Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2008

OR

o 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)

1400 Seaport Blvd
Redwood City, CA 94063
(Address of principal executive offices and Zip Code)

(650) 454-1000
(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 x No o

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

Large accelerated filer x Accelerated filer o Non-accelerated filer o Smaller reporting company o

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

As of November 3, 2008, there were 119,506,838 shares of the Registrant's Common Stock outstanding.

Table of Contents

PDL BIOPHARMA, INC.

INDEX

Page

PART I.	FINANCIAL INFORMATION	3
ITEM 1.	FINANCIAL STATEMENTS	3
	Condensed Consolidated Statements of Operations for the Three and Nine Months Ended September 30, 2008 and 2007	3
	Condensed Consolidated Balance Sheets at September 30, 2008 and December 31, 2007	4
	Condensed Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2008 and 2007	5
	Notes to the Condensed Consolidated Financial Statements	6
ITEM 2.	MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS	16
ITEM 3.	QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK	35
ITEM 4.	CONTROLS AND PROCEDURES	35
PART II.	OTHER INFORMATION	36
ITEM 1.	LEGAL PROCEEDINGS	36
ITEM 1A.	RISK FACTORS	38
ITEM 6.	EXHIBITS	61
Signatures		62

We own or have rights to numerous trademarks, trade names, copyrights and other intellectual property used in our business, including Facet Biotech Corporation, PDL BioPharma and the PDL logo, each of which is considered a trademark, and *Nuvion*®. All other company names and trademarks included in this Quarterly Report are trademarks, registered trademarks or trade names of their respective owners.

Table of Contents

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 September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
Revenues:				
Royalties	$ 68,695	$ 55,135	$ 223,336	$ 183,572
License, collaboration and other	8,651	6,121	23,232	25,597
Total revenues	77,346	61,256	246,568	209,169
Costs and expenses:				
Research and development	44,718	47,695	132,799	151,823
General and administrative	18,545	17,187	55,570	45,205
Restructuring charges	990	4,545	9,616	6,130
Asset impairment charges	—	315	3,784	5,331
Gain on sale of assets	—	—	(49,671)	—
Total costs and expenses	64,253	69,742	152,098	208,489
Operating income (loss)	13,093	(8,486)	94,470	680
Interest and other income, net	3,218	5,378	12,553	15,341
Interest expense	(3,983)	(3,284)	(11,958)	(10,268)
Income (loss) from continuing operations before income taxes	12,328	(6,392)	95,065	5,753
Income tax expense	2,612	235	4,979	648
Income (loss) from continuing operations	9,716	(6,627)	90,086	5,105
Discontinued operations, net of income taxes	45,975	843	(62,338)	(10,587)
Net income (loss)	$ 55,691	$ (5,784)	$ 27,748	$ (5,482)
Income (loss) per basic share				
Continuing operations	$ 0.08	$ (0.06)	$ 0.76	$ 0.04
Discontinued operations	0.39	0.01	(0.53)	(0.09)
Net income (loss) per basic share	$ 0.47	$ (0.05)	$ 0.23	$ (0.05)

Income (loss) per diluted share				
Continuing operations	$ 0.08	$ (0.06)	$ 0.64	$ 0.04
Discontinued operations	0.30	0.01	(0.41)	(0.09)
Net income (loss) per diluted share	$ 0.38	$ (0.05)	$ 0.23	$ (0.05)
Shares used to compute income (loss) per basic and diluted share				
Shares used to compute income (loss) per basic share	119,267	116,861	118,540	116,017
Shares used to compute income (loss) per diluted share	152,812	116,861	152,302	118,444

See accompanying notes.

Table of Contents

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

	September 30, 2008 (unaudited)	December 31, 2007 (Note 1)
Assets		
Current assets:		
Cash and cash equivalents	$ 555,311	$ 340,634
Restricted cash	—	25,005
Marketable securities	—	71,880
Accounts receivable, net of allowances of $17.7 million as of December 31, 2007	—	5,163
Assets held for sale	—	269,390
Prepaid and other current assets	16,359	8,362
Total current assets	571,670	720,434
Long-term restricted cash	3,269	3,269
Land, property and equipment, net	127,269	330,746
Goodwill	—	81,724
Other intangible assets, net	7,821	9,056
Deferred tax asset	—	38,319
Other assets	8,214	8,644
Total assets	$ 718,243	$ 1,192,192
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 3,478	$ 8,893
Accrued compensation	17,405	27,222
Royalties payable	—	5,967
Other accrued liabilities	34,656	33,838
Deferred revenue	12,156	7,171
Deferred tax liability	—	38,319
Current portion of other long-term debt	819	678
Total current liabilities	68,514	122,088
Convertible notes	499,998	499,998
Long-term deferred revenue	50,412	27,647
Other long-term liabilities	32,946	34,849
Total liabilities	651,870	684,582
Stockholders' equity:		
Common stock, par value $0.01 per share, 250,000 shares authorized; 119,292 and 117,577 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively	1,194	1,176
Additional paid-in capital	629,260	1,098,251
Accumulated deficit	(563,597)	(591,345)
Accumulated other comprehensive loss	(484)	(472)
Total stockholders' equity	66,373	507,610
Total liabilities and stockholders' equity	$ 718,243	$ 1,192,192

See accompanying notes.

Table of Contents

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

(in thousands)

	Nine Months Ended September 30, 2008	2007
Cash flows from operating activities:		
Net income (loss)	$ 27,748	$ (5,482)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Asset impairment charge	3,784	5,331
Depreciation	16,770	22,711
Amortization of convertible notes offering costs	1,758	1,758
Amortization of intangible assets	1,235	26,350
Loss on sale of assets, net	14,897	—
Stock-based compensation expense	9,946	14,464
Loss on disposal of equipment	208	560
Tax benefit from stock-based compensation arrangements	12,579	231
Excess tax benefit from stock-based compensation	(12,163)	—
Changes in assets and liabilities:		
Accounts receivable, net	17,201	9,459
Interest receivable	689	(989)
Inventories	—	(7,252)
Other current assets	(10,140)	(2,937)
Other assets	507	(267)
Accounts payable	(5,415)	(8,569)
Accrued liabilities	(15,901)	(6,013)
Other long term liabilities	2,228	—
Deferred tax liabilities	—	263
Deferred revenue	25,915	(7,894)
Total adjustments	64,098	47,206
Net cash provided by operating activities	91,846	41,724
Cash flows from investing activities:		
Purchases of marketable securities	(287)	(134,119)
Maturities of marketable securities	71,065	193,402
Sale of Commercial and Cardiovascular Assets	272,945	—
Sale of Manufacturing Assets	236,560	—
Purchase of property and equipment	(2,905)	(82,515)
Proceeds from sale of equipment	—	300
Transfer from (to) restricted cash	25,005	(10,005)
Net cash provided by (used in) investing activities	602,383	(32,937)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net of cancellations	15,413	22,107
Dividend paid	(506,612)	—
Excess tax benefit from stock-based compensation	12,163	—
Proceeds from financing of tenants improvements	—	1,884
Payments on other long-term debt	(516)	(1,784)
Net cash provided by (used in) financing activities	(479,552)	22,207
Net increase in cash and cash equivalents	214,677	30,994
Cash and cash equivalents at beginning of the period	340,634	179,009
Cash and cash equivalents at end of the period	$ 555,311	$ 210,003

See accompanying notes.

Table of Contents

PDL BIOPHARMA, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2008
(unaudited)

1. Summary of Significant Accounting Policies

Organization and Business

We are a biotechnology company focused on the discovery and development of novel antibodies in oncology and immunologic diseases. We also receive royalties and other revenues through licensing agreements with biotechnology and pharmaceutical companies based on our proprietary antibody humanization technology platform. The technology subject to these licensing agreements has contributed to the development by our licensees of a number of marketed products. We currently have several investigational compounds in clinical development for oncology or immunologic diseases, two of which we are developing in collaboration with Biogen Idec MA, Inc. (Biogen Idec) and one of which we are developing in collaboration with Bristol-Myers Squibb Company (BMS). We began marketing and selling acute-care products in the hospital setting in the United States, Canada and other international markets in March 2005 in connection with our acquisitions of ESP Pharma, Inc. and the rights to *Retavase*®. In March 2008, we sold the rights to the *Cardene*®, *Retavase* and IV *Busulfex*® commercial products and the ularitide development-stage cardiovascular product (together, the Commercial and Cardiovascular Assets). As a result, the results of the Commercial and Cardiovascular Operations segment, which operations are comprised of those related to the Commercial and Cardiovascular Assets, are presented as discontinued operations. Discontinued operations are reported as a component within the

Consolidated Statement of Operations separate from income from continuing operations. For further details and discussion of discontinued operations, see Note 7. Also in March 2008, we sold our manufacturing and related administrative facilities in Brooklyn Park, Minnesota, and related assets therein, and assigned certain of our lease obligations related to our facilities in Plymouth, Minnesota (together, the Manufacturing Assets). For further details and discussion of this transaction, see Note 8.

Basis of Presentation

The accompanying condensed consolidated financial statements are unaudited, but include all adjustments (consisting only of normal, recurring adjustments) that we consider necessary for a fair presentation of our financial position at such dates and the operating results and cash flows for those periods. 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 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, 2007 filed with the SEC. The Condensed Consolidated Balance Sheet as of December 31, 2007 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). This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties recognized by us with respect to this product in our first and second quarters than in other quarters since we generally recognize royalty revenue in the quarter subsequent to sales by our licensees.

Additionally, our master patent license agreement with Genentech, Inc. (Genentech) provides for a royalty fee structure that has four tiers, under which the royalty rate Genentech must pay on royalty-bearing products sold in the United States or manufactured in the United States and sold anywhere (U.S.-based Sales) in a given calendar year decreases during that year on incremental U.S.-based Sales above the 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 in arrears, the average royalty rate for payments we receive from Genentech in the second calendar quarter, which would be 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 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 royalty-bearing products that are both manufactured and sold outside of the United States (ex-U.S.-based Sales), the royalty rate that we receive from Genentech is a fixed rate based on a percentage of the underlying ex-U.S.-based Sales. The mix of U.S.-based Sales and ex-U.S.-based Sales and the manufacturing location are outside of our control and have fluctuated in the past and may continue to fluctuate in the future.

Table of Contents

Principles of Consolidation

The condensed consolidated financial statements of the Company include the accounts of our wholly-owned subsidiaries after elimination of inter-company accounts and transactions.

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.

Recent Accounting Pronouncements

In December 2007, the Financial Accounting Standards Board (FASB) ratified the final consensuses in Emerging Issues Task Force (EITF) Issue No. 07-1, "Accounting for Collaborative Arrangements" (EITF 07-1), which requires certain income statement presentation of transactions with third parties and of payments between the parties to the collaborative arrangement, along with disclosure about the nature and purpose of the arrangement. We are required to adopt EITF 07-1 on or before January 1, 2009. We expect that we will change the presentation of our collaboration revenues and expenses upon the adoption of EITF 07-1, resulting in lower collaboration revenues and lower research and development expenses. However, the adoption will not affect our net income (loss) or our financial condition.

Customer Concentration

The following table summarizes revenues from our licensees which individually accounted for 10% or more of our total revenues from continuing operations for the three and nine months ended September 30, 2008 and 2007 (as a percentage of total revenues):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
Licensees				
Genentech	78%	83%	70%	70%
MedImmune	*	*	15%	15%

* Less than 10%

2. Stock-Based Compensation

Stock-based compensation expense recognized under Statement of Financial Accounting Standards (SFAS) No. 123, "Share-Based Payment (Revised 2004)" (SFAS 123(R)) for employees and directors was as follows:

(in thousands)	Three Months Ended September 30, 2008	Three Months Ended September 30, 2007	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007
Research and development	$ 1,233	$ 2,525	$ 4,258	$ 7,147
General and administrative	284	1,331	3,133	3,553
Discontinued operations	—	1,215	2,554	3,702
Total stock-based compensation expense	$ 1,517	$ 5,071	$ 9,945	$ 14,402

Stock-based compensation expense for the three and nine months ended September 30, 2008 included stock option modification charges totaling $0.0 million and $4.5 million, respectively. The stock option modification charges related to accelerated vesting and extended exercise periods for certain stock options provided in connection with the termination of certain employees. The majority of the stock option modification charges related to the termination of certain employees as a result of the sale of the Commercial and Cardiovascular Assets and, as a result, a portion of such costs are reflected within discontinued operations.

Table of Contents

Stock Option Activity

A summary of our stock option activity for the period is presented below:

(in thousands)	Number of Shares	Weighted-Average Exercise Price
Outstanding as of December 31, 2007	14,956	$ 19.85
Granted	308	$ 11.85
Exercised	(1,775)	$ 8.26
Forfeited	(5,518)	$ 22.42
Outstanding as of September 30, 2008	7,971	$ 20.34
Exercisable as of September 30, 2008	5,946	$ 21.08

In April 2008, we declared a special cash dividend of $4.25 per share, payable to each holder of our common stock as of May 5, 2008. In accordance with the 2005 Equity Incentive Plan (2005 Plan), the exercise price of all options outstanding under the 2005 Plan was decreased to adjust for the impact of this special dividend. As of May 5, 2008, there were approximately 2.0 million shares outstanding under the 2005 Plan with original exercise prices ranging from $11.41 to $32.49, all of which were decreased by $4.25 to adjust for the cash dividend. See Note 5 for further details regarding the cash dividend.

As required by SFAS 123(R), we estimate expected option forfeitures and recognize compensation costs only for those equity awards expected to vest. Total unrecognized compensation cost related to unvested stock options outstanding as of September 30, 2008, excluding forfeitures, was approximately $28 million, which we expect to recognize over a weighted-average period of 2.5 years.

Restricted Stock Activity

A summary of our restricted stock activity for the period is presented below:

(in thousands, except for per share amounts)	Restricted Stock: Number of shares	Restricted Stock: Weighted-average grant-date fair value
Unvested at December 31, 2007	208	$ 20.33
Awards granted	23	$ 11.49
Awards vested	(58)	$ 20.46
Awards forfeited	(83)	$ 20.36
Unvested at September 30, 2008	90	$ 17.95

Total unrecognized compensation cost related to unvested restricted stock outstanding as of September 30, 2008, excluding potential forfeitures, was approximately $2 million, which we expect to recognize over a weighted-average period of 1.3 years.

Employee Stock Purchase Plan (ESPP)

Stock-based compensation expense recognized in connection with our ESPP for the three-month periods ended September 30, 2008 and 2007 was $0.2 and $0.5 million, respectively, and such expense for the nine-month periods ended September 30, 2008 and 2007 was $0.5 million and $1.3 million, respectively.

Table of Contents

3. Earnings Per Share

In accordance with SFAS No. 128, “Earnings per Share” (SFAS 128), we compute income (loss) per basic 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 income (loss) per diluted 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 income per diluted 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%, $250.0 million Convertible Senior Notes due 2012 (the 2012 Notes) and our 2.75%, $250.0 million Convertible Subordinated Notes due 2023 (the

2023 Notes), including both the effect on interest expense and the inclusion of the underlying shares, using the if-converted method. For the nine months ended September 30, 2007, we also included the release of the contingent shares remaining in escrow from the ESP Pharma acquisition, prior to their release from escrow in April 2007.

The following is a reconciliation of the numerators and denominators of the income (loss) per basic and diluted share computations for the three and nine months ended September 30, 2008 and 2007:

(in thousands)	Three Months Ended September 30, 2008	Three Months Ended September 30, 2007	Nine Months Ended Septemmber 30, 2008	Nine Months Ended Septemmber 30, 2007
Numerator				
Income (loss) from continuing operations used to compute income per basic share from continuing operations	$ 9,716	$ (6,627)	$ 90,086	$ 5,105
Add back interest expense for convertible notes, net of estimated tax	2,259	—	6,778	—
Income (loss) used to compute income per diluted share for continuing operations	$ 11,975	$ (6,627)	$ 96,864	$ 5,105
Denominator				
Total weighted-average shares used to compute basic income (loss) per share	119,267	116,861	118,540	116,017
Effect of dilutive stock options	20	—	237	2,181
Assumed release of common stock in escrow	—	—	—	205
Restricted stock outstanding	9	—	3	41
ESPP withholdings	13	—	19	—
Assumed conversion of convertible notes	33,503	—	33,503	—
Shares used to compute income per diluted share from continuing operations	152,812	116,861	152,302	118,444

We excluded from our earnings per share calculations 8.5 million and 10.7 million shares for the three and nine months ended September 30, 2008, respectively, and 33.5 million and 30.4 million shares, for the three and nine months ended September 30, 2007, respectively, relating to outstanding stock options, restricted stock and the conversion of convertible notes where applicable, as such amounts would have been anti-dilutive.

4. Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive income (loss). Specifically, we include in other comprehensive income (loss) the changes in unrealized gains and losses on our holdings of available-for-sale securities and the liability that has not yet been recognized as net periodic benefit cost for our postretirement benefit plan. The following table presents the calculation of our comprehensive income (loss):

(in thousands)	Three Months Ended September 30, 2008	Three Months Ended September 30, 2007	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007
Net income (loss)	$ 55,691	$ (5,784)	$ 27,748	$ (5,482)
Other comprehensive income (loss):				
Change in unrealized gains and losses on available-for-sale securities, net of taxes	(37)	169	(67)	497
Change in postretirement benefit liability not yet recognized in net periodic benefit expense	19	21	56	64
Total comprehensive income (loss)	$ 55,673	$ (5,594)	$ 27,737	$ (4,921)

5. Cash Dividend

In April 2008, we declared a special cash dividend of $4.25 per share (the Dividend), payable to each holder of our common stock as of May 5, 2008 (the Record Date). We paid $506.4 million of the Dividend in May 2008 using proceeds from the sales of the Commercial and Cardiovascular Assets and the Manufacturing Assets. In addition to the $506.4 million paid in May 2008, we recorded an additional $0.6 million as a dividend payable related to future distributions of the Dividend to holders of unvested restricted stock awards, which amount would be paid upon the vesting of these equity awards. From the Dividend settlement date through September 30, 2008, we have paid $0.2 million in dividends related to restricted stock awards that vested during this time, and we have reversed $0.1 million of our initial accrual as a result of the forfeiture of certain unvested restricted stock awards.

Table of Contents

In connection with the Dividend, the conversion rates for the 2023 Notes and the 2012 Notes were adjusted, effective May 6, 2008, based on the amount of the Dividend and the trading price of our common stock in certain periods pursuant to the terms of the applicable indenture. For the 2023 Notes, the conversion rate increased from 49.6618 shares of common stock per $1,000 principal amount of notes to 72.586 shares of common stock per $1,000 principal amount of notes. For the 2012 Notes, the conversion rate increased from 42.219 shares of common stock per $1,000 principal amount of notes to 61.426 shares of common stock per $1,000 principal amount of notes.

6. Collaborative and Licensing Agreements

In August 2008, we entered into a collaboration agreement with BMS for the joint development, manufacture and commercialization of elotuzumab in multiple myeloma and other potential oncology indications. Under the terms of the agreement, BMS has an option to expand the collaboration to include PDL241, another anti-CS1 antibody, upon completion of certain pre-agreed preclinical studies. In connection with the closing of the agreement in September 2008, we received an upfront cash payment of $30.0 million from BMS, and we are eligible to receive development and commercialization milestones based on the further successful development of both elotuzumab and PDL241, if it is included in the collaboration. If BMS exercises its option to expand the collaboration to include PDL241, we would receive an additional cash payment of $15.0 million upon such exercise. We have ongoing obligations throughout the development period of elotuzumab, and BMS is responsible for all activities following its commercial approval.

Under the terms of the agreement, BMS funds 80% of the worldwide development costs and we fund the remaining 20%. The companies would share profits on any U.S. sales of elotuzumab, with us receiving a higher portion of the profit share than represented by our 20% share of development funding. Outside the United States, we would receive royalties on net sales. In addition, we could receive additional payments of up to $480 million based on pre-defined development and regulatory milestones and up to $200 million based on pre-defined sales-based milestones for elotuzumab in multiple myeloma and other potential oncology indications. If BMS exercises its option to expand the collaboration to include PDL241, we could receive additional payments of up to $230 million based on pre-defined development and regulatory milestones and up to $200 million based on pre-defined sales-based milestones. The same division of development costs and profit sharing that apply to elotuzumab would apply to PDL241.

We determined that the upfront cash payment and the research and development services under the collaboration agreement should be accounted for as a single unit of accounting under EITF 00-21, *Multiple Element Arrangements* (EITF 00-21). As we have continuing obligations under the collaboration agreement during the period over which we are jointly developing elotuzumab with BMS, we recorded the $30.0 million upfront cash payment as deferred revenue and will recognize this amount over the estimated development period. During the three months ended September 30, 2008, we recognized $2.2 million under this agreement, which includes amounts related to the amortization of the upfront license fee and the reimbursement by BMS of certain research and development expenses.

7. Discontinued Operations

In 2007, we publicly announced our intent to seek to divest certain portions of our operations and potentially to sell the entire Company. In the fourth quarter of 2007, we decided to pursue a sale of the Commercial and Cardiovascular Assets on a discreet basis and, as a result, we classified the Commercial and Cardiovascular Assets, excluding goodwill, as ‘held for sale’ in our Consolidated Balance Sheet as of December 31, 2007. As we will not have significant or direct involvement in the future operations related to the Commercial and Cardiovascular Assets, we have presented the results of the Commercial and Cardiovascular Operations as discontinued operations in the Consolidated Statement of Operations for the current and comparative periods in accordance with SFAS No. 144, “Accounting for the Impairment or Disposal of Long-lived Assets” (SFAS No. 144). As of December 31, 2007, goodwill related entirely to the Commercial and Cardiovascular Operations.

In March 2008, we closed the sales of the Commercial and Cardiovascular Assets. We sold the rights to IV *Busulfex*, including trademarks, patents, intellectual property and related assets, to Otsuka Pharmaceutical Co., Ltd. (Otsuka) for $200 million in cash and an additional $1.4 million for the IV *Busulfex* inventories. We also sold the rights to *Cardene*, *Retavase* and ularitide, including all trademarks, patents, intellectual property, inventories and related assets (together, our Cardiovascular Assets), to EKR Therapeutics, Inc. (EKR) in March 2008. In consideration for the Cardiovascular Assets sold to EKR, we received upfront proceeds of $85.0 million, $6.0 million of which was placed in an escrow account for a period of approximately one year to cover certain product return related costs under the purchase agreement. In addition, the purchase agreement included contingent consideration of up to $85.0 million in potential future milestone payments as well as potential future royalties on certain *Cardene* and ularitide product sales. In the third quarter of 2008, we earned and received one of these milestone payments, a $25.0 million milestone payment related to approval by the U.S. Food and Drug Administration (FDA) for a pre-mixed bag formulation of *Cardene*.

Table of Contents

We recognized a pre-tax loss of $64.6 million in connection with the sale of the Commercial and Cardiovascular Assets during the first quarter of 2008. This loss was comprised of the total upfront consideration from the sales of the Commercial and Cardiovascular Assets 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 sale of the Commercial and Cardiovascular Assets, we entered into agreements with both Otsuka and EKR to provide certain transition services. We expect to provide these transition services to Otsuka and EKR through 2008 and mid-2009, respectively. Any fees or cost reimbursements received for transition services are reflected as discontinued operations.

The results of our discontinued operations for the three and nine months ended September 30, 2008 and 2007 were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(in thousands)	2008	2007	2008	2007
Net revenues (1)	$ 26,765	$ 48,812	$ 66,499	$ 146,901
Total costs and expenses (2)	(627)	(48,021)	(108,622)	(157,364)
Income tax benefit (expense) (3)	19,837	52	(20,215)	(124)
Loss from discontinued operations	$ 45,975	$ 843	$ (62,338)	$ (10,587)

(1) In August 2008, EKR received approval from the FDA for a pre-mixed bag formulation of *Cardene*. Under the terms of the purchase agreement with EKR, we received a $25.0 million milestone payment as a result of this approval; such amount is included in net revenues for the three and nine months ended September 30, 2008. In addition, we recorded favorable changes in estimates to revenue and accounts receivable reserves during the quarter ended September 30, 2008, which resulted in an increase to net revenues totaling approximately $1.3 million.

(2) Included within total costs and expenses for the nine months ended September 30, 2008 is $2.5 million that we recognized in connection with certain contingent Retavase manufacturing costs obligations for which we are required to reimburse EKR. At the time of sale, the likelihood of such reimbursements being required was not deemed probable and therefore no liability was initially recorded.

(3) Income tax expense attributable to our discontinued operations during the nine months ended September 30, 2008 was primarily related to the tax gain on the sale of the Commercial and Cardiovascular Assets. Of the $20.2 million income tax expense, $8.1 million represents the benefit of certain tax deductions in connection with stock-based compensation, which was recorded as an offset to additional paid-in capital as of September 30, 2008. We recognized a net income tax benefit of $19.8 million in the third quarter of 2008 driven in large part by tax elections related to contingent consideration, in the form of milestone payments and royalties, we may receive from EKR. During the first quarter of 2008, when we sold our former Cardiovascular Assets to EKR, we had calculated the related tax provision using both the upfront cash payment and the fair value of the contingent

consideration as the basis for the provision. During the third quarter of 2008, we elected to exclude the fair value of the contingent consideration from the basis of the tax provision, which reduced our overall tax expense related to the sale of the Cardiovascular Assets from the amount initially recognized in the first quarter of 2008 and resulted in a $24.3 million federal tax benefit during the quarter. Such benefit was partially offset by an increase in state income tax expenses related to legislation enacted in California that suspended the net operating loss deduction and limiting the use of business credits to 50% of a taxpayer's tax liability for tax years 2008 and 2009. In connection with this legislation, we recognized a $7.4 million increase in our California tax expense for the nine months ended September 30, 2008, $5.1 million of which was attributable to our discontinued operations.

Table of Contents

Commercial Restructuring

In connection with the divesture of the Commercial and Cardiovascular Assets, we committed in the first quarter of 2008 to provide certain severance benefits to those employees whose employment positions we likely would eliminate in connection with the transactions (the Commercial Employees). Under SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS No. 146), we recognized expenses for these severance benefits of $1.8 million during the first quarter of 2008, which was included within discontinued operations. Substantially all related severance obligations were settled by the end of the third quarter of 2008.

During the fourth quarter of 2007, the Compensation Committee of our Board of Directors approved a modification to the existing terms of outstanding stock options held by our Commercial Employees to accelerate the vesting of up to 25% of the original grant amount upon termination of such employees, if the sale of the Commercial and Cardiovascular Assets occurred prior to a change in control of the Company. During three and nine months ended September 30, 2008, respectively, we recognized $0 and $3.6 million of stock based compensation expense related to such modifications.

8. Sale of Manufacturing Assets

In March 2008, we sold our Manufacturing Assets to an affiliate of Genmab A/S (Genmab), for total cash proceeds of $240 million. Under the terms of the purchase agreement, Genmab acquired our manufacturing and related administrative facilities in Brooklyn Park, Minnesota, and related assets therein, and assumed certain of our lease obligations related to our facilities in Plymouth, Minnesota (together, the Manufacturing Assets). We recognized a pre-tax gain of $49.7 million upon the close of the sale in March 2008. Such gain represents the $240 million in gross proceeds, less the net book value of the underlying assets transferred of $185.4 million and $4.9 million in transaction costs and other charges.

In connection with the sale of the Manufacturing Assets, we entered into an agreement with Genmab under which we and Genmab will each provide transition services to the other over a maximum period of 12 months, or through March 2009. In addition, to fulfill our clinical manufacturing needs in the near-term, we entered into a clinical supply agreement with Genmab that became effective upon the close of the transaction. Under the terms of the clinical supply agreement, Genmab agreed to produce clinical trial material for certain of our pipeline products until March 2010, and as of September 30, 2008, we have minimum purchase commitments of approximately $15.8 million for a certain number of production lots by the end of 2009.

9. Restructuring and Other Charges

Company-Wide Restructuring

In an effort to reduce our operating costs to a level more consistent with a biotechnology company focused on antibody discovery and development, in March 2008, in addition to other cost-cutting measures, we commenced a restructuring plan pursuant to which we eliminated approximately 120 employment positions in the first quarter of 2008 and would eliminate approximately 130 additional employment positions over the subsequent 12 months (the Transition Employees). All impacted employees were notified in March 2008. Subsequent to the completion of the restructuring, we expect to have between 280 and 300 employees.

Employees terminated in connection with the restructuring are eligible for a package consisting of severance payments of generally 12 weeks of salary and medical benefits along with up to three months of outplacement services. We are recognizing severance charges for Transition Employees over their respective estimated service periods. During the three and nine months ended September 30, 2008, we recognized restructuring charges of $1.0 million and $9.4 million, respectively, which primarily related to post-termination severance costs as well as salary accruals relating to the portion of the 60-day notice period over which the terminated employees would not be providing services to the Company. These restructuring charges include those employees terminated immediately as well as the Transition Employees.

Facilities Related Restructuring

During the third quarter of 2007, we initiated our move from Fremont, California to our current location in Redwood City, California. In connection with this move, we ceased use of a portion of our leased property in Fremont, California and, as a result, we recognized idle facilities charges during 2007. The leases on these facilities terminated at the end of first quarter of 2008, and all related obligations were settled by June 30, 2008.

During the second quarter of 2007, we ceased use of one of our leased facilities in Plymouth, Minnesota. We recognized idle facilities charges, classified as restructuring expenses during the second quarter of 2007, of $1.6 million related to this facility. We expect to pay all obligations accrued relating to the lease by the end of the first quarter of 2009.

During the fourth quarter of 2007, we ceased use of a second facility in Plymouth. However, in connection with the sale of our Manufacturing Assets, Genmab assumed our obligations under the lease for this facility in March 2008.

Table of Contents

The following table summarizes the restructuring activity discussed above, as well as the remaining restructuring accrual balance at September 30, 2008:

(in thousands)	Personnel Costs	Facilities Related	Total
Balance at December 31, 2007	$ 411	$ 1,912	$ 2,323
Restructuring charges*	9,415	201	9,616
Payments	(6,932)	(1,887)	(8,819)
Balance at September 30, 2008	$ 2,894	$ 226	$ 3,120

***** Excludes restructuring charges for employees terminated in connection with the sale of the Commercial and Cardiovascular Assets as those amounts are reflected as part of discontinued operations. See Note 7 for further information.

Other Charges

In connection with our restructuring efforts, we have offered, and we continue to offer, retention bonuses and other incentives to two employee groups: (1) ongoing employees that we hope to retain after the restructuring, and (2) Transition Employees that we hope to retain through a transition period. This is in addition to the retention programs that we implemented during the fourth quarter of 2007, under which we recognized $1.1 million in expenses in 2007. We are recognizing the expenses for these retention programs over the period from the respective dates the programs were approved through the estimated service period for Transition Employees or until the expected pay-out date for ongoing employees. We recognized $2.4 million and $8.5 million in expenses under these retention programs during the three and nine months ended September 30, 2008, respectively, which have been classified as research and development expenses and general and administrative expenses in the financial statements. As of September 30, 2008, we had accrued $4.9 million related to these retention bonuses, which is included in accrued compensation on the Condensed Consolidated Balance Sheet.

10. Asset Impairment Charges

Total asset impairment charges recognized in continuing operations for the three months ended September 30, 2008 and 2007 were $0 and $0.3 million, respectively. The $0.3 million charge recognized during the third quarter of 2007 related to a particular software application for a project that we terminated.

Asset impairment charges recognized in continuing operations for the nine months ended September 30, 2008 and 2007 were $3.8 million and $5.3 million, respectively. The $3.8 million charge recognized during the nine months ended September 30, 2008 primarily represented the costs of certain research equipment that is expected to have no future useful life and certain information technology projects that were terminated and have no future benefit to us, in each case, as a result of our restructuring activities. The $5.3 million impairment charges in 2007 consisted of a $5.0 million impairment of two buildings that comprised part of our former Fremont, California facilities and the $0.3 million impairment discussed above. With respect to the charges related to our former Fremont, California facilities, based on market value information we had at the time, we concluded that the net carrying value of the assets was impaired as of June 30, 2007. We recognized an impairment charge of $5.0 million to reduce the net carrying value of the assets to $20.6 million, which was our estimate of fair value, less cost to sell. The sale of these two buildings closed in October 2007 on terms consistent with those expected and, as a result, no significant gain or loss on the sale was recognized at the time of sale.

11. Non-Monetary Transaction

In January 2008, we and Biogen Idec entered into an exclusive worldwide licensing agreement with Ophthotech Corporation (Ophthotech), a privately held company, for an anti-angiogenesis antibody to treat Age-Related Macular Degeneration (AMD). Under the terms of the agreement, we and Biogen Idec granted Ophthotech worldwide development and commercial rights to all ophthalmic uses of volociximab (M200). In addition, we and Biogen Idec have an obligation to supply both clinical and commercial M200 product to Ophthotech. In connection with this agreement, we received an equity position in Ophthotech, and we are entitled to receive a combination of development and commercial milestone payments and royalties on future product sales.

We estimated the fair value of the nonmarketable equity instruments received based predominately upon the price of similar Ophthotech equity instruments that Ophthotech had recently sold to independent parties for cash consideration. Based on this approach, we estimated the fair value of our equity position to be $1.8 million, which is included in other assets on the Condensed Consolidated Balance Sheet as of September 30, 2008.

Table of Contents

For the purposes of revenue recognition, we are treating the grant of the license and the manufacturing obligation to provide M200 product to Ophthotech as a single unit of accounting under EITF 00-21. Because we are unable to estimate the time period over which we are obligated to supply the M200 product, we have not recognized any revenue under the agreement. The fair value of the consideration that we received from Ophthotech continues to be classified as long-term deferred revenue as of September 30, 2008. We do not intend to recognize any revenue related to this agreement until we are able to reasonably estimate the date at which our obligations will end.

12. Restricted Cash

As of September 30, 2008 and December 31, 2007, we had a total of $3.3 million and $28.3 million, respectively, of restricted cash. As of December 31, 2007, $25.0 million of the restricted cash supported letters of credit on which our landlord and construction contractor could draw if we did not fulfill our obligations with respect to the construction of our leasehold improvements to our Redwood City, California, facility. As of September 30, 2008, the letters of credit underlying the restricted cash had been released. The remaining $3.3 million of long-term restricted cash as of September 30, 2008 and December 31, 2007 supports letters of credit serving as a security deposit for obligations under our Redwood City leases.

13. Other Accrued Liabilities

Other accrued liabilities consisted of the following:

(in thousands)	September 30, 2008	December 31, 2007
Consulting and services	$ 9,903	$ 10,110
Accrued clinical and pre-clinical trial costs	2,181	6,314

Restructuring accruals	3,160	2,323
Accrued income taxes	6,428	1,357
Accrued interest	1,465	4,453
Construction in progress	226	2,288
Contract manufacturing	6,156	—
Other	5,137	6,993
Total	$ 34,656	$ 33,838

14. Income Taxes

Income tax expense attributable to our continuing operations during the three and nine months ended September 30, 2008 was $2.6 million and $5.0 million, respectively, which was related primarily to federal and state alternative minimum taxes as well as foreign taxes on income earned by our foreign operations. As a result of the sale of our Commercial and Cardiovascular Assets in March 2008, we no longer have deferred tax liabilities, and due to our lack of earnings history, the gross deferred tax assets have been fully offset by a valuation allowance and no longer appear on our Consolidated Balance Sheet.

The income tax expense for our continuing operations for the three and nine months ended September 30, 2007 was $0.2 million and $0.6 million, respectively, which was related primarily to federal and state alternative minimum taxes and foreign taxes on income earned by our foreign operations.

In September 2008, California enacted legislation suspending the net operating loss deduction and limiting the use of business credits to 50% of a taxpayer's tax liability for tax years 2008 and 2009. As a result, we recorded a $7.4 million increase in our California tax expense for the nine months ended September 30, 2008, $2.3 million of which was attributable to our continuing operations.

During the nine months ended September 30, 2008, we recorded a $7.9 million increase in our liabilities related to prior year uncertain tax positions in accordance with FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes, an interpretation of SFAS 109, Accounting for Income Taxes." This increase is a result of the Company refining its position for prior year uncertain tax positions. We do not anticipate any additional unrecognized benefits in the next 12 months that would result in a material change to our financial position.

Table of Contents

15. Fair Value Measurements

As of January 1, 2008, we adopted FASB Statement No. 157, "Fair Value Measurements" (FAS 157). FAS 157 established a framework for measuring fair value in GAAP and clarified the definition of fair value within that framework. FAS 157 does not require any new fair value measurements in GAAP. FAS 157 introduced, or reiterated, a number of key concepts which form the foundation of the fair value measurement approach to be utilized for financial reporting purposes. The fair value of our financial instruments reflect the amounts that would be received if we were to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). FAS 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 September 30, 2008, our financial assets consisted solely of institutional money market funds which are considered to be Level 1 assets under FAS 157 and are classified as cash and cash equivalents in our balance sheet.

