	—	(107,995)
Income tax expense	—	(12,024)	—	(40,052)
Loss from discontinued operations	$ —	$ (16,837)	$ —	$ (108,313)

See Note 12 to the Condensed Consolidated Financial Statements for further information associated with our discontinued operations.

LIQUIDITY AND CAPITAL RESOURCES

To date, we have financed our operations primarily through public and private placements of equity and debt securities, product sales revenues, royalty revenues, license revenues, collaboration and other revenues under agreements with third parties and interest income on invested capital. In 2008, we divested assets associated with our commercial and biotechnology operations. Since the divestiture of these operations, we have significantly downsized our operations and currently have fewer than ten employees managing our intellectual property, our licensing operations, and efforts to monetize our antibody humanization patents and royalties assets, as well as providing for certain essential reporting and management functions of a public company.

We had cash, cash equivalents, short-term investments and restricted cash in the aggregate of $192.7 million and $147.5 million at June 30, 2009 and December 31, 2008, respectively. The $45.2 million increase was primarily attributable to net cash provided by operating activities of $103.4 million and net excess tax benefits from stock-based compensation of $56.8 million, partially offset by our payment of $59.7 million of dividends and the repurchase of $53.5 million of convertible notes. As a result of our downsized operations, we believe that cash from future revenues, net of operating expenses, debt service, and income taxes, plus cash on hand, will be sufficient to fund our operations over the next several years.

We are evaluating opportunities to monetize our antibody humanization patents and royalties assets through a potential sale and/or securitization transaction. Should we pursue and complete any such transaction, we intend to distribute the net proceeds to our stockholders, after payment of any obligations due, and after retaining a portion of such proceeds for debt service, working capital and other general purposes. A sale transaction would decrease our revenues, while a securitization transaction would increase our expenses as we would become obligated to make interest payments on any notes issued in connection with such securitization.

We intend to distribute our income, net of operating expenses, debt service and income taxes, to our stockholders. On February 26, 2009, our board of directors declared two cash dividends of $0.50 per share of common stock payable on April 1, 2009 and October 1, 2009. Based on the total shares outstanding as of the March 16, 2009 record date the total dividend paid on April 1, 2009 was $59.7 million. The record date for the October 1, 2009 dividend is September 17, 2009 as determined by the board of directors at its

June 4, 2009 meeting. Effective March 17, 2009, in connection with the payment of the dividend in April 2009, the conversion rates for our outstanding 2012 Notes and 2023 Notes (the Notes) were adjusted to 89.165 and 123.715 shares of common stock per $1,000 principal amount of the Notes, or $11.22 and $8.08 per share, respectively. The adjustment was based on the amount of the dividend and the trading price of our stock in certain periods pursuant to the terms of the applicable indenture. The conversion rates for the Notes will be further adjusted on September 18, 2009 in connection with the October 2009 dividend payment. As of June 30, 2009 we accrued $59.8 million in dividends payable for the October dividend payment.

Our material contractual obligations under lease and debt agreements for the next five years and thereafter are as follows:

	Payments Due by Period				
	Less Than 1 Year	1-3 Years	4-5 Years	More Than 5 Years	Total
			(in thousands)		
CONTRACTUAL OBLIGATIONS					
Operating Leases	$ 214	$ 44	$ 8	$ —	$ 266
Convertible notes (including interest payments)[1]	10,400	452,650	—	—	463,050
Total contractual obligations	$10,614	$452,694	$ 8	$ —	$463,316

[1] The 2023 Notes are shown as being due in the 1-3 years column as such notes are puttable by note holders in 2010.

2012 Convertible Notes

In February 2005, we issued 2.00% Convertible Senior Notes due February 15, 2012 with a principal amount of $250.0 million (2012 Notes). The 2012 Notes are convertible at any time, at the holders' option, into our common stock at a conversion price of 89.165 per share, as adjusted from the cash dividend declared in February 2009, and subject to further adjustment in certain events. Interest on the 2012 Notes is payable semiannually in arrears on February 15 and August 15 of each year. The 2012 Notes are our senior unsecured debt and are redeemable by us in whole or in part on or after February 19, 2010 at 100.57% of principal amount if redeemed between February 19, 2010 and February 14, 2011 and at 100.29% of principal amount if redeemed between February 15, 2011 and the maturity date. The 2012 Note are not puttable other than in the context of a fundamental change resulting in the reclassification, conversion, exchange or cancellation of our common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL's outstanding common stock, and the change of a majority of PDL's board of directors without the approval of the board of directors.

In the second quarter of 2009, the Company repurchased an aggregate of $5.0 million face value of our 2012 Notes, at an overall discount of approximately 10.75 percent from face value in a privately negotiated transaction with an institutional holder, for aggregate consideration of $4.5 million in cash, plus accrued but unpaid interest. The Company recorded a net gain of $0.5 million from the purchase of the debt.

2023 Convertible Notes

In July 2003, we issued 2.75% Convertible Subordinated Notes due August 16, 2023 with a principal amount of $250.0 million (2023 Notes). The 2023 Notes are convertible at any time, at the holders' option, into our common stock at a conversion price of 123.715 per share, as adjusted from the cash dividend declared in February 2009, and subject to further adjustment in certain events. Interest on the 2023 Notes is payable semiannually in arrears on February 16 and August 16 of each year. The 2023 Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The 2023 Notes are redeemable at our option, in whole or in part, beginning on August 16, 2008 at par value. Holders of the 2023 Notes may require us to repurchase all or a portion of their 2023 Notes at 100% of their principal amount, plus any unpaid interest, on August 16, 2010, August 16, 2013 and August 16, 2018, and upon the occurrence of a repurchase event in which a change in control has occurred or our common stock is neither listed on a U.S. national securities exchange nor approved for trading over-the-counter. For any 2023 Notes to be repurchased in August 2010, we must pay for the repurchase in cash, and we may pay for the repurchase of the 2023 Notes to be repurchased in August 2013 and August 2018, at our option, in cash, shares of our common stock or a combination of cash and shares of our common stock.

In the second quarter of 2009, the Company repurchased an aggregate of $50.0 million face value of our 2023 Notes, at an overall discount of approximately 2 percent from face value in privately negotiated transactions with institutional holders, for aggregate consideration of $49.3 million in cash, plus accrued but unpaid interest. The Company recorded a net gain of $0.7 million from the purchase of the debt.

At June 30, 2009, our principal obligations are our convertible notes, which in the aggregate are $445.0 million in principal. As discussed above, the 2012 Notes are not puttable (other than in the context of a fundamental change) and our 2023 Notes have a put right in August 2010, August 2013, and August 2018. Accordingly, we expect that our debt service obligations over the next few years

will consist of principal and interest payments. To the extent holders of our 2023 Notes require us to repurchase all or a portion of their notes, we believe we will have sufficient funds for such repurchase from our expected operating income together with our cash on hand, although we will evaluate our liquidity situation at such time and determine whether we should also undertake additional financings. In addition, to the extent we pursue the monetization of all or a portion of our antibody humanization patents and royalties assets, the structure of such transaction may qualify as a repurchase event or fundamental change under one or both series of convertible notes, which would trigger the put rights of the holders of such notes, in which case we would be required to use a portion of the net proceeds from such transaction to repurchase any notes put to us. We may also redeem, repurchase or otherwise acquire one or both series of convertible notes in the open market in the future either in connection with a monetization transaction or not, any of which could adversely affect the amount or timing of any distributions to our stockholders. We would make such redemptions or repurchases only if we deemed it to be in our stockholders' best interest. We may finance such redemptions or repurchases with cash on hand and/or with public or private equity or debt financings if we deem such financings are available on favorable terms.

Our material contractual obligations under lease agreements as of June 30, 2009 have not materially changed since our Annual Report on Form 10-K for the year ended December 31, 2008 filed with the SEC.

Off-Balance Sheet Arrangements

In connection with the Spin-Off, we entered into amendments to the leases for our former facilities in Redwood City, California adding Facet as a co-tenant. In addition, we signed a Co-Tenancy Agreement with Facet under which we are obligated to make lease payments for the Redwood City facility in the event that Facet defaults under the lease. Such guarantee is in place for the original term of the leases, or through December 2021. We recorded the estimated fair value of the guarantee of $10.7 million as a long-term liability on our Condensed Consolidated Balance Sheet as of December 31, 2008 and June 30, 2009. However, our maximum exposure exceeds the amount recorded as a liability on our balance sheet. As of June 30, 2009, the lease payments subject to our guarantee aggregated approximately $135.6 million through December 31, 2021. In addition, should Facet default, we would also be responsible for lease related costs including utilities, property taxes and common area maintenance which may be as much as the actual lease payments.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of June 30, 2009, our investment portfolio was approximately $190.0 million and consisted of investments in Rule 2a-7 money market funds and certificates of deposit. If market interest rates were to have increased by 1% as of June 30, 2009, there would have been no material impact on the fair value of our portfolio. However, credit and liquidity risks could adversely affect the value of our investments in money market funds. If the difference between amortized cost and outside market valuations becomes significant, the fund's valuation may change causing the fund to "break the buck" (move from the USD 1.00 net asset value). Our money market funds maintained a USD 1.00 net asset value and were not subject to withdrawal restrictions as of June 30, 2009. However, if credit market conditions persist or worsen, the value of our money market funds could be adversely affected.

As of June 30, 2009, the aggregate fair value of our convertible notes was $413.8 million, based on available pricing information. The 2023 Notes bear interest at a fixed rate of 2.75% and the 2012 Notes bear interest at a fixed rate of 2.00%. These obligations are subject to interest rate risk because the fixed interest rates under these obligations may exceed current interest rates.

The following table presents information about our material debt obligations that are sensitive to changes in interest rates. The table presents principal amounts and related weighted-average interest rates by year of expected maturity for our debt obligations or the earliest in which the noteholders may put the debt to us. Our convertible notes may be converted to common stock prior to the maturity date.

(Dollars in thousands)	2009	2010	2011	2012	Total	Fair Value
Fixed rate	—	$200,000	—	$245,000	$445,000	$413,838[1]
Average interest rate	2.34%	2.34%	2.00%	2.00%	2.17%	

[1] The fair value of the remaining payments under our convertible notes is based on the trading value of our notes at June 30, 2009.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures. Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of June 30, 2009, our disclosure controls and procedures were effective to ensure the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

Changes in internal controls. There were no changes in our internal controls over financial reporting during the quarter ended June 30, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the effectiveness of controls. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within an organization have been detected. We continue to improve and refine our internal controls and our compliance with existing controls is an ongoing process.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

European Patent Oppositions

Two Queen et al. patents were issued to us by the European Patent Office, the ‘216 Patent and the ‘040 Patent. We are currently in two separate opposition proceedings with respect to these two patents. We intend to continue to vigorously defend our two European Queen et al. patents in these two proceedings, a description of which is set forth below.

Opposition to ‘216 Patent

In November 2003, in an appeal proceeding of a prior action of the Opposition Division of the European Patent Office, the Technical Board of Appeal of the European Patent Office ordered that certain claims in our ‘216 Patent be remitted to the Opposition Division for further prosecution and consideration of issues of patentability (entitlement to priority, novelty, enablement and inventive step). These claims cover the production of humanized antibody light chains that contain amino acid substitutions made under our antibody humanization technology. In April 2007, at an oral proceeding, the Opposition Division upheld claims that are virtually identical to the claims remitted by the Technical Board of Appeal to the Opposition Division. The deadline for filing notice of appeal has expired. Five opponents filed such notices in a timely manner and, of those, three have filed Grounds of Appeal. The ‘216 Patent remains enforceable during the appeal process. The Technical Board of Appeal has not scheduled a date for the appeal hearing with respect to the ‘216 Patent.

Opposition to ‘040 Patent

At an oral hearing in February 2005, the Opposition Division revoked the claims in our ‘040 Patent. The Opposition Division based its decision on formal issues and did not consider substantive issues of patentability. We appealed the decision to the Technical Board of Appeal. The appeal suspended the legal effect of the decision of the Opposition Division during the appeal process. The Technical Board of Appeal has scheduled the appeal hearing for October 14 through October 16, 2009.

Settlement with Alexion

In March 2007, after the U.S. Food and Drug Administration’s (FDA) market approval of Alexion Pharmaceuticals, Inc.’s (Alexion) Soliris® humanized antibody product, we filed a lawsuit against Alexion in the United States District Court for the District of Delaware for infringement of certain claims of United States Patent Number 5,693,761, United States Patent Number 5,693,762 and United States Patent Number 6,180,370 (collectively, the patents-in-suit), which are three of our Queen et al. patents.

On December 31, 2008, we and Alexion entered into a definitive license agreement and settlement agreement. Under the terms of the agreements, we granted Alexion a license under certain claims in our Queen et al. patents, and provided Alexion a covenant not to sue in respect of other claims in our Queen et al. patents, thus permitting Alexion to commercialize Soliris for all indications under our Queen et al. patents. In consideration of this license, Alexion agreed to pay us $25 million, of which Alexion paid $12.5 million in January 2009 and another $12.5 million was paid in June 2009. Following receipt of this second payment, in June of 2009 the parties filed with the United States District Court of Delaware a Stipulation and Order of Dismissal dismissing the lawsuit in its entirety with prejudice effective December 31, 2008, subject to the terms and conditions of the license agreement and settlement agreement.

No additional payments will be owed by Alexion to us under our Queen et al. patents in respect of Soliris sales for any indication. As part of the settlement, Alexion has confirmed that our Queen et al. patents claims are valid and that Soliris employs technology covered under our Queen et al. patents. Further, Alexion has agreed not to challenge or assist other parties in challenging the validity of our Queen et al. patents in the future. Under the license agreement, we separately granted Alexion the right to take a royalty-bearing license under our Queen et al. patents to commercialize additional Alexion humanized antibodies that may be covered by our Queen et al. patents in the future. In the event that Alexion takes such a license, Alexion will pay us a royalty of 4 percent of net sales of such non-Soliris products.

Action for Declaratory Judgment of Patent Invalidity by MedImmune

In December 2008, MedImmune, LLC, a subsidiary of AstraZeneca plc (MedImmune) filed a lawsuit against us in the United States District Court for the Northern District of California seeking a declaratory judgment that the U.S. Queen et al. patents are invalid and/or not infringed by its Synagis® and motavizumab products, and that therefore MedImmune owes no royalties under its license agreement with us. On May 7, 2009, we filed our answer to MedImmune's lawsuit asserting certain counterclaims and affirmative defenses and requested that the court find (a) that Synagis and motovizumab fall under the scope of the Queen et al. patents and that the sale thereof requires that MedImmune pay us royalties as specified in our license agreement with them; (b) that the claims we are asserting against MedImmune are valid; (c) that MedImmune is not entitled to different terms, including a lower royalty rate, as a result of our settlement with Alexion; and (d) that MedImmune is liable for attorney's fees and costs related to the action. The court has scheduled a *Markman* claim construction hearing for October 1, 2009, and scheduled trial for April 5, 2010. Although MedImmune has paid us royalties under the MedImmune agreement with respect to sales of Synagis on a quarterly basis since the fourth quarter of 1998 through the second quarter of 2009, we cannot assure you that MedImmune will continue to pay us royalties or continue to pay us royalties at the current rate.

In the event that MedImmune prevails on the claims in its complaint, we expect that MedImmune will request the court to order a recoupment of payments made to PDL which represent obligations under its license to the Queen et al. patents that have accrued since the date of their claim. Alternatively, if MedImmune is successful in showing that it has made payments to PDL at a higher royalty rate than required pursuant to its license obligations, we expect that MedImmune will request the court to order recoupment of such excess payments.