Table of Contents

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 and 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 proposed new products or licensing or collaborative arrangements, 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 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

We are a biotechnology company focused on the discovery and development of novel antibodies in oncology and immunologic diseases. We receive royalties and other revenues through licensing agreements with biotechnology and pharmaceutical companies based on our proprietary antibody humanization technology platform. The technology subject to these licensing agreements has contributed to the development by our licensees of a number of marketed products. We currently have several investigational compounds in clinical development for oncology and immunologic diseases, two of which we are

developing in collaboration with Biogen Idec MA, Inc. (Biogen Idec) and one of which we are developing in collaboration with Bristol-Myers Squibb Company (BMS). Our research platform is focused on the discovery of novel antibodies for the treatment of cancer and immunologic diseases.

During the period from March 2005 through early March 2008, we marketed and sold acute-care products in the hospital setting in the United States and Canada. We acquired the rights to three of these products, *Cardene* IV®, IV *Busulfex*® and *Retavase*®, which are non-antibody-based products, in connection with our acquisitions of ESP Pharma, Inc. as well as the rights to *Retavase* in March 2005. We subsequently acquired the rights to *Cardene* SR® in September 2006. These commercial products (together, the Commercial and Cardiovascular Assets) and the related operations (the Commercial and Cardiovascular Operations) were fully divested during the first quarter of 2008. We recognized a pre-tax loss of $64.6 million in connection with the sale of the Commercial and Cardiovascular Assets, which is presented within discontinued operations, during the nine months ended September 30, 2008. In August 2008, EKR Therapeutics, Inc. (EKR), which acquired certain of our Commercial and Cardiovascular Assets, received approval from the U.S. Food and Drug Administration (FDA) for a pre-mixed bag formulation of *Cardene*. Under the terms of the purchase agreement, we received a $25 million milestone payment from EKR as a result of this approval.

In March 2008, we sold our Minnesota manufacturing facility and related operations to an affiliate of Genmab A/S (Genmab), for total cash proceeds of $240 million. Under the terms of this agreement, Genmab acquired our manufacturing and related administrative facilities in Brooklyn Park, Minnesota, and related assets therein, and assumed certain of our lease obligations related to our facilities in Plymouth, Minnesota (together, the Manufacturing Assets). In connection with this transaction, under the terms of a clinical supply agreement, Genmab agreed to produce clinical material for certain of our pipeline products until March 2010.

Also during March 2008, in an effort to reduce our operating costs to a level more consistent with a biotechnology company focused on antibody discovery and development, we commenced a restructuring plan pursuant to which we eliminated approximately 120 employment positions in the first quarter of 2008 and would eliminate approximately 130 additional employment positions over the subsequent 12 months (the Transition Employees). We offered these 130 Transition Employees and the approximately 300 employees that we expected to retain after the restructuring, retention bonuses and other incentives to encourage these employees to stay with the Company until the Spin-off of our biotechnology assets (see below) or with the Spin-off company after the separation transaction. In connection with this overall restructuring effort, we expect to incur significant transition-related expenses through March 2009, a portion of which will be recognized as restructuring charges.

Table of Contents

In April 2008, we announced our intent to spin off our biotechnology assets and related operations (the Biotechnology Business) into a separate publicly traded entity apart from our antibody humanization royalty assets (the Spin-off) by the end of 2008. In the event that the Spin-off does occur, we expect to retain the rights to antibody humanization royalty revenues from current and future licensed products and plan to distribute this income to our stockholders, net of any operating expenses, debt service and income taxes. Subsequent to the potential Spin-off, we plan to have only a nominal number of employees to support our intellectual properties, manage our related licensing operations and provide for certain essential reporting and management functions of a public company. In connection with this process, we organized Facet Biotech Corporation (Facet Biotech), a wholly-owned subsidiary of PDL, which filed an initial Registration Statement on Form 10 with the Securities and Exchange Commission (SEC) during the third quarter of 2008. We will continue to fund Facet Biotech's operations through the Spin-off date, and we would transfer our biotechnology assets to Facet Biotech at the time of the Spin-off. We expect to capitalize Facet Biotech with approximately $405 million in cash at the completion of the Spin-off transaction, which we expect will occur in December 2008.

Subsequent to the Spin-off, we intend to continue to operate as an independent, publicly traded Delaware company, but we plan to relocate our corporate headquarters and ongoing business operations to a new location outside California. Currently, we are evaluating potential locations that would meet our ongoing business needs while also providing a more favorable cost structure.

In parallel with our Spin-off preparations, we also had been evaluating opportunities to monetize our antibody humanization royalty assets through a potential sale or securitization transaction; however, primarily due to current market conditions, we are not currently pursuing a monetization transaction, but will continue to evaluate whether such a transaction in the future is in the best interests of our stockholders. Absent a monetization transaction, as previously announced, we expect to distribute our income, net of operating expenses, debt service and income taxes, to our stockholders.

In April 2008, we declared a special cash dividend of $4.25 per share of common stock (the Dividend), which was paid in May 2008 using the proceeds from the sale of the Commercial and Cardiovascular Assets and the Manufacturing Assets. Based on the total shares outstanding as of the May 5, 2008 record date, the total Dividend was expected to be $507.0 million, of which $506.4 million was paid in May 2008. The remaining $0.6 million unpaid portion of the Dividend related to the dividend payable on employee restricted stock awards that were unvested as of the date of the Dividend and would be paid to employees when and if they vest in the underlying restricted stock awards. Through September 30, 2008, we had paid out $0.2 million upon vesting of restricted stock awards, and had reversed $0.1 million of the accrual as a result of forfeitures of restricted stock awards prior to vesting.

In August 2008, we entered into a collaboration agreement with BMS for the joint development, manufacture and commercialization of elotuzumab in multiple myeloma and other potential oncology indications. Under the terms of the agreement, BMS has an option to expand the collaboration to include PDL241, another anti-CS1 antibody, upon completion of certain pre-agreed preclinical studies currently underway. In connection with the closing of this agreement in September 2008, we received an upfront cash payment of $30 million from BMS, and we are eligible to receive development and commercialization milestones based on the further successful development of elotuzumab and, if it is included in the collaboration, PDL241. See Collaborative and Strategic Agreements for further details on the agreement.

In September 2008, we announced the appointment of Mr. Faheem Hasnain as our new president and chief executive officer (CEO), effective October 1, 2008. If the Spin-off does occur, Mr. Hasnain will become president and CEO of Facet Biotech.

In November 2008, we announced the appointment of John P. McLaughlin to become president and CEO of PDL following the planned spin-off of Facet Biotech. Following the planned spin-off, Mr. McLaughlin will lead the remaining royalty company, which will continue to operate under the PDL BioPharma name.

We were organized as a Delaware corporation in 1986 under the name Protein Design Labs, Inc. In 2006, we changed our name to PDL BioPharma, Inc.

Research and Development Programs

We have several antibodies in various stages of development for cancer and immunologic diseases. The table below lists the antibodies for which we are pursuing development activities either on our own or in collaboration. These product candidates are at early stages of development. None of our product candidates have been approved by the FDA and none of them have been commercialized. Not all clinical trials for each product candidate are listed below. As part of our transition services agreement with EKR, which purchased the rights to *Cardene*, *Retavase* and ularitide, including all trademarks, patents, intellectual property, inventories and related assets in March 2008, we continue to provide research and development services for certain life cycle management activities for *Cardene*. Under this agreement, EKR reimburses us for all costs and

Table of Contents

expenses incurred in connection with these activities, all of which have been reflected as discontinued operations. As this is no longer an on-going PDL-sponsored program, we have excluded *Cardene* from the table below. The development and commercialization of our product candidates are subject to numerous risks and uncertainties, as noted in our "Risk Factors" in this Quarterly Report.

Product Candidate	Description/Indication	Phase of Development	Collaborator
Daclizumab	Multiple sclerosis	Phase 2	Biogen Idec
	Transplant maintenance	Initiation of phase 2 being evaluated	—
Volociximab (M200)	Solid tumors	Phase 1 and phase 2	Biogen Idec
Elotuzumab (HuLuc63)	Multiple myeloma	Phase 1	BMS
PDL192	Solid tumors	Phase 1	
PDL241	Immunologic deseases	Preclinical	*
Other preclinical research candidates	Onclogy/Immunology	Multiple candidates under evaluation	

* Under the terms of our collaboration agreement with BMS to develop elotuzumab, BMS has an option to expand the collaboration to include the PDL241 antibody upon completion of certain pre-agreed preclinical studies that are currently in process.

Daclizumab. Daclizumab is a humanized monoclonal antibody that binds to the alpha chain (CD25) of the interleukin-2 (IL-2) receptor on activated T cells, which are white blood cells that play a role in inflammatory and immune-mediated processes in the body. Daclizumab is the active component of the drug *Zenapax*, which has been approved for acute transplant rejection and has been marketed by Hoffman La-Roche (Roche).

Beyond transplant induction therapy, we believe that this antibody mechanism has potential in a number of inflammatory diseases, including multiple sclerosis and as maintenance therapy in patients who have undergone organ transplant. We have created a new high-yield manufacturing process and a higher concentration formulation required to move daclizumab into chronic treatment of these immunological diseases. Currently, we have a worldwide strategic development collaboration for daclizumab with Biogen Idec in multiple sclerosis and other immunologic disease areas in which we share development costs and commercial rights. Outside of the Biogen Idec collaboration, we wholly own the rights for daclizumab in respiratory and transplant maintenance indications.

Daclizumab in Multiple Sclerosis:

We and our partner, Biogen Idec, are currently testing daclizumab as a monotherapy for relapsing multiple sclerosis in a phase 2 study. In 2007, we and Biogen Idec announced that the CHOICE trial, a phase 2, randomized, double-blind, placebo-controlled trial of daclizumab conducted in 270 patients, met its primary endpoint in relapsing MS patients being treated with interferon beta. These data showed daclizumab administered at 2 mg/kg every two weeks as a subcutaneous injection added to interferon beta therapy significantly reduced new or enlarged gadolinium-enhancing lesions at week 24 compared to interferon beta therapy alone. We and Biogen Idec continue to evaluate the results of the CHOICE study to help further inform the development of daclizumab for multiple sclerosis.

In the first quarter of 2008, we and Biogen Idec initiated a phase 2 monotherapy trial of daclizumab, the SELECT trial, to advance the overall clinical development program in relapsing MS. This trial is currently ongoing. Results of this study will further guide the potential later stage development of daclizumab in which we anticipate Biogen Idec will play a lead role, leveraging their experience in the commercialization of treatments for multiple sclerosis.

Table of Contents

Daclizumab in Asthma:

We have previously conducted a phase 2 double-blind placebo controlled clinical trial for daclizumab in patients with moderate to severe asthma. In connection with our ongoing portfolio review process, commercial evaluation and discussions with the FDA, we have decided to no longer pursue development of daclizumab in this indication at this time.

Daclizumab in Transplant Maintenance: A potential extension of daclizumab clinical use is in transplant maintenance. Data from various studies have suggested a role for daclizumab in this indication, and we are evaluating opportunities and potential next steps for this program.

Volociximab (M200). Volociximab is a chimeric monoclonal antibody that inhibits the functional activity of a5ß1 integrin, a protein found on activated endothelial cells. Blocking the activity of a5ß1 integrin has been found to prevent angiogenesis, which is the formation of new blood vessels that feed tumors and allow them to grow and metastasize.

We believe that volociximab may have potential in treating a range of solid tumors and that its role in angiogenesis may also aid in the treatment of age related macular degeneration (AMD). Currently, we have a worldwide strategic development partnership with Biogen Idec for volociximab in oncology. We and Biogen Idec also have an out-licensing agreement with Ophthotech Corporation for its development in AMD.

Volociximab in Solid Tumors: We and our partner, Biogen Idec, are currently investigating volociximab in various open-label clinical trials in patients with advanced solid tumors. This includes phase 1-2 and phase 1 clinical trials in ovarian and non-small cell lung cancer. Previously, we had conducted studies of voloxicimab in third-line ovarian cancer, pancreatic cancer, renal cell carcinoma and melanoma. These data and associated analyses have contributed to our understanding of the mechanism and safety profile of voloxicimab, and we are applying this knowledge to our ongoing programs. We plan to continue to evaluate the data from our ongoing studies and collaborate with Biogen Idec on the future development plans for this antibody.

Volociximab in Eye Disorders: We and Biogen Idec have licensed voloxicimab for ophthalmic indications to Ophthotech for various milestones and eventual royalties on potential product sales.

Elotuzumab (HuLuc63). Elotuzumab is a humanized monoclonal antibody that binds to CS1, a cell surface glycoprotein that is highly expressed on myeloma cells but minimally expressed on normal human cells. Elotuzumab also may induce anti-tumor effects through antibody-dependent cellular cytotoxicity (ADCC) activity on myeloma cells. We believe elotuzumab has significant potential as a targeted therapy for multiple myeloma.

Elotuzumab is currently in phase 1 clinical studies as both a monotherapy in relapsed refractory patients and combination therapy as a second line treatment in patients with multiple myeloma. We have previously published early results from the ongoing monotherapy study reflecting early pharmacokinetic (PK) and tolerance data. We also published strong preclinical data supporting the use of elotuzamab in combination with other agents. In July 2008, we initiated a phase 1 combination trial of elotuzumab with Revlimid® (lenalidomide) in patients with multiple myeloma. Two additional trials are ongoing, one of elotuzumab in combination with Velcade® (bortezomib) and a second trial of elotuzumab as a monotherapy in this same patient population.

Preclinical data from our elotuzumab program are suggestive of the anitibody's biologic activity. Our scientific rationale supporting the development of this antibody includes potent reduction of human multiple myeloma tumors in animal models, destruction of multiple myeloma cells directly from patients, and an extensive analysis of the target for elotuzumab, CS1, which is highly expressed in almost all cases of multiple myeloma independent of stage of prior therapy.

In August 2008, we entered in to a collaboration agreement with BMS for the joint development, manufacture and commercialization of elotuzumab in multiple myeloma and other potential oncology indications. See Collaborative and Strategic Agreements for further details on the agreement.

PDL192. PDL192 is a humanized monoclonal antibody that binds to the TWEAK (tumor necrosis factor-like weak inducer of apoptosis) receptor (TweakR), also known as Fn14 or TNFRSF12A, a cell surface glycoprotein with homology to the family of tumor necrosis factor (TNF) receptors. PDL192 appears to have dual mechanisms of action, where the binding to the target results in a biological signal detrimental to the cancer cell. In addition, PDL192 may be able to recruit the immune system to also mediate ADCC activity to help destroy the tumor. Our scientists have demonstrated that TweakR is over-expressed in a number of solid tumor indications including pancreatic, colon, lung, renal, breast and head and neck cancers, and ongoing scientific work will help prioritize those tumors for therapeutic testing. In preclinical studies, PDL192 also has been shown to significantly inhibit tumor growth of various models of human cancer in mice. We filed the IND for PDL192 in the second quarter of 2008 and have initiated a phase 1 dose escalation program in solid tumors.

Table of Contents

PDL241. PDL241 is a novel humanized monoclonal antibody that also binds to the CS1 glycoprotein but to a different region compared to elotuzumab. We believe PDL241 may have potential in immunologic diseases. We are currently conducting preclinical toxicology and IND-enabling studies for this lead preclinical candidate which we hope to advance into the clinic. Preclinical data including its target and potential mechanism will be made available in conjunction with any future IND filing for this antibody. Under the terms of our collaboration agreement with BMS to develop elotuzumab, BMS has an option to expand the collaboration to include the PDL241 antibody upon completion of certain pre-agreed preclinical studies.

Preclinical research candidates. We are currently evaluating a series of discovery-stage antibody and target combinations, as well as multiple next-generation antibodies, for their suitability to progress into the clinic. Our goal is to continue to characterize a pool of novel and next generation antibodies, from which we can advance the most promising candidates into clinical development.

Technology Outlicense Agreements

We have licensed and will continue to offer to license our humanization patents in return for license fees, annual maintenance payments and royalties on product sales. The humanized antibody products listed below are currently approved for use by the FDA and are licensed under our patents.

Licensee	Product Name
Genentech, Inc. (Genentech)	*Avastin*™
	Herceptin®
	Xolair®
	Raptiva®
	Lucentis®
MedImmune, Inc. (a subsidiary of AstraZeneca)	*Synagis*® (1)
Wyeth	*Mylotarg*®
Elan Corporation, Plc (Elan)	*Tysabri*®
Roche	*Zenapax*® (2)

(1) On August 22, 2008, MedImmune sent to us a notice under the patent license agreement, effective July 17, 1997, between MedImmune and us that MedImmune was exercising its rights under that agreement to have a non-binding determination made by non-conflicted legal counsel as to whether MedImmune's Synagis® (palivizumab) product or motavizumab development product infringes claims under our Queen et al. patents. See Legal Proceedings for further discussion.

(2) Roche is obligated to pay us royalties on *Zenapax* only once product sales have reached a certain threshold; we have not received royalties on sales of *Zenapax* since the first quarter of 2006 and we do not expect to receive royalty revenue from Roche's sales of *Zenapax* in the future.

In our quarterly report on Form 10-Q for the period ended June 30, 2008, we disclosed that we expected to receive royalty revenues from UCB S.A. (UCB) on sales of UCB's *Cimzia*® antibody product beginning in the third quarter of 2008. We believe that these royalty revenues are due under the Patent License

Agreement, effective October 19, 2001 (the "Celltech License Agreement"), that we entered into with Celltech Therapeutics Limited ("Celltech"), which was acquired by UCB. Under the Celltech License Agreement, we licensed to Celltech certain rights under our Queen et al patents. On September 15, 2008, UCB informed us that it has taken the position that its Cimzia product does not infringe the Queen et al. patents and, therefore, does not intend to pay to us royalties under the Celltech License Agreement on sales of the *Cimzia* product.

Table of Contents

We intend to continue to defend and enforce our rights under the Queen et al patents and to enforce our rights under the Celltech License Agreement.

Collaborative and Strategic Agreements

We have a collaboration agreement with Biogen Idec for the joint development, manufacture and commercialization of daclizumab in MS and indications other than transplant and respiratory diseases, and for shared development and commercialization of volociximab (M200) in all indications. Under our collaboration agreement with Biogen Idec, we share equally the costs of all development activities and, if any of the products are commercialized, all operating profits. If the products under our collaboration with Biogen Idec are successfully developed in multiple indications and all milestones are achieved, the agreement with Biogen Idec provides for development, regulatory and sales-based milestone payments totaling up to $660 million. Of this amount, the agreement provides for $260 million in development and regulatory milestone payments related to daclizumab and $300 million in development and regulatory milestone payments and $100 million in sales-based milestone payments related to volociximab. To date, we have received $10 million of these milestone payments under our collaboration with Biogen Idec.

In August 2008, we entered into a collaboration agreement with BMS for the joint development, manufacture and commercialization of elotuzumab in multiple myeloma and other potential oncology indications. Under the terms of the agreement, BMS has an option to expand the collaboration to include the PDL241 antibody upon the completion of certain pre-agreed preclinical studies. In connection with the closing of this agreement in September 2008, we received an upfront cash payment of $30 million from BMS, and we are eligible to receive development and commercialization milestones based on the further successful development of both elotuzumab and PDL241, if it is included in the collaboration. If BMS exercises its option to expand the collaboration to include PDL241, we would receive an additional cash payment of $15 million upon such exercise.

Under the terms of our collaboration agreement with BMS, BMS funds 80% of the worldwide development costs and we fund 20%. The companies would share profits on any U.S. sales of elotuzumab, with us receiving a higher portion of the profit share than represented by our 20% share of development funding. Outside the United States, we would receive royalties on net sales. In addition, we could receive additional payments of up to $480 million based on pre-defined development and regulatory milestones and up to $200 million based on pre-defined sales-based milestones for elotuzumab in multiple myeloma and other potential oncology indications. If BMS exercises its option to expand the collaboration to include PDL241, we could receive additional payments of up to $230 million based on pre-defined development and regulatory milestones and up to $200 million based on pre-defined sales-based milestones. The same division of development costs and profit sharing that apply to elotuzumab would apply to PDL241.

Each collaboration agreement requires the respective parties to undertake extensive efforts in support of the collaboration and requires the performance of both parties to be successful. Assuming successful development of the applicable products, we anticipate recognizing an increasing amount of revenue and expenses as we progress with each of these collaborations.

We continue to actively evaluate potential opportunities to partner certain programs with or out-license certain of our technologies to other pharmaceutical or biotechnology companies and expect that we will enter into other collaboration or other agreements in the future.

Summary of Third Quarter of 2008

In the third quarter of 2008, we recognized revenues from continuing operations of $77.3 million, a 26% increase from $61.3 million in the comparable period in 2007. Our revenue growth was driven primarily by higher royalties related to our license agreements with Genentech and Elan.

Our total costs and expenses from continuing operations in the third quarter of 2008 were $64.3 million, a decrease from $69.7 million in the third quarter of 2007 due largely to the reduction in operating costs resulting from the sale of our manufacturing facility in the first quarter of 2008 and our restructuring plan that was initiated in the first quarter of 2008. In addition, total costs and expenses in the third quarter of 2008 included restructuring charges of $1.0 million, compared to restructuring charges of $4.5 million and asset impairment charges of $0.3 million during the third quarter of 2007. Such decreases were offset by higher legal costs during the third quarter of 2008, principally related to the strategic review process, Spin-off preparations, royalty monetization efforts and ongoing litigation, as well as higher manufacturing costs. Our income from continuing operations for the third quarter of 2008 was $9.7 million, compared to a loss from continuing operations of $6.6 million in the prior-year comparable period. During the nine months ended September 30, 2008, net cash provided by

Table of Contents

operating activities was $91.8 million, an increase from $41.7 million provided by operating activities in the comparable period in 2007. At September 30, 2008, we had cash, cash equivalents, and restricted cash of $558.6 million, compared to cash, cash equivalents, marketable securities and restricted cash of $440.8 million at December 31, 2007. As of September 30, 2008, we had $526.4 million in total debt outstanding, which included $500.0 million in convertible notes.

We expect that in the foreseeable future, our revenue growth will be generated primarily by increases in our royalties, with some potential increase in our collaboration and related milestone revenues if we are successful in the development of our products currently under collaboration agreements or if we are successful in entering into new collaboration agreements. We expect that our operating expenses in the near term will decrease significantly relative to recent historical expense levels due to the sales of the Commercial and Cardiovascular Assets and the Manufacturing Assets in March 2008, and the restructuring activities that are in process and that will continue over the next few quarters. However, we expect to incur additional charges and expenses during 2008 and into 2009 related to the restructuring, including severance payments to terminated employees and retention incentives we have offered to ongoing employees and Transition Employees.

We also expect to incur significant costs in the fourth quarter as we continue to prepare for and implement the Spin-off of Facet Biotech. In addition, we are actively seeking to sublease excess capacity in our Redwood City facilities. If we are able to sublease any of this excess capacity, our lease expenses would decline. The process of subleasing office space can be a lengthy and uncertain process and we cannot assure if and when we may sublease any of our excess capacity or the amount of excess capacity that we may ultimately be able to sublease. In the future, after we complete our restructuring plans, we would expect our operating expense increases or decreases to correlate generally with the development of our potential products. New collaboration or out-licensing agreements, and receipt of potential contingent consideration as described below, also would have an impact on our future financial results.

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.

- Our business will depend in significant part on our ability to develop innovative new drugs. Drug development, however, is highly uncertain and very expensive, typically requiring tens to hundreds of millions of dollars invested in research, development and manufacturing elements. Identifying drug candidates to study in clinical trials requires significant investment and may take several years. In addition, the clinical trial process for drug candidates is usually lengthy, expensive and subject to high rates of failure throughout the development process. As a result, a majority of the clinical trial programs for drug candidates are terminated prior to applying for regulatory approval. Even if a drug receives FDA or other regulatory approval, such approval could be conditioned on the need to conduct additional trials, or we or our licensees could be required to or voluntarily decide to suspend marketing of a drug as a result of safety or other events.

- Our industry is subject to extensive government regulation, and we must make significant expenditures to comply with these regulations. For example, the FDA regulates, among other things, the development, testing, research, manufacture, safety, efficacy, record-keeping, labeling, storage, approval, quality control, adverse event reporting, advertising, promotions, sale and distribution of our products. The development and marketing of our products outside of the United States is subject to similar extensive regulation by foreign governments, which regulations are not harmonized with the regulations of the United States.

- The manufacture of drugs and antibodies for use as therapeutics in compliance with regulatory requirements is complex, time-consuming and expensive. If our contract manufacturers are unable to manufacture product or product candidates in accordance with FDA and European good manufacturing practices, we may not be able to obtain or retain regulatory approval for our products. We are currently reliant on third-party manufacturers for all of our products.

- Our business success is dependent in significant part on our success in establishing intellectual property rights, either internally or through in-license of third-party intellectual property rights, and protecting our intellectual property rights. If we are unable to protect our intellectual property, we may not be able to compete successfully and our sales and royalty revenues and operating results would be adversely affected. Our pending patent applications may not result in the issuance of valid patents or our issued patents may not provide competitive advantages or may be reduced in scope. Proceedings to assert and defend our intellectual property rights are expensive, can, and have, continued over many years 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 retain qualified clinical, scientific, marketing, administrative and management personnel. We face significant competition for experienced personnel and have experienced significant attrition in late 2007 and early 2008 as a result of the uncertainty created by the strategic initiatives we undertook during this period. We also implemented a restructuring in March 2008, which includes a significant reduction in force, and we expect to continue to face challenges in retaining qualified personnel as we transition to a more streamlined organization.

Table of Contents

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 (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. For a description of the critical accounting policies that affect our more significant judgments and estimates used in the preparation of our condensed consolidated financial statements, refer to our Annual Report on Form 10-K for the year ended December 31, 2007, filed with the SEC. Except as noted below, there have been no changes to our critical accounting policies since December 31, 2007.

Revenue Recognition

We enter into patent license, collaboration and humanization agreements that may contain multiple elements, such as upfront license fees, reimbursement of research and development expenses, milestones related to the achievement of particular stages in product development and royalties. Under our collaboration arrangements, we may receive nonrefundable upfront fees, time-based licensing fees and reimbursement for all or a portion of certain predefined research and development or post-commercialization expenses, and our licensees may make milestone payments to us when they or we achieve certain levels of development with respect to the licensed technology. Generally, when there is more than one deliverable under the agreement, we account for the revenue as a single unit of accounting under Emerging Issues Task Force (EITF) Issue No. 00-21, “Revenue Arrangement with Multiple Deliverables,” for revenue recognition purposes. As a combined unit of accounting, the up-front payments are recognized ratably as the underlying services are provided under the arrangement. We recognize “at-risk” milestone payments upon achievement of the underlying milestone event and when they are due and payable under the arrangement. Milestones are deemed to be “at risk” when, at the onset of an arrangement, management believes that they will require a reasonable amount of effort to be achieved and are not simply reached by the lapse of time or perfunctory effort. We currently determine attribution methods for each payment stream based on the specific facts and circumstances of the arrangement. The EITF may provide additional guidance on the topic of “Revenue Recognition for a Single Deliverable for a Single Unit of Accounting (with Multiple Deliverables) That Have Multiple Payment Streams,” which could change our method of revenue recognition in future periods.

In addition, we occasionally enter into non-monetary transactions in connection with our patent licensing arrangements. Management must use estimates and judgments when considering the fair value of the technology rights acquired and the patent licenses granted under these arrangements. The fair value of the technology right(s) acquired from the licensee is typically based on the fair value of the patent license and other consideration we exchange with the licensee.

Clinical Trial Expenses

We base our cost accruals for clinical trials on estimates of the services received and efforts expended pursuant to contracts with numerous clinical trial centers and clinical research organizations (CROs). In the normal course of business, we contract with third parties to perform various clinical trial activities in the ongoing development of potential drugs. The financial terms of these agreements vary from contract to contract, are subject to negotiation and may result in uneven payment flows. Payments under the contracts depend on factors such as the achievement of certain events, the successful accrual of patients or the completion of portions of the clinical trial or similar conditions. The objective of our accrual policy is to match the recording of expenses in our financial statements to the actual services received and efforts expended. As such, we recognize direct expenses related to each patient enrolled in a clinical trial on an estimated cost-per-patient basis as services are performed. In addition to considering information from our clinical operations group regarding the status of our clinical trials, we rely on information from CROs, such as estimated costs per patient, to calculate our accrual for direct clinical expenses at the end of each reporting period. For indirect expenses, which relate to site and other administrative costs to manage our clinical trials, we rely on information provided by the CRO, including costs incurred by the CRO as of a particular reporting date, to calculate our indirect clinical expenses. In the event of early termination of a clinical trial, we accrue and recognize expenses in an amount based on our estimate of the remaining non-cancelable obligations associated with the winding down of the clinical trial, which we confirm directly with the CRO.

Table of Contents

If our CROs were to either under or over report the costs that they have incurred or if there is a change in the estimated per patient costs, it could have an impact on our clinical trial expenses during the period in which they report a change in estimated costs to us. Adjustments to our clinical trial accruals primarily relate to indirect costs, for which we place significant reliance on our CROs for accurate information at the end of each reporting period. Based upon the magnitude of our historical adjustments, we believe that it is reasonably possible that a change in estimate related to our clinical accruals could be approximately 1% of our annual research and development expenses.

Employee Stock-Based Compensation

Under the provisions of Statement of Financial Accounting Standards (SFAS) No. 123(R), “Stock-Based Compensation” (SFAS No. 123(R)), we estimate the fair value of our employee stock awards at the date of grant using the Black-Scholes option-pricing model, which requires the use of certain subjective assumptions. The most significant of these assumptions are our estimates of the expected volatility of the market price of our stock and the expected term of the award. When establishing an estimate of the expected term of an award, we consider the vesting period for the award, our recent historical experience of employee stock option exercises (including forfeitures), the expected volatility, and a comparison to relevant peer group data. As required under the accounting rules, we review our valuation assumptions at each grant date and, as a result, our valuation assumptions used to value employee stock-based awards granted in future periods may change.

Further, SFAS No. 123(R) requires that employee stock-based compensation costs be recognized over the requisite service period, or the vesting period, in a manner similar to all other forms of compensation paid to employees. The allocation of employee stock-based compensation costs to each operating expense line are estimated based on specific employee headcount information at each grant date and estimated stock option forfeiture rates and revised, if necessary, in future periods if actual employee headcount information or forfeitures differ materially from those estimates. As a result, the amount of employee stock-based compensation costs we recognize in each operating expense category in future periods may differ significantly from what we have recorded in the current period. For example, during the second quarter of 2008, we increased our estimated forfeiture rate from 10.8% to approximately 19.5%, which was based on historical forfeiture rates adjusted for certain one-time events and the impact of more recent trends on our future forfeitures, resulting in a decrease to stock-based compensation expense during the quarter of $1.7 million. In future periods, we will continue to revise our estimated forfeiture rates. A hypothetical eight percentage point change in the rate of estimated stock option forfeitures could result in an increase or decrease to stock-based compensation expense of approximately $1.0 million.

Table of Contents

Income Tax

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 income 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 and future levels of R&D spending, acquisitions, changes in our corporate structure, 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 FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes.” We accrue tax related interest and penalties related to uncertain tax positions and include these with income tax expense in the Condensed Consolidated Statements of Income.

The income tax provision for the quarter was calculated based on the results of operations for the three and nine months ended September 30, 2008 and does not reflect an annual effective rate. Since we cannot consistently predict our future operating income or in which jurisdiction it will be located, we are not using an annual effective tax rate to apply to the operating income for the quarter.

Due to our lack of earnings history, the gross deferred tax assets have been fully offset by a valuation allowance on our Consolidated Balance Sheet. However, if we are able to complete the Spin-off by the end of 2008, we expect that our history of royalty revenues and the significantly lowered cost structure to support our intellectual properties, manage our related licensing operations and provide for certain essential reporting and management functions

of a public company would provide a basis to reverse the valuation allowance on our deferred tax assets as of December 31, 2008. As of September 30, 2008, the valuation allowance on our deferred tax assets for net operating loss and credit carry forwards was approximately $23.6 million.

RESULTS OF OPERATIONS

Three and Nine Months Ended September 30, 2008 and 2007

Revenues

(in thousands)	Three Months Ended September 30, 2008	2007	% Change	Nine Months Ended September 30, 2008	2007	% Change
Royalties	$ 68,695	$ 55,135	25%	$ 223,336	$ 183,572	22%
License, collaboration and other	8,651	6,121	41%	23,232	25,597	(9)%
Total revenues	$ 77,346	$ 61,256	26%	$ 246,568	$ 209,169	18%

Our total revenues from continuing operations increased by $16.1 million, or 26%, and $37.4 million, or 18%, in the three and nine months ended September 30, 2008, respectively, from the comparable periods in 2007 for reasons discussed below.

Royalties

Royalty revenues increased by $13.6 million and $39.8 million, or 25% and 22%, in the three and nine months ended September 30, 2008, respectively, from the comparable periods in 2007. The increase in the third quarter of 2008 compared to the third quarter of 2007 was driven primarily by an increase in the volume and percentage of *Herceptin*® product that was manufactured and sold outside the United States, which resulted in a greater percentage of *Herceptin* sales being subject to the higher, fixed royalty rate that applies to Genentech's products that are both manufactured and sold outside the United States as opposed to the lower, tiered royalty fee structure that applies to Genentech's products that are manufactured or sold in the United States. In addition, overall growth in royalty-bearing net sales reported by our antibody product licensees contributed to the royalty revenue increase in the third quarter of 2008 as compared to the same period in 2007. These

Table of Contents

increases were offset partially by a decrease in the effective royalty rate earned on aggregate underlying licensee net product sales due to the impact of the tiered fee structure applicable to sales of Genentech's products that were either manufactured or sold in the United States.

The increase in royalty revenues for the nine months ended September 30, 2008 from the comparable 2007 period was primarily due to overall growth in royalty-bearing net sales reported by our antibody product licensees, partially offset by a lower effective royalty rate in 2008 when compared to 2007 under the Genentech tiered royalty fee structure (discussed below).

Under most of the agreements for the license of rights under our antibody 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. However, our master patent license agreement with Genentech provides for a royalty fee structure that has four tiers, under which the royalty rate Genentech must pay on royalty-bearing products sold in the United States or manufactured in the United States and sold anywhere (U.S.-based Sales) in a given calendar year decreases during that year on incremental U.S.-based Sales above the 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 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, is 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 royalties that fall under the tiered fee structure, we allocate the royalty revenues among the different products based on the relative underlying net product sales reported to us by Genentech. With respect to royalty-bearing products that are both manufactured and sold outside of the United States (ex-U.S.-based Sales), the royalty rate that we receive from Genentech is a fixed rate based on a percentage of the underlying ex-U.S.-based Sales. The mix of U.S.-based Sales and ex-U.S.-based Sales and the manufacturing location are outside of our control and have fluctuated in the past and may continue to fluctuate in future periods.

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

Licensee	Product Name	Three Months Ended September 30, 2008	2007	Nine Months Ended September 30, 2008	2007
Genentech	*Avastin*	28%	32%	27%	26%
	Herceptin	41%	41%	34%	38%
	Lucentis	11%	12%	10%	*
MedImmune	*Synagis*	*	*	16%	18%

* Less than 10%

License, Collaboration and Other

(in thousands)	Three Months Ended September 30, 2008	2007	% Change	Nine Months Ended September 30, 2008	2007	% Change
License and milestone from collaborations	$ 1,951	$ 1,622	20%	$ 5,260	$ 11,470	(54)%
R&D services from collaborations	5,625	3,649	54%	12,622	10,951	15%
License and other	1,075	850	26%	5,350	3,176	68%

Total revenue from license, collaboration and other	$ 8,651	$ 6,121	41%	$ 23,232	$ 25,597	(9)%

License, collaboration and other revenues recognized during the three and nine months ended September 30, 2008 and 2007 primarily consisted of revenues recognized under our collaboration agreements, upfront licensing and patent rights fees, milestone payments related to licensed technology and license maintenance fees. License, collaboration and other revenues in the three months ended September 30, 2008 increased in comparison to the same quarter in 2007 due primarily to the commencement of the BMS collaboration in September 2008. In connection with this agreement, we recognized $2.2 million in license, collaboration and other revenue, the significant majority of which was related to R&D services from

Table of Contents

collaborations. License, collaboration and other revenues for the nine months ended September 30, 2008 decreased in comparison to the same 2007 period primarily due to the accelerated recognition of deferred revenue in 2007 resulting from the April 2007 termination of our agreement with Roche to co-develop daclizumab for transplant maintenance. This decrease in revenues was partially offset by $2.0 million in milestone payments, reflected as license and other revenues, which we received in the first quarter of 2008 from certain of our licensees, and the commencement of the BMS collaboration in the third quarter of 2008.

We continue to actively evaluate potential opportunities to partner certain programs with or out-license certain of our technologies to other pharmaceutical or biotechnology companies and expect that we will enter into other collaboration or other agreements in the future.

Costs and Expenses

(in thousands)	Three Months Ended September 30, 2008	2007	% Change	Nine Months Ended September 30, 2008	2007	% Change
Research and development	$ 44,718	$ 47,695	(6)%	$ 132,799	$ 151,823	(13)%
General and administrative	18,545	17,187	8%	55,570	45,205	23%
Restructuring	990	4,545	(78)%	9,616	6,130	57%
Asset impairment charges	—	315	*%	3,784	5,331	(29)%
Gain on sale of asset	—	—	*%	(49,671)	—	*%
Total costs and expenses	$ 64,253	$ 69,742	(8)%	$ 152,098	$ 208,489	(27)%

* Not presented as calculation is not meaningful

Certain expenses related to the Commercial and Cardiovascular Operations, which in prior periods were presented as cost of product sales, research and development expenses and general and administrative expenses, have been presented as discontinued operations for all periods presented in the current financial statements.

Research and Development

Our research and development activities include research, process development, pre-clinical development, manufacturing and clinical development, which activities generally include regulatory, safety, medical writing, biometry, U.S. and European clinical operations, compliance, quality and program management. Research and development expenses consist primarily of costs of personnel to support these research and development activities, as well as outbound milestone payments and technology licensing fees, costs of preclinical studies, costs of conducting our clinical trials, such as fees to CROs and clinical investigators, monitoring costs, data management and drug supply costs, research and development funding provided to third parties, stock-based compensation expense accounted for under SFAS No. 123(R) and an allocation of facility and overhead costs, principally information technology.

Table of Contents

The table below reflects the development for each of our products in clinical development and the research and development expenses recognized in connection with each product.

Product Candidate	Description/Indication	Phase of Development	Collaborator	Research and Development Expenses for the Three Months Ended September 30, 2008	2007	Research and Development Expenses for the Nine Months Ended September 30, 2008	2007
				(in thousands)			
Daclizumab				$ 10,724	$ 6,691	$ 26,508	$ 20,169
	Multiple sclerosis	Phase 2	Biogen Idec				
	Transplant maintenance	Initiation of Phase 2 program being evaluated	—				
	Asthma	Discontinued	—				
Volociximab (M200)	Solid tumors	Phase 2	Biogen Idec	7,132	4,986	18,969	13,929
Elotuzumab (formerly HuLuc63)	Multiple myeloma	Phase 1	—	10,366	8,286	27,272	16,298
PDL192	Solid tumors	Phase 1 program being planned	—	3,064	6,111	9,278	21,752
Nuvion (visilizumab)		Terminated in August 2007		741	8,775	7,784	36,647
Other Program-Related Costs (1)	Multiple programs and products	—	—	4,110	129	10,999	1,955
Non-Program-Related Costs (2)	—	—	—	8,581	12,717	31,989	41,073
Total Research and Development Expenses				$ 44,718	$ 47,695	$ 132,799	$ 151,823

(1) Other Program-Related Costs consist of the aggregate research and development costs for those distinct programs or products that do not individually constitute more than 5% of the total research and development expenses for the periods presented.

(2) Non-Program-Related Costs consist of the aggregate research and development costs that are not associated with any particular program or product, but rather, support our broad research and development efforts. Such costs primarily include those related to discovery of new antibody candidates and manufacturing and quality activities in support of product development activities.

The decrease in our research and development expenses during the third quarter of 2008 in comparison to the comparable quarter in 2007 is attributable to decreases in our *Nuvion*® and PDL 192 program costs, partially offset by increases in development costs for daclizumab, volociximab and elotuzumab. The $8.0 million decrease in *Nuvion* related development costs was due to the decision to terminate the *Nuvion* phase 3 development program during the third quarter of 2007, and the $3.1 million reduction in development expenses for PDL 192 was primarily driven by a decrease in PDL 192 manufacturing activity in the third quarter of 2008 as the manufacturing for our pre-clinical and Phase 1 trials for PDL 192 was completed in 2007. Both the $4.0 million increase in program costs for daclizumab, and the $2.1 million increase in program costs for elotuzumab were primarily due to clinical trial materials manufactured in 2008 and released in the third quarter. The $2.1 million increase in volociximab development costs was due to increased development costs associated with certain trials being led by our collaborator.

The decrease in our research and development expenses during the nine months ended September 30, 2008 in comparison to 2007 is attributable to decreases in our *Nuvion*® and PDL192 program costs, partially offset by increases in development costs for elotuzumab and daclizumab. The $28.9 million decrease in *Nuvion* costs was due to the decision to terminate the *Nuvion* phase 3 development program during the third quarter of 2007, and the $12.5 million reduction in development expenses for PDL192 was primarily driven by a decrease in PDL192 manufacturing activity in 2008 in comparison to 2007. The $11.0 million and $5.0 million increases in program costs for elotuzumab and volociximab, respectively, were due to manufacturing campaigns that occurred in 2008. The $6.3 million increase in program costs for daclizumab was due to increased development costs associated with trials being led by our collaborator.

We currently do not have reliable estimates of total costs for a particular drug candidate to reach the market. Our potential antibody products are subject to a lengthy and uncertain regulatory process that may involve unanticipated additional clinical trials and may not result in receipt of the necessary regulatory approvals. Failure to receive the necessary regulatory approvals would prevent us from commercializing the product candidates affected. In addition, clinical trials of our potential products may fail to demonstrate safety and efficacy, which could prevent or significantly delay regulatory approval.

Table of Contents

The length of time that a development program is in a given phase varies substantially according to factors relating to the development program, such as the type and intended use of the potential product, the clinical trial design, and the ability to enroll suitable patients. In addition, for collaboration programs, advancement from one phase to the next and the related costs to do so is also dependent upon certain factors that are controlled by our partners. According to industry statistics, it generally takes 10 to 15 years to research, develop and bring to market a new prescription medicine in the United States. In light of the steps and complexities involved, the successful development of our potential products is highly uncertain. Actual timelines and costs to develop and commercialize a product are subject to enormous variability and are very difficult to predict. In addition, various statutes and regulations also govern or influence the manufacturing, safety reporting, labeling, storage, record keeping and marketing of each product.

General and Administrative Expenses

General and administrative expenses consist of costs of personnel, professional services, consulting and other expenses related to our administrative and marketing functions, an allocation of facility and overhead costs and stock-based compensation expense accounted for under SFAS 123(R) as a component of personnel-related costs..

General and administrative expenses for the three months ended September 30, 2008 increased 8% to $18.5 million from $17.2 million during the comparable period in 2007. This increase was primarily due to $1.5 million of idle facility costs in our Redwood City facilities in addition to increases in legal costs of $1.3 million, which were principally related to the strategic review process, Spin-off preparations, royalty monetization efforts and ongoing litigation. These increases were partially offset by significant reductions in our personnel-related expenses as a result of our company-wide restructuring efforts that commenced in the first quarter of 2008.

For the nine months ended September 30, 2008, general and administrative expenses increased 23% to $55.6 million from $45.2 million during the comparable period in 2007. This increase was primarily due to increases in legal costs of $6.9 million principally related to our efforts to spin off Facet Biotech and monetize our royalties as well as ongoing litigation. The increase was also driven by $4.1 million of idle facilities costs related to our Redwood City facilities in the first nine months of 2008. These increases were partially offset by reductions in our personnel-related expenses as a result of our company-wide restructuring efforts that commenced in the first quarter of 2008.

Restructuring and Other Charges

Company-wide Restructuring

In an effort to reduce our operating costs to a level more consistent with a biotechnology company focused on antibody discovery and development, in March 2008, in addition to other cost-cutting measures, we commenced a restructuring plan pursuant to which we eliminated approximately 120 employment positions in the first quarter of 2008 and would eliminate approximately 130 additional employment positions over the subsequent 12 months (the Transition Employees). All impacted employees were notified in March 2008. Subsequent to the completion of the restructuring, we expect to have between 280 and 300 employees.

Employees terminated in connection with the restructuring are eligible for a package consisting of severance payments of generally 12 weeks of salary and medical benefits along with up to three months of outplacement services. We are recognizing severance charges for Transition Employees over their respective estimated service periods. During the three and nine months ended September 30, 2008, we recognized restructuring charges of $1.0 million and $9.4 million, respectively, which primarily related to post-termination severance costs as well as salary accruals relating to the portion of the 60-day notice period over which the terminated employees would not be providing services to the Company. These restructuring charges include those employees terminated immediately as well as the Transition Employees.

Facilities Related Restructuring

During the third quarter of 2007, we initiated our move from Fremont, California to our current location in Redwood City, California. In connection with this move, we ceased use of a portion of the leased property in Fremont, California and, as a result, we recognized idle facilities charges during 2007. The leases on these facilities terminated at the end of the first quarter of 2008, and all related obligations were fully paid by June 30, 2008.

Table of Contents

During the second quarter of 2007, we ceased use of one of our leased facilities in Plymouth, Minnesota. We recognized idle facilities charges, classified as restructuring expenses during the second quarter of 2007, of $1.6 million related to this facility. We expect to pay all obligations accrued relating to the lease by the end of the first quarter of 2009.

During the fourth quarter of 2007, we ceased use of a second facility in Plymouth. However, in connection with the sale of our Manufacturing Assets, Genmab assumed our obligations under the lease for this facility in March 2008.

The following table summarizes the restructuring activity discussed above, as well as the remaining restructuring accrual balance at September 30, 2008:

(in thousands)	Personnel Costs	Facilities Related	Total
Balance at December 31, 2007	$ 411	$ 1,912	$ 2,323
Restructuring charges*	9,415	201	9,616
Payments	(6,932)	(1,887)	(8,819)
Balance at September 30, 2008	$ 2,894	$ 226	$ 3,120

***** Excludes restructuring charges for employees terminated in connection with the sale of the Commercial and Cardiovascular Assets as those costs are reflected as part of discontinued operations. See Note 7 to the condensed consolidated financial statements for further information.

Other Charges

In connection with our restructuring efforts, we have offered, and we continue to offer, retention bonuses and other incentives to two employee groups: (1) ongoing employees that we hope to retain after the restructuring, and (2) Transition Employees that we hope to retain through a transition period. This is in addition to the retention programs that we implemented during the fourth quarter of 2007, under which we recognized $1.1 million in expenses in 2007. We are recognizing the expenses for these retention programs over the period from the respective dates the programs were approved through the estimated service period for Transition Employees or until the expected pay-out date for ongoing employees. We recognized $2.4 million and $8.5 million in expenses under these retention programs during the three and nine months ended September 30, 2008, respectively, which have been classified as research and development expenses and general and administrative expenses in the financial statements. As of September 30, 2008, we estimate that the total retention benefits payable under the plan in future periods will be approximately $11.9 million, of which we have accrued $4.9 million as of September 30, 2008. We expect to recognize approximately $7.0 million of additional expense and to pay out the retention bonuses through the end of 2009.

Asset Impairment Charges

Total asset impairment charges recognized in continuing operations for the three months ended September 30, 2008 and 2007 were $0.0 and $0.3 million, respectively. The $0.3 million charge recognized during the third quarter of 2007 related to a particular software application for a project that we terminated.

Table of Contents

Asset impairment charges recognized in continuing operations for the nine months ended September 30, 2008 and 2007 were $3.8 million and $5.3 million, respectively. The $3.8 million charge recognized during the nine months ended September 30, 2008 primarily represented the costs of certain research equipment that was expected to have no future useful life and certain information technology projects that were terminated and have no future benefit to us, in each case, as a result of our restructuring activities. The $5.3 million impairment charges in 2007 consistent of a $5.0 million charge related primarily to the impairment of two buildings that comprised part of our former Fremont, California facilities and the $0.3 million charge discussed above. With respect to the charges related to our former Fremont, California facilities, based on market value information we had at the time, we concluded that the net carrying value of the assets was impaired as of June 30, 2007. We recognized an impairment charge of $5.0 million to reduce the net carrying value of the assets to $20.6 million, which was our estimate of fair value, less cost to sell. The sale of these two buildings closed in October 2007 on terms consistent with those expected and, as a result, no significant gain or loss on the sale was recognized at the time of sale.

Gain on Sale of Assets

In March 2008, we sold our Manufacturing Assets to an affiliate of Genmab A/S (Genmab), for total cash proceeds of $240 million. Under the terms of the purchase agreement, Genmab acquired our manufacturing and related administrative facilities in Brooklyn Park, Minnesota, and related assets therein, and assumed certain of our lease obligations related to our facilities in Plymouth, Minnesota (together, the Manufacturing Assets). We recognized a pre-tax gain of $49.7 million upon the close of the sale in March 2008. Such gain represents the $240 million in gross proceeds, less the net book value of the underlying assets transferred of $185.4 million and $4.9 million in transaction costs and other charges.

In connection with the sale of the Manufacturing Assets, we entered into an agreement with Genmab under which we and Genmab will each provide transition services to the other over a maximum period of 12 months, or through March 2009. In addition, to fulfill our clinical manufacturing needs in the near-term, we entered into a clinical supply agreement with Genmab that became effective upon the close of the transaction. Under the terms of the clinical supply agreement, Genmab agreed to produce clinical trial material for certain of our pipeline products until March 2010, and we have certain minimum purchase commitments, as reflected in the Contractual Obligations table under the heading “Liquidity and Capital Resources.”

Discontinued Operations

In 2007, we publicly announced our intent to seek to divest certain portions of our operations, and potentially to sell the entire Company. In late 2007, we determined that a sale of the Commercial and Cardiovascular Assets on a discreet basis was likely to occur and, as a result, we classified the Commercial and Cardiovascular Assets, excluding goodwill, as 'held for sale' in our Consolidated Balance Sheet as of December 31, 2007. As we will not have significant or direct involvement in the future operations related to the Commercial and Cardiovascular Assets, we have presented the results of the Commercial and Cardiovascular Operations as discontinued operations in the Consolidated Statement of Operations for the current and comparative periods in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-lived Assets" (SFAS No. 144). As of December 31, 2007, goodwill related entirely to the Commercial and Cardiovascular Operations.

In March 2008, we closed the sales of the Commercial and Cardiovascular Assets. We sold the rights to IV *Busulfex*, including trademarks, patents, intellectual property and related assets, to Otsuka Pharmaceutical Co., Ltd. (Otsuka) for $200 million in cash and an additional $1.4 million for the IV *Busulfex* inventories. We also sold the rights to *Cardene*, *Retavase* and ularitide, including all trademarks, patents, intellectual property, inventories and related assets (together, our Cardiovascular Assets), to EKR Therapeutics, Inc. (EKR). In consideration for the Cardiovascular Assets sold to EKR, we received upfront proceeds of $85.0 million, $6.0 million of which was placed in an escrow account for a period of approximately one year to cover certain product return related costs under the purchase agreement. In addition, the purchase agreement includes contingent consideration of up to $85.0 million in potential future milestone payments as well as potential future royalties on certain *Cardene* and ularitide product sales. In the third quarter of 2008, we earned and received one of these milestone payments, a $25.0 million milestone payment related to the approval from the FDA for a pre-mixed bag formulation of *Cardene*.

We recognized a pre-tax loss of $64.6 million in connection with the sale of the Commercial and Cardiovascular Assets during the first quarter of 2008. This loss was comprised of the total upfront consideration from the sales of the Commercial and Cardiovascular Assets 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.

Table of Contents

The results of our discontinued operations for the three and nine months ended September 30, 2008 and 2007 were as follows:

(in thousands)	Three Months Ended September 30, 2008	Three Months Ended September 30, 2007	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007
Net revenues (1)	$ 26,765	$ 48,812	$ 66,499	$ 146,901
Total costs and expenses (2)	(627)	(48,021)	(108,622)	(157,364)
Income tax benefit (expense) (3)	19,837	52	(20,215)	(124)
Loss from discontinued operations	$ 45,975	$ 843	$ (62,338)	$ (10,587)

(1) In August 2008, EKR received approval from the FDA for a pre-mixed bag formulation of *Cardene*. Under the terms of the purchase agreement with EKR, we received a $25.0 million milestone payment as a result of this approval; such amount is included in net revenues for the three and nine months ended September 30, 2008. In addition, we recorded adjustments to write off certain revenue and accounts receivable reserves during the quarter ended September 30, 2008, which resulted in an increase to net revenues totaling approximately $1.3 million. The adjustments were primarily the result of the reconciliation of our accounts receivable balances with our wholesaler customers in connection with the termination of our distribution agreements with them.

(2) Included within total costs and expenses for the three and nine months ended September 30, 2008 is $2.5 million that we recognized in connection with certain contingent Retavase manufacturing costs obligations for which we are required to reimburse EKR. At the time of sale, the likelihood of such reimbursements being required was not deemed probable and therefore no liability was initially recorded.

(3) Income tax expense attributable to our discontinued operations during the nine months ended September 30, 2008 was primarily related to the tax gain on the sale of the Commercial and Cardiovascular Assets. Of the $20.2 million income tax expense, $8.1 million represents the benefit of certain tax deductions in connection with stock-based compensation, which was recorded as an offset to additional paid-in capital as of September 30, 2008. We recognized a net income tax benefit of $19.8 million in the third quarter of 2008 driven in large part by tax elections related to contingent consideration, in the form of milestone payments and royalties, we may receive from EKR. During the first quarter of 2008, when we sold our former Cardiovascular Assets to EKR, we had calculated the related tax provision using both the upfront cash payment and the fair value of the contingent consideration as the basis for the provision. During the third quarter of 2008, we elected to exclude the fair value of the contingent consideration from the basis of the tax provision, which reduced our overall tax expense related to the sale of the Cardiovascular Assets from the amount initially recognized in the first quarter of 2008 and resulted in a $24.3 million federal tax benefit during the quarter. Such benefit was partially offset by an increase in state income tax expenses related to legislation enacted in California that suspended the net operating loss deduction and limiting the use of business credits to 50% of a taxpayer's tax liability for tax years 2008 and 2009. In connection with this legislation, we recognized a $7.4 million increase in our California tax expense for the nine months ended September 30, 2008, $5.1 million of which was attributable to our discontinued operations.

In connection with the sale of the Commercial and Cardiovascular Assets, we entered into agreements with both Otsuka and EKR to provide certain transition services. We expect to provide these transition services to Otsuka and EKR through 2008 and mid-2009, respectively. Any fees or cost reimbursements that we receive for transition services are classified within discontinued operations.

Commercial Restructuring

In connection with the divesture of the Commercial and Cardiovascular Assets, we committed in the first quarter of 2008 to provide certain severance benefits to those employees whose employment positions we likely would eliminate in connection with the transactions (the Commercial Employees). Under SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS No. 146), we recognized expenses for these severance benefits of $1.8 million during the first quarter of 2008, which was included within discontinued operations. Substantially all related severance obligations were settled by the end of the third quarter of 2008.

Table of Contents

During the fourth quarter of 2007, the Compensation Committee of our Board of Directors approved a modification to the existing terms of outstanding stock options held by our Commercial Employees to accelerate the vesting of up to 25% of the original grant amount upon termination of such employees, if the sale of the Commercial and Cardiovascular Assets occurred prior to a change in control of the Company. During the three and nine months ended September 30, 2008, respectively, we recognized $0 and $3.6 million of stock based compensation expense related to such modifications.

Interest and Other Income, Net and Interest Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
(in thousands)	2008	2007	% Change	2008	2007	% Change
Interest and other income, net	$ 3,218	$ 5,378	(40)%	$ 12,553	$ 15,341	(18)%
Interest expense	$ (3,983)	$ (3,284)	21%	$ (11,958)	$ (10,268)	16%

Interest and other income, net for the three and nine months ended September 30, 2008 decreased from the comparable periods in 2007 due to lower average investment balances as well as lower interest rates earned on our investments.

Interest expense for the three and nine months ended September 30, 2008 primarily represents interest payable on our 2.00%, $250.0 million Convertible Senior Notes (the 2012 Notes) and our 2.75%, $250.0 million Convertible Subordinated Notes (the 2023 Notes). Interest expense increased during the 2008 periods primarily as a result of lower capitalized interest in the nine months ended September 30, 2008, since we completed the construction of the Redwood City facility in the fourth quarter of 2007.

Income Taxes

Income tax expense attributable to our continuing operations during the three and nine months ended September 30, 2008 was $2.6 million and $5.0 million, respectively, which was related primarily to federal and state alternative minimum taxes as well as foreign taxes on income earned by our foreign operations. As a result of the sale of our Commercial and Cardiovascular Assets in March 2008, we no longer have deferred tax liabilities, and due to our lack of earnings history, the gross deferred tax assets have been fully offset by a valuation allowance and no longer appear on our Consolidated Balance Sheet as of September 30, 2008.

The income tax expense for our continuing operations for the three and nine months ended September 30, 2007 was $0.2 million and $0.6 million, respectively which was related primarily to federal and state alternative minimum taxes and foreign taxes on income earned by our foreign operations.

During the nine months ended September 30, 2008 we recorded a $7.9 million increase in our liabilities related to prior year uncertain tax positions in accordance with FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes, an interpretation of SFAS 109, Accounting for Income Taxes.” This increase is a result of the Company refining its position for prior year uncertain tax positions. We do not anticipate any additional unrecognized benefits in the next 12 months that would result in a material change to our financial position.

In September 2008, California enacted legislation suspending the net operating loss deduction and limiting the use of business credits to 50% of a taxpayer’s tax liability for tax years 2008 and 2009. As a result, we recorded a $7.4 million increase in our California tax expense for the nine months ended September 30, 2008, $2.3 million of which was attributable to our continuing operations.

LIQUIDITY AND CAPITAL RESOURCES

To date, we have financed our operations primarily through public and private placements of equity and debt securities, royalty revenues, license revenues, collaboration and other revenues under agreements with third parties, interest income on invested capital and, from March 2005 to March 2008, net product sales. At September 30, 2008, we had cash, cash equivalents and restricted cash in the aggregate of $558.6 million, compared to cash, cash equivalents, marketable securities and restricted cash of $440.8 million at December 31, 2007.

Net cash provided by operating activities for the nine months ended September 30, 2008 was approximately $91.8 million, compared to net cash provided by operating activities of $41.7 million in the corresponding period in 2007. The increase in net cash provided by operating activities was primarily attributable to the $30.0 million upfront cash payment we received

Table of Contents

from BMS under the terms of our collaboration agreement, which was effective in September 2008, the $25.0 million milestone payment that we received from EKR under the terms of the sale of our former Cardiovascular Assets, higher royalty revenues and positive changes in our working capital accounts. These factors increasing cash from operations were partially offset by lower net product sales due to the divestiture of the Commercial and Cardiovascular Assets in early March 2008 and an increase in legal expenses associated with our strategic review process, our spin-off process and ongoing litigation.

Net cash provided by investing activities was $602.4 million for the nine months ended September 30, 2008, compared to net cash used in investing activities of $32.9 million in the comparable period in 2007. The net cash provided by investing activities during the nine months ended September 30, 2008 was attributable primarily to net proceeds of $509.5 million received in connection with the sales of the Commercial and Cardiovascular Assets and the Manufacturing Assets and the maturing of an aggregate of $95.8 million of our short term investments and restricted cash. Net cash used in investing activities in the 2007 period primarily related to the purchase of property and equipment, principally related to improvements for our Redwood City facilities, partially offset by the net purchase of marketable securities.

Net cash used in financing activities for the nine months ended September 30, 2008 was $479.6 million, compared to net cash provided by financing activities of $22.2 million in the comparable period in 2007. The net cash used in financing activities during the nine months ended September 30, 2008 was primarily due to the special cash dividend payment declared in April 2008 of $506.6 million, partially offset by the reclassification from operating expenses of excess tax benefits from stock based compensation and proceeds from the issuance of our common stock in connection with employee stock option exercises. In the 2007 period, net cash provided by financing activities was driven from the issuance of our common stock in connection with employee stock option exercises.

In April 2008, we announced our intent to spin off our Biotechnology Business into a separate publicly traded entity apart from our antibody humanization royalty assets by the end of 2008. In connection with this process, we organized Facet Biotech, a wholly-owned subsidiary of PDL, which filed an initial Registration Statement on Form 10 with the SEC during the third quarter of 2008. We will continue to fund Facet Biotech's operations through the Spin-off date, and we would transfer our biotechnology assets to Facet Biotech at the time of the Spin-off. We expect to capitalize Facet Biotech with approximately $405 million in cash at the completion of the Spin-off transaction, which we expect will occur in December 2008. Refer to the Overview section for further discussion of the Spin-off.

While we have been preparing for the Spin-off, we had been exploring in parallel the possible sale or securitization of all or part of our antibody humanization royalty assets. As our ultimate goal is to separate our biotechnology assets from our antibody humanization royalty assets, a royalty transaction could have occurred in lieu of the Spin-off. However, primarily due to current market conditions, we are not pursuing a royalty monetization transaction, but will continue to evaluate whether such a transaction in the future is in the best interests of our stockholders. Refer to the Overview section for further discussion of the potential monetization of the Company's antibody humanization royalty assets.

In the event that the Spin-off does not occur, we believe that the revenues generated from our royalties and collaboration agreements will be sufficient to fund our operations over the next year and the foreseeable future. Our future capital requirements will depend on numerous factors, as described below, and the sale of another or all of our key assets could fundamentally change how we fund our operations. Such factors that impact our future capital requirements include, among others, royalties from sales of products by third-party licensees; interest income; the costs of and outcome defending or prosecuting any patent opposition or litigation necessary to protect our proprietary technology; our ability to enter into additional collaborative, humanization, patent license and patent rights agreements; progress of product candidates in clinical trials; the ability of our licensees to obtain regulatory approval and successfully manufacture and market products licensed under our patents; the continued or additional support by our collaborators or other third parties of research and development efforts and clinical trials; investment in existing and new research and development programs; time required to gain regulatory approvals; our ability to obtain and retain funding from third parties under collaborative arrangements; the demand for our potential products, if and when approved; and potential acquisitions of technology, product candidates or businesses by us. In order to develop and commercialize our potential products, we may need to raise substantial additional funds through equity or debt financings, collaborative arrangements, the use of sponsored research efforts or other means. No assurance can be given that such additional financing would be available on acceptable terms, if at all, and such financing may only be available on terms dilutive to existing stockholders.

If and after we consummate the Spin-off, we believe that the revenues generated from our royalties will be sufficient to fund our operations into the foreseeable future. If and after we consummate the Spin-off, many of the factors identified above would no longer impact our capital requirements. In order to develop and commercialize our potential products, Facet Biotech may need to raise substantial additional funds through equity or debt financings, collaborative arrangements, the use of sponsored research efforts or other means. No assurance can be given that such additional financing would be available on acceptable terms, if at all, and such financing may only be available on terms dilutive to existing stockholders.

Table of Contents

Our material contractual obligations under lease, debt, construction, contract manufacturing and other agreements as of September 30, 2008 are as follows:

	Payments Due by Period				
(in thousands)	Less Than 1 Year	1-3 Years	4-5 Years	More than 5 Years	Total
CONTRACTUAL OBLIGATIONS					
Operating leases	$ 3,862	$ 7,142	$ 8,754	$ 58,898	$ 78,656
Long-term liabilities (1)	3,540	7,452	7,967	43,418	62,377
Convertible notes	11,875	514,373	—	—	526,248
Contract manufacturing (2)	13,487	3,250	—	—	16,737
Total contractual obligations	$ 32,764	$ 532,217	$ 16,721	$ 102,316	$ 684,018

(1) Includes lease payments related to certain of our facilities in Redwood City, California, and post-retirement benefit obligations.

(2) Contract manufacturing obligations represent minimum purchase commitments, estimated at approximately $16.7 million at September 30, 2008, include $15.8 million of commitments under our clinical supply agreement with Genmab (see Gain on Sale of Assets section of Management's Discussion and Analysis).

In addition to the amounts disclosed in the table above, we have committed to make payments for certain retention and severance related benefits. See Notes 7 and 9 to the Consolidated Financial Statements for further details. Further, we have committed to make potential future "milestone" payments to third parties as part of in-licensing and product development programs. Payments under these agreements generally become due and payable only upon achievement of certain clinical development, regulatory and/or commercial milestones. Because the achievement of these milestones has not yet occurred, such contingencies have not been recorded in our Consolidated Balance Sheet as of September 30, 2008. We estimate that such milestones that could be due and payable over the next year approximate $1.5 million and milestones that could be due and payable over the next three years approximate $3.0 million.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of September 30, 2008, there has been no material change in our market risk exposure from that described in our Annual Report on Form 10-K for the year ended December 31, 2007, except as related to our investment portfolio. If market interest rates were to have increased by 1% as of December 31, 2007, the fair value of our portfolio would have declined by $0.1 million. The modeling technique used measures changes in the fair values arising from an immediate hypothetical shift in market interest rates and assumes ending fair values include principal plus accrued interest. Subsequent to December 31,

2007, the size and composition of our investment portfolio has changed. As of September 30, 2008, our investment portfolio is approximately $555 million and consists solely of investments in money market funds. If market interest rates were to have increased by 1% as of September 30, 2008, the fair value of our portfolio would have declined by $0.0 million. However, credit and liquidity risks in the current market 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). Many of the current issues affecting money market funds involve investments in commercial paper issued by Structured Investment Vehicles, or SIVs. Rating agencies have downgraded certain commercial paper. This has caused some funds to hold investments that no longer are in the top tier and become ineligible securities and need to be sold. These securities held by the money market fund may be sold below its amortized cost resulting in losses and funds breaking the buck if the fund sponsor does not step in and buy above the current market value. Money market funds may have also invested in auction rate securities. With the failure of the auction market, the valuation of these securities, or replacement with alternative instruments, may cause investments to become ineligible or valued below amortized cost. Because of the recent difficulty encountered by certain funds, those funds have restricted withdrawals in some cases. Our money market funds maintained a USD 1.00 net asset value and were not subject to withdrawal restrictions as of September 30, 2008. However, if credit market conditions persist or worsen, the value of our money market funds could be adversely affected.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures. Under the supervision and with the participation of our management, including 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 (the Exchange Act)) as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that, as of September 30, 2008, our disclosure controls and procedures were effective to ensure the information required to be disclosed by us in reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

Changes in internal controls. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. In connection with the filing of our Annual Report on Form 10-K for the year ended December 31, 2007, we identified a material weakness that related to ineffective controls in our financial statement close process. Specifically, we did not have a sufficient number of accounting personnel with relevant technical accounting and financial reporting expertise to effectively design and operate controls over various non-routine and estimation classes of transactions including the classification of clinical affairs expenses, the accounting for clinical trial

Table of Contents

expenses related to change orders, the accounting for asset retirement obligations related to leased facilities, the accounting for retention bonuses, the estimated forfeiture rate for the purposes of recording employee stock-based compensation, and the impairment analysis related to intangible assets. As a result of this material weakness, errors were identified by our auditors in the 2007 consolidated financial statements related to the classification of expenses between research and development expenses and general and administrative expenses, an understatement of clinical development expenses, the understatement of lease expenses, the understatement of retention bonus expenses, and stock-based compensation expense. These errors were corrected in the consolidated financial statements as of and for the year ended December 31, 2007.

Since the material weakness was identified in 2007, we have taken steps to remediate the deficiencies that gave rise to this material weakness, including enhancing controls that had not been operating effectively and designing and implementing new controls to remediate design deficiencies within our financial statement close process. We have performed testing of a sample of both our new and our enhanced controls, and we believe that we have sufficient evidence to conclude and, therefore, we have concluded, that the control deficiencies that gave rise to the material weakness in our financial statement close process have been remediated as of September 30, 2008.

There were no other changes in our internal controls over financial reporting during the quarter ended September 30, 2008 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 humanization patents based on the Queen technology were issued to us by the European Patent Office, European Patent No. 0 451 216 (the '216 Patent) and European Patent No. 0 682 040 (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. Six opponents, including Genentech, have withdrawn from the opposition proceedings with respect to the opposition to our '216 Patent leaving 12 remaining opponents. A description of these two proceedings 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). The claims remitted 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 Opposition Division issued its interlocutory decision regarding this proceeding in September 2008. The opponents in this opposition have the right to appeal this decision of the

Opposition Divisions on or before November 18, 2008. . Two notices of appeal have since been filed by Boehringer Ingelheim GmbH and Celltech R&D Limited. The ‘216 Patent continues to be enforceable during the appeal process.

Until the opposition is resolved, we may be limited in our ability to collect royalties or to negotiate future licensing or collaborative research and development arrangements based on this and our other humanization patents. Moreover, if the opposition is eventually successful, our ability to collect royalties on European sales of antibodies humanized by others would depend on the scope and validity of our ‘040 Patent, which is also being opposed, whether the antibodies are manufactured in a country outside of Europe where they are covered by one of our patents, and in that case the terms of our license agreements with respect to that situation. Also, if the Opposition Division rules against us, that decision could encourage challenges of our related patents in other jurisdictions, including the United States. Such a decision may also lead some of our licensees to stop making royalty payments or lead potential licensees not to take a license, either of which might

Table of Contents

result in us initiating formal legal actions to enforce our rights under our humanization patents. In such a situation, a likely defensive strategy to our action would be to challenge our patents in that jurisdiction. During the opposition process with respect to our ‘216 Patent, if we were to commence an infringement action to enforce that patent, such an action would likely be stayed until the opposition is decided by the European Patent Office. As a result, we may not be able to successfully enforce our rights under our European or related U.S. patents.

Opposition to ‘040 Patent

At an oral hearing in February 2005, the Opposition Division decided to revoke 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 not scheduled a date for the appeal hearing with respect to the ‘040 Patent.

We intend to continue to vigorously defend our two European Queen patents in these two proceedings. We may not prevail in either of the opposition proceedings or any litigation contesting the validity of these patents. If the outcome of either of the opposition proceedings or any litigation involving our antibody humanization patents were to be unfavorable, our ability to collect royalties on existing licensed products and to license our patents relating to humanized antibodies may be materially harmed. In addition, these proceedings or any other litigation to protect our intellectual property rights or defend against infringement claims by others could result in substantial costs and diversion of management’s time and attention, which could harm our business and financial condition.

Patent Infringement Suit Against Alexion

In March 2007, after the FDA’s market approval of Alexion Pharmaceuticals, Inc.’s (Alexion) Soliris™ (eculizumab) 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 antibody humanization patents, commonly referred to as the Queen patents. We are seeking monetary damages and other relief. In June 2007, Alexion filed an answer denying that its Soliris product infringes the patents-in-suit, asserting certain defenses and counterclaiming for non-infringement and invalidity, and thereafter amended its answer to include a defense of unenforceability. Fact discovery closes in December 2008. We intend to vigorously assert our rights under the patents-in-suit and defend against Alexion’s counterclaims.

Certain Communications from Our Licensees

We previously disclosed that we expected to receive royalty revenues from UCB S.A. on sales of Cimzia® (certolizumab pegol) product beginning in the third quarter of 2008. We believe that this royalty revenue is due under the patent license agreement, effective October 19, 2001, we entered into with Celltech Therapeutics Limited (“Celltech”), which was acquired by UCB S.A. Under that agreement, we licensed to Celltech certain rights under our Queen et al. patents. On September 15, 2008, UCB S.A. informed us that it has taken the position that its Cimzia product does not infringe the Queen et al. patents and therefore does not intend to pay to us royalties on Cimzia product sales.

Separately, on August 22, 2008, MedImmune sent to us a notice under the patent license agreement, effective July 17, 1997, between Medimmune and us that MedImmune was exercising its rights under that agreement to have a non-binding determination made by non-conflicted legal counsel as to whether MedImmune’s Synagis® (palivizumab) product or motavizumab development product infringes claims under our Queen et al. patents. Under that agreement, we and MedImmune will mutually select the non-conflicted legal counsel who would make this non-binding determination (the “Opinion Giver”). We expect that the Opinion Giver would deliver to us and MedImmune its determination around the end of 2008. MedImmune has been paying us royalties with respect to sales of the Synagis product on a quarterly basis since the third quarter of 1998. We last received a royalty payment from MedImmune with respect to Synagis product sales in August 2008.

We intend to continue to defend and enforce our rights under our Queen et al. patents, as well as our rights under the patent license agreements with Celltech and MedImmune.