Interference Proceeding in the United States Patent Office

On February 25, 2009, the U.S. Patent and Trademark Office (PTO) declared an interference proceeding between certain claims of Queen et al., U.S. Patent No. 5,585,089 and certain pending claims of Adair et al., U.S. Application No. 08/846,658 under 35 U.S.C. 135(a). UCB Pharma S.A. is the assignee of the '658 application. In an interference proceeding, the Board of Patent Appeals and Interferences typically determines questions of priority of the claimed inventions and may also determine questions of patentability. Any final decision, if adverse to the claim of an applicant, is a final refusal by the Patent and Trademark Office of the claims involved. The Office may issue a patent to the applicant if the applicant is adjudged the prior inventor. A final judgment adverse to the patentee from which no appeal or other review has been or can be taken or had constitutes cancellation of the claims involved in the patent. The PTO has scheduled a default oral hearing date (if requested) for January 7, 2010, regarding the first phase of the interference to hear substantive motions. In addition, the PTO has scheduled proceedings for the determination of priority subsequent to a decision in the first phase of the interference.

ITEM 1A. RISK FACTORS

There have been no material changes from the risk factors disclosed in the "Risk Factors" section of our Annual Report on Form 10-K for the year ended December 31, 2008 except that the risk factor regarding our compliance with NASDAQ rules requiring audit committees to have at least three independent directors is no longer applicable as of the filing of this report as our audit committee has been in compliance with such rules since April 25, 2009.

You should carefully consider and evaluate all of the information included and incorporated by reference in this Annual Report, including the risk factors listed below. Any of these risks, as well as other risks and uncertainties, could materially and adversely affect our business, results of operations and financial condition, which in turn could materially and adversely affect the trading price of shares of our common stock. Additional risks not currently known or currently material to us may also harm our business.

Keep these risk factors in mind when you read forward-looking statements contained in this Quarterly Report and the documents incorporated by reference in this Quarterly Report. These statements relate to our expectations about future events and time periods. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "intends," "plans," "believes," "anticipates," "expects," "estimates," "predicts," "potential," "continue" or "opportunity," the negative of these words or words of similar import. Similarly, statements that describe our reserves and our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. Forward-looking statements involve risks and uncertainties, and future events and circumstances could differ significantly from those anticipated in the forward-looking statements.

Our antibody humanization patents, which are of significant value to us, are being challenged and a successful challenge or refusal to take a license could limit our future revenues.

Two of our Queen et al. patents were issued to us by the European Patent Office, the '216 Patent and the '040 Patent. Eighteen notices of opposition to our '216 Patent and eight notices of opposition to our '040 Patent were filed by major pharmaceutical and biotechnology companies, among others, and we are currently in two separate opposition proceedings with respect to these two patents. An adverse decision in the pending European oppositions could have a material impact on our ability to collect royalties on European sales of our licensee's products manufactured outside the United States and could encourage challenges to our related Queen et al. patents in other jurisdictions including the United States.

In addition, disputes with existing licensees could result in litigation in which the validity and/or enforceability of our Queen et al. patents could be challenged. While it is our policy to vigorously defend and enforce our rights under our Queen et al. patents where appropriate, we cannot assure you that we will be successful if the validity and/or enforceability of our Queen et al. patents are challenged for any reason. In the event of a final, non-appealable judgment that some or all of our Queen et al. patents are invalid or unenforceable, there is a substantial likelihood that one or more of our licensees will cease paying royalties under the terms of our existing license agreements. See "Item 1. Legal Proceedings."

Our ability to maintain and increase our revenues from licensing our Queen et al. patents is dependent upon third parties maintaining their existing licensing arrangements, exercising rights under existing patent rights agreements and paying royalties under existing patent licenses with us. If we experience difficulty in enforcing our patent rights through licenses or if our licensees or prospective licensees challenge our antibody humanization patents or challenge whether particular existing or follow-on products are within the scope of our Queen et al. patents and therefore not subject to royalty payments, our revenues and financial condition could be adversely affected and we could be required to undertake additional actions including litigation to enforce our rights. Such efforts would increase our expenses and could be unsuccessful.

We derive a significant portion of our royalty revenues from a limited number of licensees and our future success depends on continued market acceptance of their products.

Our revenues consist almost entirely of royalties although we expect to receive minimal annual maintenance fees from licensees of our Queen et al. patents and, in future periods, we may receive milestone payments if the licensed products in development achieve certain development milestones and royalty payments if the licensed products receive marketing approval and generate sales before the expiration of our Queen et al. patents. Genentech, Inc. (Genentech), a subsidiary of F. Hoffman-La Roche Ltd. (Roche) accounted for 65%, 77%, 79%, and 80% of our revenues from continuing operations for the six months ended June 30, 2009 and the years ended December 31, 2008, 2007, and 2006, respectively, and MedImmune accounted for 19%, 14%, 16% and 18% of our revenues from continuing operations for the six months ended June 30, 2009 and the years ended December 31, 2008, 2007, and 2006, respectively. Our future success depends primarily upon the continued market acceptance of our licensee's commercialized products and the performance by our licensees of their obligations under the applicable license agreements. In addition, our ability to generate royalty revenue depends upon the ability of our licensees to develop, introduce and deliver products that achieve and sustain market acceptance. We have no control over the sales efforts of our licensees and our licensees might not be successful. Reductions in the sales volume or average selling price of licensed products could have a material adverse effect on our business.

We must protect our patent and other intellectual property rights to succeed.

Our success is dependent in significant part on our ability to protect our patent and other intellectual property rights. The scope, validity, enforceability and effective term of patents can be highly uncertain and often involve complex legal and factual questions and proceedings. Patents, may be challenged, invalidated, circumvented or rendered unenforceable. The issuance of a patent is presumptive but not conclusive as to its validity or its enforceability. U.S. patents and patent applications may also be subject to interference proceedings and to reexamination or reissue proceedings in the PTO and foreign patents may be subject to opposition or comparable proceedings in corresponding foreign patent offices. These proceedings could result in either loss of the patent or loss or reduction in the scope of one or more of the claims of the patent. In addition, such interference, reexamination, reissue and opposition proceedings may be costly. Furthermore, no consistent policy has emerged regarding the breadth of claims in biotechnology patents so that even issued patents may later be modified or revoked by the relevant patent authorities or courts. Any limitation in claim scope could reduce our ability to negotiate or collect royalties based on these patents. Moreover, the scope of a patent in one country does not assure similar scope of a patent with similar claims in another country, and claim interpretation and infringement laws vary among countries. As a result of these factors, we are unable to predict the extent of patent protection in any country. See "Item 1. Legal Proceedings."

Our licensees may be unable to maintain regulatory approvals for currently licensed products or obtain regulatory approvals for new products. Safety issues could also result in the failure to maintain regulatory approvals or decrease revenues.

Our licensees are subject to stringent regulation with respect to product safety and efficacy by various international, federal, state and local authorities. Of particular significance are the FDA's requirements covering research and development, testing, manufacturing, quality control, labeling and promotion of drugs for human use. As a result of these requirements, the length of time, the level of expenditures and the laboratory and clinical information required for approval of a biologic license application or new drug application are substantial and can require a number of years. In addition, even if our licensees' products receive regulatory approval, they remain subject to ongoing FDA regulations including, for example, obligations to conduct additional clinical trials or other testing, changes to the product label, new or revised regulatory requirements for manufacturing practices, written advisements to physicians and/or a product recall or withdrawal. Our licensees may not maintain necessary regulatory approvals for their existing licensed products or our licensees may not obtain necessary regulatory approvals on a timely basis, if at all, for any of the licensed products our licensees are developing or manufacturing. The occurrence of adverse events reported by any licensee may result in the revocation of regulatory approvals or decreased sales of the applicable product due to a change in physician's willingness to prescribe, or patient's willingness to use, the applicable product. In either case, our revenues could be materially and adversely affected.

For example, in February 2005, Biogen Idec Inc. (Biogen Idec) and Elan Corporation plc (Elan) announced that they had voluntarily suspended the marketing and commercial distribution of the Tysabri antibody, a drug approved to treat multiple sclerosis that is licensed under our Queen et al. patents, because Biogen Idec and Elan had received reports of cases of progressive multifocal leukoencephalopathy (PML), a rare and frequently fatal, demyelinating disease of the central nervous system, in certain patients treated with Tysabri antibody. In July 2006, Biogen Idec and Elan reintroduced the Tysabri® antibody; however, the Tysabri antibody's label now includes prominent warnings regarding the Tysabri antibody's risks and Biogen Idec and Elan implemented a risk management plan to inform physicians and patients of the benefits and risks of Tysabri antibody treatment and to minimize the risk of PML potentially associated with Tysabri antibody monotherapy. As of July 29, 2009, eleven cases of PML in patients treated with the Tysabri antibody since its re-launch have been reported. As a result, if physicians prescribe Tysabri less frequently due to the PML risk, or if Biogen Idec and Elan suspend the marketing and commercial distribution of the Tysabri antibody, either voluntarily or mandated by a regulatory agency such as the FDA, the amount of royalties we receive will be adversely affected.

Another example is Raptiva®, Genentech's drug approved for the treatment of psoriasis. Due to safety concerns, the European Union and Canada suspended the marketing authorization for Raptiva in February 2009 and Genentech began a phased withdrawal of the drug from the United States market in April 2009. Thus we do not expect to receive material amounts of royalties on Raptiva sales in the future.

In addition, the current regulatory framework could change or additional regulations could arise at any stage during our licensees' product development or marketing, which may affect our licensee's ability to obtain or maintain approval of their licensed products. Delays in our licensees receiving regulatory approval for licensed products, or their failure to maintain existing regulatory approvals, could have a material adverse effect on our business.

Our licensees face competition.

Our licensees face competition from other pharmaceutical and biotechnology companies. The introduction of new competitive products or follow-on biologics may result in lost market share for our licensees, reduced utilization of licensed products, lower prices and/or reduced licensed product sales, any of which could reduce our royalty revenue and have a material adverse effect on our results of operation.

Our revenues and operating results will likely fluctuate in future periods.

Our antibody humanization royalty revenues may be unpredictable and fluctuate because they depend upon, among other things, the seasonality and rate of growth of sales of licensed products and the mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales in connection with our Master Patent License Agreement with Genentech.

The Genentech agreement provides for a tiered royalty structure under which the royalty rate Genentech must pay on the U.S.-based Sales in a given calendar year decreases on incremental U.S.-based Sales above several net sales thresholds. As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year will decline as Genentech's U.S.-based Sales increase during that year. Because we receive royalties in arrears, the average royalty rate for the payments we receive from Genentech in the second calendar quarter—which would be for Genentech's sales from the first calendar quarter—has been and is expected to continue to be higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech is lowest in the first calendar quarter, which would be for Genentech's sales from the fourth calendar quarter, when more of Genentech's U.S.-based Sales bear royalties at lower royalty rates. With respect to the ex-U.S.-based Manufacturing and Sales, the royalty rate that we receive from Genentech is a fixed rate of 3% based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the recent acquisition of Genentech by Roche. For example, in July 2009 Roche announced its decision to partially close its manufacturing site in Vacaville, California.

Approximately 15% of our royalty revenues from 2008 are from sales of Synagis, which is marketed by MedImmune. This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties paid to us in our first and second quarters than in other quarters. The seasonality of Synagis sales is expected to continue to contribute to fluctuation in our revenues from quarter to quarter.

We intend to reserve from time to time a certain amount of cash in order to satisfy the obligations relating to our convertible notes, which could adversely affect the amount or timing of distributions to our stockholders.

As of June 30, 2009, we had approximately $457.2 million in total long-term liabilities outstanding, comprised primarily of $245.0 million in principal that remains outstanding under our 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes) and

$200.0 million in principal that remains outstanding under our unsecured 2.75% Convertible Subordinated Notes due August 16, 2023 (the 2023 Notes). The 2012 Notes are our senior unsecured debt and are redeemable by us in whole or in part on or after February 19, 2010 at 100.57% of principal amount if redeemed between February 19, 2010 and February 14, 2011 and at 100.29% of principal amount if redeemed between February 15, 2011 and the maturity date. The 2023 Notes may be redeemed at our option, in whole or in part, beginning on August 16, 2008 at par value. Holders of the 2023 Notes may require us to repurchase all or a portion of their 2023 Notes at 100% of their principal amount, plus any unpaid interest, on August 16, 2010, August 16, 2013 and August 16, 2018, and upon the occurrence of a repurchase event in which a change in control has occurred or our common stock is neither listed on a U.S. national securities exchange nor approved for trading over-the-counter. Similarly, holders of the 2012 Notes may require us to purchase all or any portion of their 2012 Notes at 100% of their principal amount, plus any unpaid interest, upon a fundamental change resulting in the reclassification, conversion, exchange or cancellation of our common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL's outstanding common stock, and the change of a majority of PDL's board of directors without the approval of the board of directors. In addition, to the extent we pursue and complete a monetization transaction, the structure of such transaction may qualify as a repurchase event or fundamental change under one or both series of convertible notes, which could trigger the put rights of the holders of such notes, in which case we would be required to use a portion of the net proceeds from such transaction to repurchase any notes put to us.

We intend to reserve from time to time a certain amount of cash in order to satisfy these repurchase or other obligations relating to the 2023 Notes and 2012 Notes, which could adversely affect the amount or timing of any distribution to our stockholders. We may continue to redeem, repurchase or otherwise acquire one or both series of convertible notes in the open market in the future either in connection with a monetization transaction or not, either of which could adversely affect the amount or timing of any distributions to our stockholders.

If any or all of the 2023 Notes or 2012 Notes are not converted into shares of our common stock before their respective maturity dates, we will have to pay the holders of such notes the full aggregate principal amount of the 2023 Notes or 2012 Notes, respectively, then outstanding. Any of the above payments could have a material adverse effect on our cash position. If we fail to satisfy these repurchase or other obligations, it may result in a default under the indenture, which could result in a default under certain of our other debt instruments, if any.

We may be unable to monetize our antibody humanization patents and royalties assets through a potential sale and/or securitization transaction and distribute a portion of the proceeds to our stockholders.

In 2008, we terminated efforts to monetize our antibody humanization patent and royalties assets primarily due to market conditions. While we will continue to explore various approaches to monetizing all or a portion of our antibody humanization patents and royalties assets, there can be no assurance that conditions in the financial markets will allow us to monetize all or a portion of our antibody humanization patents and royalties assets on acceptable terms or that buyers or investors will be interested in our antibody humanization patents and royalties assets.

Our common stock may lose value due to several factors including the expiration of our Queen et al. patents, the payment of dividends or distributions to our stockholders and failure to meet analyst expectations.

We expect that substantially all of our revenues will be in the form of royalties derived from our license agreements associated with our Queen et al. patents which generally expire in 2013 and 2014. Shortly after the expiration of all of our Queen et al. patents, we will cease receiving patent-related royalties from our licensees and, as a result, our common stock will likely have little value. In addition to all of the risk factors listed herein, other factors may also have a significant effect on the market price of our common stock, such as any payment of dividends or distributions to our stockholders and comments and expectations of results made by securities analysts.

If any of these factors causes us to fail to meet the expectations of securities analysts or investors, or if adverse conditions prevail or are perceived to prevail with respect to our business, the price of the common stock would likely drop significantly. A significant drop in the price of a company's common stock often leads to the filing of securities class action litigation against the company. This type of litigation against us could result in substantial cost and may lead to a diversion of management's attention and resources.

The conversion of any of the outstanding 2023 Notes or 2012 Notes into shares of our common stock would have a dilutive effect which could cause our stock price to go down.

The 2023 Notes and 2012 Notes are currently convertible at any time, at the option of the holder, into shares of our common stock at varying conversion rates. We have reserved shares of our authorized common stock for issuance upon conversion of the 2023 Notes and 2012 Notes. If any or all of the 2023 Notes or 2012 Notes are converted into shares of our common stock, our existing stockholders will experience immediate dilution and our common stock price may be subject to downward pressure.