Table of Contents

ITEM 1A. RISK FACTORS

In April 2008, we announced our intent to spin off by the end of 2008 our biotechnology assets and related operations into a separate publicly traded entity, Facet Biotech Corporation (Facet Biotech) (the Spin-off), and we will retain our antibody humanization royalty assets after the Spin-off. As a result, we discuss separately herein: (1) the risk factors related to PDL (pre-Spin-off), (2) the risk factors related to PDL’s royalty business and to PDL as a separte entity after the completion of the Spin-off (post-Spin-off) and (3) the risk factors related to Facet Biotech. We have substantially revised and reorganized the

risk factors and the descriptions below include any material changes to and supersede the description of the risk factors affecting our business previously disclosed in "Part I, Item 1A. Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2007.

You should carefully consider and evaluate all of the information included and incorporated by reference in this Quarterly Report, including all of the risk factors listed below. Prior to the Spin-off, any of these risks 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. Following the Spin-off, we expect that the risk factors related to Facet Biotech will no longer be significant risks to us.

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 or Facet Biotech's 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 or Facet Biotech's reserves and our or Facet Biotech's 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.

As used in this Section, the term "Facet Biotech" means Facet Biotech Corporation, unless the context indicates a different meaning, and the terms "we," "us," "our," "Company" and "PDL" mean PDL BioPharma, Inc., either before or after the Spin-off, as the context requires.

Risk factors related to PDL (pre-Spin-off)

The Spin-off process has diverted the attention of our management and employees, increased our professional services expenses, may disrupt our operations and could cause other difficulties.

The process to plan for and effect the Spin-off of our biotechnology operations will continue to demand a significant amount of time and effort from our management and employees. The diversion of our management's and employees' attention to the Spin-off process may disrupt our operations, including by adversely impacting the progress of our antibody discovery and development efforts and our relationships with collaborators. In addition, we will continue to incur significant expenditures for professional services in connection with our planning and implementation of the Spin-off, including accounting services for the preparation of pro forma financial information for PDL and Facet Biotech and for legal services for PDL and Facet Biotech.

In October 2008, we appointed Faheem Hasnain as President and Chief Executive Officer of the Company. Following the Spin-off, we expect that Mr. Hasnain will become President and Chief Executive Officer of Facet Biotech and Mr. Hasnain's employment with us would terminate. In November 2008, we appointed John McLaughlin to become the President and Chief Executive Officer of the Company following the Spin-off. Following the planned Spin-off, Mr. McLaughlin will lead the remaining royalty company, which will continue to operate under the PDL BioPharma name. We also are currently seeking candidates to serve as our Chief Financial Officer and General Counsel after the Spin-off. The failure to recruit these candidates to serve following the Spin-off could adversely impact our future performance and our ability to comply with certain reporting obligations under the securities laws. In addition, subsequent to the Spin-off, we plan to relocate our corporate headquarters and ongoing business operations to a new location outside California. We are evaluating potential locations that would meet our ongoing business needs while also providing a more favorable cost structure.

We expect to initially fund Facet Biotech with $405 million in cash. We expect that this initial capitalization, as well as future payments we may receive from our collaboration agreements with Biogen Idec MA, Inc. ("Biogen Idec") and Bristol-Myers Squibb ("BMS") and from the asset purchase agreement with EKR, each of which is being assigned to Facet Biotech, would fund Facet Biotech's operations and working capital requirements for approximately three years after the closing of the Spin-off based on current operating plans. Changes in our development or operations plans, however, could affect the initial cash funding needed to adequately capitalize the biotechnology entity.

There can be no assurance that the Spin-off will be completed.

In April 2008, we announced that we intended to separate our antibody humanization royalty assets from our biotechnology operations by spinning off our biotechnology operations into a separate publicly traded entity. We filed a Form 10 Registration Statement with the SEC under a new registrant, Facet Biotech Corporation, on August

Table of Contents

13, 2008 and have subsequently filed amendments to the Form 10. We expect to complete this separation by the end of 2008. Our ability to timely effect the Spin-off is subject to several conditions, including obtaining required regulatory approvals and obtaining the consent of third parties to the transfer of contractual rights to Facet Biotech. The failure to obtain necessary approvals and consents could delay or make impractical our plan to effect the Spin-off. Furthermore, we must recruit and hire certain new management for PDL prior to the completion of the Spin-off. We cannot assure that we will be able to complete the Spin-off in a timely fashion, if at all.

We may pursue the sale or securitization of our antibody humanization royalties.

We have in the past evaluated opportunities to monetize our antibody humanization royalty assets through a potential sale or securitization transaction and distribution of proceeds from such a sale or securitization transaction to stockholders, either in conjunction with or in lieu of the Spin-off, but on November 6, 2008, we announced that, primarily due to market conditions, we were no longer pursuing a monetization transaction, but will continue to evaluate whether such a transaction in the future is in the best interests of our stockholders. Any sale of our antibody humanization royalties would decrease our revenues, while a securitization of our antibody humanization royalties would increase our expenses as we would become obligated to make periodic principal and interest payments on any notes issued in connection with such securitization. Even if we decide to actively pursue the sale or securitization, there can be no assurance that a suitable buyer will be found for our antibody humanization royalties or the financial markets would have the appropriate conditions for a securitization transaction.

Our historical financial information is not necessarily indicative of our future financial position, future results of operations or future cash flows and may not be representative of the respective results as separate companies.

Our historical financial information included herein does not reflect what the respective financial position, results of operations or cash flows would have been as two separate stand-alone companies during the periods presented and is not necessarily indicative of any future financial position, future results of operations or future cash flows for either company. This is primarily a result of the following factors:

- Historically, our operations were conducted as part of a consolidated entity. Therefore, our historical combined financial statements reflect allocations of costs for services shared with our biotechnology operations. These allocations may differ significantly from the costs we will incur for these services as a company separate from Facet Biotech.

- Our historical financial statements include the operation of our manufacturing facility which was sold in the first quarter of 2008.

- During the fiscal years ended December 31, 2007 and December 31, 2008, we substantially reduced the number of employees of our biotechnology operations and we are in the process of implementing the reductions. Facet Biotech will bear the related costs following the Spin-off.

- After the completion of the Spin-off, the cost of capital for Facet Biotech's business may be higher than PDL's cost of capital prior to the Spin-off because PDL's credit ratings are higher than what Facet Biotech's are contemplated to be following the Spin-off.

Investors should refer to the pro forma financial information (subject to the assumptions and qualifications contained therein) of PDL (post-Spin-off) and Facet Biotech in order to understand the performance of each entity but should not rely on such information as any indication of future performance. When available, investors will be able to access the pro forma financial information in our filings with the SEC at the SEC's website at www.sec.gov or upon request to PDL.

Our ongoing restructuring efforts could distract our management and employees, disrupt operations, make more difficult our ability to attract and retain key employees and cause other difficulties.

In an effort to reduce operating costs to a level more consistent with a biotechnology company focused solely on antibody discovery and development, in March 2008, we commenced a restructuring pursuant to which we have eliminated approximately 200 employment positions. We intend to eliminate approximately 50 additional employment positions over the next three to six months. Facet Biotech will bear the related costs that are incurred following the Spin-off. We offered the employees that we expect to retain after the restructuring retention bonuses and other incentives to encourage these employees to stay with the Company. The disruption and uncertainty caused by our restructuring could cause employees to seek other

Table of Contents

employment opportunities notwithstanding the retention incentives we have implemented. The loss of personnel during this period could disrupt operations. This disruption and uncertainty may also make the recruitment of key personnel more difficult, including the recruitment of a Chief Financial Officer and General Counsel to serve PDL after the Spin-off.

Our restructuring efforts may continue to divert the attention of our management and employees away from operations, harm our reputation and increase our expenses. We cannot assure you that we will not undertake additional restructuring activities, that any of our restructuring efforts will succeed, or that we will be able to realize the cost savings and other anticipated benefits from our restructuring plans or that we will successfully spin off our biotechnology operations.

In addition, employees whose positions we will eliminate in connection with this reduction may seek employment with our competitors. Although all employees are required to sign a confidentiality agreement with us at the time of hire, we cannot provide assurance that the confidential nature of our proprietary information will be maintained in the course of such future employment.

Pursuant to rules adopted under the Sarbanes-Oxley Act of 2002, we must evaluate the effectiveness of our disclosure controls and internal control over financial reporting on a periodic basis, publicly disclose the results of these evaluations and publicly disclose whether we have implemented any changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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 our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Our evaluation of our disclosure controls and procedures may reveal material weaknesses in our internal control over financial reporting. 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.

In addition, 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 expenses and the devotion of significant management resources and we expect that the expenses for this process will continue to increase modestly.

Risk factors related to PDL (post Spin-off)

The risks set forth below are primarily attributable to PDL's royalty business and to PDL as a separate entity after the completion of the Spin-off. We may not realize the potential benefits that are expected from the Spin-off. Further, our stockholders may not realize the intended benefits of the Spin-off. Prior to the Spin-off, these risks as well as other risks and uncertainties, could materially and adversely affect our business, results of operations and financial condition, which could in turn materially and adversely affect the trading price of shares of our common stock. If the Spin-off is consummated, we expect that each of the risk factors listed below will remain significant for PDL.

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 patents were issued to us by the European Patent Office, European Patent No. 0 451 216 (the '216 Patent) and European Patent No. 0 682 040 (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, and could encourage challenges to our related Queen 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 the Queen

Table of Contents

patents could be challenged. We cannot assure you that we will be successful if the validity and/or enforceability of the Queen patents are challenged for any reason. In the event of a final, nonappealable judgment that some or all of the Queen 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. For example, in August 2008, MedImmune sent to us a notice under the Patent License Agreement, effective July 17, 1997, between the Company and MedImmune (the "MedImmune License Agreement"), that MedImmune was exercising its asserted rights under the MedImmune License Agreement to have a non-binding written determination made by non-conflicted legal counsel as to whether MedImmune's Synagis (palivizumab) product or motavizumab development product infringes claims under the Queen patents, including U.S. Patent Nos. 5,585,089, 5,693,761, 5,693,762 and 6,180,370. Although MedImmune has paid us royalties under the MedImmune License Agreement with respect to sales of the Synagis (palivizumab) product on a quarterly basis since the third quarter of 1998, we cannot assure you that MedImmune will continue to pay us royalties. We last received a royalty payment from MedImmune with respect to sales of the Synagis (palivizumab) product in August 2008. Also, in September 2008, UCB S.A. informed us that it has taken the position that its Cimzia (certolizumab pegol) product does not infringe the Queen patents and therefore does not intend to pay to us royalties under the patent license agreement, effective October 19, 2001 (the "Celltech License Agreement"), we entered into with Celltech Therapeutics Limited, which was acquired by UCB S.A. We believe that the Celltech License Agreement covers the Cimzia product. We intend to vigorously defend and enforce our rights under the Queen patents and to enforce our rights under the MedImmune License Agreement and Celltech License Agreement.

Our ability to maintain and increase our revenues from licensing our Queen 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 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 the ability of our licensees to obtain market acceptance for their products.

We derive a significant portion of our royalty revenue from a limited number of licensees. Our major customers include Genentech, which accounted for 70%, 68%, 60%, and 55% of our total revenues from continuing operations for the nine months ended September 30, 2008 and the years ended December 31, 2007, 2006 and 2005, respectively, and MedImmune, which accounted for 15%, 14%, 13% and 21% of our total revenues from continuing operations for the nine months ended September 30, 2008 and the years ended December 31, 2007, 2006 and 2005, 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.

Our common stock may lose value due to several factors, including the expiration of the Queen patents, failure to meet expectations and turnover in our investor base after the Spin-off.

After the Spin-off, substantially all of our revenues will be derived from our license agreements relating to the Queen patents, which generally expire in 2014. Shortly after the expiration of all of the Queen patents, we will cease receiving patent-related royalties from our licensees, and, as a result, our common stock may have little value. In addition to all of the risk factors listed herein, some other factors may also have a significant effect on the market price of our common stock, such as 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 costs and may lead to a diversion of management's attention and resources.

In addition, following the Spin-off, we expect that there may be a significant amount of turnover in our investor base because those investors that have invested in us because of our biotechnology operations may divest following the Spin-off. This turnover may have a significant effect on the market price of our common stock. Also, we expect that in connection with the distribution of shares of Facet Biotech common stock at the time of the Spin-off, the market price of our common stock will decline by the value attributed to the shares of Facet Biotech common stock that we will distribute to our stockholders.

Table of Contents

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 issuance, scope, enforceability and effective term of patents can be highly uncertain and often involve complex legal and factual questions and proceedings. Patents, if issued, may be challenged, invalidated, circumvented or rendered unenforceable. The issuance of a patent is not conclusive as to its validity or its enforceability. U.S. patents and patent applications may also be subject to interference proceedings, U.S. patents may be subject to reexamination or reissue proceedings in the U.S. Patent and Trademark Office, or 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 denial of the patent application or loss or reduction in the scope of one or more of the claims of the patent or patent application. 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. These proceedings could be expensive, last several years and result in a significant reduction in the scope or invalidation of our patents. Any limitation in claim scope could reduce our ability to negotiate or collect royalties based on these patents. Moreover, the issuance of a patent in one country does not assure the issuance of a patent with similar claim scope in another country, and claim interpretation and infringement laws vary among countries, so we are unable to predict the extent of patent protection in any country.

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 R&D, 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 BLA or NDA 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 and Elan announced that they had voluntarily suspended the marketing and commercial distribution of the Tysabri antibody, a drug approved to treat multiple sclerosis and which is licensed under our humanization 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. In July 2008, Biogen Idec and Elan announced two new cases of PML in patients treated with the Tysabri antibody. 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. 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.

We must attract, retain and integrate key employees in order to succeed. It may be difficult to recruit, retain and integrate key employees after the Spin-off.

To be successful, we must attract, retain and integrate qualified personnel. After the Spin-off, our only remaining business will be our antibody humanization royalties assets and we expect to have less than 10 employees, which may make it difficult for us to recruit and retain qualified personnel. If we are unsuccessful in attracting, retaining and integrating qualified personnel, particularly at the management level, our business could be impaired.

Table of Contents

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

The agreements related to the Spin-off, including the separation and distribution agreement, tax sharing and indemnification agreement, transition services agreement and non-exclusive cross license agreement, are being negotiated in the context of the Spin-off while Facet Biotech is 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 Biotech.

Under the terms of the separation and distribution agreement with Facet Biotech, we and Facet Biotech each will agree to indemnify the other from and after the Spin-Off with respect to certain indebtedness, liabilities and obligations that will be 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 Biotech has to indemnify us for any substantial obligations, Facet Biotech will have the ability to satisfy those obligations. If Facet Biotech does not have the ability to satisfy those obligations, we may be required to satisfy those obligations instead. For example, If Facet Biotech does not have the ability to pay monthly rent and other expenses related to the real property leases for Facet Biotech's corporate headquarters in Redwood City, California consisting of approximately 450,000 square feet of office and lab space, we may be required under the terms of the lease to pay such amounts, which could have a material adverse effect on the amount or timing of any distribution to our stockholders.

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.

Decreases in third-party reimbursement rates may affect sales of licensed products.

Sales of our licensees' products will depend significantly on the extent to which reimbursement for the cost of licensed products and related treatments will be available to physicians and patients from U.S. and international government health administration authorities, private health insurers, and other organizations. Decreases in third-party reimbursement for our licensees' products could reduce usage and sales of the products, and may have a material adverse effect on our business.

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

Our antibody humanization royalty revenues may be unpredictable and fluctuate since they depend upon, among other things, the seasonality and rate of growth of sales of existing and licensed products and the mix of U.S.-based Sales and ex-U.S.-based Sales in connection with our master patent license agreement with Genentech.

We have received a significant portion of our royalty revenues 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.

Our master patent license agreement with Genentech provides for a royalty fee structure that has four tiers, under which the royalty rate Genentech must pay on royalty-bearing products sold in the United States or manufactured in the United States and sold anywhere in a given calendar year decreases on incremental U.S.-based Sales above the net sales thresholds. As a result, Genentech's average annual royalty rate declines as Genentech's U.S.-based Sales increase. With respect to Genentech's royalty-bearing products that are both manufactured and sold outside of the United States, the royalty rate that we receive from Genentech is a fixed rate based on a percentage of the underlying ex-U.S.-based Sales. The mix of U.S.-based Sales and ex-U.S.-based Sales and the manufacturing location are outside of our control and have fluctuated in the past and may continue to fluctuate in future periods.

Table of Contents

We may 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 any distribution to our stockholders.

At September 30, 2008, we had $651.9 million in total liabilities outstanding, including $250.0 million in principal that remains outstanding under our 2.00% Convertible Senior Notes due February 15, 2012 (the "2012 Notes") and $250.0 million in principal that remains outstanding under our unsecured 2.75% Convertible Subordinated Notes due 2023 (the "2023 Notes"). 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 (as defined in the indenture). 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 (as defined in the indenture). We may reserve from time to time a certain amount of cash in order to satisfy these repurchase or other obligations, including the payment of principal and interest, relating to the 2023 Notes and 2012 Notes, which could adversely affect the amount or timing of any distribution to our stockholders.

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 convertible, 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. 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. Such payments could have a material adverse effect on our cash position.

In connection with the Spin-off, the conversion rates of the 2023 Notes and 2012 Notes will be adjusted upward. Currently, the conversion rate for the 2023 Notes is 72.586 shares per $1,000 principal amount of 2023 Notes (or a conversion price of approximately $13.78 per share) and the conversion rate for the 2012 Notes is 61.426 shares per $1,000 principal amount of 2012 Notes (or a conversion price of approximately $16.28 per share). For the 2023 Notes, the conversion rate will be increased by multiplying the current conversion rate by a fraction, the numerator of which is the average pre-Spin-off closing price of our common stock for the ten consecutive trading days immediately preceding the record date for the Spin-off, and the denominator of which is the difference of such average closing price and the fair market value of Facet Biotech's common stock applicable to one share of our common stock as determined by our board of directors. The adjusted conversion rate for the 2023 Notes will become effective on the business day immediately following the record date for the Spin-off. We expect such adjustment to result in an increased number of shares of our common stock issuable to the holders of the 2023 Notes upon conversion. For the 2012 Notes, the conversion rate will be increased by multiplying the current conversion rate by an adjustment factor equal to the sum of the daily adjustments for each of the ten consecutive trading days beginning on the effective date of the Spin-off. The daily adjustment for each such trading day is a fraction, the numerator of which is the sum of the closing price of our common stock and the closing price of Facet Biotech's common stock applicable to one share of our common stock, and the denominator of which is the product of ten and the closing price of our common stock. The adjusted conversion rate for the 2012 Notes will become effective on the tenth trading day from, and including, the effective date of the Spin-off. We expect such adjustment to result in an increased number of shares of our common stock issuable to the holders of the 2012 Notes upon conversion. Because the conversion rates of the 2023 Notes and 2012 Notes will be adjusted upward in connection with the Spin-off, 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 become effective.

Table of Contents

Upon our distribution of the common stock of Facet Biotech, we could be required to utilize some or all of our net operating loss and tax credit carryforwards and, if such carryforwards are fully utilized, we could incur a current tax liability.

We could recognize taxable gain upon our distribution of the common stock of Facet Biotech, which generally would occur if the gross fair market value of the distributed assets exceeds our tax basis. If we were to recognize a taxable gain in connection with such distribution, we would need to utilize some or all of our net operating loss and tax credit carryforwards, which would reduce the amount of such carryforwards available to reduce our tax liability in future years and increase our current tax liability. We do not expect the Spin-off to result in our recognition of a material amount of taxable gain due to our estimate of the fair market value of the distributed assets and our significant tax basis in such assets and, if we do recognize taxable gain in connection with the Spin-off, we do not expect to incur a material current tax liability. Nevertheless, our estimate of the fair market value of the distributed assets may be significantly less than the ultimate valuation of such assets and, as a result, we could be required to utilize some or all of our net operating loss and tax credit carryforwards and, if such carryforwards are fully utilized, our current tax liability could increase. The investors are urged to consult their tax advisor with respect to the specific tax consequences of the Spin-off including the effects of U.S. federal, state and local, and foreign and other tax rules, and the effect of possible changes in tax laws.

Risk factors related to Facet Biotech

The risks set forth below are primarily attributable to our biotechnology operations which we expect to be spun off as a separate entity after the completion of the Spin-off. Prior to the Spin-off, these risks as well as other risks and uncertainties, could materially and adversely affect our business, results of operations and financial condition, which could in turn materially and adversely affect the trading price of shares of our common stock. If the Spin-off is consummated, we expect that each of the risk factors listed below will no longer be significant risks to us.

Facet Biotech may not realize the potential benefits from the Spin-off.

By separating from us, there is a risk that Facet Biotech may be more susceptible to market fluctuations and other adverse events than it would have been were it still a part of PDL. In addition, Facet Biotech will incur significant costs, which may exceed its estimates, and Facet Biotech will incur some negative effects from its separation from PDL, including the loss of royalty revenue derived from PDL's royalty business.

As a stand-alone company, Facet Biotech will not receive any of the royalty revenue or cash flows derived from our royalty business.

For the nine months ended September 30, 2008 and year ended December 31, 2007, we received $223.3 and $221 million, respectively or approximately 91% and 85%, respectively of our revenue from continuing operations from royalties derived from our royalty business. After the completion of the separation, Facet Biotech will not receive any such revenue. We will initially contribute to Facet Biotech cash and cash equivalents of $405 million. In addition, under the terms of the separation and distribution agreement between PDL and Facet Biotech, we are responsible for all operating expenses and related liabilities that were incurred prior to the Spin-off. However, for ease of administration and in connection with the assignment of certain rights and obligations from PDL to Facet Biotech, Facet Biotech will assume the obligation to pay for certain of the current liabilities upon the Spin-off. We and Facet Biotech will determine the amount of such current liabilities within 30 days after the date of the Spin-off, and we will deliver to Facet Biotech a payment to reimburse Facet Biotech for assuming the obligation to pay such liabilities. Facet Biotech expects that this initial cash contribution as well as future payments from Facet Biotech's collaboration agreements with Biogen Idec and BMS and certain other agreements, each of which is being assigned to Facet Biotech, would fund Facet Biotech's operations and working capital requirements for approximately three years after the closing of the Spin-off, based on current operating plans. Facet Biotech cannot assure you, however, that such funds will meet its working capital and operational needs or that its working capital requirements will not increase beyond its current expectations. Facet Biotech will likely need to obtain additional financing from banks, through public offerings or private placements of debt or equity securities, strategic relationships or other arrangements to fully execute its business strategy.

Table of Contents

Facet Biotech anticipates that it will incur losses for the foreseeable future. Facet Biotech may never achieve or sustain profitability. Facet Biotech's revenues, expenses and operating results will likely fluctuate in future periods.

Facet Biotech's business has experienced significant net losses and it expects to continue to incur additional net losses over the next several years as it continues its research and development activities and incurs significant preclinical and clinical development costs. During the nine months ended September 30, 2008 and the years ended December 31, 2007, 2006 and 2005, Facet Biotech recognized cumulative losses of $692.0 million. Since Facet Biotech or its collaborators or licensees may not successfully develop additional products, obtain required regulatory approvals, manufacture products at an acceptable cost or with appropriate quality, or successfully market such products with desired margins, Facet Biotech's expenses may continue to exceed any revenues it may receive. Facet Biotech's commitment of resources to the continued development of its products will require significant additional funds for development. Facet Biotech's operating expenses also may increase if:

- its earlier stage potential products move into later stage clinical development, which is generally a more expensive stage of development;
- additional preclinical product candidates are selected for further clinical development;
- it pursues clinical development of its potential products in new indications;
- it increases the number of patents it is prosecuting or otherwise expend additional resources on patent prosecution or defense; and
- it invests in research or acquires additional technologies, product candidates or businesses.

In the absence of substantial licensing, milestone and other revenues from third-party collaborators, royalties on sales of products licensed under Facet Biotech's intellectual property rights, future revenues from its products in development or other sources of revenues, Facet Biotech will continue to incur operating losses and may require additional capital to fully execute its business strategy. The likelihood of reaching, and time required to reach, sustained profitability are highly uncertain.

Facet Biotech's revenues and expenses may be unpredictable and may fluctuate from quarter to quarter due to, among other things, the timing and the unpredictable nature of clinical trial, manufacturing and related expenses, including payments owed by Facet Biotech and to Facet Biotech under collaborative agreements for reimbursement of expenses, and future milestone revenues under collaborative agreements. In addition, the recognition of clinical trial and other expenses that Facet Biotech otherwise would recognize over a period of time under applicable accounting principles may be accelerated in certain circumstances. In such a case, it may cause Facet Biotech's expenses during that period to be higher than they otherwise would have

been had the circumstances not occurred. For example, if Facet Biotech terminates a clinical trial for which it paid non-refundable upfront fees to a clinical research organization and in which Facet Biotech did not accrue all of the patient costs, the recognition of the expense associated with those fees that Facet Biotech was recognizing as it accrued patient costs would be accelerated and recognized in the period in which the termination occurred.

Facet Biotech will assume from PDL the real property leases held by PDL, including the leases for Facet Biotech's corporate headquarters in Redwood City, California consisting of approximately 450,000 square feet of office and lab space. Facet Biotech expects to utilize only a portion of this space given its expected scope of operations. Facet Biotech is therefore actively seeking to sublease most or all of these facilities to a third party, and anticipate that it will be able to do so. However, if Facet Biotech does not sublease the facilities or does not sublease them on terms that it anticipates, its total operating expenses will be higher than anticipated.

If Facet Biotech's research and development efforts are not successful, Facet Biotech may not be able to effectively develop new products.

Facet Biotech will engage in research activities intended to, among other things, identify antibody product candidates that it may progress into clinical development. These research activities include efforts to discover and validate new targets for antibodies in oncology and immunologic diseases. Facet Biotech obtains new targets through its own drug discovery efforts and through in-licensing targets from institutions or other biotechnology or pharmaceutical companies. Facet Biotech's success in identifying new antibody product candidates depends upon its ability to discover and validate new targets, either through its own research efforts, or through in-licensing or collaborative arrangements. In order to increase the possibilities of identifying antibodies with a reasonable chance for success in clinical studies, part of Facet Biotech's business strategy is to identify a higher number of potential targets than it expects to be able to progress through clinical development.

Table of Contents

Facet Biotech's antibody product candidates are in various stages of development and many are in an early development stage. If Facet Biotech is unsuccessful in its research efforts to identify and obtain rights to new targets and generate antibody product candidates that lead to the required regulatory approvals and the successful commercialization of products, its ability to develop new products could be harmed.

To supplement its research efforts, from time to time Facet Biotech may in-license or otherwise acquire from others rights to products in-development or early-stage technology. Acquiring rights to products in this manner poses risks, including that it may be unable to successfully integrate the research, development and commercialization capabilities necessary to bring these products to market.

Unless Facet Biotech's clinical studies demonstrate the safety and efficacy of its product candidates, it will not be able to commercialize its product candidates.

To obtain regulatory approval to market and sell any of its existing or future product candidates, Facet Biotech must satisfy the FDA and other regulatory authorities abroad, through extensive preclinical and clinical studies, that its product candidates have an acceptable safety profile and are efficacious. Facet Biotech may not conduct the types of testing eventually required by regulatory authorities to demonstrate an adequate safety profile for the particular indication, or the tests may indicate that the safety profile of its product candidates is unacceptably inferior to therapeutics with comparable efficacy or otherwise unsuitable for use in humans in light of the expected therapeutic benefit of the product candidate. Clinical trials and preclinical testing are expensive, can take many years and have an uncertain outcome. In addition, initial testing in preclinical studies or in phase 1 or phase 2 clinical trials may indicate that the safety profile of a product candidate is adequate for approval, but does not ensure that safety issues may not arise in later trials, or that the overall safety profile for a product candidate will be sufficient for regulatory approval in any particular product indication. Facet Biotech may experience numerous unforeseen events during, or as a result of, the preclinical testing or clinical studies or clinical development, which could delay or prevent its ability to develop or commercialize its product candidates, including:

- Facet Biotech's testing or trials may produce inconclusive or negative safety results, which may require it to conduct additional testing or trials or to abandon product candidates that it believes to be promising;
- Facet Biotech's product candidates may have unacceptable pharmacology, toxicology or carcinogenicity; and
- Facet Biotech's product candidates may cause significant adverse effects in patients.

Even if Facet Biotech is able to demonstrate efficacy of any product candidate, any adverse safety events would increase its costs and could delay or prevent its ability to continue the development of or commercialize its product candidates, which would adversely impact its business, financial condition and results of operations. Facet Biotech is aware that its drug candidates can cause various adverse side effects in humans, some of which are predictable and some of which are unpredictable. Facet Biotech proceeds to evaluate the safety and efficacy of these drug candidates based on data it accumulates from preclinical assessments and ongoing clinical studies. Facet Biotech believes that its drug candidates have an acceptable safety profile for the potential indications in which it is currently conducting clinical trials. Data from ongoing or future clinical trials may indicate that a drug candidate causes unanticipated or more significant adverse side effects either used alone or when used in combination with other drugs, in particular patient populations or at increased dosages or frequency of administration. This may lead Facet Biotech to conclude that the drug candidate does not have an acceptable safety profile for a particular patient population or use.

The failure to gain market acceptance of Facet Biotech's product candidates among the medical community would adversely affect its revenue.

Even if approved, Facet Biotech's product candidates may not gain market acceptance among physicians, patients, third-party payers and the medical community. Facet Biotech may not achieve market acceptance even if clinical trials demonstrate safety and efficacy and it obtains the necessary regulatory and reimbursement approvals. The degree of market acceptance of any product candidates that Facet Biotech develops will depend on a number of factors, including:

- establishment and demonstration of clinical efficacy and safety;
- cost-effectiveness of Facet Biotech's product candidates;

- their potential advantage over alternative treatment methods;
- reimbursement policies of government and third-party payers; and
- marketing and distribution support for Facet Biotech's product candidates, including the efforts of its collaborators where they have marketing and distribution responsibilities.

Physicians will not recommend Facet Biotech's products until clinical data or other factors demonstrate the safety and efficacy of its product as compared to conventional drug and other treatments. Even if Facet Biotech establishes the clinical safety and efficacy of its product candidates, physicians may elect not to use its product for any number of other reasons, including whether the mode of administration of its products is effective for certain indications. Antibody products, including Facet Biotech's product candidates as they would be used for certain disease indications, are typically administered by infusion or injection, which requires substantial cost and inconvenience to patients. Facet Biotech's product candidates, if successfully developed, may compete with a number of drugs and therapies that may be administered more easily. The failure of Facet Biotech's product candidates to achieve significant market acceptance would materially harm its business, financial condition and results of operations.

Facet Biotech may be unable to enroll a sufficient number of patients in a timely manner in order to complete its clinical trials.

The rate of completion of clinical trials is significantly dependent upon the rate of patient enrollment. Patient enrollment is a function of many factors, including:

- the size of the patient population;
- perceived risks and benefits of the drug under study;
- availability of competing therapies, including those in clinical development;
- availability of clinical drug supply;
- availability of clinical trial sites;
- design of the protocol;
- proximity of and access by patients to clinical sites;
- patient referral practices of physicians;
- eligibility criteria for the study in question; and
- efforts of the sponsor of and clinical sites involved in the trial to facilitate timely enrollment.

Facet Biotech may have difficulty obtaining sufficient patient enrollment or clinician support to conduct its clinical trials as planned, and it may need to expend substantial additional funds to obtain access to resources or delay or modify its plans significantly. These considerations may result in Facet Biotech being unable to successfully achieve its projected development timelines, or potentially even lead it to consider the termination of ongoing clinical trials or development of a product for a particular indication.

Facet Biotech must protect its patent and other intellectual property rights to succeed.

Facet Biotech's success is dependent in significant part on its ability to develop and protect patent and other intellectual property rights and operate without infringing the intellectual property rights of others.

Facet Biotech's pending patent applications may not result in the issuance of valid patents or the claims and claim scope of its issued patents may not provide competitive advantages. Also, Facet Biotech's patent protection may not prevent others from developing competitive products using related or other technology that does not infringe its patent rights. A number of companies, universities and research institutions have filed patent applications or received patents in the areas of antibodies and other fields relating to Facet Biotech's programs. Some of these applications or patents may be competitive with Facet Biotech's applications or have claims that could prevent the issuance of patents to Facet Biotech or result in a significant reduction in the claim scope of its issued patents. In addition, patent applications are confidential for a period of time after filing. Facet Biotech therefore may not know that a competitor has filed a patent application covering subject matter similar to subject matter in one of Facet Biotech's patent applications or that it was the first to invent the innovation it seeks to patent. This may lead to disputes including interference proceeding or litigation to determine rights to patentable subject matter. These disputes are often expensive and may result in Facet Biotech being unable to patent an innovation.

The scope, enforceability and effective term of patents can be highly uncertain and often involve complex legal and factual questions and proceedings. 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. These proceedings could be expensive, last several years and either prevent issuance of additional patents to Facet Biotech or result in a significant reduction in the scope or invalidation of Facet Biotech's patents. Any limitation in claim scope could reduce Facet Biotech's ability to negotiate future collaborative research and development agreements based on these patents. Moreover, the issuance of a patent in one country does not assure the issuance of a patent with similar claim scope in another country, and claim interpretation and infringement laws vary among countries, so Facet Biotech is unable to predict the extent of patent protection in any country.

In addition to seeking the protection of patents and licenses, Facet Biotech also relies upon trade secrets, know-how and continuing technological innovation that Facet Biotech seeks to protect, in part, by confidentiality agreements with employees, consultants, suppliers and licensees. If these agreements are not honored, Facet Biotech might not have adequate remedies for any breach. Additionally, Facet Biotech's trade secrets might otherwise become known or patented by its competitors.

Facet Biotech may need to obtain patent licenses from others in order to manufacture or sell its potential products and Facet Biotech may not be able to obtain these licenses on terms acceptable to it or at all.

Other companies, universities and research institutions may obtain patents that could limit Facet Biotech's ability to use, import, manufacture, market or sell its products or impair its competitive position. As a result, Facet Biotech may need to obtain licenses from others before it could continue using, importing, manufacturing, marketing, or selling its products. Facet Biotech may not be able to obtain required licenses on terms acceptable to it, if at all. If Facet Biotech does not obtain required licenses, it may encounter significant delays in product development while Facet Biotech redesigns potentially infringing products or methods or it may not be able to market its products at all.

Facet Biotech does not have a license to an issued U.S. patent assigned to Stanford University and Columbia University, which may cover a process used to produce its potential products. Facet Biotech has been advised that an exclusive license has been previously granted to a third party, Centocor, under this patent. If Facet Biotech's processes were found to be covered by either of these patents, Facet Biotech might need to obtain licenses or to significantly alter its processes or products. Facet Biotech might not be able to successfully alter its processes or products to avoid conflicts with these patents or to obtain licenses on acceptable terms or at all.

Facet Biotech does not have licenses to issued U.S. patents which may cover one of its development-stage products. If Facet Biotech successfully develops this product, Facet Biotech might need to obtain licenses to these patents to commercialize the product. In the event that Facet Biotech needs to obtain licenses to these patents, Facet Biotech may not be able to do so on acceptable terms or at all.

If Facet Biotech's collaborations are not successful or are terminated by its collaborators, it may not effectively develop and market some of its product candidates.

Facet Biotech has agreements with biotechnology and other companies to develop, manufacture and market certain of its potential products. In some cases, Facet Biotech relies on its collaborators to manufacture such products and essential components for those products, design and conduct clinical trials, compile and analyze the data received from these trials, obtain regulatory approvals and, if approved, market these licensed products. As a result, Facet Biotech may have limited or no control over the manufacturing, development and marketing of these potential products and little or no opportunity to review the clinical data prior to or following public announcement. In addition, the design of the clinical studies may not be sufficient or appropriate for regulatory review and approval and Facet Biotech may have to conduct further studies in order to facilitate approval.

Table of Contents

In September 2005 and August 2008, respectively, PDL entered into collaboration agreements with Biogen Idec for the joint development of daclizumab in certain indications, including MS, and volociximab (M200) in all indications, and BMS for the co-development of elotuzumab in multiple myeloma and other potential oncology indications. In connection with the Spin-off, PDL assigned its rights and obligations under these collaboration agreements to Facet Biotech. These agreements are particularly important to Facet Biotech. The collaboration agreements provide significant combined resources for the development, manufacture and potential commercialization of covered products. Facet Biotech and Facet Biotech's collaborators each assume certain responsibilities and share expenses. Because of the broad scope of the collaborations, Facet Biotech is particularly dependent upon the performance by Biogen Idec and BMS of their respective obligations under the agreements. The failure of Biogen Idec or BMS to perform their obligations, Facet Biotech's failure to perform its obligations, Facet Biotech's failure to effectively manage the relationships, or a material contractual dispute between Facet Biotech and either of its collaborators could have a material adverse effect on Facet Biotech's prospects or financial results. Moreover, Facet Biotech's financial results depend in substantial part upon its efforts and related expenses for these programs. Facet Biotech's revenues and expenses recognized under each collaboration will vary depending on the work performed by Facet Biotech and its collaborators in any particular reporting period.