In connection with the cash dividend of $0.50 per share of common stock paid on April 1, 2009 to stockholders of record on March 16, 2009, the conversion rates of the 2023 Notes and 2012 Notes have been adjusted upward. Previously, the conversion rate for the 2023 Notes was 114.153 shares of common stock per $1,000 principal amount of the 2023 Notes (or a conversion price of approximately $8.76 per share). The adjusted conversion rate for the 2023 Notes is 123.715 shares per $1,000 principal amount of 2023 Notes (or a conversion price of approximately $8.08 per share), effective March 17, 2009. Previously, the conversion rate for the 2012 Notes was 82.162 shares per $1,000 principal amount of 2012 Notes (or a conversion price of approximately $12.17 per share). The adjusted conversion rate for the 2012 Notes is 89.165 shares per $1,000 principal amount of 2012 Notes (or a conversion price of approximately $11.22 per share), effective March 17, 2009. In the third quarter of 2009, the conversion rates for the Notes will be further adjusted in connection with the October 2009 dividend payment. Because the conversion rates of the 2023 Notes and 2012 Notes adjust upward, our existing stockholders will experience more dilution if any or all of the 2023 Notes or 2012 Notes are converted into shares of our common stock after the adjusted conversion rates became effective.

Changes in the third-party reimbursement environment may affect product sales from which we generate royalty revenues.

Sales of products from which we generate royalties will depend significantly on the extent to which reimbursement for the cost of such products and related treatments will be available to physicians and patients from various levels of U.S. and international government health administration authorities, private health insurers, and other organizations. Third-party payers and government health administration authorities increasingly attempt to limit and/or regulate the reimbursement of medical products and services, including branded prescription drugs. Changes in government legislation or regulation, such as the Medicare Prescription Drug Improvement and Modernization Act of 2003; the Deficit Reduction Act of 2005; the Medicare, Medicaid and State Children's Health Insurance Program Extension Act of 2007; and the Medicare Improvements for Patients and Providers Act of 2009; changes in formulary or compendia listing; or changes in private third-party payers' policies toward reimbursement for such products may reduce reimbursement of the cost of such products to physicians, pharmacies, and distributors. Decreases in third-party reimbursement could reduce usage of such products, sales to collaborators, and royalties and may have a material adverse effect on our royalties which depend on such product sales. In addition, macroeconomic factors may affect the ability of patients to pay or co-pay for costs or otherwise pay for products from which we generate royalties by, for example, decreasing the number of patients covered by insurance policies or increasing costs associated with such policies.

We must attract, retain and integrate key employees in order to succeed. It may be difficult to recruit, retain and integrate key employees.

To be successful, we must attract, retain and integrate qualified personnel. Our business is managing our antibody humanization patents and royalties assets, which requires only a small number of employees. It may be difficult for us to recruit and retain qualified personnel. If we are unsuccessful in attracting, retaining and integrating qualified personnel, our business could be impaired.

Our agreements with Facet may not reflect terms that would have resulted from arm's-length negotiations between unaffiliated third parties.

The agreements associated with the Spin-Off, including the Separation and Distribution Agreement, Tax Sharing and Indemnification Agreement, Transition Services Agreement and Cross License Agreement, were negotiated in the context of the Spin-Off while Facet was still part of PDL and, accordingly, may not reflect more favorable terms that may have resulted from arm's-length negotiations between unaffiliated third parties.

We may not be able to collect on indemnification rights from Facet.

Under the terms of the separation and distribution agreement with Facet, we and Facet agreed to indemnify the other from and after the Spin-Off with respect to certain indebtedness, liabilities and obligations that were retained by our respective companies. These indemnification obligations could be significant. The ability to satisfy these indemnities if called upon to do so will depend upon the future financial strength of each of our companies. We cannot assure you that, if Facet has to indemnify us for any substantial obligations, Facet will have the ability to satisfy those obligations. If Facet does not have the ability to satisfy those obligations, we may be required to satisfy those obligations instead. For example, in connection with the Spin-Off, we entered into amendments to the leases for the facilities in Redwood City, California, which formerly served as our corporate headquarters and which are now occupied by Facet under which Facet was added as a co-tenant under the leases and a Co-Tenancy Agreement under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the Spin-Off date. Should Facet default under its lease obligations, we would be held liable by the landlord as a co-tenant, and, thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities, the disposition of which could have a material adverse effect on the amount or timing of any distribution to our stockholders. As of June 30, 2009, the total lease payments for the duration of the guarantee, which runs through December 2021, are approximately $135.6 million. We would also be responsible for lease related payments including utilities, property taxes, and common area maintenance which may be as much as the actual lease payments.

We must evaluate the effectiveness of our disclosure controls and internal control over financial reporting on a periodic basis and publicly disclose the results of these evaluations and related matters.

Our management is required to periodically evaluate the effectiveness of our disclosure controls and procedures and our internal control over financial reporting and our independent registered public accounting firm must attest to the effectiveness of our internal control over financial reporting as of the end of each fiscal year. We are also required to disclose in our periodic reports with the SEC any changes in internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. The rules governing the standards that must be met for management to assess the effectiveness of our internal control over financial reporting are complex and require significant documentation, testing and possible remediation. Compliance with these rules has resulted in increased expense and the devotion of management resources.

Our evaluation of our disclosure controls and procedures may reveal material weaknesses in our internal control over financial reporting. In 2007 and 2008, we reported that we had material weaknesses in our internal controls with respect to our financial statement close process which we believe have been remediated. If we identify a material weakness, we would be required to conclude that our internal control over financial reporting is ineffective and disclose this conclusion which could adversely affect the market price of our common stock. For example, we disclosed we had material weaknesses in our Quarterly Reports on Form 10-Q for the periods ended September 30, 2005, June 30, 2007, September 30, 2007, March 31, 2008 and June 30, 2008 and our Annual Report on Form 10-K for the year ended December 31, 2007.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

We held our 2009 Annual Meeting of Stockholders June 4, 2009 at the Hyatt Regency Hotel, 111 Country Club Drive, Incline Village, Nevada. Of the 119,464,650 shares of common stock outstanding as of April 6, 2009, the record date for the meeting, 105,696,158 shares were present at the meeting or represented by proxy, representing approximately 88.47% of the total shares outstanding on the record date.

At the meeting, our stockholders voted on the election of two Class II directors to hold office for a three-year term expiring at our 2012 Annual Meeting of Stockholders. The tabulation of the votes for the election of these directors is set forth below:

Nominee	For	Against	Abstain
Jody S. Lindell	103,555,036	2,141,122	—
John P. McLaughlin	103,386,936	2,309,222	—

In addition to the election of Ms. Lindell and Mr. McLaughlin, the following directors each had a term of office as a director that continued immediately after the stockholders meeting: Joseph Klein III, Frederick Frank and Paul W. Sandman.

At the meeting, the stockholders voted to approve certain amendments to the 2005 Equity Incentive Plan. The tabulation of votes for this proposal is set forth below:

For	Against	Abstain	Broker Non-Votes
85,799,618	5,603,639	47,439	14,245,462

At the meeting, the stockholders voted to ratify the appointment of Ernst & Young LLP as our independent registered accounting firm for the fiscal year ending December 31, 2009. The tabulation of votes for this proposal is set forth below:

For	Against	Abstain	Broker Non-Votes
104,747,400	886,719	62,039	—

ITEM 6. EXHIBITS

3.1	Amended and Restated Bylaws effective June 4, 2009 (incorporated by reference to Exhibit 99.1 to Current Report on Form 8-K filed June 10, 2009)
10.1	Amended and Restated 2005 Equity Incentive Plan effective June 4, 2009
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
32.1	Certification by the Principal Executive Officer and the Principal Financial Officer, as required by Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350)

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 thereunto duly authorized.

Dated: July 30, 2009

PDL BIOPHARMA, INC.
(Registrant)

/s/ John P. McLaughlin
John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Christine R. Larson
Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)

/s/ Karen J. Wilson
Karen J. Wilson
Vice President Finance
(Principal Accounting Officer)

PDL BIOPHARMA, INC.
2005 EQUITY INCENTIVE PLAN
(AMENDED AND RESTATED EFFECTIVE JUNE 4, 2009)

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1. **Establishment, Purpose and Term of Plan.**

1.1 **Establishment**. The PDL BioPharma, Inc. 2005 Equity Incentive Plan (the *"**Plan**"*) is hereby established effective as of June 8, 2005, the date of its approval by the stockholders of the Company (the *"**Effective Date**"*).

1.2 **Purpose**. The purpose of the Plan is to advance the interests of the Participating Company Group and its stockholders by providing an incentive to attract, retain and reward persons performing services for the Participating Company Group and by motivating such persons to contribute to the growth and profitability of the Participating Company Group. The Plan seeks to achieve this purpose by providing for Awards in the form of Options, Stock Appreciation Rights, Restricted Stock Purchase Rights, Restricted Stock Bonuses, Restricted Stock Units, Performance Shares, Performance Units, Cash-Based Awards and Other Stock-Based Awards.

1.3 **Term of Plan**. The Plan shall continue in effect until its termination by the Committee; *provided*, *however*, that all Awards shall be granted, if at all, within ten (10) years from the Effective Date.

2. **Definitions and Construction.**

2.1 **Definitions**. Whenever used herein, the following terms shall have their respective meanings set forth below:

(a) *"**Affiliate**"* means (i) an entity, other than a Parent Corporation, that directly, or indirectly through one or more intermediary entities, controls the Company or (ii) an entity, other than a Subsidiary Corporation, that is controlled by the Company directly, or indirectly through one or more intermediary entities. For this purpose, the term "control" (including the term "controlled by") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the relevant entity, whether through the ownership of voting securities, by contract or otherwise; or shall have such other meaning assigned such term for the purposes of registration on Form S-8 under the Securities Act.

(b) *"**Award**"* means any Option, Stock Appreciation Right, Restricted Stock Purchase Right, Restricted Stock Bonus, Restricted Stock Unit, Performance Share, Performance Unit, Cash-Based Award or Other Stock-Based Award granted under the Plan.

(c) *"**Award Agreement**"* means a written or electronic agreement between the Company and a Participant setting forth the terms, conditions and restrictions of the Award granted to the Participant.

(d) *"**Board**"* means the Board of Directors of the Company.

(e) "***Cash-Based Award***" means an Award denominated in cash and granted pursuant to Section 11.

(f) *"**Cause**"* means, unless such term or an equivalent term is otherwise defined with respect to an Award by the Participant's Award Agreement or by a written contract of employment or service, any of the following: (i) the Participant's theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any Participating Company documents or records; (ii) the Participant's material failure to abide by a Participating Company's code of conduct or other policies (including, without limitation, policies relating to confidentiality and reasonable workplace conduct); (iii) the Participant's unauthorized use, misappropriation, destruction or diversion of any tangible or intangible asset or corporate opportunity of a Participating Company (including, without limitation, the Participant's improper use or disclosure of a Participating Company's

confidential or proprietary information); (iv) any intentional act by the Participant which has a material detrimental effect on a Participating Company's reputation or business; (v) the Participant's repeated failure or inability to perform any reasonable assigned duties after written notice from a Participating Company of, and a reasonable opportunity to cure, such failure or inability; (vi) any material breach by the Participant of any employment, service, non-disclosure, non-competition, non-solicitation or other similar agreement between the Participant and a Participating Company, which breach is not cured pursuant to the terms of such agreement; or (vii) the Participant's conviction (including any plea of guilty or nolo contendere) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs the Participant's ability to perform his or her duties with a Participating Company.

(g) *"**Change in Control**"* means, unless such term or an equivalent term is otherwise defined with respect to an Award by the Participant's Award Agreement or by a written contract of employment or service, the occurrence of any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such person) "beneficial ownership" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company possessing thirty-five percent (35%) or more of the total combined voting power of the Company's then-outstanding securities entitled to vote generally in the election of Directors; *provided*, *however*, that the following acquisitions shall not constitute a Change in Control: (1) an acquisition by any such person who prior to such acquisition is the beneficial owner of thirty-five percent (35%) or more of such voting power, (2) any acquisition directly from the Company, including, without limitation, a public offering of securities, (3) any acquisition by the Company, (4) any acquisition by a trustee or other fiduciary under an employee benefit plan of a Participating Company or (5) any acquisition by an entity owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the voting securities of the Company; or

(ii) an Ownership Change Event or series of related Ownership Change Events (collectively, a *"**Transaction**"*) in which the stockholders of the Company immediately before the Transaction do not retain immediately after the Transaction direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the outstanding voting securities of the Company or, in the case of an Ownership Change Event described in Section 2.1(bb)(iii), the entity to which the assets of the Company were transferred (the *"**Transferee**"*), as the case may be; or

(iii) a liquidation or dissolution of the Company.

For purposes of the preceding sentence, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company or the Transferee, as the case may be, either directly or through one or more subsidiary corporations or other business entities. The Committee shall have the right to determine whether multiple sales or exchanges of the voting securities of the Company or multiple Ownership Change Events are related, and its determination shall be final, binding and conclusive. Notwithstanding the foregoing, to the extent that any amount constituting Section 409A Deferred Compensation would become payable under this Plan by reason of a Change in Control, such amount shall become payable only if the event constituting a Change in Control would also constitute a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company within the meaning of Section 409A.

(h) *"**Code**"* means the Internal Revenue Code of 1986, as amended, and any applicable regulations or administrative guidelines promulgated thereunder.

(i) *"**Committee**"* means the Compensation Committee and such other committee or subcommittee of the Board, if any, duly appointed to administer the Plan and having such powers in each

instance as shall be specified by the Board. If, at any time, there is no committee of the Board then authorized or properly constituted to administer the Plan, the Board shall exercise all of the powers of the Committee granted herein, and, in any event, the Board may in its discretion exercise any or all of such powers.

(j) "***Company***" means PDL BioPharma, Inc., a Delaware corporation, or any successor corporation thereto.

(k) "***Consultant***" means a person engaged to provide consulting or advisory services (other than as an Employee or a member of the Board) to a Participating Company, *provided* that the identity of such person, the nature of such services or the entity to which such services are provided would not preclude the Company from offering or selling securities to such person pursuant to the Plan in reliance on registration on a Form S-8 Registration Statement under the Securities Act.

(l) "***Covered Employee***" means any Employee who is or may reasonably be expected to become a "covered employee" as defined in Section 162(m), or any successor statute, and who is designated, either as an individual Employee or a member of a class of Employees, by the Committee no later than (i) the date ninety (90) days after the beginning of the Performance Period, or (ii) the date on which twenty-five percent (25%) of the Performance Period has elapsed, as a "Covered Employee" under this Plan for such applicable Performance Period.

(m) "***Director***" means a member of the Board.

(n) "***Disability***" means the permanent and total disability of the Participant, within the meaning of Section 22(e)(3) of the Code.

(o) "***Dividend Equivalent***" means a credit, made at the discretion of the Committee or as otherwise provided by the Plan, to the account of a Participant in an amount equal to the cash dividends paid on one share of Stock for each share of Stock represented by an Award held by such Participant.

(p) "***Employee***" means any person treated as an employee (including an Officer or a member of the Board who is also treated as an employee) in the records of a Participating Company and, with respect to any Incentive Stock Option granted to such person, who is an employee for purposes of Section 422 of the Code; *provided, however*, that neither service as a member of the Board nor payment of a director's fee shall be sufficient to constitute employment for purposes of the Plan. The Company shall determine in good faith and in the exercise of its discretion whether an individual has become or has ceased to be an Employee and the effective date of such individual's employment or termination of employment, as the case may be. For purposes of an individual's rights, if any, under the terms of the Plan as of the time of the Company's determination of whether or not the individual is an Employee, all such determinations by the Company shall be final, binding and conclusive as to such rights, if any, notwithstanding that the Company or any court of law or governmental agency subsequently makes a contrary determination as to such individual's status as an Employee.

(q) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(r) "***Fair Market Value***" means, as of any date, the value of a share of Stock or other property as determined by the Committee, in its discretion, or by the Company, in its discretion, if such determination is expressly allocated to the Company herein, subject to the following:

(i) Except as otherwise determined by the Committee, if, on such date, the Stock is listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be the closing price of a share of Stock (or the mean of the closing bid and asked prices of a share of Stock if the Stock is so quoted instead) as quoted on the NASDAQ Stock Market or such other national or regional securities exchange or market system constituting the primary market for the Stock, as reported in *The Wall Street Journal*

or such other source as the Company deems reliable. If the relevant date does not fall on a day on which the Stock has traded on such securities exchange or market system, the date on which the Fair Market Value shall be established shall be the last day on which the Stock was so traded prior to the relevant date, or such other appropriate day as shall be determined by the Committee, in its discretion.

(ii) Notwithstanding the foregoing, the Committee may, in its discretion, determine the Fair Market Value on the basis of the opening, closing, or average of the high and low sale prices of a share of Stock on such date or the preceding trading day, the actual sale price of a share of Stock received by a Participant, any other reasonable basis using actual transactions in the Stock as reported on a national or regional securities exchange or market system and consistently applied, or on any other basis consistent with the requirements of Section 409A. The Committee may also determine the Fair Market Value upon the average selling price of the Stock during a specified period that is within thirty (30) days before or thirty (30) days after such date, *provided* that, with respect to the grant of an Option or SAR, the commitment to grant such Award based on such valuation method must be irrevocable before the beginning of the specified period and such valuation method must be used consistently for grants of Options and SARs under the same and substantially similar programs. The Committee may vary its method of determination of the Fair Market Value as provided in this Section for different purposes under the Plan to the extent consistent with the requirements of Section 409A.

(iii) If, on such date, the Stock is not listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be as determined by the Committee in good faith without regard to any restriction other than a restriction which, by its terms, will never lapse.

(s) *"**Full Value Award**"* means any Award settled in Stock, other than (i) an Option, (ii) a Stock Appreciation Right, (iii) a Restricted Stock Purchase Right or an Other Stock-Based Award under which the Company will receive monetary consideration equal to the Fair Market Value (determined as of the date of grant) of the shares subject to such Award or (iv) an Other Stock-Based award based on appreciation in the Fair Market Value of the Stock.

(t) *"**Incentive Stock Option**"* means an Option intended to be (as set forth in the Award Agreement) and which qualifies as an incentive stock option within the meaning of Section 422(b) of the Code.

(u) *"**Insider**"* means an Officer, Director or any other person whose transactions in Stock are subject to Section 16 of the Exchange Act.

(v) *"**Net-Exercise**"* means a procedure by which the Participant will be issued a number of shares of Stock upon the exercise of an Option determined in accordance with the following formula:

N = X(A-B)/A, where
"N" = the number of shares of Stock to be issued to the Participant upon exercise of the Option;
"X" = the total number of shares with respect to which the Participant has elected to exercise the Option;
"A" = the Fair Market Value of one (1) share of Stock determined on the exercise date; and
"B" = the exercise price per share (as defined in the Participant's Award Agreement)

(w) *"**Nonstatutory Stock Option**"* means an Option not intended to be (as set forth in the Award Agreement) an incentive stock option within the meaning of Section 422(b) of the Code.

(x) *"**Officer**"* means any person designated by the Board as an officer of the Company.

(y) *"**Option**"* means an Incentive Stock Option or a Nonstatutory Stock Option granted pursuant to Section 6.

(z) "***Other Stock-Based Award***" means an Award denominated in shares of Stock and granted pursuant to Section 11.

(aa) "***Outside Director***" means a Director who is neither an Employee nor a Consultant,

(bb) "***Ownership Change Event***" means the occurrence of any of the following with respect to the Company: (i) the direct or indirect sale or exchange in a single or series of related transactions by the stockholders of the Company of more than fifty percent (50%) of the voting stock of the Company; (ii) a merger or consolidation in which the Company is a party; or (iii) the sale, exchange or transfer of all or substantially all of the assets of the Company (other than a sale, exchange or transfer to one or more subsidiaries of the Company).

(cc) "***Parent Corporation***" means any present or future "parent corporation" of the Company, as defined in Section 424(e) of the Code.

(dd) "***Participant***" means any eligible person who has been granted one or more Awards.

(ee) "***Participating Company***" means the Company or any Parent Corporation, Subsidiary Corporation or Affiliate.

(ff) "***Participating Company Group***" means, at any point in time, all entities collectively which are then Participating Companies.

(gg) "***Performance Award***" means an Award of Performance Shares or Performance Units.

(hh) "***Performance Award Formula***" means, for any Performance Award, a formula or table established by the Committee pursuant to Section 10.3 which provides the basis for computing the value of a Performance Award at one or more threshold levels of attainment of the applicable Performance Goal(s) measured as of the end of the applicable Performance Period.

(ii) "***Performance-Based Compensation***" means compensation under an Award that satisfies the requirements of Section 162(m) for certain performance-based compensation paid to Covered Employees.

(jj) "***Performance Goal***" means a performance goal established by the Committee pursuant to Section 10.3.

(kk) "***Performance Period***" means a period established by the Committee pursuant to Section 10.3 at the end of which one or more Performance Goals are to be measured.

(ll) "***Performance Share***" means a right granted to a Participant pursuant to Section 10 to receive a payment equal to the value of a Performance Share, as determined by the Committee, based on performance.

(mm) "***Performance Unit***" means a right granted to a Participant pursuant to Section 10 to receive a payment equal to the value of a Performance Unit, as determined by the Committee, based upon performance.

(nn) "***Restricted Stock Award***" means an Award of a Restricted Stock Bonus or a Restricted Stock Purchase Right.

(oo) "***Restricted Stock Bonus***" means Stock granted to a Participant pursuant to Section 8.

(pp) "***Restricted Stock Purchase Right***" means a right to purchase Stock granted to a Participant pursuant to Section 8.

(qq) "***Restricted Stock Unit***" or "***Stock Unit***" means a right granted to a Participant pursuant to Section 9, respectively, to receive a share of Stock on a date determined in accordance with the provisions of Section 9, as applicable, and the Participant's Award Agreement.

(rr) "***Restriction Period***" means the period established in accordance with Section 8.5 during which shares subject to a Restricted Stock Award are subject to Vesting Conditions.

(ss) "***Rule 16b-3***" means Rule 16b-3 under the Exchange Act, as amended from time to time, or any successor rule or regulation.

(tt) "***SAR***" or "***Stock Appreciation Right***" means a right granted to a Participant pursuant to Section 7 to receive payment of an amount equal to the excess, if any, of the Fair Market Value of a share of Stock on the date of exercise of the SAR over the exercise price.

(uu) "***Section 162(m)***" means Section 162(m) of the Code.

(vv) "***Section 409A***" means Section 409A of the Code.

(ww) "***Section 409A Deferred Compensation***" means compensation provided pursuant to the Plan that constitutes deferred compensation subject to and not exempted from the requirements of Section 409A.

(xx) "***Securities Act***" means the Securities Act of 1933, as amended.

(yy) "***Service***" means a Participant's employment or service with the Participating Company Group, whether in the capacity of an Employee, a Director or a Consultant. Unless otherwise provided by the Committee, a Participant's Service shall not be deemed to have terminated merely because of a change in the capacity in which the Participant renders such Service or a change in the Participating Company for which the Participant renders such Service, *provided* that there is no interruption or termination of the Participant's Service. Furthermore, a Participant's Service shall not be deemed to have terminated if the Participant takes any military leave, sick leave, or other bona fide leave of absence approved by the Company. However, unless otherwise provided by the Committee, if any such leave taken by a Participant exceeds ninety (90) days, then on the ninety-first (91st) day following the commencement of such leave the Participant's Service shall be deemed to have terminated, unless the Participant's right to return to Service is guaranteed by statute or contract. Notwithstanding the foregoing, unless otherwise designated by the Company or required by law, an unpaid leave of absence shall not be treated as Service for purposes of determining vesting under the Participant's Award Agreement. A Participant's Service shall be deemed to have terminated either upon an actual termination of Service or upon the entity for which the Participant performs Service ceasing to be a Participating Company. Subject to the foregoing, the Company, in its discretion, shall determine whether the Participant's Service has terminated and the effective date of such termination.

(zz) "***Stock***" means the common stock of the Company, as adjusted from time to time in accordance with Section 4.3.

(aaa) "***Subsidiary Corporation***" means any present or future "subsidiary corporation" of the Company, as defined in Section 424(f) of the Code.

(bbb) "***Ten Percent Owner***" means a Participant who, at the time an Option is granted to the Participant, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of a Participating Company (other than an Affiliate) within the meaning of Section 422(b)(6) of the Code.

(ccc) "***Trading Compliance Policy***" means the written policy of the Company pertaining to the purchase, sale, transfer or other disposition of the Company's equity securities by Directors, Officers, Employees or other service providers who may possess material, nonpublic information regarding the Company or its securities.

(ddd) "***Vesting Conditions***" mean those conditions established in accordance with the Plan prior to the satisfaction of which shares subject to an Award remain subject to forfeiture or a repurchase option in favor of the Company exercisable for the Participant's purchase price for such shares upon the Participant's termination of Service.

2.2 **Construction**. Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

3. **Administration**.

3.1 **Administration by the Committee**. The Plan shall be administered by the Committee. All questions of interpretation of the Plan or of any Award shall be determined by the Committee, and such determinations shall be final and binding upon all persons having an interest in the Plan or such Award. In addition, any and all actions, decisions and determinations taken or made by the Committee in the exercise of its discretion pursuant to the Plan, including, without limitation, pursuant to Section 3.5 below, or Award Agreement or other agreement thereunder shall be final, binding and conclusive upon all persons having an interest therein.

3.2 **Authority of Officers**. The Chief Executive Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, determination or election which is the responsibility of or which is allocated to the Company herein.

3.3 **Administration with Respect to Insider**. With respect to participation by Insiders in the Plan, at any time that any class of equity security of the Company is registered pursuant to Section 12 of the Exchange Act, the Plan shall be administered in compliance with the requirements, if any, of Rule 16b-3.

3.4 **Committee Complying with Section 162(m**). If the Company is a "publicly held corporation" within the meaning of Section 162(m), the Board may establish a Committee of "outside directors" within the meaning of Section 162(m) to approve the grant of any Award intended to result in the payment of Performance-Based Compensation.

3.5 **Powers of the Committee**. In addition to any other powers set forth in the Plan and subject to the provisions of the Plan, the Committee shall have the full and final power and authority, in its discretion:

(a) to determine the persons to whom, and the time or times at which, Awards shall be granted and the number of shares of Stock, units or monetary value to be subject to each Award;

(b) to determine the type of Award granted;

(c) to determine the Fair Market Value of shares of Stock or other property;

(d) to determine the terms, conditions and restrictions applicable to each Award (which need not be identical) and any shares acquired pursuant thereto, including, without limitation, (i) the exercise or purchase price of shares pursuant to any Award, (ii) the method of payment for shares purchased pursuant to any Award, (iii) the method for satisfaction of any tax withholding obligation arising in connection with any Award,

including by the withholding or delivery of shares of Stock, (iv) the timing, terms and conditions of the exercisability or vesting of any Award or any shares acquired pursuant thereto, (v) the Performance Measures, Performance Period, Performance Award Formula and Performance Goals applicable to any Award and the extent to which such Performance Goals have been attained, (vi) the time of the expiration of any Award, (vii) the effect of the Participant's termination of Service on any of the foregoing, and (viii) all other terms, conditions and restrictions applicable to any Award or shares acquired pursuant thereto not inconsistent with the terms of the Plan;

(e) to determine whether an Award will be settled in shares of Stock, cash, or in any combination thereof;

(f) to approve one or more forms of Award Agreement;

(g) to amend, modify, extend, cancel or renew any Award or to waive any restrictions or conditions applicable to any Award or any shares acquired pursuant thereto;

(h) to accelerate, continue, extend or defer the exercisability or vesting of any Award or any shares acquired pursuant thereto, including with respect to the period following a Participant's termination of Service;

(i) without the consent of the affected Participant and notwithstanding the provisions of any Award Agreement to the contrary, to unilaterally substitute at any time a Stock Appreciation Right providing for settlement solely in shares of Stock in place of any outstanding Option, *provided* that such Stock Appreciation Right covers the same number of shares of Stock and provides for the same exercise price (subject in each case to adjustment in accordance with Section 4.3) as the replaced Option and otherwise provides substantially equivalent terms and conditions as the replaced Option, as determined by the Committee;

(j) to prescribe, amend or rescind rules, guidelines and policies relating to the Plan, or to adopt sub-plans or supplements to, or alternative versions of, the Plan, including, without limitation, as the Committee deems necessary or desirable to comply with the laws or regulations of, or to accommodate the tax policy, accounting principles or custom of, foreign jurisdictions whose citizens may be granted Awards; and

(k) to correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Award Agreement and to make all other determinations and take such other actions with respect to the Plan or any Award as the Committee may deem advisable to the extent not inconsistent with the provisions of the Plan or applicable law.

3.6 **Option or SAR Repricing**. Without the affirmative vote of holders of a majority of the shares of Stock cast in person or by proxy at a meeting of the stockholders of the Company at which a quorum representing a majority of all outstanding shares of Stock is present or represented by proxy, the Board shall not approve either (a) the cancellation of outstanding Options or SARs and the grant in substitution therefor of new Options or SARs having a lower exercise price or (b) the amendment of outstanding Options or SARs to reduce the exercise price thereof. This paragraph shall not be construed to apply to "issuing or assuming a stock option in a transaction to which Section 424(a) applies," within the meaning of Section 424 of the Code.

3.7 **Indemnification**. In addition to such other rights of indemnification as they may have as members of the Board or the Committee or as officers or employees of the Participating Company Group, members of the Board or the Committee and any officers or employees of the Participating Company Group to whom authority to act for the Board, the Committee or the Company is delegated shall be indemnified by the Company against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with the

Plan, or any right granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such person is liable for gross negligence, bad faith or intentional misconduct in duties; *provided*, *however*, that within sixty (60) days after the institution of such action, suit or proceeding, such person shall offer to the Company, in writing, the opportunity at its own expense to handle and defend the same.

4. **Shares Subject to Plan**.

4.1 **Maximum Number of Shares Issuable.** Subject to adjustment as provided in Sections 4.2 and 4.3, the maximum aggregate number of shares of Stock that may be issued under the Plan shall be equal to five million two hundred thousand (5,200,000) shares, and shall consist of authorized but unissued or reacquired shares of Stock or any combination thereof.

4.2 **Share Accounting**. If an outstanding Award for any reason expires or is terminated or canceled without having been exercised or settled in full, or if shares of Stock acquired pursuant to an Award subject to forfeiture or repurchase are forfeited or repurchased by the Company for an amount not greater than the Participant's original purchase price, the shares of Stock allocable to the terminated portion of such Award or such forfeited or repurchased shares of Stock shall not again be available for issuance under the Plan. In addition, Shares withheld or reacquired by the Company in satisfaction of tax withholding obligations pursuant to Section 15.3 shall not again be available for issuance under the Plan. Shares of Stock shall not be deemed to have been issued pursuant to the Plan with respect to any portion of an Award, other than an Option or SAR, that is settled in cash. Upon payment in shares of Stock pursuant to the exercise of an SAR, the number of shares available for issuance under the Plan shall be reduced by the gross number of shares for which the SAR is exercised. If the exercise price of an Option is paid by tender to the Company, or attestation to the ownership, of shares of Stock owned by the Participant, or by means of a Net-Exercise, the number of shares available for issuance under the Plan shall be reduced by the gross number of shares for which the Option is exercised.