Facet Biotech relies on other collaborators, such as contract manufacturers, clinical research organizations, medical institutions and clinical investigators, including physician sponsors, to conduct nearly all of its clinical trials, including recruiting and enrolling patients in the trials. If these parties do not successfully carry out their contractual duties or meet expected deadlines, Facet Biotech may be delayed or may not obtain regulatory approval for or commercialize its product candidates. If any of the third parties upon whom Facet Biotech relies to conduct its clinical trials do not comply with applicable laws, successfully carry out their obligations or meet expected deadlines, Facet Biotech's clinical trials may be extended, delayed or terminated.

If the quality or accuracy of the clinical data obtained by third party contractors is compromised due to their failure to adhere to applicable laws, Facet Biotech's clinical protocols or for other reasons, Facet Biotech may not obtain regulatory approval for or successfully commercialize any of its product candidates. If Facet Biotech's relationships with any of these organizations or individuals terminates, Facet Biotech believe that it would be able to enter into arrangements with alternative third parties. However, replacing any of these third parties could delay Facet Biotech's clinical trials and could jeopardize its ability to obtain regulatory approvals and commercialize its product candidates on a timely basis, if at all.

Facet Biotech's collaborators can terminate its collaborative agreements under certain conditions, and in some cases on short notice. A collaborator may terminate its agreement with Facet Biotech or separately pursue alternative products, therapeutic approaches or technologies as a means of developing treatments for the diseases targeted by Facet Biotech, or Facet Biotech's collaborative effort. Even if a collaborator continues to contribute to the arrangement, it may nevertheless decide not to actively pursue the development or commercialization of any resulting products. In these circumstances, Facet Biotech's ability to pursue potential products could be severely limited.

In 2004 and 2005, PDL entered into two collaboration arrangements with Roche for the joint development and commercialization of daclizumab for the treatment of asthma and other respiratory diseases and transplant indications. In 2006, Roche notified PDL of its election to discontinue its involvement in both of these collaboration arrangements. As a result of the termination of this relationship, Facet Biotech suspended the active clinical development of daclizumab in these indications and, consequently, the development expenses related to the development of daclizumab in these indications were reduced from historical and forecasted levels. Under the terms of the agreement governing this collaboration with Roche, the costs of clinical studies and other

development costs were shared by Roche through the effective termination dates, so Facet Biotech's financial condition was not materially affected as a result of the termination of these collaborations.

Continued funding and participation by collaborators will depend on the continued timely achievement of Facet Biotech's research and development objectives, the retention of key personnel performing work under those agreements and on each collaborator's own financial, competitive, marketing and strategic capabilities and priorities. These considerations include:

- the commitment of each collaborator's management to the continued development of the licensed products or technology;
- the relationships among the individuals responsible for the implementation and maintenance of the development efforts; and
- the relative advantages of alternative products or technology being marketed or developed by each collaborator or by others, including their relative patent and proprietary technology positions, and their ability to manufacture potential products successfully.

Table of Contents

Facet Biotech's ability to enter into new relationships and the willingness of its existing collaborators to continue development of its potential products depends upon, among other things, Facet Biotech's patent position with respect to such products. If Facet Biotech is unable to successfully maintain its patents it may be unable to collect royalties on existing licensed products or enter into additional agreements.

In addition, Facet Biotech's collaborators may independently develop products that are competitive with products that it has licensed to them. This could reduce Facet Biotech's revenues or the likelihood of achieving revenues under its agreements with these collaborators.

Facet Biotech may obtain future financing through the issuance of debt or equity, which may have an adverse effect on Facet Biotech's stockholders or may otherwise adversely affect Facet Biotech's business. If additional capital is not available, Facet Biotech may have to curtail or cease operations.

If Facet Biotech raises funds through the issuance of debt or equity, any debt securities or preferred stock issued will have rights, preferences and privileges senior to those of holders of its common stock in the event of liquidation. In such event, there is a possibility that once all senior claims are settled, there may be no assets remaining to pay out to the holders of common stock. In addition, if Facet Biotech raises funds through the issuance of additional equity, whether through private placements or public offerings, such an issuance would dilute ownership of current stockholders in Facet Biotech.

The terms of debt securities may also impose restrictions on Facet Biotech's operations, which may include limiting its ability to incur additional indebtedness, to pay dividends on or repurchase its capital stock, or to make certain acquisitions or investments. In addition, Facet Biotech may be subject to covenants requiring it to satisfy certain financial tests and ratios, and its ability to satisfy such covenants may be affected by events outside of its control.

Although Facet Biotech expects that it will have sufficient cash to fund its operations and working capital requirements for approximately the next three years after the Spin-off based on current operating plans, it may need to raise additional capital in the future to:

- fund its research and development programs;
- develop and commercialize its product candidates;
- respond to competitive pressures; and
- acquire complementary businesses or technologies.

Facet Biotech's future capital needs depend on many factors, including:

- the scope, duration and expenditures associated with its research and development programs;
- continued scientific progress in these programs;
- the outcome of potential licensing transactions, if any;
- competing technological developments;
- its proprietary patent position, if any, in its product candidates;
- its facilities expenses, which will vary depending on the time and terms of any facility sublease it may enter into; and
- the regulatory approval process for its product candidates.

Table of Contents

Facet Biotech may seek to raise necessary funds through public or private equity offerings, debt financings or additional collaborations and licensing arrangements. Facet Biotech may not be able to obtain additional financing on terms favorable to it, if at all. General market conditions may make it very difficult for Facet Biotech to seek financing from the capital markets. Facet Biotech may be required to relinquish rights to its technologies or product candidates, or grant licenses on terms that are not favorable to it, in order to raise additional funds through collaborations or licensing arrangements. If

adequate funds are not available, Facet Biotech may have to delay, reduce or eliminate one or more of its research or development programs and reduce overall overhead expenses. These actions may reduce the market price of Facet Biotech's common stock.

Facet Biotech has no history operating as an independent company upon which investors can evaluate Facet Biotech.

Facet Biotech does not have an operating history as a stand-alone entity. While its biotechnology business has constituted a substantial part of the historic operations of PDL, Facet Biotech has not operated as a stand-alone company without the royalty business. Following the Spin-off, as an independent company, Facet Biotech's ability to satisfy its obligations and achieve profitability will be solely dependent upon the future performance of its biotechnology business, and it will not be able to rely upon the capital resources and cash flows of the royalty business remaining with PDL.

In addition, following the completion of its separation, Facet Biotech will need certain transition services from PDL to be able to operate its business effectively. However, because substantially all of PDL's employees will be joining Facet Biotech, the transition services Facet Biotech will require from PDL will be limited and will be provided to it under a transition services agreement.

Facet Biotech may not be able to successfully implement the changes necessary to operate independently, and it may incur additional costs operating independently, which may have a negative effect on its business, results of operations and financial condition.

Concerns about Facet Biotech's prospects as a stand-alone company could affect its ability to retain employees. Facet Biotech must attract and retain key employees in order to succeed.

Facet Biotech's employees have experienced substantial organizational and operational changes over the prior 18 months as a result of changes in our business and operations, including reductions-in-force as well as changes in management. Upon the completion of the Spin-off, we expect Faheem Hasnain, the current President and Chief Executive Officer of PDL, will become the Chief Executive Officer of Facet Biotech. Mr. Hasnian joined PDL in October 2008. The Spin-off represents a further change and Facet Biotech's employees may have concerns about its prospects as a stand-alone company, including its ability to successfully operate the new entity and its ability maintain its independence after the Spin-off. If Facet Biotech is not successful in assuring its employees of its prospects as an independent company, its employees may seek other employment, which could materially adversely affect its business.

To be successful, Facet Biotech must attract and retain qualified clinical, scientific and management personnel and it faces significant competition for experienced personnel. If Facet Biotech is unsuccessful in attracting and retaining qualified personnel, particularly at the management level, its business could be impaired. In connection with our strategic review and asset sale processes, we eliminated a significant number of employment positions. In October 2007, Facet Biotech effected a workforce reduction related to its former manufacturing operations, which included the termination of 103 employees, and, in March 2008, it eliminated 166 employment positions resulting from the sale of the manufacturing assets. Also in March 2008, Facet Biotech commenced a restructuring effort pursuant to which it has terminated approximately 200 employment positions and plans to terminate approximately 50 additional employment positions through a transition period ending over the next three to six months. Subsequent to this transition period, Facet Biotech expects that its workforce will consist of between 280 and 300 employment positions. The uncertainty caused by the strategic review and asset sale processes, restructuring and related reductions-in-force that we undertook created anxiety among our employees, including those employees that are expected to join Facet Biotech. Facet Biotech believes that this caused attrition at PDL to increase because of employees' uncertainty regarding the continuation of employment. We and Facet Biotech have put in place severance, retention and compensation programs in an effort to mitigate the number of voluntary terminations, however, these programs may not provide effective incentive to employees to stay with Facet Biotech. The uncertainly may also make the recruitment of key personnel more difficult, which could adversely affect Facet Biotech's operations, particularly if it loses and needs to replace key executives. We generally do not have employment agreements with specified terms with our executives. Also, Facet Biotech relies on its research, development and product operations staff, all of whom are valuable but the loss of any one of whom would not have a material adverse effect on the Company.

Table of Contents

Facet Biotech may be required to satisfy certain indemnification obligations to us or may not be able to collect on indemnification rights from us.

Facet Biotech has agreed to indemnify us from and after the spin-off with respect to indebtedness, liabilities and obligations, other than our convertible notes, that we will retain that do not relate to our royalty business. Facet Biotech is not aware of any existing indemnification obligations at this time, but any such indemnification obligations that may arise could be significant. Facet Biotech's ability to satisfy these indemnities, if called upon to do so, will depend upon its future financial strength. Facet Biotech cannot determine whether it will have to indemnify us for any substantial obligations after the distribution.

Facet Biotech faces significant competition.

Facet Biotech faces significant competition from entities who have substantially greater resources than it has, more experience in the commercialization and marketing of pharmaceuticals, superior product development capabilities and superior personnel resources. Potential competitors in the United States and other countries include major pharmaceutical, biotechnology and chemical companies, specialized pharmaceutical companies and universities and other research institutions. These entities have developed and are developing human or humanized antibodies or other compounds for treating cancers or immunologic diseases that may compete with Facet Biotech's products in development and technologies that may compete with Facet Biotech's development products or antibody technologies. These competitors may succeed in more rapidly developing and marketing technologies and products that are more effective than Facet Biotech's product candidates or technologies or that would render any future commercialized products or technology obsolete or noncompetitive. Facet Biotech's product candidates and any future commercialized products may also face significant competition from both brand-name and generic manufacturers that could adversely affect any future sales of its products.

If daclizumab were to be approved for the treatment of relapsing multiple sclerosis, it would face competition from currently approved and marketed products, including interferons, such as Biogen Idec's Avonex®, Bayer HealthCare Pharmaceuticals' Betaseron® and EMD Serono Inc.'s Rebif®, a non-interferron immune modifier, Teva Pharmaceutical Industries Ltd.'s Copaxone®, and a monoclonal antibody, Biogen Idec and Elan Pharmaceuticals, Inc.'s Tysabri®. Further competition could arise from drugs currently in development, including Novartis Pharmaceutical Corporation's ("Novartis") FTY720 and other monoclonal antibodies in development, such as Genzyme Corporation's Campath®, Genmab A/S's ofatumumab, and Genentech and Roche's ocrelizumab.

If elotuzumab were to be approved for the treatment of multiple myeloma, it would face competition from currently approved and marketed products, including Celgene Corporation's Revlimid® and Thalomid® and Millennium Pharmaceuticals, Inc.'s Velcade®. Further competition could arise from drugs currently in development, including Centocor, Inc.'s CNTO-328, Genentech and Seattle Genetics, Inc.'s dacetuzumab, Novartis and Xoma Ltd.'s lucatumumab, and Pfizer Inc.'s ("Pfizer") CP-751871.

If volociximab (M200) were to be approved for the treatment of non-small cell lung cancer or ovarian cancer, it would face competition from a number of other anti-angiogenic agents in pre-clinical and clinical development, including antibody candidates such as Pfizer's CP-751,871, ImClone Systems Incorporated's ("ImClone") Erbitux® and Novartis's ASA404, each of which are in more advanced stages of development than is volociximab. In addition, many other VEGF or VEGFR targeted agents are in advanced stage of development and many other anti-angiogenesis agents are in earlier stage of development, which could compete with volociximab should it be approved for marketing.

If PDL192 were to be approved for the treatment of solid tumors, it would face competition from many agents that are used for solid tumors, such as ImClone's Erbitux®, Genentech's Avastin®, and other monocolonal antibodies and targeted agents in development which also act on the TWEAK signaling pathway, including Biogen Idec's anti-Tweak monoclonal antibody, BIIB023.

Any product that Facet Biotech or Facet Biotech's collaborators succeed in developing and for which regulatory approval is obtained must then compete for market acceptance and market share. The relative speed with which Facet Biotech and its collaborators can develop products, complete the clinical testing and approval processes, and supply commercial quantities of the products to the market compared to competitive companies will affect market success. In addition, the amount of marketing and sales resources and the effectiveness of the marketing used with respect to a product will affect its marketing success.

Table of Contents

The biotechnology and pharmaceutical industries are highly competitive. None of Facet Biotech's current product candidates is approved for marketing and Facet Biotech does not expect any of its candidates to receive marketing approval in the next several years, if at all. The competitive environment for any of Facet Biotech's product candidates which may be approved for marketing at the time of commercialization is highly speculative and uncertain, but Facet Biotech anticipates that such products would face substantial competition from marketed products and from product candidates in development, if approved.

The clinical development of drug products is inherently uncertain and expensive and subject to extensive government regulation.

Facet Biotech's future success depends entirely upon the success of its clinical development efforts. Clinical development, however, is a lengthy, time-consuming and expensive process and subject to significant risks of failure. In addition, Facet Biotech must expend significant amounts to comply with extensive government regulation of the clinical development process.

Before obtaining regulatory approvals for the commercial sale of any products, Facet Biotech must demonstrate through preclinical testing and clinical trials that its product candidates are safe and effective for their intended use in humans. Facet Biotech has incurred and will continue to incur substantial expense for, and Facet Biotech has devoted and expects to continue to devote a significant amount of time to, preclinical testing and clinical trials. Despite the time and expense incurred, Facet Biotech's clinical trials may not adequately demonstrate the safety and effectiveness of its product candidates.

Completion of clinical development generally takes several years or more. The length of time necessary to complete clinical trials and submit an application for marketing and manufacturing approvals varies significantly according to the type, complexity and intended use of the product candidate and is difficult to predict. Further, Facet Biotech, the United States Food and Drug Administration, ("FDA"), European Medicines Agency ("EMEA"), investigational review boards or data safety monitoring boards may decide to temporarily suspend or permanently terminate ongoing trials. Failure to comply with extensive regulations may result in unanticipated delay, suspension or cancellation of a trial or the FDA's or EMEA's refusal to accept test results. As a result of these factors, Facet Biotech cannot predict the actual expenses that it will incur with respect to preclinical or clinical trials for any of its potential products, and Facet Biotech expects that its expense levels will fluctuate unexpectedly in the future. Despite the time and expense incurred, Facet Biotech cannot guarantee that it will successfully develop commercially viable products that will achieve FDA or EMEA approval or market acceptance, and failure to do so would materially harm its business, financial condition and results of operations.

Early clinical trials such as phase 1 and 2 trials generally are designed to gather information to determine whether further trials are appropriate and, if so, how such trials should be designed. As a result, data gathered in these trials may indicate that the endpoints selected for these trials are not the most relevant for purposes of assessing the product or the design of future trials. Moreover, success or failure in meeting such early clinical trial endpoints may not be dispositive of whether further trials are appropriate and, if so, how such trials should be designed. Facet Biotech may decide, or the FDA or other regulatory agencies may require it, to make changes in its plans and protocols. Such changes may relate, for example, to changes in the standard of care for a particular disease indication, comparability of efficacy and toxicity of potential drug product where a change in the manufacturing process or manufacturing site is proposed, or competitive developments foreclosing the availability of expedited approval procedures. Facet Biotech may be required to support proposed changes with additional preclinical or clinical testing, which could delay the expected time line for concluding clinical trials.

Larger or later stage clinical trials may not produce the same results as earlier trials. Many companies in the pharmaceutical and biotechnology industries, including Facet Biotech, have suffered significant setbacks in clinical trials, including advanced clinical trials, even after promising results had been obtained in earlier trials. For example, in August 2007, we announced that we would terminate the phase 3 program of its Nuvion® (visilizumab) antibody in intravenous steroid-refractory ulcerative colitis because data from treated patients showed insufficient efficacy and an inferior safety profile in the visilizumab arm compared to IV steroids alone.

Even when a drug candidate shows evidence of efficacy in a clinical trial, it may be impossible to further develop or receive regulatory approval for the drug if it causes an unacceptable incidence or severity of side effects, or further development may be slowed down by the need to find dosing regimens that do not cause such side effects.

Table of Contents

In addition, Facet Biotech may not be able to successfully commence and complete all of its planned clinical trials without significant additional resources and expertise because it has a number of potential products in clinical development. The approval process takes many years, requires the expenditure of substantial resources, and may involve post-marketing surveillance and requirements for post-marketing studies. The approval of a product candidate may depend on the acceptability to the FDA or other regulatory agencies of data from Facet Biotech's clinical trials. Regulatory requirements are subject to frequent change. Delays in obtaining regulatory approvals may:

- adversely affect the successful commercialization of any drugs that Facet Biotech develops;
- impose costly procedures on Facet Biotech;
- diminish any competitive advantages that Facet Biotech may attain; and
- adversely affect Facet Biotech's receipt of any revenues or royalties.

In addition, Facet Biotech may encounter regulatory delays or failures of its clinical trials as a result of many factors, all of which may increase the costs and expense associated with the trial, including:

- changes in regulatory policy during the period of product development;
- delays in obtaining sufficient supply of materials to enroll and complete clinical studies according to planned timelines;
- delays in obtaining regulatory approvals to commence a study;
- delays in identifying and reaching agreement on acceptable terms with prospective clinical trial sites;
- delays in the enrollment of patients;
- lack of efficacy during clinical trials; or
- unforeseen safety issues.

Regulatory review of Facet Biotech's clinical trial protocols may cause it in some cases to delay or abandon its planned clinical trials. Facet Biotech's potential inability to commence or continue clinical trials, to complete the clinical trials on a timely basis or to demonstrate the safety and efficacy of its potential products, further adds to the uncertainty of regulatory approval for its potential products.

Changes in the U.S. and international health care industry, including regarding reimbursement rates, could adversely affect the commercial value of Facet Biotech's development product candidates.

The U.S. and international health care industry is subject to changing political, economic and regulatory influences that may significantly affect the purchasing practices and pricing of pharmaceuticals. The FDA and other health care policies may change, and additional government regulations may be enacted, which could prevent or delay regulatory approval of Facet Biotech's product candidates. Cost containment measures, whether instituted by health care providers or imposed by government health administration regulators or new regulations, could result in greater selectivity in the purchase of drugs. As a result, third-party payers may challenge the price and cost effectiveness of Facet Biotech's products. In addition, in many major markets outside the United States, pricing approval is required before sales may commence. As a result, significant uncertainty exists as to the reimbursement status of approved health care products.

Facet Biotech may not be able to obtain or maintain its desired price for the products it develops. Any product Facet Biotech introduces may not be considered cost effective relative to alternative therapies. As a result, adequate third-party reimbursement may not be available to enable Facet Biotech to obtain or maintain prices sufficient to realize an appropriate return on its investment in product development, should any of its development products be approved for marketing. Also, the trend towards managed health care in the United States and the concurrent growth of organizations such as health maintenance organizations, as well as legislative proposals to reform health care or reduce government insurance programs, may all result in lower prices, reduced reimbursement levels and diminished markets for Facet Biotech's development products. These factors will also affect the products that are marketed by Facet Biotech's collaborators and licensees. Facet Biotech cannot predict the likelihood, nature or extent of adverse government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If Facet Biotech is not able to maintain regulatory compliance, it might not be permitted to market its future products and its business could suffer.

Table of Contents

Facet Biotech must comply with extensive government regulations and laws.

Facet Biotech and Facet Biotech's collaboration partners are subject to extensive regulation by federal government, state governments, and the foreign countries in which it conduct its business.

In particular, Facet Biotech is subject to extensive and rigorous government regulation as a developer of drug products. For example, the FDA regulates, among other things, the development, testing, research, manufacture, record-keeping, labeling, storage, approval, quality control, adverse event reporting, advertising, promotions, sale and distribution of biotechnology products. Facet Biotech's product candidates are subject to extensive regulation by foreign governments. The regulatory review and approval process, which includes preclinical studies and clinical trials of each product candidate, may be lengthy, expensive and uncertain.

Facet Biotech must rely on its contract manufacturers and third-party suppliers for regulatory compliance and adhering to the FDA's current Good Manufacturing Practices ("cGMP") requirements. If these manufacturers or suppliers fail to comply with applicable regulations, including FDA pre-or post-approval inspections and cGMP requirements, then the FDA could sanction Facet Biotech. These sanctions could include fines, injunctions, civil penalties,

failure of regulatory authorities to grant marketing approval of Facet Biotech's products, delay, suspension or withdrawal of approvals, license revocation, product seizures or recalls, operational restrictions or criminal prosecutions, any of which could significantly and adversely affect Facet Biotech's business.

If Facet Biotech's operations are found to violate any applicable law or other governmental regulations, it may be subject to civil and criminal penalties, damages and fines. Similarly, if the hospitals, physicians or other providers or entities with which Facet Biotech does business are found non-compliant with applicable laws, they may be subject to sanctions, which could also have a negative impact on Facet Biotech. The risk of Facet Biotech being found in violation of these laws is increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations, and additional legal or regulatory change. Any action against Facet Biotech for violation of these laws, even if Facet Biotech successfully defends against it, could cause Facet Biotech to incur significant legal expenses, divert its management's attention from the operation of its business and damage its reputation.

Facet Biotech expends a significant amount on compliance efforts and such expenses are unpredictable and may adversely affect its results. Changing laws, regulations and standards may also create uncertainty and increase insurance costs. Facet Biotech is committed to compliance and maintaining high standards of corporate governance and public disclosure. As a result, Facet Biotech intends to invest all reasonably necessary resources to comply with evolving standards, and this investment may result in increased general and administrative expenses and a diversion of management time and attention from revenue-generating activities to compliance activities

Facet Biotech may be unable to obtain or maintain regulatory approval for its products.

Even if the FDA grants Facet Biotech marketing approval for a product, the FDA may impose post-marketing requirements, such as:

- labeling and advertising requirements, restrictions or limitations, such as the inclusion of warnings, precautions, contra-indications or use limitations that could have a material impact on the future profitability of Facet Biotech's product candidates;
- adverse event reporting;
- testing and surveillance to monitor Facet Biotech's product candidates and their continued compliance with regulatory requirements; and
- inspection of products and manufacturing operations and, if any inspection reveals that the product or operation is not in compliance, prohibiting the sale of all products, suspending manufacturing or withdrawing market clearance.

The discovery of previously unknown problems with Facet Biotech's product candidates, including adverse events of unanticipated severity or frequency, may result in restrictions of the products, including withdrawal from manufacture. Additionally, certain material changes affecting an approved product such as manufacturing changes or additional labeling claims are subject to further FDA review and approval. The FDA may revisit and change its prior determination with regard

Table of Contents

to the safety or efficacy of Facet Biotech's products and withdraw any required approvals after it obtains them. Even prior to any formal regulatory action requiring labeling changes or affecting manufacturing, Facet Biotech could voluntarily decide to cease the distribution and sale or recall any of its future products if concerns about their safety and efficacy develop.

As part of the regulatory approval process, Facet Biotech or its contractors must demonstrate the ability to manufacture the pharmaceutical product to be approved. Accordingly, the manufacturing process and quality control procedures are required to comply with the applicable FDA cGMP regulations and other regulatory requirements. Good manufacturing practice regulations include requirements relating to quality control and quality assurance as well as the corresponding maintenance of records and documentation. Manufacturing facilities must pass an inspection by the FDA before initiating commercial manufacturing of any product. Pharmaceutical product manufacturing establishments are also subject to inspections by state and local authorities as well as inspections by authorities of other countries. To supply pharmaceutical products for use in the United States, foreign manufacturing establishments must comply with these FDA approved guidelines. These foreign manufacturing establishments are subject to periodic inspection by the FDA or by corresponding regulatory agencies in these countries under reciprocal agreements with the FDA. The FDA enforces post-marketing regulatory requirements, such as cGMP requirements, through periodic unannounced inspections. Failure to pass an inspection could disrupt, delay or shut down Facet Biotech's manufacturing operations. Although Facet Biotech does not have currently marketed products, the foregoing considerations would be important to its future selection of contract manufacturers.

Facet Biotech's collaborators, licensees and Facet Biotech also are subject to foreign regulatory requirements regarding the manufacture, development, marketing and sale of pharmaceutical products and, if the particular product is manufactured in the United States, FDA and other U.S. export provisions. These requirements vary widely in different countries. Difficulties or unanticipated costs or price controls may be encountered by Facet Biotech or Facet Biotech's licensees or marketing collaborators in its respective efforts to secure necessary governmental approvals. This could delay or prevent Facet Biotech, Facet Biotech's licensees or Facet Biotech's marketing collaborators from marketing potential pharmaceutical products.

Further, regulatory approvals may be withdrawn if Facet Biotech does not comply with regulatory standards or if problems with Facet Biotech's products occur. In addition, under a BLA, the manufacturer continues to be subject to facility inspection and the applicant must assume responsibility for compliance with applicable pharmaceutical product and establishment standards. If Facet Biotech fails to comply with applicable FDA and other regulatory requirements at any stage during the regulatory process, it may be subject to sanctions, including:

- warning letters;
- clinical holds;
- product recalls or seizures;
- changes to advertising;

- injunctions;
- refusal of the FDA to review pending market approval applications or supplements to approval applications;
- total or partial suspension of product manufacturing, distribution, marketing and sales;
- civil penalties;
- withdrawals of previously approved marketing applications; and
- criminal prosecutions.

Facet Biotech relies on sole source, third parties to manufacture its products.

Facet Biotech does not have the capability to manufacture any of its development-stage products. Facet Biotech relies upon third parties, including Biogen Idec and Genmab, for its manufacturing requirements, and it will be reliant on BMS for the manufacture of elotuzomab. In connection with our recent sale of our manufacturing facility to Genmab, we entered into a supply agreement with Genmab that has an initial term that expires in March 2010. In connection with the Spin-off, we

assigned such supply agreement to Facet Biotech. If Facet Biotech experiences supply problems with its manufacturing partners, there may not be sufficient supplies of its development-stage products for it to meet clinical trial demand, in which case its operations and results could suffer.

Facet Biotech's products must be manufactured in FDA-approved facilities and the process for qualifying and obtaining approval for a manufacturing facility is time-consuming. The manufacturing facilities on which Facet Biotech relies will be subject to ongoing, periodic unannounced inspection by the FDA and state agencies to ensure compliance with good manufacturing practices.

If Facet Biotech's relationship with Genmab or Biogen Idec were to terminate unexpectedly or on short notice or expire without being renewed, its ability to meet clinical trial demand for its development-stage products could be adversely affected while it qualifies a new manufacturer for that product and its operations and future results could suffer. In addition, Facet Biotech may need to expend significant amounts to qualify a new manufacturer and transfer technology to the new manufacturer which would also adversely affect its results of operations.

Product supply interruptions, whether as a result of regulatory action or the termination of a relationship with a manufacturer, could significantly delay clinical development of Facet Biotech's potential products, reduce third-party or clinical researcher interest and support of proposed clinical trials, and possibly delay commercialization and sales of these products.

Facet Biotech's ability to file for, and to obtain, regulatory approvals for its products, as well as the timing of such filings, will depend on the abilities of the contract manufacturers it engages. Facet Biotech or Facet Biotech's contract manufacturers may encounter problems with the following:

- production yields;
- quality control and assurance;
- availability of qualified personnel;
- availability of raw materials;
- adequate training of new and existing personnel;
- ongoing compliance with standard operating procedures;
- ongoing compliance with FDA regulations;
- production costs; and
- development of advanced manufacturing techniques and process controls.

Manufacturing changes may result in delays in obtaining regulatory approval or marketing for Facet Biotech's products.

If Facet Biotech makes changes in the manufacturing process, it may be required to demonstrate to the FDA and corresponding foreign authorities that the changes have not caused the resulting drug material to differ significantly from the drug material previously produced. Further, any significant manufacturing changes for the production of Facet Biotech's product candidates could result in delays in development or regulatory approval or in the reduction or interruption of commercial sales of its product candidates. Facet Biotech or Facet Biotech's contract manufacturers' inability to maintain manufacturing operations in compliance with applicable regulations within its planned time and cost parameters could materially harm its business, financial condition and results of operations.

Facet Biotech has made manufacturing changes and is likely to make additional manufacturing changes for the production of its products currently in clinical development. These manufacturing changes or an inability to immediately show comparability between the older material and the newer material after making manufacturing changes could result in delays in development or regulatory approvals or in reduction or interruption of commercial sales and could impair Facet Biotech's competitive position.

Facet Biotech may be subject to product liability claims, and its insurance coverage may not be adequate to cover these claims.

Facet Biotech faces an inherent business risk of exposure to product liability claims in the event that the use of products during research and development efforts or after commercialization results in adverse effects. This risk exists even with respect to any products that receive regulatory approval for commercial sale. While Facet Biotech maintains liability insurance for its products, it may not be sufficient to satisfy any or all liabilities that may arise. Also, adequate insurance coverage may not be available in the future at acceptable cost, if at all.

Facet Biotech maintains product liability insurance for claims arising from the use of its product candidates in clinical trials prior to FDA approval at levels that it believes are appropriate for similarly situated companies in the biotechnology industry. However, Facet Biotech may not be able to maintain its existing insurance coverage or obtain additional coverage on commercially reasonable terms for the use of its other product candidates and products in the future. Also, Facet Biotech's insurance coverage and resources may not be sufficient to satisfy liability resulting from product liability claims, which could materially harm its business, financial condition or results of operations. While Facet Biotech believes its product liability insurance is reasonable, it cannot assure the investors that this coverage will be adequate to protect it in the event of a claim.

Facet Biotech may incur significant costs in order to comply with environmental regulations or to defend claims arising from accidents involving the use of hazardous materials.

Facet Biotech is subject to federal, state and local laws and regulations governing the use, discharge, handling and disposal of materials and wastes used in its operations. As a result, it may be required to incur significant costs to comply with these laws and regulations. Facet Biotech cannot eliminate the risk of accidental contamination or injury from these materials. In the event of such an accident, Facet Biotech could be held liable for any resulting damages and incur liabilities, which exceed its resources. In addition, Facet Biotech cannot predict the extent of the adverse effect on its business or the financial and other costs that might result from any new government requirements arising out of future legislative, administrative or judicial actions.

Facet Biotech may not receive the contingent consideration related to the sale of the product rights to new formulations of Cardene® and the ularitide development-stage product under its asset purchase agreement with EKR.

In March 2008, we sold the product rights to the marketed product Cardene, new formulations of Cardene IV and the ularitide development-stage product, among other assets, to EKR. The transaction included contingent consideration of up to $85 million in development and sales milestones related to the new Cardene IV formulations, as well as royalty payments related to sales of the new Cardene IV formulations and ularitide, $25 million of which we received in August 2008. In connection with the Spin-off, we assigned to Facet Biotech the asset purchase agreement under which EKR is obligated to pay the remaining $60 million in milestone payments and royalty payments dependent upon certain contingencies, including future net sales. The future net sales of Cardene and Facet Biotech's receipt of the contingent consideration, will depend significantly on competition in the market served by Cardene. In September 2008, products were introduced by the Medicines Company and by Teva Pharmaceuticals that compete with Cardene, and Facet Biotech cannot assure the investors that these development and sales milestones will be met and that Facet Biotech will be able to receive any of the $60 million in remaining milestone payments or any of the royalty payments based on future net sales.

The distribution of Facet Biotech's common stock will not qualify for tax-free treatment, and thus the receipt of all or a portion of Facet Biotech's common stock may be taxable to our stockholders as a dividend.

The distribution of Facet Biotech's common stock will not qualify for tax-free treatment, and thus receipt of all or a portion of Facet Biotech's common stock may be taxable as a dividend. An amount equal to the fair market value of Facet Biotech's common stock received by our stockholders (including any fractional shares deemed to be received) on the distribution date will be treated as a dividend to the extent of their ratable share of any 2008 earnings and profits of PDL with the excess treated as a non-taxable return of capital to the extent of their tax basis in PDL common stock and any remaining excess treated as capital gain.

Although we will be ascribing a value to Facet Biotech shares in this distribution for tax purposes, this valuation is not binding on the Internal Revenue Service ("IRS") or any other tax authority. These taxing authorities could ascribe a higher valuation to Facet Biotech's shares, particularly if its stock trades at prices significantly above the value ascribed to Facet Biotech's shares by us in the period following the distribution. Our stockholders should consult their own tax advisor as to the particular tax consequences of the distribution to them.

There is no existing market for Facet Biotech's common stock and a trading market that will provide investors with adequate liquidity and a trading market may not develop for its common stock. In addition, once its common stock begins trading, the market price for its shares may fluctuate widely.

There is currently no public market for Facet Biotech's common stock. It is anticipated that on or shortly after the record date for the distribution, trading of shares of Facet Biotech's common stock will begin on a "when-issued" basis and will continue up to either the distribution date or the first trading date after the distribution date, after which "regular way" trading of Facet Biotech's common stock will begin. However, there can be no assurance that an active trading market for Facet Biotech's common stock will develop as a result of the distribution or be sustained in the future.

Market prices for securities of biotechnology companies have been highly volatile, and we expect such volatility to continue for the foreseeable future, so that investment in Facet Biotech's securities involves substantial risk. Additionally, the stock market from time to time has experienced significant price and volume fluctuations unrelated to the operating performance of particular companies. The following are some of the factors that may have a significant effect on the market price of Facet Biotech's common stock:

- developments or disputes as to patent or other proprietary rights;
- approval or introduction of competing products and technologies;

- results of clinical trials;
- failures or unexpected delays in timelines for its potential products in development, including the obtaining of regulatory approvals;
- delays in manufacturing or clinical trial plans;
- fluctuations in its operating results;
- market reaction to announcements by other biotechnology or pharmaceutical companies;
- initiation, termination or modification of agreements with its collaborators or disputes or disagreements with collaborators;
- loss of key personnel;
- litigation or the threat of litigation;
- public concern as to the safety of drugs developed by Facet Biotech;
- sales of its common stock held by insiders; and
- comments and expectations of results made by securities analysts or investors.

If any of these factors causes Facet Biotech to fail to meet the expectations of securities analysts or investors, or if adverse conditions prevail or are perceived to prevail with respect to its 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 Facet Biotech could result in substantial costs and a diversion of management's attention and resources.

Substantial sales of common stock may occur in connection with the distribution of Facet Biotech common stock, which could cause Facet Biotech's stock price to decline.

The shares of Facet Biotech's common stock that we intend to distribute to our stockholders generally may be sold immediately in the public market. Although Facet Biotech has no actual knowledge of any plan or intention on the part of any 5 percent or greater stockholder to sell its common stock following the distribution, we believe that many current PDL stockholders are particularly focused on the value of the royalty business. Therefore, it is possible that some PDL

Table of Contents

stockholders, including possibly some of Facet Biotech's large stockholders, will sell its common stock received in the distribution. In addition, PDL stockholders may sell Facet Biotech's stock because its business profile or market capitalization as an independent company does not fit their investment objectives. The sales of significant amounts of Facet Biotech's common stock or the perception in the market that this will occur may result in the lowering of the market price of its common stock.

ITEM 6. EXHIBITS

10.1	Offer Letter between PDL BioPharma, Inc. and Faheem Hasnain effective September 24, 2008 (incorporated by reference to Exhibit 10.1 on Form 8-K filed September 24, 2008)
10.2	PDL BioPharma, Inc. Retention and Severance Plan for Chief Executive Officer. (incorporated by reference to Exhibit 10.2 on Form 8-K filed September 24, 2008)
10.3	Separation Agreement and General Release dated September 19, 2008, with Dr. Richard Murray.
10.4	Additional Retention Bonus Agreement between the Company and Andrew Guggenhime effective July 11, 2008
10.5	Additional Retention Bonus Agreement between the Company and Dr. Richard Murray effective July 11, 2008
10.6	Additional Retention Bonus Agreement between the Company and Dr. Mark McCamish effective July 11, 2008
10.7	Collaboration Agreement dated August 18, 2008 with Bristol-Myers Squibb Company
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act.
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act, as amended
32.1	Certification by the Chief Executive Officer and the Chief Financial Officer of PDL BioPharma, Inc., as required by Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350).