4.3 **Adjustments for Changes in Capital Structure**. Subject to any required action by the stockholders of the Company and the requirements of Section 409A to the extent applicable, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend or distribution to the stockholders of the Company in a form other than Stock (excepting normal cash dividends) that has a material effect on the Fair Market Value of shares of Stock, appropriate and proportionate adjustments shall be made in the number and kind of shares subject to the Plan and to any outstanding Awards, in the Award limits set forth in Section 5.3 and in the exercise or purchase price per share under any outstanding Award in order to prevent dilution or enlargement of Participants' rights under the Plan. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." If a majority of the shares which are of the same class as the shares that are subject to outstanding Awards are exchanged for, converted into, or otherwise become (whether or not pursuant to an Ownership Change Event) shares of another corporation (the "***New Shares***"), the Committee may unilaterally amend the outstanding Awards to provide that such Awards are for New Shares. In the event of any such amendment, the number of shares subject to, and the exercise or purchase price per share of, the outstanding Awards shall be adjusted in a fair and equitable manner as determined by the Committee, in its discretion. Any fractional share resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number, and in no event may the exercise or purchase price under any Award be decreased to an amount less than the par value, if any, of the stock subject to such Award. The Committee, in its sole discretion, may also make such adjustments in the terms of any Award to reflect, or related to, such changes in the capital structure of the Company or distributions as it deems appropriate, including modification of Performance Goals, Performance Award Formulas and

Performance Periods. The adjustments determined by the Committee pursuant to this Section shall be final, binding and conclusive.

The Committee may, without affecting the number of Shares reserved or available hereunder, authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock, or reorganization upon such terms and conditions as it may deem appropriate, subject to compliance with Sections 409A and 422 and any related guidance issued by the U.S. Treasury Department, where applicable.

5. **Eligibility, Participation and Award Limitations**.

5.1 **Persons Eligible for Awards.** Awards may be granted only to Employees, Consultants and Outside Directors.

5.2 **Participation in Plan.** Awards are granted solely at the discretion of the Committee. Eligible persons may be granted more than one Award. However, eligibility in accordance with this Section shall not entitle any person to be granted an Award, or, having been granted an Award, to be granted an additional Award.

5.3 **Award Limitations**.

(a) ***Incentive Stock Option Limitations***.

(i) **Maximum Number of Shares Issuable Pursuant to** Incentive **Stock Options.** Subject to adjustment as provided in Section 4.3, the maximum aggregate number of shares of Stock that may be issued under the Plan pursuant to the exercise of Incentive Stock Options shall not exceed five million two hundred thousand (5,200,000) shares. The maximum aggregate number of shares of Stock that may be issued under the Plan pursuant to all Awards other than Incentive Stock Options shall be the number of shares determined in accordance with Section 4.1, subject to adjustment as provided in Section 4.2 and Section 4.3.

(ii) **Persons Eligible.** An Incentive Stock Option may be granted only to a person who, on the effective date of grant, is an Employee of the Company, a Parent Corporation or a Subsidiary Corporation (each being an ***"ISO-Qualifying Corporation"***). Any person who is not an Employee of an ISO-Qualifying Corporation on the effective date of the grant of an Option to such person may be granted only a Nonstatutory Stock Option. An Incentive Stock Option granted to a prospective Employee upon the condition that such person become an Employee of an ISO-Qualifying Corporation shall be deemed granted effective on the date such person commences Service as an Employee of an ISO-Qualifying Corporation, with an exercise price determined as of such date in accordance with Section 6.1.

(iii) **Fair Market Value Limitation.** To the extent that options designated as Incentive Stock Options (granted under all stock option plans of the Participating Company Group, including the Plan) become exercisable by a Participant for the first time during any calendar year for stock having a Fair Market Value greater than one hundred thousand dollars ($100,000), the portion of such options which exceeds such amount shall be treated as Nonstatutory Stock Options. For purposes of this Section, options designated as Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of stock shall be determined as of the time the option with respect to such stock is granted. If the Code is amended to provide for a limitation different from that set forth in this Section, such different limitation shall be deemed incorporated herein effective as of the date and with respect to such Options as required or permitted by such amendment to the Code. If an Option is treated as an Incentive Stock Option in part and as a Nonstatutory Stock Option in part by reason of the limitation set forth in this Section, the Participant may designate which portion of such Option the Participant is exercising. In the absence of such designation, the Participant shall be deemed to have exercised the Incentive Stock Option portion of the Option first. Upon exercise, shares issued pursuant to each such portion shall be separately identified.

(b) ***Aggregate Limit on Full Value Awards.*** In no event shall more than fifty percent (50%) of the maximum aggregate number of shares of Stock that may be issued under the Plan, determined in accordance with Sections 4.1, 4.2 and 4.3, be issued pursuant to Full Value Awards.

(c) ***Aggregate Limit on Full Value Awards Without Minimum Vesting.*** Notwithstanding any provision of the Plan to the contrary, no more than ten percent (10%) of the maximum aggregate number of shares of Stock that may be issued under the Plan, determined in accordance with Sections 4.1, 4.2 and 4.3, shall be issued pursuant to Full Value Awards having Vesting Conditions which (i) if based upon a Service requirement, provide for vesting more rapid than annual pro rata vesting over a period of three (3) years or (ii) if based upon the attainment of one or more Performance Goals, provide for a Performance Period of less than twelve (12) months; *provided*, *however*, that such limitations shall not preclude the acceleration of vesting of any such Award upon the death, disability, retirement or involuntary termination of Service of the Participant or upon or following a Change in Control, as determined by the Committee in its discretion.

(d) ***Maximum Annual Aggregate Award Limits.*** Subject to adjustment as provided in Section 4.3, no Participant shall be granted within any fiscal year of the Company, other than the fiscal year in which such Participant's Service with the Company commences, one or more Awards that may be settled in Stock which in the aggregate are for more than a number of shares equal to nine percent (9%) of the maximum aggregate number of shares of Stock that may be issued under the Plan as set forth in Section 4.1.

(e) ***Section 162(m) Award Limits.*** The following limits shall apply to the grant of any Award intended to qualify for treatment as Performance-Based Compensation:

(i) **Options and SARs.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted within any fiscal year of the Company one or more Options or Freestanding SARs which in the aggregate are for more than one million six hundred thousand (1,600,000) shares.

(ii) **Restricted Stock Awards and Restricted Stock Unit Awards.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted within any fiscal year of the Company one or more Restricted Stock Awards or Restricted Stock Unit Awards for more than seven hundred and fifty thousand (750,000) shares.

(iii) **Performance Awards.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted (1) Performance Shares which could result in such Employee receiving more than one hundred thousand (100,000) shares for each full fiscal year of the Company contained in the Performance Period for such Award, or (2) Performance Units which could result in such Employee receiving more than two million dollars ($2,000,000) for each full fiscal year of the Company contained in the Performance Period for such Award.

(iv) **Cash-Based Awards and Other Stock-Based Awards.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted (1) Cash-Based Awards in any fiscal year of the Company which could result in such Employee receiving more than two million dollars ($2,000,000) for each full fiscal year of the Company contained in the Performance Period for such Award, or (2) Other Stock-Based Awards in any fiscal year of the Company which could result in such Employee receiving more than one hundred thousand (100,000) shares for each full fiscal year of the Company contained in the Performance Period for such Award.

6. **Stock Options.**

Options shall be evidenced by Award Agreements specifying the number of shares of Stock covered thereby, in such form as the Committee shall from time to time establish. Award Agreements evidencing Options may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

6.1 **Exercise Price.** The exercise price for each Option shall be established in the discretion of the Committee; *provided*, *however*, that (a) the exercise price per share shall be not less than the Fair Market Value of a share of Stock on the effective date of grant of the Option and (b) no Incentive Stock Option granted to a Ten Percent Owner shall have an exercise price per share less than one hundred ten percent (110%) of the Fair Market Value of a share of Stock on the effective date of grant of the Option. Notwithstanding the foregoing, an Option (whether an Incentive Stock Option or a Nonstatutory Stock Option) may be granted with an exercise price lower than the minimum exercise price set forth above if such Option is granted pursuant to an assumption or substitution for another option in a manner qualifying under the provisions of Section 424(a) of the Code.

6.2 **Exercisability and Term of Options.** Options shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Committee and set forth in the Award Agreement evidencing such Option; *provided*, *however*, that (a) no Option shall be exercisable after the expiration of seven (7) years after the effective date of grant of such Option and (b) no Incentive Stock Option granted to a Ten Percent Owner shall be exercisable after the expiration of five (5) years after the effective date of grant of such Option. Subject to the foregoing, unless otherwise specified by the Committee in the grant of an Option, each Option shall terminate seven (7) years after the effective date of grant of the Option, unless earlier terminated in accordance with its provisions.

6.3 **Payment of Exercise Price.**

(a) ***Forms of Consideration Authorized.*** Except as otherwise provided below, payment of the exercise price for the number of shares of Stock being purchased pursuant to any Option shall be made (i) in cash or by check or cash equivalent, (ii) by tender to the Company, or attestation to the ownership, of shares of Stock owned by the Participant having a Fair Market Value not less than the exercise price, (iii) by delivery of a properly executed notice of exercise together with irrevocable instructions to a broker providing for the assignment to the Company of the proceeds of a sale or loan with respect to some or all of the shares being acquired upon the exercise of the Option (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System) (a *"**Cashless Exercise**"*), (iv) by delivery of a properly executed notice electing a Net-Exercise, (v) by such other consideration as may be approved by the Committee from time to time to the extent permitted by applicable law, or (vi) by any combination thereof. The Committee may at any time or from time to time grant Options which do not permit all of the foregoing forms of consideration to be used in payment of the exercise price or which otherwise restrict one or more forms of consideration.

(b) ***Limitations on Forms of Consideration.***

(i) **Tender of Stock.** Notwithstanding the foregoing, an Option may not be exercised by tender to the Company, or attestation to the ownership, of shares of Stock to the extent such tender or attestation would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Company's stock. Unless otherwise provided by the Committee, an Option may not be exercised by tender to the Company, or attestation to the ownership, of shares of Stock unless such shares either have been owned by the Participant for more than six (6) months (or such other period, if any, as the Committee may permit) and not used for another Option exercise by attestation during such period, or were not acquired, directly or indirectly, from the Company.

(ii) **Cashless Exercise.** The Company reserves, at any and all times, the right, in the Company's sole and absolute discretion, to establish, decline to approve or terminate any program or procedures for the exercise of Options by means of a Cashless Exercise, including with respect to one or more Participants specified by the Company notwithstanding that such program or procedures may be available to other Participants.

6.4 **Effect of Termination of Service.**

(a) ***Option Exercisability.*** Subject to earlier termination of the Option as otherwise provided herein and unless otherwise provided by the Committee in the grant of an Option and set forth in the Award Agreement, an Option shall terminate immediately upon the Participant's termination of Service to the extent that it is then unvested and shall be exercisable after the Participant's termination of Service to the extent it is then vested only during the applicable time period determined in accordance with this Section and thereafter shall terminate:

(i) **Disability.** If the Participant's Service terminates because of the Disability of the Participant, the Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the date of expiration of the Option's term as set forth in the Award Agreement evidencing such Option (the *"**Option Expiration Date**"*).

(ii) **Death.** If the Participant's Service terminates because of the death of the Participant, the Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Option by reason of the Participant's death at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date. The Participant's Service shall be deemed to have terminated on account of death if the Participant dies within three (3) months after the Participant's termination of Service.

(iii) **Other Termination of Service.** If the Participant's Service terminates for any reason, except Disability or death, the Option, to the extent unexercised and exercisable by the Participant on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of three (3) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) ***Extension if Exercise Prevented by Law.*** Notwithstanding the foregoing, if the exercise of an Option within the applicable time periods set forth in Section 6.4(a) is prevented by the provisions of Section 14 below, the Option shall remain exercisable until thirty (30) days after the date such exercise would no longer be prevented by such provisions, but in any event no later than the Option Expiration Date.

6.5 **Transferability of Options.** During the lifetime of the Participant, an Option shall be exercisable only by the Participant or the Participant's guardian or legal representative. An Option shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Notwithstanding the foregoing, to the extent permitted by the Committee, in its discretion, and set forth in the Award Agreement evidencing such Option, a Nonstatutory Stock Option shall be assignable or transferable subject to the applicable limitations, if any, described in the General Instructions to Form S-8 under the Securities Act.

7. **Stock Appreciation Rights.**

Stock Appreciation Rights shall be evidenced by Award Agreements specifying the number of shares of Stock subject to the Award, in such form as the Committee shall from time to time establish. Award Agreements evidencing SARs may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

7.1 **Types of SARs Authorized.** SARs may be granted in tandem with all or any portion of a related Option (a *"Tandem SAR"*) or may be granted independently of any Option (a *"Freestanding SAR"*). A Tandem SAR may only be granted concurrently with the grant of the related Option.

7.2 **Exercise Price.** The exercise price for each SAR shall be established in the discretion of the Committee; *provided*, *however*, that (a) the exercise price per share subject to a Tandem SAR shall be the exercise price per share under the related Option and (b) the exercise price per share subject to a Freestanding SAR shall be not less than the Fair Market Value of a share of Stock on the effective date of grant of the SAR.

7.3 **Exercisability and Term of SARs.**

(a) ***Tandem SARs.*** Tandem SARs shall be exercisable only at the time and to the extent, and only to the extent, that the related Option is exercisable, subject to such provisions as the Committee may specify where the Tandem SAR is granted with respect to less than the full number of shares of Stock subject to the related Option. The Committee may, in its discretion, provide in any Award Agreement evidencing a Tandem SAR that such SAR may not be exercised without the advance approval of the Company and, if such approval is not given, then the Option shall nevertheless remain exercisable in accordance with its terms. A Tandem SAR shall terminate and cease to be exercisable no later than the date on which the related Option expires or is terminated or canceled. Upon the exercise of a Tandem SAR with respect to some or all of the shares subject to such SAR, the related Option shall be canceled automatically as to the number of shares with respect to which the Tandem SAR was exercised. Upon the exercise of an Option related to a Tandem SAR as to some or all of the shares subject to such Option, the related Tandem SAR shall be canceled automatically as to the number of shares with respect to which the related Option was exercised.

(b) ***Freestanding SARs.*** Freestanding SARs shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Committee and set forth in the Award Agreement evidencing such SAR; *provided*, *however*, that no Freestanding SAR shall be exercisable after the expiration of seven (7) years after the effective date of grant of such SAR.

7.4 **Exercise of SARs.** Upon the exercise (or deemed exercise pursuant to Section 7.7) of an SAR, the Participant (or the Participant's legal representative or other person who acquired the right to exercise the SAR by reason of the Participant's death) shall be entitled to receive payment of an amount for each share with respect to which the SAR is exercised equal to the excess, if any, of the Fair Market Value of a share of Stock on the date of exercise of the SAR over the exercise price. Payment of such amount shall be made (a) in the case of a Tandem SAR, solely in shares of Stock in a lump sum as soon as practicable following the date of exercise of the SAR and (b) in the case of a Freestanding SAR, in cash, shares of Stock, or any combination thereof as determined by the Committee in compliance with Section 409A. Unless otherwise provided in the Award Agreement evidencing a Freestanding SAR, payment shall be made in a lump sum as soon as practicable following the date of exercise of the SAR. The Award Agreement evidencing any Freestanding SAR may provide for deferred payment in a lump sum or in installments in compliance with Section 409A. When payment is to be made in shares of Stock, the number of shares to be issued shall be determined on the basis of the Fair Market Value of a share of Stock on the date of exercise of the SAR. For purposes of this Section 7, an SAR shall be deemed exercised on the date on which the Company receives notice of exercise from the Participant or as otherwise provided in Section 7.7.

7.5 **Deemed Exercise of SARs.** If, on the date on which an SAR would otherwise terminate or expire, the SAR by its terms remains exercisable immediately prior to such termination or expiration and, if so exercised, would result in a payment to the holder of such SAR, then any portion of such SAR which has not previously been exercised shall automatically be deemed to be exercised as of such date with respect to such portion.

7.6 **Effect of Termination of Service.** Subject to earlier termination of the SAR as otherwise provided herein and unless otherwise provided by the Committee in the grant of an SAR and set forth in the Award Agreement, an SAR shall be exercisable after a Participant's termination of Service only to the extent and during the applicable time period determined in accordance with Section 6.4 (treating the SAR as if it were an Option) and thereafter shall terminate.

7.7 **Nontransferability of SARs.** During the lifetime of the Participant, an SAR shall be exercisable only by the Participant or the Participants guardian or legal representative. An SAR shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participants beneficiary, except transfer by will or by the laws of descent and distribution. Notwithstanding the foregoing, to the extent permitted by the Committee, in its discretion, and set forth in the Award Agreement evidencing such Award, a Tandem SAR related to a Nonstatutory Stock Option or a Freestanding SAR shall be assignable or transferable subject to the applicable limitations, if any, described in the General Instructions to FormS8 under the Securities Act.

8. **Restricted Stock Awards.**

Restricted Stock Awards shall be evidenced by Award Agreements specifying whether the Award is a Restricted Stock Bonus or a Restricted Stock Purchase Right and the number of shares of Stock subject to the Award, in such form as the Committee shall from time to time establish. Award Agreements evidencing Restricted Stock Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

8.1 **Types of Restricted Stock Awards Authorized.** Restricted Stock Awards may be granted in the form of either a Restricted Stock Bonus or a Restricted Stock Purchase Right; *provided* that Outside Directors shall be eligible for Restricted Stock Awards only in the form of Restricted Stock Bonus. Restricted Stock Awards may be granted upon such conditions as the Committee shall determine, including, without limitation, upon the attainment of one or more Performance Goals described in Section 10.4. If either the grant of a Restricted Stock Award or the lapsing of the Restriction Period is to be contingent upon the attainment of one or more Performance Goals, the Committee shall follow procedures substantially equivalent to those set forth in Sections 10.3 through 10.5(a).

8.2 **Purchase Price.** The purchase price for shares of Stock issuable under each Restricted Stock Purchase Right shall be established by the Committee in its discretion. No monetary payment (other than applicable tax withholding) shall be required as a condition of receiving shares of Stock pursuant to a Restricted Stock Bonus, the consideration for which shall be services actually rendered to a Participating Company or for its benefit. Notwithstanding the foregoing, if required by applicable state corporate law, the Participant shall furnish consideration in the form of cash or past services rendered to a Participating Company or for its benefit having a value not less than the par value of the shares of Stock subject to a Restricted Stock Award.

8.3 **Purchase Period.** A Restricted Stock Purchase Right shall be exercisable within a period established by the Committee, which shall in no event exceed thirty (30) days from the effective date of the grant of the Restricted Stock Purchase Right.

8.4 **Payment of Purchase Price.** Except as otherwise provided below, payment of the purchase price for the number of shares of Stock being purchased pursuant to any Restricted Stock Purchase Right shall be made (a) in cash or by check or cash equivalent, (b) by such other consideration as may be approved by the Committee

from time to time to the extent permitted by applicable law, or (c) by any combination thereof. The Committee may at any time or from time to time grant Restricted Stock Purchase Rights which do not permit all of the foregoing forms of consideration to be used in payment of the purchase price or which otherwise restrict one or more forms of consideration.

8.5 **Vesting and Restrictions on Transfer.** Subject to Section 5.4(c), Shares issued pursuant to any Restricted Stock Award may (but need not) be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria, including, without limitation, Performance Goals as described in Section 10.4, as shall be established by the Committee and set forth in the Award Agreement evidencing such Award. During any Restriction Period in which shares acquired pursuant to a Restricted Stock Award remain subject to Vesting Conditions, such shares may not be sold, exchanged, transferred, pledged, assigned or otherwise disposed of other than pursuant to an Ownership Change Event or as provided in Section 8.8. The Committee, in its discretion, may provide in any Award Agreement evidencing a Restricted Stock Award that, if the satisfaction of Vesting Conditions with respect to any shares subject to such Restricted Stock Award would otherwise occur on a day on which the sale of such shares would violate the Company's Trading Compliance Policy, then satisfaction of the Vesting Conditions automatically shall be determined on the next trading day on which the sale of such shares would not violate the Trading Compliance Policy. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

8.6 **Voting Rights; Dividends and Distributions.** Except as provided in this Section, Section 8.5 and any Award Agreement, during any Restriction Period applicable to shares subject to a Restricted Stock Award, the Participant shall have all of the rights of a stockholder of the Company holding shares of Stock, including the right to vote such shares and to receive all dividends and other distributions paid with respect to such shares. However, in the event of a dividend or distribution paid in shares of Stock or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant is entitled by reason of the Participant's Restricted Stock Award shall be immediately subject to the same Vesting Conditions as the shares subject to the Restricted Stock Award with respect to which such dividends or distributions were paid or adjustments were made. Notwithstanding the foregoing, and except as may be provided in the applicable Award Agreement, any cash dividends and distributions paid with respect to the shares subject to the Restricted Stock Award of an Outside Director shall be accumulated and paid to the Outside Director on the earlier of (i) the satisfaction of the Vesting Conditions for the shares subject to the Restricted Stock Award and (ii) March 15th following the year in which the dividend or distribution was paid to stockholders generally.

8.7 **Effect of Termination of Service.** Unless otherwise provided by the Committee in the Award Agreement evidencing a Restricted Stock Award, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then (a) the Company shall have the option to repurchase for the purchase price paid by the Participant any shares acquired by the Participant pursuant to a Restricted Stock Purchase Right which remain subject to Vesting Conditions as of the date of the Participant's termination of Service and (b) the Participant shall forfeit to the Company any shares acquired by the Participant pursuant to a Restricted Stock Bonus which remain subject to Vesting Conditions as of the date of the Participant's termination of Service. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company.

8.8 **Nontransferability of Restricted Stock Award Rights.** Rights to acquire shares of Stock pursuant to a Restricted Stock Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance or garnishment by creditors of the Participant or the

Participant's beneficiary, except transfer by will or the laws of descent and distribution. All rights with respect to a Restricted Stock Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

9. **Restricted Stock Unit Awards.**

Restricted Stock Unit Awards shall be evidenced by Award Agreements specifying the number of Restricted Stock Units subject to the Award, in such form as the Committee shall from time to time establish. Award Agreements evidencing Restricted Stock Units may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

9.1 **Grant of Restricted Stock Unit Awards.** Restricted Stock Unit Awards may be granted upon such conditions as the Committee shall determine, including, without limitation, upon the attainment of one or more Performance Goals described in Section 10.4. If either the grant of a Restricted Stock Unit Award or the Vesting Conditions with respect to such Award is to be contingent upon the attainment of one or more Performance Goals, the Committee shall follow procedures substantially equivalent to those set forth in Sections 10.3 through 10.5(a).

9.2 **Purchase Price.** No monetary payment (other than applicable tax withholding, if any) shall be required as a condition of receiving a Restricted Stock Unit Award, the consideration for which shall be services actually rendered to a Participating Company or for its benefit. Notwithstanding the foregoing, if required by applicable state corporate law, the Participant shall furnish consideration in the form of cash or past services rendered to a Participating Company or for its benefit having a value not less than the par value of the shares of Stock issued upon settlement of the Restricted Stock Unit Award.

9.3 **Vesting.** Subject to Section 5.4(c), Restricted Stock Unit Awards may (but need not) be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria, including, without limitation, Performance Goals as described in Section 10.4, as shall be established by the Committee and set forth in the Award Agreement evidencing such Award. The Committee, in its discretion, may provide in any Award Agreement evidencing a Restricted Stock Unit Award that, if the satisfaction of Vesting Conditions with respect to any shares subject to the Award would otherwise occur on a day on which the sale of such shares would violate the provisions of the Trading Compliance Policy, then the satisfaction of the Vesting Conditions automatically shall be determined on the first to occur of (a) the next trading day on which the sale of such shares would not violate the Trading Compliance Policy or (b) the later of (i) the last day of the calendar year in which the original vesting date occurred or (ii) the last day of the Company's taxable year in which the original vesting date occurred.

9.4 **Voting Rights, Dividend Equivalent Rights and Distributions.** Participants shall have no voting rights with respect to shares of Stock represented by Restricted Stock Units until the date of the issuance of such shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). However, the Committee, in its discretion, may provide in the Award Agreement evidencing any Restricted Stock Unit Award that the Participant shall be entitled to receive Dividend Equivalents with respect to the payment of cash dividends on Stock during the period beginning on the date such Award is granted and ending, with respect to the particular shares subject to the Award, on the earlier of the date the Award is settled or the date on which it is terminated. Such Dividend Equivalents, if any, shall be paid by crediting the Participant with additional whole Restricted Stock Units as of the date of payment of such cash dividends on Stock. The number of additional Restricted Stock Units (rounded to the nearest whole number) to be so credited shall be determined by dividing (a) the amount of cash dividends paid on such date with respect to the number of shares of Stock represented by the Restricted Stock Units previously credited to the Participant by (b) the Fair Market Value per share of Stock on such date. Such additional Restricted Stock Units shall be subject to the same terms and conditions and shall be settled in the same manner and at the same time (or as soon thereafter as practicable) as the Restricted Stock Units originally subject to the Restricted Stock Unit Award. In

the event of a dividend or distribution paid in shares of Stock or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, appropriate adjustments shall be made in the Participant's Restricted Stock Unit Award so that it represents the right to receive upon settlement any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant would entitled by reason of the shares of Stock issuable upon settlement of the Award, and all such new, substituted or additional securities or other property shall be immediately subject to the same Vesting Conditions as are applicable to the Award.

9.5 **Effect of Termination of Service.** Unless otherwise provided by the Committee and set forth in the Award Agreement evidencing a Restricted Stock Unit Award, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then the Participant shall forfeit to the Company any Restricted Stock Units pursuant to the Award which remain subject to Vesting Conditions as of the date of the Participant's termination of Service.

9.6 **Settlement of Restricted Stock Unit Awards.** The Company shall issue to a Participant on the date on which Restricted Stock Units subject to the Participant's Restricted Stock Unit Award vest or on such other date determined by the Committee, in its discretion, and set forth in the Award Agreement one (1) share of Stock (and/or any other new, substituted or additional securities or other property pursuant to an adjustment described in Section 9.4) for each Restricted Stock Unit then becoming vested or otherwise to be settled on such date, subject to the withholding of applicable taxes. If permitted by the Committee, subject to the provisions of Section 17 with respect to Section 409A, the Participant may elect in accordance with terms specified in the Award Agreement to defer receipt of all or any portion of the shares of Stock or other property otherwise issuable to the Participant pursuant to this Section, and such deferred issuance date(s) elected by the Participant shall be set forth in the Award Agreement. Notwithstanding the foregoing, the Committee, in its discretion, may provide for settlement of any Restricted Stock Unit Award by payment to the Participant in cash of an amount equal to the Fair Market Value on the payment date of the shares of Stock or other property otherwise issuable to the Participant pursuant to this Section.

9.7 **Nontransferability of Restricted Stock Unit Awards.** The right to receive shares pursuant to a Restricted Stock Unit Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. All rights with respect to a Restricted Stock Unit Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

10. **Performance Awards.**

Performance Awards shall be evidenced by Award Agreements in such form as the Committee shall from time to time establish. Award Agreements evidencing Performance Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

10.1 **Types of Performance Awards Authorized.** Performance Awards may be granted in the form of either Performance Shares or Performance Units. Each Award Agreement evidencing a Performance Award shall specify the number of Performance Shares or Performance Units subject thereto, the Performance Award Formula, the Performance Goal(s) and Performance Period applicable to the Award, and the other terms, conditions and restrictions of the Award.

10.2 **Initial Value of Performance Shares and Performance Units.** Unless otherwise provided by the Committee in granting a Performance Award, each Performance Share shall have an initial monetary value equal to the Fair Market Value of one (1) share of Stock, subject to adjustment as provided in Section 4.3, on the effective date of grant of the Performance Share, and each Performance Unit shall have an initial monetary value established by the Committee at the time of grant. The final value payable to the Participant in settlement of a

Performance Award determined on the basis of the applicable Performance Award Formula will depend on the extent to which Performance Goals established by the Committee are attained within the applicable Performance Period established by the Committee.

10.3 **Establishment of Performance Period, Performance Goals and Performance Award Formula.** In granting each Performance Award, the Committee shall establish in writing the applicable Performance Period, Performance Award Formula and one or more Performance Goals which, when measured at the end of the Performance Period, shall determine on the basis of the Performance Award Formula the final value of the Performance Award to be paid to the Participant. Unless otherwise permitted in compliance with the requirements under Section 162(m) with respect to each Performance Award intended to result in the payment of Performance-Based Compensation, the Committee shall establish the Performance Goal(s) and Performance Award Formula applicable to each Performance Award no later than the earlier of (a) the date ninety (90) days after the commencement of the applicable Performance Period or (b) the date on which twenty-five percent (25%) of the Performance Period has elapsed, and, in any event, at a time when the outcome of the Performance Goals remains substantially uncertain. Once established, the Performance Goals and Performance Award Formula applicable to a Covered Employee shall not be changed during the Performance Period. The Company shall notify each Participant granted a Performance Award of the terms of such Award, including the Performance Period, Performance Goal(s) and Performance Award Formula.

10.4 **Measurement of Performance Goals.** Performance Goals shall be established by the Committee on the basis of targets to be attained ("***Performance Targets***") with respect to one or more measures of business or financial performance (each, a "***Performance Measure***"), subject to the following:

(a) ***Performance Measures.*** Performance Measures shall have the same meanings as used in the Company's financial statements, or, if such terms are not used in the Company's financial statements, they shall have the meaning applied pursuant to generally accepted accounting principles, or as used generally in the Company's industry. Performance Measures shall be calculated with respect to the Company and each Subsidiary Corporation consolidated therewith for financial reporting purposes or such division or other business unit as may be selected by the Committee. For purposes of the Plan, the Performance Measures applicable to a Performance Award shall be calculated in accordance with generally accepted accounting principles, if applicable, but prior to the accrual or payment of any Performance Award for the same Performance Period and excluding the effect (whether positive or negative) of any change in accounting standards or any extraordinary, unusual or nonrecurring item, as determined by the Committee, occurring after the establishment of the Performance Goals applicable to the Performance Award. Each such adjustment, if any, shall be made solely for the purpose of providing a consistent basis from period to period for the calculation of Performance Measures in order to prevent the dilution or enlargement of the Participant's rights with respect to a Performance Award. Performance Measures may be one or more of the following, as determined by the Committee:

(i) revenue;

(ii) sales;

(iii) expenses;

(iv) operating income;

(v) gross margin;

(vi) operating margin;

(vii) earnings before any one or more of: stock-based compensation expense, interest, taxes, depreciation and amortization;

(viii) pre-tax profit;

(ix) net operating income;

(x) net income;

(xi) economic value added;

(xii) free cash flow;

(xiii) operating cash flow;

(xiv) stock price;

(xv) earnings per share;

(xvi) return on stockholder equity;

(xvii) return on capital;

(xviii) return on assets;

(xix) return on investment;

(xx) employee satisfaction;

(xxi) employee retention;

(xxii) balance of cash, cash equivalents and marketable securities;

(xxiii) market share;

(xxiv) product regulatory approvals;

(xxv) projects in development;

(xxvi) regulatory filings;

(xxvii) research and development expenses; and

(xxviii) completion of a joint venture or other corporate transaction.

(b) ***Performance Targets.*** Performance Targets may include a minimum, maximum, target level and intermediate levels of performance, with the final value of a Performance Award determined under the applicable Performance Award Formula by the level attained during the applicable Performance Period. A Performance Target may be stated as an absolute value or as a value determined relative to an index, budget or other standard selected by the Committee.