Table of Contents

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: November 7, 2008

PDL BioPharma, Inc.
(Registrant)

/s/ Faheem Hasnain
Faheem Hasnain
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Andrew L. Guggenhime
Andrew L. Guggenhime
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

/s/ Herb Cross
Herb Cross
Corporate Controller
(Principal Accounting Officer)

PDL BioPharma, Inc.
1400 Seaport Blvd.
Redwood City, CA 94063

CONFIDENTIAL SEPARATION AGREEMENT AND GENERAL RELEASE

This Confidential Separation Agreement and General Release (this "Agreement") is made and entered into by and between Richard Murray, an individual ("Dr. Murray"), and PDL BioPharma, Inc., a Delaware corporation (the "Company"), and is effective as of the Effective Date set forth below.

1. Employee Status. Dr. Murray's employment with the Company ended effective September 5, 2008 (the "Termination Date").

2. Purpose of Release. By this Agreement, the parties intend to fully and finally resolve all issues, claims and obligations between them and provide Dr. Murray with certain benefits that Dr. Murray would not otherwise be entitled to receive upon termination of employment with the Company. The parties have entered into this Agreement based on the promises and covenants contained in this Agreement. The benefits offered in this Agreement are not intended to create a practice or policy of the Company, and will only be made available to Dr. Murray if he signs and returns this Agreement as provided in Section 15.

3. Consideration. In exchange for Dr. Murray entering into this Agreement and his cooperation with the smooth transition of his duties, and provided Dr. Murray does not revoke this Agreement pursuant to Section 14.7 or otherwise, PDL will provide to Dr. Murray the consideration set forth in this Section 3.

3.1 Separation Payment. PDL will pay to Dr. Murray a lump sum payment equal to Two Hundred Twenty One Thousand, Two Hundred Twenty-Five Dollars ($221,225) which equals six months of Dr.Murray's annual gross base pay, less withholding for taxes and other authorized or mandatory withholdings, which would be paid within 10 days following the Effective Date.

3.2 2008 Bonus Plan Related Payment. A lump sum payment equal to the sum of One Hundred Ten Thousand, Six Hundred Thirteen Dollars ($110,613), which equals six months of Dr. Murray's annual bonus, at 100% of target, less withholding for taxes and other authorized or mandatory withholdings, which would be paid within 10 days following the Effective Date.

3.3 Retention Bonus Payment. A lump sum payment equal to Eighty-One Thousand Dollars ($81,000), less withholding for taxes and other authorized or mandatory withholdings, which would be paid within 10 days following the Effective Date.

3.4 COBRA Premiums. If Dr. Murray timely elects continued health coverage, and provided that this Agreement shall have become effective, the Company will pay the health insurance premiums for COBRA coverage under the Company's plans on his behalf for the first twelve (12) months. In the event Dr. Murray is entitled to continued COBRA coverage following the conclusion of the foregoing 12-month period, the full cost of premiums for such continued coverage, if elected, shall be borne by Dr. Murray.

3.5 Outplacement Services. The Company will provide to Dr. Murray, at no cost to Murray, up to six (6) continuous months of outplacement services with Right Management Associates, provided that Dr. Murray activates such services on or before November 5th, 2008.

3.6 Amendment to Options. The company will enter into the Amendment to Stock Option Agreements in the form of Exhibit A.

4. No Independent Obligation to Pay Consideration. Dr. Murray agrees and acknowledges that the payments and benefits set forth in Section 3 above are amounts in excess of anything to which Dr. Murray is otherwise entitled and that his execution and non-revocation of this Agreement are material conditions to the Company's obligation to make the payments and provide the benefits set forth in Section 3.

5. No Release of Obligation to Pay Wages Due. Dr. Murray understands that regardless of whether or not he executes this Agreement, the Company has paid him for any and all wages due for time worked through the Termination Date, including any unused vacation and personal

days as calculated under the Company's policies addressing accrual of vacation or personal time off. Dr. Murray further understands that his decision to execute this Agreement will not affect his vested rights, if any, in his account balances in the Company's 401k plan.

6. Waiver of Future Employment. Dr. Murray agrees he has no right to and hereby waives any right of future employment with the Company or any affiliates of the Company.

7. Employment References. Should any prospective employer of Dr. Murray seek a job reference for him with respect to his employment with the Company, Dr. Murray agrees to direct such person or persons to the Company's Director of Human Resources or her designee, who shall provide only the dates of Dr. Murray's employment with the Company and the last Company position he held. Dr. Murray agrees that the Company may make the statements listed in Exhibit C to prospective employers that may contact the Company to seek a job reference for him with respect to his employment with the Company.

8. Confidentiality of Company Information. Dr. Murray acknowledges agrees and warrants that he will continue to maintain the confidentiality of all confidential and proprietary information of the Company and shall, except as provided in Section 9, abide by the terms and conditions of the Employee Agreement Regarding Proprietary Information and Inventions between him and the Company, the form of which is attached hereto as Exhibit B. Dr. Murray further warrants and represents that he will return to the Company all confidential and proprietary information in his custody or possession no later than the Termination Date. He further agrees that if he discovers that he has retained any tangible or electronically stored property of the Company, he shall promptly notify the Company of such in writing and will take reasonable steps in accordance with the Company's instructions to return such property to the Company and, with respect to electronically stored data of the Company, delete all such data and related files. The provisions of this paragraph shall remain in effect at all times including after the Termination Date.

9. Confidentiality of Release. Dr. Murray warrants and agrees, absolutely and unconditionally, that he has and will keep the terms and conditions of this Agreement, the

negotiations leading up to the execution of this Agreement and the amount of money and consideration he is entitled to receive pursuant to the terms and conditions of this Agreement completely confidential, with the exception that he may disclose or have disclosed its terms and/or the amount of money and/or consideration he is receiving pursuant to this Agreement in confidence to his spouse; attorneys and tax preparers with a need to know such information; and governmental authorities, as may be required by law. In no event shall Dr. Murray disclose the aforementioned information to any current or former employee of the Company. Before making a disclosure to one of the permitted individuals identified above, Dr. Murray shall advise him/her of the confidential nature of the information and obtain that person's consent not to further disclose the information. Notwithstanding the foregoing, Dr. Murray acknowledges that the Company may be required to publicly disclose the terms and conditions of this Agreement pursuant to rules and regulations promulgated by the Securities and Exchange Commission, provided, however, that after such disclosure by the Company, Dr. Murray may disclose the terms and conditions of this Agreement to the extent of the Company's public disclosure.

10. No Admission of Liability. Nothing in this Agreement or in the payment of the benefits described in this Agreement shall be construed as an admission by the Company of any liability of any kind to Dr. Murray or anyone.

11. Non-Disparagement. Dr. Murray agrees that he will not make any disparaging or defamatory statements about the Company, its affiliates, or their respective managers, directors, officers, employees, agents or representatives to anyone in the future, unless such statements are made truthfully in response to a subpoena or other legal process.

12. Non-Solicitation. Dr. Murray hereby agrees that for a period of one year following the Termination Date, he will not directly or indirectly solicit, entice or encourage any then current employee of the Company or any successor of the Company to work for or consult with any individual or entity outside of the Company or any successor company, provided, however, that the term "indirect" does not include a solicitation set forth in a periodical of general circulation.

This provision supersedes and replaces Section 2 of the Employee Agreement Regarding Proprietary Information and Inventions.

13. Release.

13.1 Dr. Murray hereby agrees that all rights under section 1542 of the Civil Code of the State of California ("Civil Code section 1542") and any similar federal, state and/or local laws are hereby waived by him. Civil Code section 1542 provides as follows:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

13.2 Dr. Murray agrees that nothing in this Agreement is to be construed to interfere with Dr. Murray's ability to engage in any activity protected by the Sarbanes-Oxley Act, 18 U.S.C.§ 1514A, or from filing a charge or complaint with or from participating in an investigation or proceeding conducted by the EEOC, NLRB, or any other federal, state, or local agency charged with the enforcement of any employment laws, although by signing this release he acknowledges that he is waiving his right to individual relief, including but not limited to monetary relief, based on claims asserted in such a charge or complaint. Dr. Murray agrees that nothing in this release applies to any claims or rights that might arise after the date he signs this release, the consideration for this release, and any claims that as a matter of law cannot be waived.

13.3 Notwithstanding the provisions of Civil Code section 1542 or any similar federal, state and/or local laws, in order to provide a complete and full release, Dr. Murray hereby irrevocably and unconditionally releases and forever discharges the Company and each and all of its affiliates, and each of their respective officers, agents, directors, stockholders, managers, insurers, employees and representatives as well as each of their heirs, successors and assigns(all of which are collectively referred to herein as the "Releasees"), from all claims,

issues and obligations, known and unknown, suspected and unsuspected, statutory and nonstatutory, which Dr. Murray at any time heretofore had or claimed to have or which he may have or claim to have regarding events that have occurred prior to the time he executes this Agreement, including, but not limited to, claims, issues and/or obligations in any way connected with or based on Dr. Murray's employment with the Company or the termination of that employment. This release includes but is not limited to releasing all claims Dr. Murray might have under all state, federal and local laws pertaining to discrimination, harassment, retaliation, the federal Workers Adjustment and Retraining Notification Act, the Employee Retirement Income Security Act of 1974, the California Fair Employment and Housing Act, the California Unfair Practices Act, the California Labor Code, family and medical leave laws, wage and hour laws, disability laws, civil rights laws, state and federal securities laws, as well as laws pertaining to claims of or for emotional distress, fraud, invasion of privacy, defamation, breach of contract, breach of covenant of good faith and fair dealing, as well as equal pay laws and laws pertaining to wrongful discharge. It is expressly understood by Dr. Murray that among the various rights and claims being waived in this release are those arising under the Age Discrimination in Employment Act of 1967 and the Older Workers Benefit Protection Act.

13.4 Dr. Murray covenants to refrain from, directly or indirectly, threatening, asserting or maintaining any claim, arbitration, litigation or other similar proceeding or commencing, instituting or causing to be commenced any Claim of any kind against any Releasee (each, a "Claim"), based upon any matters released by this Agreement, except as provided in Section 13.2 above.

13.5 Dr. Murray represents that he has no Claims of any kind (including workers' compensation claims) presently pending, nor any present intent to file a Claim of any kind after the execution of this Agreement, against any of the Releasees. Dr. Murray further represents that he does not possess any claims under the federal Family and Medical Leave Act and/or the California Family Rights Act or for workers' compensation benefits. Dr. Murray agrees that he

shall not, at any time in the future, discuss, encourage or voluntarily assist or cooperate in the prosecution of any Claims against any of the Releasees, except as may be required by law.

13.6 Dr. Murray represents and warrants that he has not assigned or transferred to any person or entity any Claim released by this Agreement and agrees to indemnify and hold harmless the Releasees from and against any and all Claims based on, arising out of or connected with any such transfer or assignment.

13.7 Dr. Murray acknowledges that he or his representatives may hereafter discover claims or facts in addition to or different from those that he now knows or believes to exist with respect to the subject matter of this Agreement, but that it is Dr. Murray 's intention in executing this Agreement and in receiving the consideration called for by this Agreement to fully, finally and forever settle and release all matters identified below, to the fullest extent permitted by law. In furtherance of this intention, the release herein granted shall be and remain in effect notwithstanding the discovery of any such additional or different claim or fact.

14. Release of Age Discrimination Claims. Dr. Murray understands that this Agreement includes a release of any claims he might bring pursuant to the federal Age Discrimination in Employment Act (ADEA) and that this Agreement is intended to comply with federal law provisions necessary to waive such claims. This agreement is also intended to satisfy the requirements of the Older Workers' Benefit Protection Act, 29 U.S.C. sec 626 (f) Dr. Murray acknowledges that he:

14.1 Has carefully read and fully understands all of the provisions of this Agreement;

14.2 Is, through this Agreement, releasing the Company and its officers, agents, directors, supervisors, employees and representatives, and their successors and assigns and all persons acting by, through, under or in concert with any of them from any and all claims he may have against them;

14.3 Knowingly and voluntarily agrees to all of the terms set forth in this Agreement;

14.4 Knowingly and voluntarily intends to be legally bound by the same;

14.5 Has been advised to and has had the opportunity to consult with and obtain the advice of legal counsel of his choice prior to executing this Agreement;

14.6 Has received this Agreement on August 14, 2008 and that Dr. Murray had a period of twenty-one (21) days from that date to consider and execute this Agreement and, if Dr. Murray has chosen to execute this Agreement in less than twenty-one (21) days from the time he was originally given this Agreement, he hereby acknowledges that he has done so voluntarily and knowingly; and

14.7 May, within seven (7) calendar days after he has executed this Agreement, revoke his assent to this Agreement by notifying Gwen Carscadden, Director, Human Resources, in writing, at PDL BioPharma, Inc., 1400 Seaport Boulevard, Redwood City, California 94063. If this Agreement is revoked, it shall become null and void and the Company shall have no obligation hereunder including to pay, deliver or provide any of the consideration identified in Section 3. This Agreement will only become effective and enforceable upon the expiration of the foregoing seven (7) day revocation period, provided that Dr. Murray has not revoked this Agreement (the "Effective Date").

15. Execution and Effectiveness. Under no circumstance may Dr. Murray execute this Agreement prior to September 5, 2008, the Termination Date. In order for this Agreement to be effective, Dr. Murray (1) must execute and date this Agreement in the spaces provided at its end after the Termination date, initial the lower right-hand corner of each page of this Agreement and deliver an executed, dated and initialed original copy of this Agreement to Gwen

Carscadden, Director of Human Resources of the Company (or her designee) on or after his Termination Date but before September 12, 2008 and (2) must not revoke this Agreement during the period in which it may be revoked as set forth in Section 13.7.

16. Entire Agreement. This Agreement sets forth the entire understandings between the parties hereto, and supersedes any other statements, agreements or understandings between the parties whatsoever, including, but not limited to, any prior offer of employment with the

Company. In executing this Agreement, neither the Company nor Dr. Murray has relied upon any representations by or on behalf of the other party that are not set forth in this Agreement.

17. Severability. If any term, clause or provision of this Agreement is construed to be or adjudged invalid, void or unenforceable, such term, clause of provision will be deemed amended, limited or stricken to the extent necessary to permit the maximum enforceability or validation of the term(s), and the remaining terms, clauses and provisions will remain in full force and effect to the fullest extent permitted by law.

18. Modification. This Agreement may be modified only in a writing signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto or the respective heirs, assigns, legal representatives, and successors in interest.

19. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the state of California, without reference to the conflicts of law principles thereof.

PLEASE READ THIS RELEASE CAREFULLY. IT INCLUDES A RELEASE OF ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, YOU MAY HAVE IN CONNECTION WITH YOUR EMPLOYMENT WITH PDL BIOPHARMA, INC., INCLUDING THE TERMINATION OF YOUR EMPLOYMENT.

/s/ Richard Murray	September 19, 2008
Richard Murray, Ph.D.	DATE

PDL BioPharma, Inc.

/s/ Andrew Guggenhime	September 19, 2008
Andrew Guggenhime SVP and Chief Financial Officer	DATE

Exhibit A

Amendment to Stock Option Agreements

Exhibit B

Employee Agreement Regarding Proprietary Information and Inventions
(See Attached)

Exhibit C

Authorized Reference Check Statement

Dr. Richard Murray joined PDL in April of 2003 and resigned his duties in September 2008. He joined PDL as VP of Research, was promoted to SVP & CSO, then to EVP & CSO during his tenure at PDL. He served on the Board of Directors from February 2007 to May 2008. During his tenure and under his leadership:

- The strategy, implementation and FDA approval of new formulations of the anti-hypertensive drug Cardene was realized

- A novel antibody drug program, volociximab, was brought into PDL from the acquisition of Eos biotechnology (where Dr Murray was a co-founder) and entered clinical studies. This antibody represents one of two products that are currently part of a co-development collaboration with Biogen-Idec.

- A novel antibody drug program, Elotuzumab was discovered and translated into a clinical program. Elotuzumab, and an additional novel pre-clinical program, PDL241, formed the basis of a co-development collaboration with BMS.

- A novel antibody program, PDL192 was discovered and translated into clinical studies.

- Multiple CMC IND amendments were submitted and accepted by the FDA for site and scale changes to antibody manufacturing processes.

Exhibit 10.4

PDL BioPharma, Inc.
1400 Seaport Blvd.
Redwood City, CA 94063

July 11, 2008

Andrew Guggenhime
[Address]
[City, State zip]

Re: Additional Retention Bonuses

Dear Andrew:

We view your contributions as an officer of PDL BioPharma, Inc. ("PDL") as important to our efforts to transition to a streamlined biotech company and our long-term success. Acknowledging this, the Compensation Committee of the Board of Directors of PDL recently approved additional retention bonuses for you.

Retention Bonuses

Subject to your continued employment in good standing with PDL through the applicable bonus dates (each, a "Bonus Date") and the terms and conditions of this letter agreement (this "Letter Agreement"), you will earn, and PDL will pay you, the "Retention Bonuses" set forth below:

- July 31, 2008 - $25,000
- October 31, 2008 - $25,000
- January 31, 2009 - $25,000

Subject to the terms and conditions of this Letter Agreement, each Retention Bonus would be paid with your first regular paycheck following the applicable Bonus Date. These Retention Bonuses are in addition to the retention bonuses previously awarded to you by the Compensation Committee pursuant to the Letter Agreement between you and PDL dated May 2, 2008 (the "First Retention Agreement").

Notwithstanding the foregoing or anything else in this Letter Agreement, if prior to a Bonus Date PDL terminates your employment without "Cause" (as that term is defined in PDL's 2005 Equity Incentive Plan (the "2005 Plan")), then on the date of such employment termination you would, subject to the last sentence in this paragraph, earn a prorated amount of the portion of the next Retention Bonus that you otherwise would have earned. If such employment termination occurs before October 31, 2008, the foregoing proration would be based on the number of months between June 19, 2008 and

---

such termination date, rounded up to the nearest whole month. Otherwise, such proration would be based on the number of months between the last Bonus Date and the date of such termination, rounded up to the nearest whole month. Any portion of your Retention Bonuses that would be payable pursuant to this paragraph would be earned provided that you sign, and do not revoke, PDL's form of release agreement ("Release Agreement"), and we would pay such portion of your Retention Bonus promptly after the effective date of your Release Agreement and in any event, provided that your Release Agreement has become effective, within 60 days after your termination date.

Notwithstanding the terms of PDL's Executive Retention and Severance Plan (the "ERSP") or the preceding paragraph, should your employment be terminated without Cause following a "Change in Control" (as that term is defined in and determined under PDL's 2005 Equity Incentive Plan) and prior to December 31, 2009 and provided you sign, and do not revoke, the Release Agreement, we would pay you the full amount of your Retention Bonuses that you have not yet earned promptly after the effective date of your Release Agreement and, in any event, provided that your Release Agreement has become effective, within 60 days of the date of your employment termination.

Notwithstanding the foregoing or anything else in this Letter Agreement, you agree that you will not earn any portion of your Retention Bonuses pursuant to either of the two preceding paragraphs and this Letter Agreement will immediately terminate if PDL terminates your employment in connection with the transfer of PDL's biotechnology-related assets to a wholly owned subsidiary of PDL ("NewBio"), provided, that NewBio offers you a comparable employment position and agrees to provide you a retention bonus (or retention bonuses if such employment termination occurs before June 30, 2009) on terms and conditions consistent with this Letter Agreement.

If PDL terminates your employment for Cause or you voluntarily terminate your employment, then you would not receive any portion of your Retention Bonuses that you have not earned.

You agree that, subject to the terms of the ERSP, none of your Retention Bonuses would be "grossed up" and will be subject to all applicable payroll withholdings and deductions.

Additional Provisions

Notwithstanding anything contained in this Letter Agreement to the contrary, no amount payable pursuant to this Letter Agreement on account of your termination of employment which constitutes a "deferral of compensation" within the meaning of the Treasury Regulations issued pursuant to Section 409A of the Internal Revenue Code (the "Section 409A Regulations") will be paid unless and until you have incurred a "separation from service" within the meaning of the Section 409A Regulations. Furthermore, if you are a "specified employee" within the meaning of the Section 409A Regulations as of the date of your separation from service, no amount that constitutes a deferral of compensation

which is payable on account of your separation from service will paid to you before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of your separation from service or, if earlier, the date of your death following such separation from service. All such amounts that would, but for this paragraph, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

PDL intends that income provided to you pursuant to this Letter Agreement will not be subject to taxation under Section 409A of the Internal Revenue Code. The provisions of this Letter Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. **However, PDL does not guarantee any particular tax effect for income provided to you pursuant to this letter.** In any event, except for PDL's responsibility to withhold applicable income and employment taxes from compensation paid or provided to you, PDL will not be responsible for the payment of any applicable taxes incurred by you on compensation paid or provided to you pursuant to this Letter Agreement.

Except as otherwise provided in this Letter Agreement, all of the other terms and conditions of your employment relationship with PDL will continue to apply. This Letter Agreement is not intended change the "at will" nature of your employment with PDL. You would continue to be free to resign at any time, just as PDL would be free to terminate your employment at any time, with or without cause.

The terms of this Letter Agreement, when accepted by you, supersede, with the exception of the ERSP and the First Retention Agreement, all prior arrangements, whether written or oral, and understandings regarding the subject matter of this Letter Agreement and, except as provided in the ERSP, shall be the exclusive agreement for the determination of any payments and benefits you are due upon the events described in this letter agreement.

On behalf of the Compensation Committee and the Board of Directors I would like to thank you for your many contributions and for your continued support and dedication to PDL.

To indicate your acceptance of the terms of this Letter Agreement, please sign and date this Letter Agreement in the space provided below and return it to Gwen Carscadden, Human Resources Department by June 30, 2008.

Sincerely,

Mark McCamish
Senior Vice President & Chief Medical Officer

AGREED AND ACKNOWLEDGED:

/s/ Andrew Guggenhime
Andrew Guggenhime

7/15/08
Date

PDL BioPharma, Inc.
1400 Seaport Blvd.
Redwood City, CA 94063

July 11, 2008

Richard Murray
[Address]
[City, State zip]

Re: Additional Retention Bonuses

Dear Richard:

We view your contributions as an officer of PDL BioPharma, Inc. ("PDL") as important to our efforts to transition to a streamlined biotech company and our long-term success. Acknowledging this, the Compensation Committee of the Board of Directors of PDL recently approved additional retention bonuses for you.

Retention Bonuses

Subject to your continued employment in good standing with PDL through the applicable bonus dates (each, a "Bonus Date") and the terms and conditions of this letter agreement (this "Letter Agreement"), you will earn, and PDL will pay you, the "Retention Bonuses" set forth below:

- July 31, 2008 - $25,000
- October 31, 2008 - $25,000
- January 31, 2009 - $25,000

Subject to the terms and conditions of this Letter Agreement, each Retention Bonus would be paid with your first regular paycheck following the applicable Bonus Date. These Retention Bonuses are in addition to the retention bonuses previously awarded to you by the Compensation Committee pursuant to the Letter Agreement between you and PDL dated May 2, 2008 (the "First Retention Agreement").

Notwithstanding the foregoing or anything else in this Letter Agreement, if prior to a Bonus Date PDL terminates your employment without "Cause" (as that term is defined in PDL's 2005 Equity Incentive Plan (the "2005 Plan")), then on the date of such employment termination you would, subject to the last sentence in this paragraph, earn a prorated amount of the portion of the next Retention Bonus that you otherwise would have earned. If such employment termination occurs before October 31, 2008, the

---

foregoing proration would be based on the number of months between June 19, 2008 and such termination date, rounded up to the nearest whole month. Otherwise, such proration would be based on the number of months between the last Bonus Date and the date of such termination, rounded up to the nearest whole month. Any portion of your Retention Bonuses that would be payable pursuant to this paragraph would be earned provided that you sign, and do not revoke, PDL's form of release agreement ("Release Agreement"), and we would pay such portion of your Retention Bonus promptly after the effective date of your Release Agreement and in any event, provided that your Release Agreement has become effective, within 60 days after your termination date.

Notwithstanding the terms of PDL's Executive Retention and Severance Plan (the "ERSP") or the preceding paragraph, should your employment be terminated without Cause following a "Change in Control" (as that term is defined in and determined under PDL's 2005 Equity Incentive Plan) and prior to December 31, 2009 and provided you sign, and do not revoke, the Release Agreement, we would pay you the full amount of your Retention Bonuses that you have not yet earned promptly after the effective date of your Release Agreement and, in any event, provided that your Release Agreement has become effective, within 60 days of the date of your employment termination.

Notwithstanding the foregoing or anything else in this Letter Agreement, you agree that you will not earn any portion of your Retention Bonuses pursuant to either of the two preceding paragraphs and this Letter Agreement will immediately terminate if PDL terminates your employment in connection with the transfer of PDL's biotechnology-related assets to a wholly owned subsidiary of PDL ("NewBio"), provided, that NewBio offers you a comparable employment position and agrees to provide you a retention bonus (or retention bonuses if such employment termination occurs before June 30, 2009) on terms and conditions consistent with this Letter Agreement.

If PDL terminates your employment for Cause or you voluntarily terminate your employment, then you would not receive any portion of your Retention Bonuses that you have not earned.

You agree that, subject to the terms of the ERSP, none of your Retention Bonuses would be "grossed up" and will be subject to all applicable payroll withholdings and deductions.

Additional Provisions

Notwithstanding anything contained in this Letter Agreement to the contrary, no amount payable pursuant to this Letter Agreement on account of your termination of employment which constitutes a "deferral of compensation" within the meaning of the Treasury Regulations issued pursuant to Section 409A of the Internal Revenue Code (the "Section 409A Regulations") will be paid unless and until you have incurred a "separation from service" within the meaning of the Section 409A Regulations. Furthermore, if you are a "specified employee" within the meaning of the Section 409A Regulations as of the date

of your separation from service, no amount that constitutes a deferral of compensation which is payable on account of your separation from service will paid to you before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of your separation from service or, if earlier, the date of your death following such separation from service. All such amounts that would, but for this paragraph, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

PDL intends that income provided to you pursuant to this Letter Agreement will not be subject to taxation under Section 409A of the Internal Revenue Code. The provisions of this Letter Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. **However, PDL does not guarantee any particular tax effect for income provided to you pursuant to this letter.** In any event, except for PDL's responsibility to withhold applicable income and employment taxes from compensation paid or provided to you, PDL will not be responsible for the payment of any applicable taxes incurred by you on compensation paid or provided to you pursuant to this Letter Agreement.

Except as otherwise provided in this Letter Agreement, all of the other terms and conditions of your employment relationship with PDL will continue to apply. This Letter Agreement is not intended change the "at will" nature of your employment with PDL. You would continue to be free to resign at any time, just as PDL would be free to terminate your employment at any time, with or without cause.

The terms of this Letter Agreement, when accepted by you, supersede, with the exception of the ERSP and the First Retention Agreement, all prior arrangements, whether written or oral, and understandings regarding the subject matter of this Letter Agreement and, except as provided in the ERSP, shall be the exclusive agreement for the determination of any payments and benefits you are due upon the events described in this letter agreement.

On behalf of the Compensation Committee and the Board of Directors I would like to thank you for your many contributions and for your continued support and dedication to PDL.

To indicate your acceptance of the terms of this Letter Agreement, please sign and date this Letter Agreement in the space provided below and return it to Gwen Carscadden, Human Resources Department by June 30, 2008.

Sincerely,

Andrew Guggenhime
Senior Vice President and Chief Financial Officer

AGREED AND ACKNOWLEDGED:

/s/ Richard Murray
Richard Murray

July 15, 2008
Date

PDL BioPharma, Inc.
1400 Seaport Blvd.
Redwood City, CA 94063

July 11, 2008

Mark McCamish
[Address]
[City, State zip]

Re: Additional Retention Bonuses

Dear Mark:

We view your contributions as an officer of PDL BioPharma, Inc. ("PDL") as important to our efforts to transition to a streamlined biotech company and our long-term success. Acknowledging this, the Compensation Committee of the Board of Directors of PDL recently approved additional retention bonuses for you.

Retention Bonuses

Subject to your continued employment in good standing with PDL through the applicable bonus dates (each, a "Bonus Date") and the terms and conditions of this letter agreement (this "Letter Agreement"), you will earn, and PDL will pay you, the "Retention Bonuses" set forth below:

- July 31, 2008 - $25,000
- October 31, 2008 - $25,000
- January 31, 2009 - $25,000

Subject to the terms and conditions of this Letter Agreement, each Retention Bonus would be paid with your first regular paycheck following the applicable Bonus Date. These Retention Bonuses are in addition to the retention bonuses previously awarded to you by the Compensation Committee pursuant to the Letter Agreement between you and PDL dated May 2, 2008 (the "First Retention Agreement").

Notwithstanding the foregoing or anything else in this Letter Agreement, if prior to a Bonus Date PDL terminates your employment without "Cause" (as that term is defined in PDL's 2005 Equity Incentive Plan (the "2005 Plan")), then on the date of such employment termination you would, subject to the last sentence in this paragraph, earn a prorated amount of the portion of the next Retention Bonus that you otherwise would

---

have earned. If such employment termination occurs before October 31, 2008, the foregoing proration would be based on the number of months between June 19, 2008 and such termination date, rounded up to the nearest whole month. Otherwise, such proration would be based on the number of months between the last Bonus Date and the date of such termination, rounded up to the nearest whole month. Any portion of your Retention Bonuses that would be payable pursuant to this paragraph would be earned provided that you sign, and do not revoke, PDL's form of release agreement ("Release Agreement"), and we would pay such portion of your Retention Bonus promptly after the effective date of your Release Agreement and in any event, provided that your Release Agreement has become effective, within 60 days after your termination date.

Notwithstanding the terms of PDL's Executive Retention and Severance Plan (the "ERSP") or the preceding paragraph, should your employment be terminated without Cause following a "Change in Control" (as that term is defined in and determined under PDL's 2005 Equity Incentive Plan) and prior to December 31, 2009 and provided you sign, and do not revoke, the Release Agreement, we would pay you the full amount of your Retention Bonuses that you have not yet earned promptly after the effective date of your Release Agreement and, in any event, provided that your Release Agreement has become effective, within 60 days of the date of your employment termination.

Notwithstanding the foregoing or anything else in this Letter Agreement, you agree that you will not earn any portion of your Retention Bonuses pursuant to either of the two preceding paragraphs and this Letter Agreement will immediately terminate if PDL terminates your employment in connection with the transfer of PDL's biotechnology-related assets to a wholly owned subsidiary of PDL ("NewBio"), provided, that NewBio offers you a comparable employment position and agrees to provide you a retention bonus (or retention bonuses if such employment termination occurs before June 30, 2009) on terms and conditions consistent with this Letter Agreement.

If PDL terminates your employment for Cause or you voluntarily terminate your employment, then you would not receive any portion of your Retention Bonuses that you have not earned.

You agree that, subject to the terms of the ERSP, none of your Retention Bonuses would be "grossed up" and will be subject to all applicable payroll withholdings and deductions.

Additional Provisions

Notwithstanding anything contained in this Letter Agreement to the contrary, no amount payable pursuant to this Letter Agreement on account of your termination of employment which constitutes a "deferral of compensation" within the meaning of the Treasury Regulations issued pursuant to Section 409A of the Internal Revenue Code (the "Section 409A Regulations") will be paid unless and until you have incurred a "separation from service" within the meaning of the Section 409A Regulations. Furthermore, if you are a

"specified employee" within the meaning of the Section 409A Regulations as of the date of your separation from service, no amount that constitutes a deferral of compensation which is payable on account of your separation from service will paid to you before the date (the "Delayed Payment Date") which is first day of the seventh month after the date of your separation from service or, if earlier, the date of your death following such separation from service. All such amounts that would, but for this paragraph, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

PDL intends that income provided to you pursuant to this Letter Agreement will not be subject to taxation under Section 409A of the Internal Revenue Code. The provisions of this Letter Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A. **However, PDL does not guarantee any particular tax effect for income provided to you pursuant to this letter.** In any event, except for PDL's responsibility to withhold applicable income and employment taxes from compensation paid or provided to you, PDL will not be responsible for the payment of any applicable taxes incurred by you on compensation paid or provided to you pursuant to this Letter Agreement.

Except as otherwise provided in this Letter Agreement, all of the other terms and conditions of your employment relationship with PDL will continue to apply. This Letter Agreement is not intended change the "at will" nature of your employment with PDL. You would continue to be free to resign at any time, just as PDL would be free to terminate your employment at any time, with or without cause.

The terms of this Letter Agreement, when accepted by you, supersede, with the exception of the ERSP and the First Retention Agreement, all prior arrangements, whether written or oral, and understandings regarding the subject matter of this Letter Agreement and, except as provided in the ERSP, shall be the exclusive agreement for the determination of any payments and benefits you are due upon the events described in this letter agreement.

On behalf of the Compensation Committee and the Board of Directors I would like to thank you for your many contributions and for your continued support and dedication to PDL.

To indicate your acceptance of the terms of this Letter Agreement, please sign and date this Letter Agreement in the space provided below and return it to Gwen Carscadden, Human Resources Department by June 30, 2008.

Sincerely,

Andrew Guggenhime
Senior Vice President and Chief Financial Officer

AGREED AND ACKNOWLEDGED:

/s/ Mark McCamish
Mark McCamish

15 July, 2008
Date

CONFIDENTIAL PROVISIONS REDACTED

COLLABORATION AGREEMENT

BY AND BETWEEN

PDL BIOPHARMA, INC.

AND

BRISTOL-MYERS SQUIBB COMPANY

AUGUST 18, 2008

EXECUTION COPY

CONFIDENTIAL TREATMENT REQUESTED

COLLABORATION AGREEMENT

THIS COLLABORATION AGREEMENT (the **"Agreement"**) is made and entered into as of August 18, 2008 (the **"Execution Date"**) by and between PDL Biopharma, Inc., a Delaware corporation having its principal place of business at 1400 Seaport Blvd., Redwood City, CA 94063 (**"PDL"**) and Bristol-Myers Squibb Company, a Delaware corporation headquartered at 345 Park Avenue, New York, New York 10154 (**"BMS"**), effective as of the Effective Date (as defined in Section 12.6), except for **Article 10** and **Section 12.6**, which shall be effective as of the Execution Date. PDL and BMS are sometimes referred to herein individually as a **"Party"** and collectively as the **"Parties**.**"**

RECITALS

WHEREAS, PDL is a biotechnology company engaged in the research and development of antibodies in order to develop and commercialize antibody-based products based on or incorporating such antibodies;

WHEREAS, PDL has generated and is developing antibodies that bind to CS1 (the **"Target"**), including antibodies known as "HuLuc63" and "PDL-241";

WHEREAS, BMS is a worldwide, research-based pharmaceutical company, engaged in the discovery, development, manufacturing and marketing of new therapies and treatment programs;

WHEREAS, BMS and PDL desire to collaborate in the development of certain CS1 antibodies, including HuLuc63, all on the terms and conditions set forth below;

WHEREAS, BMS desires to receive an option to collaborate with PDL with respect to other CS1 antibodies, including PDL-241, all on the terms and conditions set forth below;

WHEREAS, BMS desires to obtain exclusive rights to commercialize and distribute such products throughout the world, and PDL is willing to provide BMS with such rights, all on the terms and conditions set forth below; and

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

---

1. DEFINITIONS

Capitalized terms used in this Agreement (other than the headings of the Sections or Articles) have the following meanings set forth in this **Article 1**, or, if not listed in this **Article 1**, the meanings as designated in the text of this Agreement.

1.1 "Affiliate" means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of the definition in this **Section 1.1**, the word "**control**" (including, with correlative meaning, the terms "**controlled by**" or "**under the common control with**") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of at least fifty percent (50%) of the voting stock of such entity, or by contract or otherwise. In the event that PDL completes a Separation Transaction pursuant to **Section 14.18** and this Agreement is assigned to or retained by PDL Operating Company (as defined in **Section 1.74**), PDL Holding Company (as defined in **Section 1.74**) shall not be deemed to be an Affiliate of PDL Operating Company.

1.2 "Allowable Expenses" means those expenses incurred by a Party in performing its obligations under the U.S. Commercialization Plan then in effect and that are specifically attributable to Commercialization of a Product in the U.S. and that consist of: (a) Manufacturing Costs for a Product for commercial sale in the U.S.; (b) Regulatory Expenses; (c) Sales and Marketing Costs; (d) costs associated with Medical Education Activities, and other ancillary services to the foregoing; (e) Distribution Costs; (f) Third Party Payments with respect to the U.S. (except as set forth in **Sections 8.6(a) and 8.6(b)**);

(g) Trademark Costs; (h) patent costs described in **Section 9.3(g)**; and (i) patient assistance and indigent/expanded access programs with respect to a Product in the U.S. To the extent that any of the forgoing expenses apply to both the U.S. and the Royalty Territory, such costs shall be reasonably allocated between the U.S. and the Royalty Territory (y) where such costs are clearly allocable to the U.S. or Royalty Territory, according to such clear allocation or (z) where such costs are not clearly allocable to the U.S. or Royalty Territory, according to a methodology agreed upon by the Parties prior to Launch of such Product and consistently applied, all as calculated in accordance with GAAP.

1.3 "Antibody" means any (i) antibody, (ii) protein comprising at least one CDR portion thereof (including bispecific antibodies, single chain antibodies, domain antibodies and immunoconjugated antibodies) or (iii) adnectin; in each of (i), (ii) and (iii), whether human, humanized, chimeric, murine, synthetic or from any other source, that (a) has been raised, engineered or otherwise optimized to bind specifically and directly to the Target (whether exclusively or in addition to any other target such Antibody may modulate) and (b) competes for binding to the Target with a naturally occurring ligand of the Target, interferes with Target-Target interaction, or, once bound to the Target, exhibits antagonistic activity against the Target, agonist activity against the Target, ADCC (antibody dependent cellular cytotoxity) and/or other F_c-mediated effector function.

1.4 "Approved Plan" means, with respect to a Product, any one or more of the Global Development Plans, each Annual Development Plan, and the U.S. Commercialization Plan, in each case as adopted or approved under the terms of this Agreement.

1.5 "BioBetter Technology" means [****]*.

1.6 "BMS Licensed Know-How" means all Information (other than Patents) that is:

(a) Controlled by BMS and its Affiliates, including Information Controlled jointly with PDL, as of the Effective Date that: (i) covers a Licensed Antibody, a composition containing a Licensed Antibody (e.g., a formulation containing a Licensed Antibody), or the manufacture or use of a Licensed Antibody (or a composition containing a Licensed Antibody); or (ii) is necessary or reasonably useful for PDL to perform its obligations to the Collaboration under the Agreement; or

(b) Controlled by BMS and its Affiliates during the term of this Agreement, including Information Controlled jointly with PDL, and is an Invention.

1.7 "BMS Licensed Patents" means all Patents that are:

(a) Controlled by BMS and its Affiliates, including patents Controlled jointly with PDL, as of the Effective Date and (i) claim a Licensed Antibody, a composition containing a Licensed Antibody (e.g., a formulation containing a Licensed Antibody), or the manufacture or use of a Licensed Antibody (or a composition containing a Licensed Antibody); or (ii) are necessary or reasonably useful for PDL to perform its obligations to the Collaboration under the Agreement; or

(b) Controlled by BMS and its Affiliates, including Patents Controlled jointly with PDL, during the term of this Agreement and (i) claim an Invention; or (ii) are a continuation, divisional, continuation-in-part (solely to the extent claiming subject matter disclosed in a Patent described in **clause (a)** above), foreign counterpart, substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions or renewal of, or issue from, any Patent described in **clause (a)** above.

1.8 "Change of Control" means any transaction in which a Party: (a) sells, conveys or otherwise disposes of all or substantially all of its property or business; or (b)(i) merges, consolidates with, acquires or is acquired by any other Person (other than a wholly-owned subsidiary of such Party); or (ii) effects any other transaction or series of transactions; in each case of **clause (i)** or **(ii)**, such that the stockholders of such Party (or the Person acquired by such Party) immediately prior thereto, in the aggregate, no longer own, directly or indirectly, beneficially or legally, at least fifty percent (50%) of the outstanding voting securities or capital stock of the surviving Person following the closing of such merger, consolidation, other transaction or series of transactions. As used in this **Section 1.8**, "**Person**" means any corporation, firm, partnership or other legal entity. Notwithstanding the foregoing, the transaction or transactions whereby PDL completes a Separation Transaction pursuant to Section 14.18 shall not be a "Change of Control."

1.9 "Clinical Costs" means the costs incurred by a Party or for its account, during the term and pursuant to this Agreement, in connection with clinical studies of a Product, whether alone or in combination with another product or agent, including the following: (a) the preparation for and conduct of clinical trials (except for related Manufacturing Costs otherwise included in Development Costs); (b) data collection and analysis, and report writing; and (c) clinical laboratory work. The Clinical Costs shall exclude costs incurred in connection with Phase IV Clinical Trials and investigator

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

sponsored clinical trials, and post-marketing surveillance activities, which shall be considered Sales and Marketing Costs.

1.10 "Collaboration" means the collaborative research, development, and commercialization program between the Parties that is contemplated by this Agreement.

1.11 "Commencement" means, with respect to a Phase I Clinical Trial, Phase II Clinical Trial, Phase III Clinical Trial, Phase IIIb Clinical Trial, or Registrational Trial, the first enrollment of a human volunteer or patient in such trial.

1.12 "Commercialize" means to promote, market, distribute, sell (and offer for sale or contract to sell) or provide product support for a Product, including by way of example: (a) detailing and other promotional activities in support of a Product; (b) advertising and public relations in support of a Product, including market research, development and distribution of selling, advertising and promotional materials, field literature, direct-to-consumer

advertising campaigns, media/journal advertising, and exhibiting at seminars and conventions; (c) developing reimbursement programs and information and data specifically intended for national accounts, managed care organizations, governmental agencies (e.g., federal, state and local), and other group purchasing organizations, including pull-through activities; (d) conducting Medical Education Activities and journal advertising; and (e) conducting Phase IV Clinical Trials. For clarity, **"Commercializing"** and **"Commercialization"** have a correlative meaning.

1.13 **"Committee"** means the JDC or the USJCC, as the case may be.

1.14 **"Compete(s)"** means, [****]*.

1.15 **"Controlled"** means, with respect to any molecule, material, Information or intellectual property right, that the Party owns or has a license to such molecule, material, Information or intellectual property right and has the ability to grant to the other Party access, a license or a sublicense (as applicable) to such molecule, material, Information or intellectual property right as provided for herein without violating the terms of any agreement or other arrangements with any Third Party existing at the time such Party would be first required hereunder to grant the other Party such access, license or sublicense.

1.16 **"Development"** means, with respect to a Product (whether alone or in combination with another product or agent), those activities, including research, pre-clinical development activities, clinical trials and supporting laboratory studies, supporting manufacturing activities and related regulatory activities, that are necessary or useful to: (a) obtain the approval by the applicable Regulatory Authorities of the Drug Approval Application with respect to such Product in the applicable regulatory jurisdiction, whether alone or for use together, or in combination, with another active agent or pharmaceutical product; (b) maintain such approvals; or (c) obtain or maintain compendia listings with respect to such Product. For clarity, **"Co-Develop," "Develop"** and **"Developing"** have a correlative meaning.

1.17 **"Development Costs"** means the costs incurred by a Party or for its account, as calculated in accordance with GAAP consistently applied, during the term and pursuant to performing

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

its obligations under the then-current Annual Development Plan (without regard to the budget set forth in such Annual Development Plan), that are specifically identifiable (or reasonably and consistently allocable) to the Development of a Product and that are directed to achieving or maintaining Regulatory Approval of such Product. The Development Costs shall include amounts, without mark-up, that a Party pays to Third Parties involved in such Development of a Product, and all internal costs incurred by a Party in connection with such Development of such Product. Development Costs include the following: (a) Research Costs; (b) costs relating to the application of BioBetter Technology to Existing Antibodies and, subsequent to BMS' exercise of the BMS Option (if applicable), Option Antibodies (existing as of the date of such exercise) and any Future Antibodies resulting from such application; (c) preclinical costs such as toxicology and the creation of product assays such as those for pharmacokinetic and immunogenicity testing; (d) formulation development, test method development, delivery system development, stability testing and statistical analysis; (e) Clinical Costs; (f) expenses related to adverse event reporting; (g) Manufacturing Costs for a Product for use in preclinical and clinical activities including the manufacture, purchase or packaging of comparators or placebo for use in clinical studies of a Product (with the manufacturing costs for comparators or placebo to be determined in the same manner as Manufacturing Costs are determined for any Product), as well as the direct costs and expenses of disposal of drugs and other supplies used in such clinical studies; (h) Losses incurred in connection with claims set forth in **Section 13.3**, to the extent provided therein; and (i) development of the Manufacturing process for a Product (including with respect to any excipients or adjuvants included in such Products) and related scale-up, manufacturing process validation, manufacturing process improvements, and qualification and validation of Third Party contract manufacturers; (j) regulatory expenses relating to Development activities for the purpose of obtaining Regulatory Approval for an indication for a Product; and (k) other out-of pocket Product Development expenses that meet the criteria set forth above in this **Section 1.17** including, without limitation institutional and advisory review boards, investigator meetings, quality of life studies, epidemiology and outcomes research.

For clarity, scale-up and validation costs as described in **clause (i)** above will be considered Development Costs until commercial Product that is eligible for sale is manufactured.

1.18 **"Diligent Efforts"** [****]*.

1.19 **"Distribution Costs"** means the costs, excluding corporate and administrative overhead, incurred by a Party or for its account, during the term and pursuant to the Agreement that are reasonably and consistently allocable to the distribution of a Product in the U.S. for Commercialization purposes, including: (a) handling and transportation to fulfill orders with respect to a Product in the U.S. (but excluding such costs to the extent they are treated as a deduction in the definition of Net Sales); (b) customer services, including order entry, billing and adjustments, inquiry and credit and collection with respect to a Product in the U.S.; and (c) costs of storage and distribution of Products for sale in the U.S.

1.20 **"Dollars"** or **"$"** means the legal tender of the United States.

1.21 **"Drug Approval Application"** or "**DAA**" means a Biologics License Application or a New Drug Application (each, a "**BLA**"), as defined in the United States Public Health Service Act or

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

the United States Food, Drug, and Cosmetic Act, as amended, and the regulations promulgated thereunder, or any corresponding foreign application in the Royalty Territory, including, with respect to the European Union, a Marketing Authorization Application ("**MAA**") filed with the European Medicines

Agency pursuant to the centralized approval procedure or with the applicable Regulatory Authority of a country in the European Union with respect to the mutual recognition or any other national approval procedure.

1.22 "EMEA" means BMS' European, Central and Eastern European, Middle Eastern and African commercial territory, consisting of the following countries and regions: Algeria, Andorra, Austria, Baltic States, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Romania, Russia, Saudi Arabia, Slovakia Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, U.K., Ukraine, Vatican City, Lebanon, Jordan, Syria, Kuwait, Bahrain, Oman, UAE and Qatar. The EMEA also includes: (a) the former Soviet Union and commonwealth of independent states such as Georgia, Armenia and central Asian republics; and (b) exports from France to English and French speaking African countries not separately identified in the list. For clarity, the specific list of countries and regions may change to align with any corresponding changes to BMS' business structures.

1.23 "EU" means the European Union, as its membership may be altered from time to time, and any successor thereto. The member countries of the European Union as of the Execution Date are Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, The Netherlands, Austria, Portugal, Finland, Sweden, the United Kingdom, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Malta, and Cyprus.

1.24 "Executive Officers" means: (a) in the case of PDL, the Chief Executive Officer of PDL (or an interim designee); and (b) in the case of BMS, the SVP of Discovery and Exploratory Clinical Development or the SVP of Global Development and Medical Affairs depending on the stage of the asset in dispute.

1.25 "Existing Antibody" means an Antibody: (a) that is set forth on **Schedule 1.25,** (b) if BMS exercises the BMS Option pursuant to **Section 3.7,** that (i) was produced from a cloned hybridoma cell line that was identified and tested by PDL prior to the Effective Date and (ii) is not set forth on **Schedule 1.25** or **Schedule 1.50,** or (c) if BMS does not exercise the BMS Option pursuant to **Section 3.7,** that (i) was produced from a cloned hybridoma cell line that was identified and tested by PDL prior to the Effective Date and (ii) when tested pursuant to **Section 3.10** after the Effective Date, did not Compete with PDL-241 for binding to the Target, or any derivative of any of the foregoing that is an Antibody.

1.26 "FDA" means the U.S. Food and Drug Administration, and any successor thereto.

1.27 "FTE" means the equivalent of the work of one (1) employee full time for one (1) year consisting of a total of [****]* working hours per year (or such other number as may be agreed to by the JDC) directly related to the Development or Commercialization of any Product pursuant to the Annual Development Plan or U.S. Commercialization Plan then in effect. Any individual who devotes

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

less than [****]* working hours per year (or such other number as may be agreed by the JDC) to the Development or Commercialization of any Product pursuant to the Annual Development Plan or U.S. Commercialization Plan then in effect shall be treated as an FTE on a pro-rata basis based upon: (a) if a Party customarily accounts for employee time on an hourly basis, the actual number of hours worked divided by [****]* (or such other number as may be agreed by the JDC) or (b) if a Party customarily accounts for employee time on a percentage allocation basis, the percentage of a full-time schedule such person devoted to the Development or Commercialization of any Product pursuant to the Annual Development Plan or U.S. Commercialization Plan then in effect. Unless modified by the JDC, the [****]* figure shall be used without regard to the Parties' own internal definition of the number of hours that comprises an FTE.

1.28 "Future Antibody" means any Antibody, other than an Existing Antibody, that was first produced and identified or tested by either Party after the Effective Date in the course of performing work pursuant to an Approved Plan (a) after BMS' exercise of the BMS Option pursuant to **Section 3.7** or (b) after BMS' failure to exercise the BMS Option pursuant to **Section 3.7** and such Antibody did not Compete with PDL-241 for binding to the Target when tested pursuant to **Section 3.10**.

1.29 "GAAP" means U.S. generally accepted accounting principles, consistently applied.

1.30 "Generic Product" means, with respect to a particular Product in a country, a pharmaceutical product that (a) contains the same active ingredient(s) as such Product, and (b) is approved for use in such country pursuant to an expedited regulatory approval process governing approval of generic biologics based on the then-current standards for regulatory approval in such country and where such regulatory approval was based in significant part upon clinical data generated by the Parties pursuant to an Approved Plan.

1.31 "HSR Act" means the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended from time to time, and the rules, regulations, guidance and requirements promulgated thereunder as may be in effect from time to time.

1.32 "HuLuc63" means the Antibody that (i) contains the amino acid sequence set forth in **Schedule 1.32** and (ii) is the subject of an existing IND of PDL prior to the Effective Date.

1.33 "HuLuc63 Product" means any Product that contains or incorporates HuLuc63.

1.34 "Immunology" means [****]*.

1.35 "IND" means an Investigational New Drug Application submitted to the FDA in conformance with applicable laws and regulations, or the foreign equivalent of any such application in any other country.

1.36 "Information" means information, results and data of any type whatsoever, in any tangible or intangible form whatsoever, including databases, practices, methods, techniques, specifications, formulations, formulae, knowledge, know-how, skill, experience, test data including

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

pharmacological, biological, chemical, biochemical, toxicological and clinical test data, analytical and quality control data, stability data, studies and procedures.

1.37 "Invention" means any and all inventions and improvements thereto, that are conceived, reduced to practice or discovered by or on behalf of a Party (and/or its Affiliates) in the performance of its obligations under this Agreement.

1.38 "Joint Invention" means any Invention invented or discovered jointly by or on behalf of the employee(s), contractor(s) or agent(s) of both Parties (and/or their Affiliates).

1.39 "Joint Development and Regulatory Committee" or **"JDC"** means the committee described in **Section 2.2**.

1.40 "Knowledge" means, with respect to a Party, the good faith understanding of the facts and information in the possession of an officer of such Party, or any in-house legal counsel of, or in-house patent agents employed by, such Party or its Affiliates, without any duty to conduct any additional investigation with respect to such facts and information by reason of the execution of this Agreement. For purposes of this definition, an "officer" means any person in the position of vice president, senior vice president, president or chief executive officer of a Party.

1.41 "Launch" means, for each Product in each country, the first arm's-length sale to a Third Party for use or consumption by the public of such Product in such country after Regulatory Approval of such Product in such country. A Launch shall not include any Product sold for use in clinical trials, for research or for other non-commercial uses, or that is supplied as part of a compassionate use or similar program**.**

1.42 "Licensed Antibody" means an Existing Antibody or Future Antibody or, solely if BMS exercises the BMS Option pursuant to **Section 3.7**, an Option Antibody.

1.43 "Major European Countries" means [****]*.

1.44 "Manufacturing" means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, inspection, receiving, holding and shipping of Licensed Antibodies and/or Products, or any raw materials or packaging materials with respect thereto, or any intermediate of any of the foregoing, including process and cost optimization, process qualification and validation, commercial manufacture, stability and release testing, quality assurance and quality control. For clarity, **"Manufacture"** has a correlative meaning.

1.45 "Manufacturing Costs" means, with respect to a Licensed Antibody or Product during any period after the Effective Date, the costs calculated in accordance with a Party's internal accounting policies and principles, which are in accordance with GAAP and applied consistently to other biologics products a Party produces as described below that relate to such Licensed Antibody or Product that is either (a) supplied by a Third Party; or (b) manufactured directly by a Party or an Affiliate of a Party, determined as follows:

In the case of **clause (a)** above, Manufacturing Costs means [****]*.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

In the case of **clause (b)** above, Manufacturing Costs means [****]*.

In addition to [****]*, Manufacturing Costs will include [****]*.

For clarity, [****]*.

1.46 "Medical Education Activities" means activities designed to ensure or improve appropriate medical use of, conduct medical education of, or further research regarding, a Product sold in the U.S., including by way of example: (a) activities of medical sales liaisons; (b) grants to support continuing medical education, symposia, or research related to a Product in the U.S. (excluding Phase IV Clinical Trials, which, with respect to a Product, shall be considered Sales and Marketing Costs, and Development activities conducted for purposes of obtaining an initial Regulatory Approval for an indication for a Product in the U.S., which shall be considered Development Costs); (c) development, publication and dissemination of publications relating to a Product in the U.S., as well as medical information services provided in response to inquiries communicated via sales representatives or received by letter, phone call or email; and (d) conducting advisory board meetings or other consultant programs, the purpose of which is to obtain advice and feedback related to the Development or Commercialization of a Product in the U.S.

1.47 "Net Sales" means the amount invoiced or otherwise billed by BMS or its Affiliate or sublicensee for sales or other commercial disposition of a Product to a Third Party purchaser, less the following to the extent included in such billing: (a) discounts, including cash, trade and quantity discounts, price reduction programs, retroactive price adjustments with respect to sales of such Product, charge-back payments and rebates granted to managed health care organizations or to federal, state and local governments (or their respective agencies, purchasers and reimbursers) or to trade customers, including but not limited to, wholesalers and chain and pharmacy buying groups; (b) credits or allowances taken upon rejections or returns of Products, including for recalls or damaged goods; (c) freight, postage, shipping and insurance charges actually allowed or paid for delivery of such Product; (d) customs duties, surcharges and other governmental charges incurred in connection with the exportation or importation of such Product; (e) bad debts relating to sales of Products that are actually written off by BMS in accordance with GAAP during the applicable calculation period; (f) discounts (but not transaction fees) due to factoring of receivables; and (g) taxes, duties or other governmental charges levied on, absorbed or otherwise imposed on sale of such Product, including value-added

taxes, or other governmental charges otherwise measured by the billing amount, as adjusted for rebates and refunds, but specifically excluding taxes based on net income of the seller; provided that all of the foregoing deductions are calculated in accordance with generally accepted accounting principles consistently applied throughout the seller's organization.

Notwithstanding the foregoing, if any Product is sold under a bundled or capitated arrangement with other BMS products, then, solely for the purpose of calculating Net Sales under this Agreement, any discount on such Products sold under such an arrangement shall be no greater, on a percentage basis based on the gross selling price prior to discount, than the largest percentage discount applied on any other ethical biologic pharmaceutical product sold within such bundled arrangement for the applicable accounting period. In case of any dispute as to the applicable discount numbers under the preceding

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

sentence, the determination of same shall be calculated and certified by an independent public accountant selected by PDL and reasonably acceptable to BMS, whose decision shall be binding.

A sale of a Product is deemed to occur upon transfer of risk-of-loss with respect to the Product.

For sake of clarity and avoidance of doubt, sales by BMS, its Affiliates or sublicensees of a Product to a Third Party distributor of such Product in a given country shall be considered a sale to a Third Party customer. Any Products used (but not sold for consideration) for promotional or advertising purposes or used (but not sold for consideration) for clinical or other research purposes shall not be considered in determining Net Sales hereunder.

In the event a Product is sold as an end-user product consisting of a combination of independently active pharmaceutical ingredients, Net Sales, for purposes of determining royalty payments on such Product, shall be calculated by multiplying the Net Sales of the end-user product by the fraction A over A+B, in which A is the net selling price of the Product portion of the end-user product when such Product is sold separately during the applicable accounting period in which the sales of the end-user product were made, and B is the net selling price of the other independently active pharmaceutical ingredients of the end-user product sold separately during the accounting period in question. All net selling prices of the independently active pharmaceutical ingredients of such end-user product shall be calculated as the average net selling price of the said ingredients during the applicable accounting period for which the Net Sales are being calculated. In the event that, in any country or countries, no separate sale of either such above-designated Product or such above designated other independently active pharmaceutical ingredients of the end-user product are made during the accounting period in which the sale was made or if net retail selling price for an independently active pharmaceutical ingredient cannot be determined for an accounting period, Net Sales allocable to the Product in each such country shall be determined by mutual agreement reached in good faith by the Parties prior to the end of the accounting period in question based on an equitable method of determining same that takes into account, on a country-by-country basis, variations in potency, the relative contribution of each independently active pharmaceutical ingredient in the combination, and relative value to the end user of each such independently active pharmaceutical ingredient. Notwithstanding the foregoing, the Parties agree that, for purposes of this paragraph, drug delivery vehicles, adjuvants, half-life extenders, solubilizers and excipients shall not be deemed to be "independently active pharmaceutical ingredients."

1.48 "Oncology" means [****]*.

1.49 "Operating Profit (or Loss)" means Net Sales of Products in the U.S. less Allowable Expenses in the U.S. For sake of clarity, Operating Profit (or Loss) shall be determined prior to application of any income taxes, and if such terms are used individually, **"Operating Profit"** shall mean a positive Operating Profit (or Loss), and **"Operating Loss"** shall mean a negative Operating Profit (or Loss).

1.50 "Option Antibody" means an Antibody: (a) that is set forth on **Schedule 1.50**, or (b) if BMS does not exercise the BMS Option pursuant to **Section 3.7,** that (i) was produced, identified and tested for binding to the Target by PDL prior to the Effective Date or outside the Collaboration after

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

BMS' failure to exercise the BMS Option pursuant to **Section 3.7** and (ii) when tested pursuant to **Section 3.10** after the Effective Date, Competed with PDL-241 for binding to the Target.

1.51 "Other Product" means any Product that is not a HuLuc63 Product.

1.52 "Patent" means all: (a) unexpired letters patent (including inventor's certificates and utility models) which have not been held invalid or unenforceable by a court of competent jurisdiction from which no appeal can be taken or has been taken within the required time period (and which have not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement); and (b) pending applications for letters patent which have not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), and/or abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written consent.

1.53 "PDL-241" means the Antibody containing the amino acid sequence set forth in **Schedule 1.53**.

1.54 "PDL-241 Product" means any Product that contains or incorporates PDL-241.

1.55 "PDL Licensed Know-How" means all Information (other than Patents) that is:

(a) Controlled by PDL and its Affiliates, including Information Controlled jointly with BMS, as of the Effective Date that: (i) covers a Licensed Antibody, a composition containing a Licensed Antibody (e.g., a formulation containing a Licensed Antibody), or the manufacture or use of a Licensed Antibody (or a composition containing a Licensed Antibody); or (ii) is necessary or reasonably useful for BMS to perform its obligations to the Collaboration under the Agreement; or

(b) Controlled by PDL and its Affiliates during the term of this Agreement, including Information Controlled jointly with BMS, and is an Invention.

Notwithstanding the foregoing, PDL Licensed Know-How shall exclude any Information pertaining to BioBetter Technology.

1.56 "PDL Licensed Patents" means all Patents that are:

(a) Controlled by PDL and its Affiliates, including patents Controlled jointly with BMS, as of the Effective Date and (i) claim a Licensed Antibody, a composition containing a Licensed Antibody (e.g., a formulation containing a Licensed Antibody), or the manufacture or use of a Licensed Antibody (or a composition containing a Licensed Antibody); or (ii) are necessary or reasonably useful for BMS to perform its obligations to the Collaboration under the Agreement; or

(b) Controlled by PDL and its Affiliates, including Patents Controlled jointly with BMS, during the term of this Agreement and (i) claim an Invention; or (ii) are a continuation, divisional, continuation-in-part (solely to the extent claiming subject matter disclosed in a Patent described in **clause (a)** above), foreign counterpart, substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions or renewal of, or issue from, any Patent described in **clause (a)** above.

Notwithstanding the foregoing, PDL Licensed Patents shall exclude (1) the Queen Patents and (2) all

Patents claiming BioBetter Technology. The PDL Licensed Patents, include, without limitation, the Patents set forth on **Schedule 1.56** hereto.

1.57 "Phase I Clinical Trial" means a clinical trial of a Product on sufficient numbers of normal volunteers and/or patients that is designed to establish that such Product is safe for its intended use and to support its continued testing in Phase II Clinical Trials.

1.58 "Phase II Clinical Trial" means a Phase IIa Clinical Trial or a Phase IIb Clinical Trial.

1.59 "Phase IIa Clinical Trial" means a controlled clinical trial of a Product that utilizes the pharmacokinetic and pharmacodynamic information obtained from one (1) or more previously conducted Phase I Clinical Trial(s) and/or other Phase IIa Clinical Trial(s) in order to confirm the optimal manner of use of such Product (dose and dose regimens) and to better determine safety and efficacy.

1.60 "Phase IIb Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to provide a preliminary determination of safety and efficacy of such Product in the target patient population over a range of doses and dose regimens.

1.61 "Phase III Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to establish that such Product is safe and efficacious for its intended use, and to define warnings, precautions and adverse reactions that are associated with such Product in the dosage range to be prescribed, and to support Regulatory Approval of such Product or label expansion of such Product.

1.62 "Phase IIIb Clinical Trial" means a clinical trial of a Product, initiated before regulatory approval and is not required for same, but which may provide data that further defines how and where the drug should be used. A Phase IIIb Clinical Trial may be a clinical trial that is advised or required by a Regulatory Authority as a condition of or in connection with obtaining or maintaining Regulatory Approval (whether commenced prior to or after receipt of such Regulatory Approval). They may include epidemiological studies, modeling and pharmacoeconomic studies, and investigator-sponsored clinical trials that are approved by the JDC and that otherwise fit the foregoing definition.

1.63 "Phase IV Clinical Trial" means a product support clinical trial of a Product that (a) is commenced after receipt of Regulatory Approval in the country where such trial is conducted and (b) that is not a Phase IIIb Clinical Trial. A Phase IV Clinical Trial may include epidemiological studies, modeling and pharmacoeconomic studies, "post-marketing surveillance trials" and investigator-sponsored clinical trials studying a Product that are approved by the JDC and that otherwise fit the foregoing definition.

1.64 "Product" means any pharmaceutical product that contains or incorporates a Licensed Antibody.

1.65 "Queen Patent" means any Patent that (a) is set forth on **Schedule 1.65**; or **(b)** is a continuation, divisional, continuation-in-part, substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions or renewal of, or issues from, any Patent described in **clause (a)** above; or (c) is a foreign counterpart of any of (a) or (b) above.

1.66 "Region" means [****]*.

1.67 "Registrational Trial" means, with respect to a given Product, either (i) a Phase III Clinical Trial with such Product or (ii) a Phase IIb Clinical Trial that, at the time of Commencement, is expected to be the basis for initial Regulatory Approval of such Product.

1.68 "Regulatory Approval" means any and all approvals (including Drug Approval Applications, supplements, amendments, pre- and post-approvals, pricing and reimbursement approvals), licenses, registrations or authorizations of any Regulatory Authority, national, supra-national (e.g., the

European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity, that are necessary for the Manufacture, distribution, use or sale of a Product in a regulatory jurisdiction.

1.69 **"Regulatory Authority"** means the applicable national (e.g., the FDA), supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity that, in each case, governs the approval of a Product in such applicable regulatory jurisdiction.

1.70 **"Regulatory Expenses"** means costs incurred to prepare Product regulatory submissions to maintain Regulatory Approval in the U.S. and to comply with post-Regulatory Approvals requirements of the FDA, including FDA user and other fees, reporting and regulatory affairs activities, and recalls and withdrawals for Products (other than costs for Products that are deductible from Net Sales or that are included as Development Costs).

1.71 **"Research Costs"** means research costs relating to identification, biological characterization and optimization of (a) Future Antibodies, and (b) subsequent to BMS' exercise of the BMS Option (if applicable), new Option Antibodies, and scientific investigation of mechanisms of action, non-clinical rationales for indication selections, and biomarkers, provided that costs relating to the application of BioBetter Technology to Existing Antibodies and, subsequent to BMS' exercise of the BMS Option (if applicable), Option Antibodies (existing as of the date of such exercise) and any Future Antibodies resulting from such application shall not be treated as Research Costs. For clarity, Research Costs do not include the costs of any Competition Testing pursuant to **Section 3.10**.

1.72 **"Royalty Territory"** means the world, excluding the U.S.

1.73 **"Sales and Marketing Costs"** means the direct costs that are specifically identifiable to the sales and marketing of a Product in the U.S. and that are compliant with U.S. federal regulations, including: (a) activities directed to the advertising and marketing of a Product in the U.S.; (b) professional education in the U.S. for U.S.-based professionals (to the extent not performed by sales representatives), including launch meetings; (c) costs of advertising, public relations and medical education agencies with respect to a Product in the U.S.; (d) peer-to-peer activities with respect to a Product in the U.S., such as continuing medical education, grand rounds, and lunch and dinner meetings; (e) speaker programs with respect to a Product in the U.S., including the training of such speakers; (f) grants to support continuing medical education or research (excluding Clinical Costs); (g) development, publication and dissemination of publications with respect to a Product in the U.S.; (h) developing, obtaining and providing training with respect to a Product in the U.S., as well as training

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

packages, promotional literature, promotional materials and other selling materials with respect to a Product in the U.S.; (i) developing and performing market research with respect to a Product in the U.S.; (j) conducting symposia and opinion leader development activities with respect to a Product in the U.S.; (k) developing reimbursement programs with respect to a Product in the U.S.; (l) developing information and data specifically intended for national accounts, managed care organizations and group purchasing organizations with respect to a Product in the U.S.; (m) Losses incurred in connection with claims set forth in **Section 13.3**, to the extent provided therein; (n) costs of transporting, housing and maintaining sales representatives for training with respect to a Product in the U.S.; (o) conducting Phase IV Clinical Trials for Products, and clinical trials performed on the Product for U.S. marketing purposes and post-marketing surveillance activities; and (p) administration, operation and maintenance of the sales force that promotes a Product in the U.S., sales bulletins and other communications, sales meetings, specialty sales forces, consultants, call reporting and other monitoring/tracking costs, district and regional sales management, home office personnel who support the sales force. Sales and Marketing Costs shall include costs of such activities that are undertaken at any time during the term of this Agreement (including prior to the initial Regulatory Approval of a Product in the U.S.).

1.74 **"Separation Transaction"** means a transaction or transactions whereby PDL separates its antibody humanization royalty assets from its biotechnology operations, forming (i) an entity that will conduct such biotechnology operations (**"PDL Operating Company"**) and (ii) an entity that owns the antibody humanization royalty assets (**"PDL Holding Company"**).

1.75 **"Sole Invention"** means any Invention invented or discovered solely by or on behalf of a Party (or its Affiliate) and its employees, contractors and/or agents.

1.76 **"**[****]*** **"** means [****]*.

1.77 **"Territory"** means the world.

1.78 **"Third Party"** means any entity other than: (a) PDL; (b) BMS; or (c) an Affiliate of either Party.

1.79 **"Third Party Payments"** means royalties and other payments (including upfront fees and milestone payments) paid to a Third Party in consideration for a license or other rights to intellectual property necessary or useful for the Manufacture, Development, Commercialization, use, or sale of Product.

1.80 **"Trademark Costs"** mean the fees and expenses paid to outside counsel and other Third Parties, direct costs of in-house counsel and filing and maintenance expenses, in each case incurred in connection with the establishment and maintenance of rights under trademarks applicable to Product in the U.S., including costs of U.S. trademark filing and registration fees, actions to enforce or maintain a U.S. trademark and other U.S. trademark proceedings.

1.81 **"United States"** or **"U.S."** means the fifty states of the United States of America and the District of Columbia.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

1.82 **"US Joint Commercialization Committee"** or **"USJCC"** means the committee described in **Section 2.3**.

1.83 **"Valid Claim"** means (a) a claim in an issued Patent that has not: (i) expired or been canceled; (ii) been declared invalid by an unreversed and unappealable or unappealed decision of a court or other appropriate body of competent jurisdiction; (iii) been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or (iv) been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement of the Parties; or (b) a claim under an application for a Patent that has been pending for [****]* or less from its date of filing for applications ([****]*), and, in any case, which has not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), or abandoned.

Additional Definitions

The following table identifies the location of definitions set forth in various Sections of the Agreement.

Definition	Location (Section)
Alliance Manager	**2.6(a)**
Annual Development Plan	**3.2(a)**
Bankrupt Party	**14.14(a)**
BMS Decisions	**2.4(c)(iv)**
BMS Option	**3.7**
BMS Prosecuted Patent	**9.3(b)**
Competing Product	**7.6(b)(i)**
Competing Program	**7.6(a)**
Competition Testing	**1.14**
Confidential Information	**10.1**
Cost-Terminated Patent Right	**9.3(f)(iii)**
EDI	**14.19**
Effective Date	**12.6**
Exclusivity Term	**7.6(a)**
Existing License Agreement	**7.1(f)**
First Product	**7.6(b)(i)**
Global Development Plan	**3.1(a)**
ICH	**4.3(f)**
Indemnitee	**13.4**
JAMS	**14.2**
JAMS Rules	**14.2**
Joint Invention Patent	**9.1(b)**
Joint Patent	**9.3(f)**
Losses	**13.1**
Non-Compete Period	**7.6(c)**
Opt-Out Notice	**3.6(b)(ii)**
Other Joint Patent	**9.4(b)(i)**
Party Implementation Matter	**2.4(c)(ii)**

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Party Vote	**2.4(c)(i)**
PDL Holding Company	**1.74**
PDL Operating Company	**1.74**
PDL Prosecuted Patent	**9.3(a)(i)**
PDL-241 Pre-Clinical Testing	**3.7(a)**
Pharmacovigilance Agreement	**4.7**
Prior CDA	**10.4**
Regulatory Lead Party	**4.1**
Royalty Term	**8.9**
Sales Threshold	**8.4(c)**
Sole Invention Patent	**9.1(b)**
Target	**Recitals**
Term	**11.1**
Title 11	**14.14(a)**
U.S. Commercialization Plan	**5.2(a)**
Working Group	**2.4(e)**

2. MANAGEMENT OF COLLABORATION

2.1 **General.**

(a) Role of Committees. Subject to **Section 2.1(b)** and the other terms and conditions of this Agreement, the Parties shall establish: two (2) specialized joint committees consisting of one to focus on each of the following areas arising out of the Collaboration: (A) Development and Regulatory Approval and other regulatory matters (such committee, the "**Joint Development and Regulatory Committee**" or "**JDC**"); and (B) Commercialization in the U.S. (such committee, the **"US Joint Commercialization Committee**" or **"USJCC**"). Each Committee shall have the responsibilities and authority allocated to it in this **Article 2** and elsewhere in this Agreement.

(b) Limitations on the Authority of Committees. Notwithstanding the Committee structure established pursuant to **Section 2.1(a)** to oversee the Collaboration, each Party shall retain the rights, powers and discretion granted to it under this Agreement, and no such rights, powers, or discretion shall be delegated to or vested in a Committee unless such delegation or vesting of rights is expressly provided for in this Agreement or the Parties expressly so agree in writing. Without limiting the generality of the foregoing, no Committee shall have any authority or jurisdiction to: (i) amend, modify, or waive compliance with this Agreement, any of which shall require mutual written agreement of the Parties; (ii) interpret this Agreement, or determine whether or not a Party has met its diligence or other obligations under the Agreement or whether or not a breach of this Agreement has occurred; (iii) make any decision on any matter that this Agreement expressly states is an option or election to be made by a Party; (iv) make any retroactive updates, amendments and modifications to, or waivers of provisions of, an Approved Plan, any of which shall require the mutual agreement of the Parties; or (v) such other matters as are reserved to the consent, approval, agreement or other decision-making authority of one or both Parties in this Agreement and that are not required by this Agreement to be considered by the JDC prior to the exercise of such consent, approval or other decision-making authority. Notwithstanding the foregoing, neither Party shall be restricted from bringing before any appropriate Committee for discussion any matter relating to the Collaboration that it believes warrants discussion between the Parties through the Committees, *provided* that the consideration of any such matter by any Committee shall not infringe or limit the exercise of a Party's right of consent or

approval or other decision-making authority granted to it by this Agreement nor shall any such consideration, as contemplated by this sentence, subject any such right of consent or approval or other decision-making authority to any dispute resolution mechanism provided for in **Section 2.4(c)** or **Article 14** or elsewhere in this Agreement.