10.5 **Settlement of Performance Awards.**

(a) ***Determination of Final Value.*** As soon as practicable following the completion of the Performance Period applicable to a Performance Award, the Committee shall certify in writing the extent to

which the applicable Performance Goals have been attained and the resulting final value of the Award earned by the Participant and to be paid upon its settlement in accordance with the applicable Performance Award Formula.

(b) ***Discretionary Adjustment of Award Formula.*** In its discretion, the Committee may, either at the time it grants a Performance Award or at any time thereafter, provide for the positive or negative adjustment of the Performance Award Formula applicable to a Performance Award granted to any Participant who is not a Covered Employee to reflect such Participant's individual performance in his or her position with the Company or such other factors as the Committee may determine. If permitted under a Covered Employee's Award Agreement, the Committee shall have the discretion, on the basis of such criteria as may be established by the Committee, to reduce some or all of the value of the Performance Award that would otherwise be paid to the Covered Employee upon its settlement notwithstanding the attainment of any Performance Goal and the resulting value of the Performance Award determined in accordance with the Performance Award Formula. No such reduction may result in an increase in the amount payable upon settlement of another Participant's Performance Award that is intended to result in Performance-Based Compensation.

(c) ***Effect of Leaves of Absence.*** Unless otherwise required by law or a Participant's Award Agreement, payment of the final value, if any, of a Performance Award held by a Participant who has taken in excess of thirty (30) days in unpaid leaves of absence during a Performance Period shall be prorated on the basis of the number of days of the Participant's Service during the Performance Period during which the Participant was not on a leave of absence.

(d) ***Notice to Participants.*** As soon as practicable following the Committee's determination and certification in accordance with Sections 10.5(a) and (b), the Company shall notify each Participant of the determination of the Committee.

(e) ***Payment in Settlement of Performance Awards.*** As soon as practicable following the Committee's determination and certification in accordance with Sections 10.5(a) and (b), but in any event within the Short-Term Deferral Period described in Section 17.1 (except as otherwise provided below or consistent with the requirements of Section 409A), payment shall be made to each eligible Participant (or such Participant's legal representative or other person who acquired the right to receive such payment by reason of the Participant's death) of the final value of the Participant's Performance Award. Payment of such amount shall be made in cash, shares of Stock, or a combination thereof as determined by the Committee. Unless otherwise provided in the Award Agreement evidencing a Performance Award, payment shall be made in a lump sum. If permitted by the Committee, the Participant may elect, consistent with the requirements of Section 409A, to defer receipt of all or any portion of the payment to be made to Participant pursuant to this Section, and such deferred payment date(s) elected by the Participant shall be set forth in the Award Agreement. If any payment is to be made on a deferred basis, the Committee may, but shall not be obligated to, provide for the payment during the deferral period of Dividend Equivalents or interest.

(f) ***Provisions Applicable to Payment in Shares.*** If payment is to be made in shares of Stock, the number of such shares shall be determined by dividing the final value of the Performance Award by the value of a share of Stock determined by the method specified in the Award Agreement. Such methods may include, without limitation, the closing market price on a specified date (such as the settlement date) or an average of market prices over a series of trading days. Shares of Stock issued in payment of any Performance Award may be fully vested and freely transferable shares or may be shares of Stock subject to Vesting Conditions as provided in Section 8.5. Any shares subject to Vesting Conditions shall be evidenced by an appropriate Award Agreement and shall be subject to the provisions of Sections 8.5 through 8.8 above.

10.6 **Voting Rights; Dividend Equivalent Rights and Distributions.** Participants shall have no voting rights with respect to shares of Stock represented by Performance Share Awards until the date of the issuance of such shares, if any (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). However, the Committee, in its discretion, may provide in the Award

Agreement evidencing any Performance Share Award that the Participant shall be entitled to receive Dividend Equivalents with respect to the payment of cash dividends on Stock during the period beginning on the date the Award is granted and ending, with respect to the particular shares subject to the Award, on the earlier of the date on which the Performance Shares are settled or the date on which they are forfeited. Such Dividend Equivalents, if any, shall be credited to the Participant in the form of additional whole Performance Shares as of the date of payment of such cash dividends on Stock. The number of additional Performance Shares (rounded to the nearest whole number) to be so credited shall be determined by dividing (a) the amount of cash dividends paid on the dividend payment date with respect to the number of shares of Stock represented by the Performance Shares previously credited to the Participant by (b) the Fair Market Value per share of Stock on such date. Dividend Equivalents may be paid currently or may be accumulated and paid to the extent that Performance Shares become nonforfeitable, as determined by the Committee. Settlement of Dividend Equivalents may be made in cash, shares of Stock, or a combination thereof as determined by the Committee, and may be paid on the same basis as settlement of the related Performance Share as provided in Section 10.5. Dividend Equivalents shall not be paid with respect to Performance Units. In the event of a dividend or distribution paid in shares of Stock or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, appropriate adjustments shall be made in the Participant's Performance Share Award so that it represents the right to receive upon settlement any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant would entitled by reason of the shares of Stock issuable upon settlement of the Performance Share Award, and all such new, substituted or additional securities or other property shall be immediately subject to the same Performance Goals as are applicable to the Award.

10.7 **Effect of Termination of Service.** Unless otherwise provided by the Committee and set forth in the Award Agreement evidencing a Performance Award, the effect of a Participant's termination of Service on the Performance Award shall be as follows:

(a) ***Death or Disability.*** If the Participants Service terminates because of the death or Disability of the Participant before the completion of the Performance Period applicable to the Performance Award, the final value of the Participants Performance Award shall be determined by the extent to which the applicable Performance Goals have been attained with respect to the entire Performance Period and shall be prorated based on the number of days of the Participants Service during the Performance Period. Payment shall be made following the end of the Performance Period in any manner permitted by Section 10.5.

(b) ***Other Termination of Service.*** If the Participant's Service terminates for any reason except death or Disability before the completion of the Performance Period applicable to the Performance Award, such Award shall be forfeited in its entirety.

10.8 **Nontransferability of Performance Awards.** Prior to settlement in accordance with the provisions of the Plan, no Performance Award shall be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. All rights with respect to a Performance Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

11. **Cash-Based Awards and Other Stock-Based Awards.**

Cash-Based Awards and Other Stock-Based Awards shall be evidenced by Award Agreements in such form as the Committee shall from time to time establish. Award Agreements evidencing Cash-Based Awards and Other Stock-Based Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

11.1 **Grant of Cash-Based Awards.** Subject to the provisions of the Plan, the Committee, at any time and from time to time, may grant Cash-Based Awards to Participants in such amounts and upon such terms and conditions, including the achievement of performance criteria, as the Committee may determine.

11.2 **Grant of Other Stock-Based Awards.** The Committee may grant other types of equity-based or equity-related Awards not otherwise described by the terms of this Plan (including the grant or offer for sale of unrestricted securities, stock-equivalent units, stock appreciation units, securities or debentures convertible into common stock or other forms determined by the Committee) in such amounts and subject to such terms and conditions as the Committee shall determine. Such Awards may involve the transfer of actual shares of Stock to Participants, or payment in cash or otherwise of amounts based on the value of Stock and may include, without limitation, Awards designed to comply with or take advantage of the applicable local laws of jurisdictions other than the United States.

11.3 **Value of Cash-Based and Other Stock-Based Awards.** Each Cash-Based Award shall specify a monetary payment amount or payment range as determined by the Committee. Each Other Stock-Based Award shall be expressed in terms of shares of Stock or units based on such shares of Stock, as determined by the Committee. Subject to Section 5.4(c), the Committee may require the satisfaction of such Service requirements, conditions, restrictions or performance criteria, including, without limitation, Performance Goals as described in Section 10.4, as shall be established by the Committee and set forth in the Award Agreement evidencing such Award. If the Committee exercises its discretion to establish performance criteria, the final value of Cash-Based Awards or Other Stock-Based Awards that will be paid to the Participant will depend on the extent to which the performance criteria are met. The establishment of performance criteria with respect to the grant or vesting of any Cash-Based Award or Other Stock-Based Award intended to result in Performance-Based Compensation shall follow procedures substantially equivalent to those applicable to Performance Awards set forth in Section 10.

11.4 **Payment or Settlement of Cash-Based Awards and Other Stock-Based Awards.** Payment or settlement, if any, with respect to a Cash-Based Award or an Other Stock-Based Award shall be made in accordance with the terms of the Award, in cash, shares of Stock or other securities or any combination thereof as the Committee determines. The determination and certification of the final value with respect to any Cash-Based Award or Other Stock-Based Award intended to result in Performance-Based Compensation shall comply with the requirements applicable to Performance Awards set forth in Section 10. To the extent applicable, payment or settlement with respect to each Cash-Based Award and Other Stock-Based Award shall be made in compliance with requirements of Section 409A.

11.5 **Voting Rights; Dividend Equivalent Rights and Distributions.** Participants shall have no voting rights with respect to shares of Stock represented by Other Stock-Based Awards until the date of the issuance of such shares of Stock (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), if any, in settlement of such Award. However, the Committee, in its discretion, may provide in the Award Agreement evidencing any Other Stock-Based Award that the Participant shall be entitled to receive Dividend Equivalents with respect to the payment of cash dividends on Stock during the period beginning on the date such Award is granted and ending, with respect to the particular shares subject to the Award, on the earlier of the date the Award is settled or the date on which it is terminated. Such Dividend Equivalents, if any, shall be paid in accordance with the provisions set forth in Section 9.4. Dividend Equivalent rights shall not be granted with respect to Cash-Based Awards.

11.6 **Effect of Termination of Service.** Each Award Agreement evidencing a Cash-Based Award or Other Stock-Based Award shall set forth the extent to which the Participant shall have the right to retain such Award following termination of the Participant's Service. Such provisions shall be determined in the sole discretion of the Committee, need not be uniform among all Cash-Based Awards or Other Stock-Based Awards, and may reflect distinctions based on the reasons for termination.

11.7 **Nontransferability of Cash-Based Awards and Other Stock-Based Awards.** Prior to the payment or settlement of a Cash-Based Award or Other Stock-Based Award, the Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participants beneficiary, except transfer by will or by the laws

of descent and distribution. The Committee may impose such additional restrictions on any shares of Stock issued in settlement of Cash-Based Awards and Other Stock-Based Awards as it may deem advisable, including, without limitation, minimum holding period requirements, restrictions under applicable federal securities laws, under the requirements of any stock exchange or market upon which such shares of Stock are then listed and/or traded, or under any state securities laws applicable to such shares of Stock.

12. **Standard Forms of Award Agreement.**

12.1 **Award Agreements.** Each Award shall comply with and be subject to the terms and conditions set forth in the appropriate form of Award Agreement approved by the Committee and as amended from time to time. No Award or purported Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement, which execution may be evidenced by electronic means or transmission. Any Award Agreement may consist of an appropriate form of Notice of Grant and a form of Agreement incorporated therein by reference, or such other form or forms, including electronic media, as the Committee may approve from time to time.

12.2 **Authority to Vary Terms.** The Committee shall have the authority from time to time to vary the terms of any standard form of Award Agreement either in connection with the grant or amendment of an individual Award or in connection with the authorization of a new standard form or forms; *provided*, *however*, that the terms and conditions of any such new, revised or amended standard form or forms of Award Agreement are not inconsistent with the terms of the Plan.

13. **Change in Control.**

13.1 **Effect of Change in Control on Awards.** Subject to the requirements and limitations of Section 409A if applicable, the Committee may provide for any one or more of the following:

(a) ***Accelerated Vesting.*** The Committee may, in its discretion, provide in any Award Agreement or, in the event of a Change in Control, may take such actions as it deems appropriate to provide for the acceleration of the exercisability, vesting and/or settlement in connection with such Change in Control of each or any outstanding Award or portion thereof and shares acquired pursuant thereto upon such conditions, including termination of the Participant's Service prior to, upon, or following such Change in Control, to such extent as the Committee shall determine.

(b) ***Assumption, Continuation or Substitution.*** In the event of a Change in Control, the surviving, continuing, successor, or purchasing corporation or other business entity or parent thereof, as the case may be (the "***Acquiror***"), may, without the consent of any Participant, either assume or continue the Company's rights and obligations under each or any Award or portion thereof outstanding immediately prior to the Change in Control or substitute for each or any such outstanding Award or portion thereof a substantially equivalent award with respect to the Acquiror's stock, as applicable. For purposes of this Section, if so determined by the Committee, in its discretion, an Award denominated in shares of Stock shall be deemed assumed if, following the Change in Control, the Award confers the right to receive, subject to the terms and conditions of the Plan and the applicable Award Agreement, for each share of Stock subject to the Award immediately prior to the Change in Control, the consideration (whether stock, cash, other securities or property or a combination thereof) to which a holder of a share of Stock on the effective date of the Change in Control was entitled; *provided*, *however*, that if such consideration is not solely common stock of the Acquiror, the Committee may, with the consent of the Acquiror, provide for the consideration to be received upon the exercise or settlement of the Award, for each share of Stock subject to the Award, to consist solely of common stock of the Acquiror equal in Fair Market Value to the per share consideration received by holders of Stock pursuant to the Change in Control. Any Award or portion thereof which is neither assumed or continued by the Acquiror in connection with the Change in Control nor exercised or settled as of the time of consummation of the Change in Control shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control.

(c) ***Cash-Out of Outstanding Stock-Based Awards.*** The Committee may, in its discretion and without the consent of any Participant, determine that, upon the occurrence of a Change in Control, each or any Award denominated in shares of Stock or portion thereof outstanding immediately prior to the Change in Control and not previously exercised or settled shall be canceled in exchange for a payment with respect to each vested share (and each unvested share, if so determined by the Committee) of Stock subject to such canceled Award in (i) cash, (ii) stock of the Company or of a corporation or other business entity a party to the Change in Control, or (iii) other property which, in any such case, shall be in an amount having a Fair Market Value equal to the Fair Market Value of the consideration to be paid per share of Stock in the Change in Control, reduced by the exercise or purchase price per share, if any, under such Award. In the event such determination is made by the Committee, the amount of such payment (reduced by applicable withholding taxes, if any) shall be paid to Participants in respect of the vested portions of their canceled Awards as soon as practicable following the date of the Change in Control and in respect of the unvested portions of their canceled Awards in accordance with the vesting schedules applicable to such Awards.

13.2 **Federal Excise Tax Under Section 4999 of the Code.**

(a) ***Excess Parachute Payment.*** In the event that any acceleration of vesting pursuant to an Award and any other payment or benefit received or to be received by a Participant would subject the Participant to any excise tax pursuant to Section 4999 of the Code due to the characterization of such acceleration of vesting, payment or benefit as an "excess parachute payment" under Section 280G of the Code, the Participant may elect, in his or her sole discretion and in compliance with the requirements of Section 409A, to reduce the amount of any acceleration of vesting called for under the Award in order to avoid such characterization.

(b) ***Determination by Independent Accountants.*** To aid the Participant in making any election called for under Section 13.2(a), no later than the date of the occurrence of any event that might reasonably be anticipated to result in an "excess parachute payment" to the Participant as described in Section 13.2(a), the Company shall request a determination in writing by independent public accountants selected by the Company (the *"**Accountants**"*). As soon as practicable thereafter, the Accountants shall determine and report to the Company and the Participant the amount of such acceleration of vesting, payments and benefits which would produce the greatest after-tax benefit to the Participant. For the purposes of such determination, the Accountants may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and the Participant shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make their required determination. The Company shall bear all fees and expenses the Accountants may reasonably charge in connection with their services contemplated by this Section.

14. **Compliance with Securities Law.**

The grant of Awards and the issuance of shares of Stock pursuant to any Award shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities and the requirements of any stock exchange or market system upon which the Stock may then be listed. In addition, no Award may be exercised or shares issued pursuant to an Award unless (a) a registration statement under the Securities Act shall at the time of such exercise or issuance be in effect with respect to the shares issuable pursuant to the Award or (b) in the opinion of legal counsel to the Company, the shares issuable pursuant to the Award may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares hereunder shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to issuance of any Stock, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

15. **Tax Withholding.**

15.1 **Tax Withholding in General.** The Company shall have the right to deduct from any and all payments made under the Plan, or to require the Participant, through payroll withholding, cash payment or otherwise, to make adequate provision for, the federal, state, local and foreign taxes, if any, required by law to be withheld by the Participating Company Group with respect to an Award or the shares acquired pursuant thereto. The Company shall have no obligation to deliver shares of Stock, to release shares of Stock from an escrow established pursuant to an Award Agreement, or to make any payment in cash under the Plan until the Participating Company Group's tax withholding obligations have been satisfied by the Participant.

15.2 **Withholding in Shares**. The Company shall have the right, but not the obligation, to deduct from the shares of Stock issuable to a Participant upon the exercise or settlement of an Award, or to accept from the Participant the tender of, a number of whole shares of Stock having a Fair Market Value, as determined by the Company, equal to all or any part of the tax withholding obligations of the Participating Company Group. The Fair Market Value of any shares of Stock withheld or tendered to satisfy any such tax withholding obligations shall not exceed the amount determined by the applicable minimum statutory withholding rates.

16. **Amendment or Termination of Plan.**

The Committee may amend, suspend or terminate the Plan at any time. However, without the approval of the Company's stockholders, there shall be (a) no increase in the maximum aggregate number of shares of Stock that may be issued under the Plan (except by operation of the provisions of Section 4.3), (b) no change in the class of persons eligible to receive Incentive Stock Options, and (c) no other amendment of the Plan that would require approval of the Company's stockholders under any applicable law, regulation or rule, including the rules of any stock exchange or market system upon which the Stock may then be listed. No amendment, suspension or termination of the Plan shall affect any then outstanding Award unless expressly provided by the Committee. Except as provided by the next sentence, no amendment, suspension or termination of the Plan may adversely affect any then outstanding Award without the consent of the Participant. Notwithstanding any other provision of the Plan to the contrary, the Committee may, in its sole and absolute discretion and without the consent of any Participant, amend the Plan or any Award Agreement, to take effect retroactively or otherwise, as it deems necessary or advisable for the purpose of conforming the Plan or such Award Agreement to any present or future law, regulation or rule applicable to the Plan, including, but not limited to, Section 409A.

17. **Compliance with Section 409A.**

17.1 **Awards Subject to Section 409A.** The provisions of this Section 17 shall apply to any Award or portion thereof that is or becomes subject to Section 409A, notwithstanding any provision to the contrary contained in the Plan or the Award Agreement applicable to such Award. Awards subject to Section 409A include, without limitation:

(a) Any Nonstatutory Stock Option or SAR that permits the deferral of compensation other than the deferral of recognition of income until the exercise of the Award.

(b) Any Restricted Stock Unit Award, Performance Award, Cash-Based Award or Other Stock-Based Award if either (i) the Award provides by its terms for settlement of all or any portion of the Award on one or more dates following the Short-Term Deferral Period (as defined below) or (ii) the Committee permits or requires the Participant to elect one or more dates on which the Award will be settled.

Subject to any applicable U.S. Treasury Regulations promulgated pursuant to Section 409A or other applicable guidance, the term *"**Short-Term Deferral Period**"* means the period ending on the later of (i) the fifteenth (15th) day of the third (3rd) month following the end of the Company's fiscal year in which the applicable portion of the Award is no longer subject to a substantial risk of forfeiture or (ii) the fifteenth

(15th) day of the third (3rd) month following the end of the Participant's taxable year in which the applicable portion of the Award is no longer subject to a substantial risk of forfeiture. For this purpose, the term "substantial risk of forfeiture" shall have the meaning set forth in any applicable U.S. Treasury Regulations promulgated pursuant to Section 409A or other applicable guidance.

17.2 **Deferral and/or Distribution Elections.** Except as otherwise permitted or required by Section 409A or any applicable U.S. Treasury Regulations promulgated pursuant to Section 409A or other applicable guidance, the following rules shall apply to any deferral and/or distribution elections (each, an "***Election***") that may be permitted or required by the Committee pursuant to an Award subject to Section 409A:

(a) All Elections must be in writing and specify the amount of the distribution in settlement of an Award being deferred, as well as the time and form of distribution as permitted by this Plan.

(b) All Elections shall be made by the end of the Participant's taxable year prior to the year in which services commence for which an Award may be granted to such Participant; *provided*, *however*, that if the Award qualifies as "performance-based compensation" for purposes of Section 409A and is based on services performed over a period of at least twelve (12) months, then the Election may be made no later than six (6) months prior to the end of such period.

(c) Elections shall continue in effect until a written election to revoke or change such Election is received by the Company, except that a written election to revoke or change such Election must be made prior to the last day for making an Election determined in accordance with paragraph (b) above or as permitted by Section 17.3.

17.3 **Subsequent Elections.** Except as otherwise permitted or required by Section 409A or any applicable U.S. Treasury Regulations promulgated pursuant to Section 409A or other applicable guidance, any Award subject to Section 409A which permits a subsequent Election to delay the distribution or change the form of distribution in settlement of such Award shall comply with the following requirements:

(a) No subsequent Election may take effect until at least twelve (12) months after the date on which the subsequent Election is made;

(b) Each subsequent Election related to a distribution in settlement of an Award not described in this Section 17.3(b), 17.4(b), or 17.4(f) must result in a delay of the distribution for a period of not less than five (5) years from the date such distribution would otherwise have been made; and

(c) No subsequent Election related to a distribution pursuant to Section 17.4(d) shall be made less than twelve (12) months prior to the date of the first scheduled payment under such distribution.

17.4 **Distributions Pursuant to Deferral Elections.** Except as otherwise permitted or required by Section 409A or any applicable U.S. Treasury Regulations promulgated pursuant to Section 409A or other applicable guidance, no distribution in settlement of an Award subject to Section 409A may commence earlier than:

(a) Separation from service (as determined by the Secretary of the United States Treasury);

(b) The date the Participant becomes Disabled (as defined below);

(c) Death;

(d) A specified time (or pursuant to a fixed schedule) that is either (i) specified by the Committee upon the grant of an Award and set forth in the Award Agreement evidencing such Award or (ii) specified by the Participant in an Election complying with the requirements of Section 17.2 and/or 17.3, as applicable;

(e) To the extent provided by the Secretary of the U.S. Treasury, a change in the ownership or effective control or the Company or in the ownership of a substantial portion of the assets of the Company; or

(f) The occurrence of an "Unforeseeable Emergency" (as defined by applicable U.S. Treasury Regulations promulgated pursuant to Section 409A).

Notwithstanding anything else herein to the contrary, to the extent that a Participant is a "Specified Employee" (as defined in Section 409A(a)(2)(B)(i) of the Code) of the Company, no distribution pursuant to Section 17.4(a) in settlement of an Award subject to Section 409A may be made before the date (the *"**Delayed Payment Date**"*) which is six (6) months after such Participant's date of separation from service, or, if earlier, the date of the Participant's death. All such amounts that would, but for this paragraph, become payable prior to the Delayed Payment Date shall be accumulated and paid on the Delayed Payment Date.

17.5 **Unforeseeable Emergency.** The Committee shall have the authority to provide in the Award Agreement evidencing any Award subject to Section 409A for distribution in settlement of all or a portion of such Award in the event that a Participant establishes, to the satisfaction of the Committee, the occurrence of an Unforeseeable Emergency. In such event, the amount(s) distributed with respect to such Unforeseeable Emergency cannot exceed the amounts necessary to satisfy such Unforeseeable Emergency plus amounts necessary to pay taxes reasonably anticipated as a result of such distribution(s), after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the Participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship) or by cessation of deferrals under the Award. All distributions with respect to an Unforeseeable Emergency shall be made in a lump sum as soon as practicable following the Committee's determination that an Unforeseeable Emergency has occurred.

The occurrence of an Unforeseeable Emergency shall be judged and determined by the Committee. The Committee's decision with respect to whether an Unforeseeable Emergency has occurred and the manner in which, if at all, the distribution in settlement of an Award shall be altered or modified, shall be final, conclusive, and not subject to approval or appeal.

17.6 **Disabled.** The Committee shall have the authority to provide in any Award subject to Section 409A for distribution in settlement of such Award in the event that the Participant becomes Disabled. A Participant shall be considered "Disabled" if either:

(a) the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or

(b) the Participant is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering employees of the Participant's employer.

All distributions payable by reason of a Participant becoming Disabled shall be paid in a lump sum or in periodic installments as established by the Participant's Election, commencing as soon as practicable following the date the Participant becomes Disabled. If the Participant has made no Election with respect to distributions upon becoming Disabled, all such distributions shall be paid in a lump sum as soon as practicable following the date the Participant becomes Disabled.

17.7 **Death.** If a Participant dies before complete distribution of amounts payable upon settlement of an Award subject to Section 409A, such undistributed amounts shall be distributed to his or her beneficiary under the distribution method for death established by the Participant's Election as soon as administratively possible

following receipt by the Committee of satisfactory notice and confirmation of the Participant's death. If the Participant has made no Election with respect to distributions upon death, all such distributions shall be paid in a lump sum as soon as practicable following the date of the Participant's death.

17.8 **No Acceleration of Distributions.** Notwithstanding anything to the contrary herein, this Plan does not permit the acceleration of the time or schedule of any distribution under an Award subject to Section 409A, except as provided by Section 409A and/or the Secretary of the U.S. Treasury.

18. **Miscellaneous Provisions.**

18.1 **Repurchase Rights.** Shares issued under the Plan may be subject to one or more repurchase options, or other conditions and restrictions as determined by the Committee in its discretion at the time the Award is granted. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

18.2 **Forfeiture Events.**

(a) The Committee may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include, but shall not be limited to, termination of Service for Cause or any act by a Participant, whether before or after termination of Service, that would constitute Cause for termination of Service.

(b) If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, any Participant who knowingly or through gross negligence engaged in the misconduct, or who knowingly or through gross negligence failed to prevent the misconduct, and any Participant who is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002, shall reimburse the Company the amount of any payment in settlement of an Award earned or accrued during the twelve- (12-) month period following the first public issuance or filing with the United States Securities and Exchange Commission (whichever first occurred) of the financial document embodying such financial reporting requirement.

18.3 **Provision of Information.** Each Participant shall be given access to information concerning the Company equivalent to that information generally made available to the Company's common stockholders.

18.4 **Rights as Employee, Consultant or Director.** No person, even though eligible pursuant to Section 5, shall have a right to be selected as a Participant, or, having been so selected, to be selected again as a Participant. Nothing in the Plan or any Award granted under the Plan shall confer on any Participant a right to remain an Employee, Consultant or Director or interfere with or limit in any way any right of a Participating Company to terminate the Participant's Service at any time. To the extent that an Employee of a Participating Company other than the Company receives an Award under the Plan, that Award shall in no event be understood or interpreted to mean that the Company is the Employee's employer or that the Employee has an employment relationship with the Company.

18.5 **Rights as a Stockholder.** A Participant shall have no rights as a stockholder with respect to any shares covered by an Award until the date of the issuance of such shares (as evidenced by the appropriate entry

on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 4.3 or another provision of the Plan.

18.6 **Delivery of Title to Shares.** Subject to any governing rules or regulations, the Company shall issue or cause to be issued the shares of Stock acquired pursuant to an Award and shall deliver such shares to or for the benefit of the Participant by means of one or more of the following: (a) by delivering to the Participant evidence of book entry shares of Stock credited to the account of the Participant, (b) by depositing such shares of Stock for the benefit of the Participant with any broker with which the Participant has an account relationship, or (c) by delivering such shares of Stock to the Participant in certificate form.

18.7 **Fractional Shares.** The Company shall not be required to issue fractional shares upon the exercise or settlement of any Award.

18.8 **Retirement and Welfare Plans.** Neither Awards made under this Plan nor shares of Stock or cash paid pursuant to such Awards may be included as "compensation" for purposes of computing the benefits payable to any Participant under any Participating Company's retirement plans (both qualified and non-qualified) or welfare benefit plans unless such other plan expressly provides that such compensation shall be taken into account in computing a Participant's benefit.

18.9 **Beneficiary Designation.** Subject to local laws and procedures, each Participant may file with the Company a written designation of a beneficiary who is to receive any benefit under the Plan to which the Participant is entitled in the event of such Participant's death before he or she receives any or all of such benefit. Each designation will revoke all prior designations by the same Participant, shall be in a form prescribed by the Company, and will be effective only when filed by the Participant in writing with the Company during the Participant's lifetime. If a married Participant designates a beneficiary other than the Participant's spouse, the effectiveness of such designation may be subject to the consent of the Participant's spouse. If a Participant dies without an effective designation of a beneficiary who is living at the time of the Participant's death, the Company will pay any remaining unpaid benefits to the Participant's legal representative.

18.10 **Severability.** If any one or more of the provisions (or any part thereof) of this Plan shall be held invalid, illegal or unenforceable in any respect, such provision shall be modified so as to make it valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions (or any part thereof) of the Plan shall not in any way be affected or impaired thereby.

18.11 **No Constraint on Corporate Action.** Nothing in this Plan shall be construed to: (a) limit, impair, or otherwise affect the Company's or another Participating Company's right or power to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure, or to merge or consolidate, or dissolve, liquidate, sell, or transfer all or any part of its business or assets; or (b) limit the right or power of the Company or another Participating Company to take any action which such entity deems to be necessary or appropriate.

18.12 **Unfunded Obligation.** Participants shall have the status of general unsecured creditors of the Company. Any amounts payable to Participants pursuant to the Plan shall be unfunded and unsecured obligations for all purposes, including, without limitation, Title I of the Employee Retirement Income Security Act of 1974. No Participating Company shall be required to segregate any monies from its general funds, or to create any trusts, or establish any special accounts with respect to such obligations. The Company shall retain at all times beneficial ownership of any investments, including trust investments, which the Company may make to fulfill its payment obligations hereunder. Any investments or the creation or maintenance of any trust or any Participant account shall not create or constitute a trust or fiduciary relationship between the Committee or any Participating Company and a Participant, or otherwise create any vested or beneficial interest in any Participant or the Participant's creditors in any assets of any Participating Company. The Participants shall have no claim against

any Participating Company for any changes in the value of any assets which may be invested or reinvested by the Company with respect to the Plan.

18.13 **Choice of Law.** Except to the extent governed by applicable federal law, the validity, interpretation, construction and performance of the Plan and each Award Agreement shall be governed by the laws of the State of California, without regard to its conflict of law rules.

Exhibit 31.1

CERTIFICATIONS

I, John P. McLaughlin, President and Chief Executive Officer of PDL BioPharma, Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PDL BioPharma, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 30, 2009

/s/ John P. McLaughlin

John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATIONS

I, Christine R. Larson, Vice President and Chief Financial Officer of PDL BioPharma, Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PDL BioPharma, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 30, 2009

/s/ Christine R. Larson

Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION

John P. McLaughlin, President and Chief Executive Officer, and Christine R. Larson, Vice President and Chief Financial Officer, of PDL BioPharma, Inc. (the "Registrant"), each hereby certifies in accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, based on his or her knowledge:

(1) the Quarterly Report on Form 10-Q for the quarter ended June 30, 2009 of the Registrant, to which this certification is attached as an exhibit (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

A signed original of this written statement required by Section 906 will be provided to the Securities and Exchange Commission or its staff upon request.

Dated: July 30, 2009

/s/ John P. McLaughlin
John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Christine R. Larson
Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)