2.2 Joint Development and Regulatory Committee.

(a) Formation and Purpose. PDL and BMS shall establish the JDC within [****]* after the Effective Date. Subject to **Sections 2.1(b) and 2.4(c)**, with respect to each Product in the U.S. for which PDL has not opted-out pursuant to **Section 3.6** or for which PDL's profit-sharing rights have not been terminated pursuant to **Section 11.3(b)**, the JDC shall oversee, coordinate and expedite the Development of, and the making of regulatory filings for, each Product worldwide in order to obtain Regulatory Approvals. The JDC will also facilitate the flow of information with respect to Development activities being conducted for each Product and oversee Development activities required to support Regulatory Approvals. The JDC shall have the membership and shall operate by the procedures set forth in **Section 2.4**.

(b) Specific Responsibilities of the JDC. In support of its responsibility for overseeing, coordinating and expediting the Development of, and regulatory filings for, each Product, but subject to **Sections 2.1(b) and 2.4(c)**, the JDC shall, in particular:

(i) monitor Development activities;

(ii) review and approve the Global Development Plans and Annual Development Plans prepared by BMS with input from key PDL clinical development personnel, as well as interim updates to such plans;

(iii) review all material information generated in the course of implementing the Global Development Plan and the Annual Development Plans;

(iv) assist in coordinating scientific interactions and division of responsibilities with respect to Development Activities, and resolving disagreements during the course of implementing the Global Development Plan and the Annual Development Plans;

(v) review and determine whether, and when, to obtain any licenses to intellectual property necessary or reasonably useful for the Development, Commercialization or Manufacture of a Product, other than as set forth in **Section 7.7**;

(vi) design, in collaboration with the USJCC, pharmacoeconomic studies or Phase IV Clinical Trials;

(vii) discuss all regulatory plans, communications and submissions for Products, including the schedule and implementation strategy for all regulatory filings for Products, it being understood that BMS shall have responsibility for preparing and submitting DAAs and for seeking all Regulatory Approvals;

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(viii) discuss BMS' plans and activities for the life cycle management of, and co-ordinate with respect to the intellectual property protection for, a Product;

(ix) provide an initial forum for dispute resolution; and

(x) such other responsibilities as may be assigned to the JDC pursuant to the Agreement or as may be agreed between the Parties from time to time.

2.3 US Joint Commercialization Committee. PDL and BMS shall establish the USJCC within [****]* after Commencement of the first Registrational Trial, which Committee shall, subject to **Section 2.1(b),** with respect to each Product in the U.S. for which PDL has not opted-out pursuant to **Section 3.6** or for which PDL's profit-sharing rights have not been terminated pursuant to **Section 11.3(b)**, (a) monitor Commercialization of such Product(s) , (b) review the U.S. Commercialization Plans prepared by BMS, (c) review the results and effectiveness of activities performed pursuant to the U.S. Commercialization Plan then in effect, and (d) discuss current and potential future Product Commercialization activities in the U.S. The USJCC shall have the membership and shall operate by the procedures set forth in **Section 2.4**.

2.4 General Committee Membership and Procedures.

(a) Membership. Each Committee shall be composed of such number of representatives as may be agreed by the Parties. Each of BMS and PDL shall designate representatives with appropriate expertise to serve as members of each Committee, and each representative may serve on more than one Committee as appropriate in view of the individual's expertise. Each Party may replace its Committee representatives at any time upon written notice to the other Party. Each Committee shall have co-chairpersons. BMS and PDL shall each select from their representatives a co-chairperson for each of the Committees, and each Party may change its designated co-chairpersons from time to time upon written notice to the other Party. The Alliance Managers shall be responsible for calling meetings, preparing and circulating an agenda in advance of each meeting of such Committee, and preparing and issuing minutes of each meeting within [****]* thereafter; provided that a Committee co-chairperson shall call a meeting of the applicable Committee promptly upon the written request of the other co-chairperson to convene such a meeting. With respect to the JDC, the minutes of each Committee meeting shall, among other things, record all matters acted upon and approved or disapproved by the Committee, actions to be taken, and any matters the Committee failed to resolve. Such minutes will not be finalized until both Alliance Managers review and confirm in writing the accuracy of such minutes.

(b) Meetings. Each Committee shall hold meetings at such times as it elects to do so, but in no event shall such meetings be held less frequently than once every [****]* for the JDC, and once every [****]*, until the date which is [****]* subsequent to initial Launch of a Product, and once every [****]* thereafter, for the USJCC. Each Committee shall meet alternately at PDL's facilities at its corporate headquarters (located in Redwood City, California as of the Execution Date), and BMS' facilities at its research and development headquarters (located in Princeton, New Jersey as of the Execution Date), or at such other locations as the Parties may agree. The Alliance Managers shall, and other employees of each Party involved in the Development, Manufacture or

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Commercialization of any Product may as needed, attend meetings of each Committee (as nonvoting participants unless they are members of such Committee), and consultants, representatives or advisors involved in the Development, Manufacture or Commercialization of any Product may attend meetings of each Committee as observers; *provided* that such Third Party representatives are under obligations of confidentiality and non-use applicable to the Confidential Information of each Party that are at least as stringent as those set forth in **Article 10**, and in the case of non-employees of a Party, subject to the consent of the other Party, which shall not be unreasonably withheld or delayed. Each Party shall be responsible for all of its own expenses of participating in any Committee (including in any Working Group). Meetings of any Committee may be held by audio or video teleconference with the consent of each Party, which shall not be unreasonably withheld or delayed; *provided* that at least one (1) meeting per year of such Committee shall be held in person. No action taken at any meeting of a Committee shall be effective unless a representative of each Party is participating.

(c) Decision-Making.

(i) Voting on JDC Decisions. Subject to **Section 2.1(b)**, each Party's designees on the JDC shall, collectively, have one (1) vote (the "**Party Vote**") on all matters brought before the JDC, which Party Vote shall be determined by consensus of such Party's designees present (in person or otherwise) at the meeting. Except as expressly provided in this **Section 2.4(c)** and subject to **Section 2.1(b)**, the JDC shall operate as to matters within its jurisdiction by unanimous Party Vote. All decisions of the JDC shall be documented in writing in the minutes of the JDC meeting by the Alliance Managers.

(ii) Operational Decisions. Day-to-day operational level decisions concerning the Development and Commercialization of Products shall be made by the Party to which responsibility for such decisions has been allocated under the Agreement (each such decision, a "**Party Implementation Matter**"). Unless otherwise specified in this Agreement or directed by the appropriate Committee(s), BMS shall be the lead Party, and shall be primarily responsible for, all Development, regulatory activities and Manufacturing and Commercialization activities with respect to a Product. Any disputes with respect to a Party Implementation Matter shall first be referred to the Alliance Managers, and, if the dispute is not resolved within [****]* after such referral to the Alliance Managers, then, (A) with respect to Development and Regulatory Approval matters, the dispute shall be referred to the JDC for resolution, the JDC shall have final decision-making authority with respect to such matter, and BMS shall have the tie-breaking vote on such Committee with respect to such matter, subject to **Section 2.4(c)(iv)** and (B) with respect to Commercialization matters, the dispute shall be referred to the USJCC for discussion, after which BMS shall have the right to decide such matter.

(iii) Disagreements on Committees. Except for: (A) matters outside the jurisdiction and authority of the Committees as provided in **Section 2.1(b);** and (B) any Party Implementation Matter, and in any event without limiting the other rights and obligations of the Parties under this Agreement, any disagreement between the designees of BMS and PDL on the JDC as to matters within such Committee's jurisdiction shall, at the election of either Party, be addressed, first, with the Alliance Managers, and, if the dispute is not resolved within [****]* after such referral to the Alliance Managers, then it shall, upon written notice by a Party to the other, submit the respective

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

positions of the Parties with respect to such matter for discussion in good faith by the Executive Officers of the Parties. If such individuals are not able to mutually agree upon the resolution to such matter within [****]* after submission of the matter to them, then the Executive Officer of BMS shall have the right to decide such matter, subject to **Section 2.4(c)(iv)**.

(iv) BMS Decisions. BMS' right to exercise final decision-making authority pursuant to **Sections 2.4(c)(ii)** and **(iii)** (**"BMS Decisions"**) shall be subject to the following limitations:

(1) All BMS Decisions shall be made in good faith, with due regard for the impact of such decisions on Products in the United States, and, consistent in all material respects with the applicable Approved Plan and the terms of this Agreement. No such decision by BMS shall violate or breach any term or condition of this Agreement. BMS shall make all BMS Decisions only after reasonably considering PDL's comments on such matters.

(2) BMS shall have no right to make a BMS Decision on: (A) any decision that would require PDL to breach any obligation or agreement that PDL may have with or to a Third Party; (B) any decision that would amend, violate or breach any provision of this Agreement; (C) [****]*; or (E) any decision concerning methods of calculation of amounts owed by a Party to the other Party. Resolution of disputes relating to the foregoing matters shall require mutual agreement of the Parties (except as otherwise expressly set forth in this Agreement) and shall be subject to dispute resolution pursuant to **Section 14.1**.

(d) Meeting Agendas and Minutes. Each Party shall disclose to the other Party proposed agenda items along with appropriate information at least [****]* in advance of each meeting of the applicable Committee; *provided* that under exigent circumstances requiring Committee input, a Party may provide its agenda items to the other Party within a shorter period of time in advance of the Committee meeting, or may propose that there not be a specific agenda for a particular meeting, so long as such other Party consents to such later addition of such agenda items or the absence of a specific agenda for such Committee meeting.

(e) Working Groups. From time to time, a Committee may establish and delegate duties to other committees, sub-committees or directed teams (each, a **"Working Group"**) on an "as-needed" basis to oversee particular projects or activities, which delegation shall be reflected in the minutes of the meetings of such Committee. Each such Working Group shall be constituted and shall operate as such Committee determines. The Working Groups may be established on an ad hoc basis for purposes of a specific project, for the life of a Product, or on such other basis as such Committee may determine. Each Working Group and its activities shall be subject to the oversight, review and approval of, and shall report to, the Committee that formed such Working Group. In no event shall the authority of a Working Group exceed that specified in this **Article 2** for the Committee that formed such Working Group. Any disagreement between the designees of BMS and PDL on a Working Group shall be referred for resolution to the Committee that formed such Working Group.

(f) Interactions Between Committees and Internal Teams. The Parties recognize that each Party possesses an internal structure (including various committees, teams and

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

review boards) that will be involved in administering such Party's activities under this Agreement. Each Committee shall establish procedures to facilitate communications between such Committee or Working Group and the relevant internal committee, team or board of each of the Parties in order to maximize the efficiency of the Collaboration, including by requiring appropriate members of such Committee to be available at reasonable times and places and upon reasonable prior notice for making appropriate oral reports to, and responding to reasonable inquiries from, the relevant internal committee, team or board.

2.5 Discontinuation of Participation on a Committee. Each Committee shall continue to exist until the first to occur of (a) the Parties mutually agreeing to disband the Committee, or (b) PDL providing to BMS written notice of its intention to disband and no longer participate in such Committee. Once PDL has provided written notice as referred to in **subclause (b)** above, such Committee shall have no further obligations under this Agreement and BMS shall have the right to solely decide, without consultation, any matters previously before such Committee, subject to the other terms of this Agreement.

2.6 Alliance Managers.

(a) Appointment. Each of the Parties shall appoint a single individual to act as a single point of contact between the Parties to assure a successful Collaboration (each, an **"Alliance Manager"**). Each Party may change its designated Alliance Manager from time to time upon written notice to the other Party. Any Alliance Manager may designate a substitute to temporarily perform the functions of that Alliance Manager by written notice to the other Party.

(b) Responsibilities. The Alliance Managers shall use good faith efforts to attend all Committee meetings and support the co-chairpersons of each Committee in the discharge of their responsibilities. Alliance Managers shall be nonvoting participants in such Committee meetings, unless they are also appointed members of such Committee pursuant to **Section 2.4(a)**. An Alliance Manager may bring any matter to the attention of any Committee if such Alliance Manager reasonably believes that such matter warrants such attention. Each Alliance Manager shall be charged with creating and maintaining a collaborative work environment within and among the Committees. In addition, each Alliance Manager: (i) will be the point of first referral in all matters of conflict resolution; (ii) will provide a single point of communication for seeking consensus both internally within the respective Parties' organizations and between the Parties regarding key strategy and plan issues; (iii) will identify and bring Development and regulatory disputes to the attention of the JDC in a timely manner; (iv) will identify and bring Commercialization disputes to the attention of the USJCC in a timely manner; (v) will plan and coordinate cooperative efforts and internal and external communications; and (vi) will take responsibility for ensuring that governance activities, such as the conduct of required Committee meetings and production of meeting minutes, occur as set forth in this Agreement, and that relevant action items resulting from such meetings are appropriately carried out or otherwise addressed.

2.7 Collaboration Guidelines.

(a) General. Each Party, in working with the other to Develop each Product and otherwise as set forth herein, shall assign responsibilities for the various operational aspects of the Collaboration to those portions of its organization that have the appropriate resources, expertise and responsibility for such functions and, consistent with this Agreement, treat each Product as if it were a proprietary product solely of its own organization. In all matters related to the Collaboration, the

Parties shall strive to balance as best they can the legitimate interests and concerns of the Parties and to realize the full economic potential of each Product (taking into account the risks and costs of further Development and Commercialization).

(b) Independence. Subject to the terms of this Agreement, the activities and resources of each Party shall be managed by such Party, acting independently and in its individual capacity. The relationship between PDL and BMS is that of independent contractors and neither Party shall have the power to bind or obligate the other Party in any manner.

2.8 Overview of Accounting.

(a) Development Costs and Allowable Expenses. For purposes of determining Development Costs and Allowable Expenses, any expense allocated by either Party to a particular category under Development Costs or Allowable Expenses for a particular Product shall not be allocated to another category under Development Costs or Allowable Expenses for such Product. Any royalties payable to Third Parties that are subject to **Section 8.6(a)** or **Section 8.6(b)** shall not be allocable to Development Costs or Allowable Expenses. Each Party agrees to determine Development Costs and Allowable Expenses for Products using its standard accounting procedures, consistently applied, to the maximum extent practical as if such Product were a solely owned Product of such Party, except as specifically provided in this Agreement. The Parties also recognize that such procedures may change from time to time and that any such changes may affect the definition of Development Costs or Allowable Expenses. The Parties agree that, where such changes are economically material to either Party, and consistent with GAAP, adjustments shall be made to compensate the affected Party to preserve the same economics as reflected under this Agreement under such Party's accounting procedures in effect as of the date on which the activity in question (e.g., Development, Commercialization or Manufacturing) first commences under this Agreement. Where the change is or would be material to the other Party, the Party proposing to make the change shall provide the other Party with an explanation for the proposed change and an accounting of the effect of the change on the relevant expense category. Should the Parties disagree on the adjustment, the matter shall be placed before the JDC to resolve. Transfers between a Party and its Affiliates (or between its Affiliates) shall not have effect for purposes of calculating revenues, costs, profits, royalties or other payments or expenses under this Agreement.

(b) Affiliates. If either Party enters into any agreement with any of its Affiliates for the provision of materials or services pursuant to this Agreement, all costs incurred for the provision of such materials or services that are shared by the Parties under this Agreement shall be accounted for on the basis of the cost thereof to such Affiliate and not on the basis of any higher transfer price in effect between such Party and such Affiliate.

2.9 Compliance with Law. Each Party hereby covenants and agrees to comply with applicable law in performing its activities connected with the Development, manufacture and Commercialization (as applicable) of each Product.

2.10 Records. Each Party shall maintain complete and accurate records of all work conducted under the Collaboration and all results, data and developments made pursuant to its efforts under the Collaboration. Such records shall be complete and accurate and shall fully and properly reflect all work done and results achieved in the performance of the Collaboration in sufficient detail

and in good scientific manner appropriate for patent and regulatory purposes. Each Party shall maintain such records for a period of [****]* after such records are created; provided that the following records may be maintained for at least [****]* from the date of creation of such records or, if longer, for the period mandated by such Party's internal policies on record retention: (a) scientific notebooks; and (b) any other records that the other Party reasonably requests be retained in order to ensure the preservation, prosecution, maintenance or enforcement of intellectual property rights. Either Party shall have the right to review and copy such records of the other Party at reasonable times to the extent necessary or useful for it to conduct its obligations or enforce its rights under this Agreement.

3. DEVELOPMENT OF PRODUCTS

3.1 Global Development Plans.

(a) Scope. The Development of each Product shall be governed by a comprehensive, multi-year, worldwide plan (each, a **"Global Development Plan"**) covering the Development of such Product for use in the U.S., Japan, each of the Major European Countries and the EU as a whole, and, broken out on a region-by-region or country-by-country basis only to the extent BMS does so for its own internal products, the remaining countries in the Territory. Each Global Development Plan shall: (i) provide a planned Development program that is designed to generate the non-clinical, clinical and regulatory information required for submitting Drug Approval Applications and to obtain Regulatory Approvals for the relevant indications in the U.S.; (ii) provide a planned Development program that is designed to generate the non-clinical, clinical and regulatory information required for submitting Drug Approval Applications and to achieve Regulatory Approvals for the relevant indications in the Royalty Territory; and (iii) indicate the initial indications that will be pursued with respect to such Product.

(b) Product Global Development Plan. The initial Global Development Plan with respect to HuLuc63 Products is attached hereto as **Schedule 3.1(b)**. BMS shall prepare, with input from key PDL clinical development personnel, a Global Development Plan for each Other Product for approval by the JDC no later than [****]* subsequent to the Commencement of the first Phase I Clinical Trial of such Other Product, in a manner consistent with BMS' then-current practice. For clarity, it is anticipated that the Global Development Plan with respect to Japan shall not be prepared prior to a decision to commence Phase II Clinical Trials in the U.S.

(c) Updates to the Global Development Plan. Subsequent to the Effective Date, BMS shall prepare, with input from key PDL clinical development personnel, and submit to the JDC for approval, updates, amendments or modifications to each Global Development Plan then in effect.

3.2 Annual Development Plans.

(a) Scope. The Development of each Product for a given calendar year shall be governed by a detailed and specific worldwide Development plan (each, an **"Annual Development Plan"**) covering (i) all material Development activities to be performed for such Product for such year; (ii) budgets covering all Development Costs for those Development activities for such Product conducted in support of Regulatory Approvals in the Territory; and (iii) those obligations assigned to

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

each Party with respect to the performance of the Development activities contemplated by such Annual Development Plan. Each Annual Development Plan shall be prepared by BMS, with input from key PDL clinical development personnel, and submitted pursuant to the procedures set forth in **clauses (b)**, **(c)**, and **(d)** below, for approval by the JDC. Each Annual Development Plan for a Product, and any modifications thereto, shall cover, and be consistent in all material respects with, all the Development activities and budgets in the then-current Global Development Plan for such Product that are to be performed in that particular calendar year. Notwithstanding the foregoing, the JDC shall prepare and adopt an Annual Development Plan for each Other Product upon which the Parties plan to conduct Development work, regardless of whether there is a Global Development Plan for such Other Product.

(b) Initial Annual Development Plan for the HuLuc63 Product. The initial Annual Development Plan for the HuLuc63 Product, covering the period from approximately the [****]*, is attached hereto as **Schedule 3.2(b)** and consists of a section covering the period from approximately [****]* (**"Part A"**), which shall be effective as of the Effective Date, and a section covering the period from [****]* (**"Part B"**), which is provided in draft form. PDL shall submit an updated version of Part B to the JDC no later than [****]*, with a goal of having Part B approved, and any disputes resolved, by [****]*. Thereafter, BMS shall submit Annual Development Plans for HuLuc63 Products in accordance with **Section 3.2(d)**.

(c) Annual Development Plan for Other Products. Within [****]* after the date on which a Global Development Plan (or an amendment to an existing Global Development Plan, as the case may be) is first approved with respect to a particular Other Product, BMS shall submit for approval by the JDC an Annual Development Plan for such Other Product, covering the activities contemplated by the Global Development Plan with respect thereto for the remainder of such calendar year and the next subsequent calendar year. Thereafter, BMS shall submit Annual Development Plans for such Other Product in accordance with **Section 3.2(d)**.

(d) New Annual Development Plans. BMS shall submit, on an annual basis, a new Annual Development Plan for the HuLuc63 Product and for each Other Product, if any, to the JDC for its review, comment, and approval. Each such submission shall be no later than [****]* of the calendar year immediately preceding the year covered by such Annual Development Plan, with a goal of having the Annual Development Plan approved, and any disputes resolved, by [****]* of such immediately preceding calendar year.

(e) Diligence. Additionally, each Party shall use Diligent Efforts to carry out, in a timely fashion and in good scientific manner, its responsibilities under any Global Development Plan, Annual Development Plan(s), or U.S. Commercialization Plan in effect at such time.

3.3 Lead Development Party. PDL shall be the lead development Party for all studies of the HuLuc63 Product that are ongoing as of the Effective Date. In the event BMS exercises the BMS Option pursuant to **Section 3.7**, PDL shall be the lead development Party for all studies of the PDL-241 Product until the completion of all Phase I Clinical Trials of the PDL-241 Product. For clarity, if BMS does not exercise the BMS Option, PDL shall have the right to develop PDL-241 Products,

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

without BMS' consent and consistent with PDL's rights as provided in **Section 3.8**. [****]*. The JDC shall, in allocating responsibilities between the Parties with respect to Development activities under this Agreement: (a) endeavor to take advantage of the respective resources, capabilities and expertise of PDL and BMS, and (b) endeavor to (i) maintain, to the extent reasonably practical and appropriate, continuity in functions and commitments of personnel and physical resources of the Parties, (ii) avoid duplication of efforts by the Parties and (iii) foster efficient use by the Parties of resources and personnel, consistent with this Agreement and the applicable Global Development Plan and budget and the applicable Annual Development Plan and budget; provided, in any case, that the JDC shall allocate to BMS responsibilities for the Development of Products solely with respect to the Royalty Territory. Any agreements relating to clinical studies or other testing, research services, or Development that were entered into between PDL and a clinical site or a Third Party service provider before the Effective Date shall become part of the initial Global Development Plan and initial Annual Development Plan.

3.4 Diligence. BMS shall use Diligent Efforts to Develop and Commercialize at least [****]* containing an Existing Antibody or a Future Antibody and, if BMS exercises the BMS Option, at least [****]* containing an Option Antibody, in each case in: [****]*. Any failure by BMS to comply with the obligations set forth in this **Section 3.4** shall be deemed to be a material breach of this Agreement, for which PDL may exercise its termination rights under **Section 11.3** or any other available remedies at law or in equity.

3.5 Limitations on Development. After the Effective Date and during the term of this Agreement, neither Party nor any of its Affiliates shall, directly or through any Third Party, sponsor, conduct or cause to be conducted, otherwise assist in, supply any Product for use in connection with, or

otherwise fund, any clinical trial or clinical study of any Product outside of the Global Development Plan or any Annual Development Plan, without the prior written consent of the other Party.

3.6 Development Costs.

(a) In general. All Development Costs incurred by either Party shall be borne by the Parties as follows: BMS shall bear [****]* of all Development Costs and PDL shall bear [****]* of all Development Costs. BMS shall, even for those Development activities for which PDL is lead development party, use commercially reasonable efforts to use its contractual relationships with clinical research organizations to minimize Development Costs.

(b) Terminating Co-Development.

(i) Prior to Commencement of Development for Certain Licensed Antibodies. PDL shall have the option to terminate its Co-Development rights and obligations, on a Licensed-Antibody-by-Licensed Antibody basis, for any Licensed Antibody other than HuLuc63 or, if BMS has exercised the BMS Option, the first PDL-241 Licensed Antibody under Development pursuant to this Agreement, which option shall be exercisable by prior written notice to BMS at least [****]* prior to the commencement of [****]* of such Licensed Antibody. PDL shall not be liable for any Development Costs or Allowable Expenses associated with any Product containing such Licensed Antibody (including any costs incurred by BMS in preparing a Global Development Plan or Annual Development Plan for such Product) and BMS shall thereafter pay to PDL royalties on Net Sales of

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

such Product by BMS (or its Affiliates or sublicensees) in the Territory at a royalty rate of [****]*, rather than according to **Sections 8.2**, **8.3** or **8.5**. For clarity, (A) PDL's election to terminate its Co-Development rights and obligations under this **Section 3.6(b)** shall not alter PDL's rights to receive milestone payments pursuant to **Section 8.4**, for any such Product, and (B) the U.S. shall be deemed to be part of the Royalty Territory with respect to such Product and the terms and conditions of this Agreement that otherwise relate to Products in the Royalty Territory shall apply with respect to such Product.

(ii) Subsequent to Commencement of Development.

(1) PDL shall have the option to terminate its Co-Development rights and obligations, under the applicable Approved Plan(s), on a Product-by-Product basis, which option shall be exercisable by giving written notice to BMS (such notice, the **"Opt-Out Notice"**) no earlier than [****]* and no later than the date which is [****]* subsequent to such date.

(2) During the [****]* period after the date of the Opt-Out Notice, (a) PDL shall remain responsible for its share of Development Costs and Allowable Expenses, if any, that relate to Development or Commercialization activities with respect to such Product that were ongoing at the time of such notice; and (b) PDL and BMS shall continue their respective Development responsibilities pursuant to ongoing activities under the Approved Plan for such Product; provided that PDL shall not have any obligation (A) to fund or perform activities with respect to such Product commencing subsequent to the date of the Opt-Out Notice, (B) for Manufacturing Costs that are expensed during such [****]* period [****]*, or (C) [****]*.

(3) After the expiration of such [****]* period in **Section 3.6(b)(ii)(2)**, provided that BMS has not terminated this Agreement pursuant to **Section 11.2** with respect to such Product, at least in the U.S., the licenses granted to BMS in **Sections 7.1(a)(i)(1), 7.1(a)(i)(2)**, **7.1(a)(ii)(1)**, and **7.1(a)(ii)(2)** shall become exclusive with respect to the Development of such Product (and such Licensed Antibody incorporated therein), PDL shall no longer have any obligations to perform activities under the Approved Plan or to bear any Development Costs or Allowable Expenses, in each case with respect to such Product, and PDL shall cease any other ongoing Development of such Product. BMS shall thereafter compensate PDL with respect to such Product by paying royalties on the Net Sales of such Product at the royalty rates provided in **Section 8.5(b)**, rather than by profit-sharing according to **Sections 8.2** and **8.3**. In any event, PDL shall continue to be responsible for its payment obligations under **Sections 8.6(a)** and **8.6(b)** with respect to such Product. In no event, (Y) with respect to each Product for which PDL has exercised its option to opt-out pursuant to this **Section 3.6(b)(ii)**, shall the royalty payments received by PDL pursuant to **Section 8.5(b)(i)**, after any applicable deduction of royalties pursuant to **Section 8.6(d)**, be less than [****]* of the Net Sales of such Product, where such Product is the HuLuc63 Product, or [****]* of the Net Sales of such Product, where such Product is an Other Product and (Z) with respect to each Product for which PDL's profit-sharing rights have been terminated by BMS pursuant to **Section 11.3(b)**, shall the royalty payments received by PDL pursuant to **Section 8.5(b)(ii)** for such Product in a given [****]*, after any applicable deduction of royalties pursuant to **Section 8.6(d)**, be less than the aggregate royalties payable to Third Parties for which PDL is responsible, pursuant to **Sections 8.6(a)** and **8.6(b)**, in such [****]*, for such Product; provided, that, with respect to **clause (Z)**, application of the

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

foregoing shall only limit the operation of **Section 8.6(d)** and shall not increase the base royalty rates specified in **Sections 8.5(b)(i)** and **8.5(b)(ii)**. For clarity, PDL's election to terminate its Co-Development rights and obligations under this **Section 3.6(b)** shall not alter PDL's rights to receive milestone payments pursuant to **Section 8.4** for such Product. For further clarity, in the event of any opt-out by PDL with respect to a Product under this **Section 3.6(b)(ii)**, the U.S. shall be deemed to be part of the Royalty Territory with respect to such Product and, except as otherwise provided in this **Section 3.6(b)(ii)**, the terms and conditions of this Agreement that otherwise relate to Products in the Royalty Territory shall apply with respect to such Product.

(c) FTE Records and Calculations; Adjustments to FTE Rate. Each Party shall record and account for its FTE effort for the Development of each Product to the extent that such FTE efforts are included in Development Costs or Allowable Expenses that are, or may in the future be, shared under this Agreement, and shall report such FTE effort to the JDC or the USJCC, as applicable, on a quarterly basis, in each case in a manner that allocates such FTE effort to the extent practicable to each applicable indication. Except to the extent provided herein, each Party shall calculate and maintain records of FTE effort incurred by it in the same manner as used for other products developed by such Party. The JDC shall facilitate any reporting hereunder. The FTE rate shall initially be [****]* for the calendar years [****]* and [****]*, and shall thereafter be increased [****]*, by [****]*, with the first such [****]* adjustment to be effective as of [****]*.

(d) Research Costs. As of the Effective Date, it is the Parties' mutual understanding and expectation that the Parties will not incur Research Costs that exceed [****]*.

(e) Other Expenses. Any expenses incurred by a Party for Development activities that do not fall within the definitions of Development Costs shall be borne solely by such Party unless the JDC determines otherwise.

(f) Reports. Each Party shall report to the other Party within [****]* after the end of each [****]* with regard to the Development Costs incurred by it during [****]*. Such report shall specify in reasonable detail all expenses included in such Development Costs during [****]* and shall be accompanied by invoices, and/or such other appropriate supporting documentation. Within [****]* after the end of each of the [****]* and, for the [****]*, within [****]* after the end of [****]*, the Party that has incurred less than its share of such Development Costs shall make a reconciling payment to the other Party to achieve the appropriate allocation of Development Costs provided for in **Section 3.6(a)**. Each Party's report shall include, in addition to the Development Costs incurred by it during the relevant [****]* a comparison of the amounts budgeted in the Annual Development Plan for such activities and the amounts incurred by such Party for such activities. The Parties shall seek to resolve any questions related to such accounting statements within [****]* following receipt by each Party of the other Party's report hereunder. The Parties shall facilitate the reporting of Development Costs hereunder and the resolution of any questions concerning such reports. Each Party shall have the right at reasonable times and upon reasonable prior notice to audit the other Party's records as provided in **Section 8.16** to confirm the accuracy of the other Party's costs and reports with respect to Development Costs that are shared under this Agreement.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(g) Records. Each Party shall keep detailed records of the Development Costs it incurs, including all supporting documentation for such expenses. Each Party shall keep such records for at least [****]* after the date that such expense was incurred.

3.7 BMS Option to Develop the Option Antibodies. BMS shall have the option, at its sole discretion, to include the Option Antibodies within the Collaboration, on the terms set forth below (the **"BMS Option"**):

(a) As promptly as practicable following the Effective Date, PDL shall conduct, at its own cost, certain pre-clinical testing activities with respect to PDL-241, which activities are set forth on **Schedule 3.7(a)** (the **"PDL-241 Pre-Clinical Testing"**). Unless mutually agreed otherwise, PDL and BMS shall have a teleconference [****]* per [****]* on the interim results of the PDL-241 Pre-Clinical Testing as well as other non-clinical data that may be generated by PDL during the PDL-241 Pre-Clinical Testing period, including but not limited to tissue binding, mechanistic data or *in vitro* toxicology assessments of PDL-241.

(b) Within [****]* subsequent to the completion by PDL of the PDL-241 Pre-Clinical Testing, PDL shall deliver to BMS a report detailing the results of the PDL-241 Pre-Clinical Testing. For clarity, prior to BMS' exercise of the BMS Option, PDL shall have no obligation to perform any activities with respect to the Option Antibodies other than those set forth on **Schedule 3.7(a)**.

(c) Within [****]* subsequent to BMS' receipt of the report described in **clause (b)** above, BMS shall provide written notice to PDL as to whether BMS has elected to exercise the BMS Option. In the event that BMS fails to provide such notice within such [****]*, the BMS Option shall be deemed to have expired.

(d) In the event that BMS exercises the BMS Option:

(i) BMS shall pay to PDL the option exercise fee set forth in **Section 8.1(b)**;

(ii) the Option Antibodies shall be deemed to be Licensed Antibodies; and

(iii) the terms and conditions of **clause (e)** below and **Section 3.9** shall not apply and shall be of no force or effect.

(e) In the event that BMS does not exercise the BMS Option within [****]* of BMS' receipt of the report described in **clause (b)** above:

(i) PDL shall retain all rights to the Option Antibodies, as further provided in **Section 3.8**; and

(ii) the BMS Option shall terminate.

3.8 Retained Rights. Notwithstanding anything to the contrary in this Agreement, in the event that BMS fails to exercise the BMS Option pursuant to **Section 3.7**, PDL shall have the right to

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

conduct (directly or indirectly, and either with or without a *bona fide* collaborator) outside of the Collaboration, research, development, manufacture and/or commercialization of the Option Antibodies; provided that PDL shall not develop or commercialize the Option Antibodies in [****]*.

3.9 Covenant by BMS. BMS hereby covenants that BMS shall not Develop, Commercialize, make, use, sell, offer for sale and import any Antibody or Product in the Territory in [****]*, except with the prior written consent of PDL and solely with respect to Development and Commercialization of such Antibody or Product jointly by the Parties pursuant to an Approved Plan.

3.10 Competition Testing.

(a) If BMS does not exercise the BMS Option pursuant to **Section 3.7** and either Party wishes to determine whether any Antibody that was produced from a cloned hybridoma cell line that was identified and tested by PDL prior to the Effective Date and is not set forth on **Schedule 1.25** or **Schedule 1.50** is an Existing Antibody or an Option Antibody, then the Party desiring such a determination shall notify the other Party in writing and PDL shall perform Competition Testing to determine whether each such Antibody Competes with PDL-241 for binding to the Target. If such Antibody Competes with PDL-241 for binding to the Target, then it shall be deemed to be an Option Antibody. If such Antibody does not Compete with PDL-241 for binding to the Target, then it shall be deemed to be an Existing Antibody. PDL shall provide the results of such Competition Testing to the JDC. BMS shall be responsible for [****]* and PDL shall be responsible for [****]* of the costs of Competition Testing pursuant to this **Section 3.10(a)**, which costs shall not be included in Development Costs.

(b) As of the Effective Date, the Parties do not anticipate identifying additional Antibodies (that is, Antibodies that were not in existence as of the Effective Date) for future Development and Commercialization by the Parties. However, if BMS does not exercise the BMS Option pursuant to **Section 3.7** and the JDC adopts an Approved Plan calling for such identification or PDL decides in its sole discretion to identify Antibodies outside the Collaboration, then PDL shall perform Competition Testing to determine whether each such newly identified Antibody Competes with PDL-241 for binding to the Target. An Antibody that is identified by PDL outside of the Collaboration and Competes with PDL-241 for binding to the Target shall be deemed to be an Option Antibody. An Antibody that is generated by either Party pursuant to an Approved Plan and does not Compete with PDL-241 for binding to the Target shall be deemed to be a Future Antibody. PDL shall provide the results of the Competition Testing with respect to Antibodies identified pursuant to an Approved Plan to the JDC. The costs of Competition Testing pursuant to this **Section 3.10(b)** for new Antibodies generated pursuant to an Approved Plan shall be included in Development Cost. PDL shall be solely responsible for costs of Competition Testing pursuant to this **Section 3.10** for all Antibodies identified in PDL's discretion outside the Collaboration.

(c) Any dispute as to whether an Antibody Competes with PDL-241 for binding to the Target shall be settled in accordance with **Section 14.3**.

---

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

4. REGULATORY

4.1 Ownership of Regulatory Dossier. The lead Party for regulatory activities with respect to a Product (such Party, the **"Regulatory Lead Party"**), as provided in **Section 4.2**, will own all regulatory filings for such Product in order to facilitate such Party's interactions with Regulatory Authorities. PDL will initially own all regulatory filings for the HuLuc63 Product, including all regulatory filings related to studies ongoing as of the Effective Date. PDL will be responsible for filing the first IND for the PDL-241 Product and will initially own all regulatory filings for the PDL-241 Product. PDL hereby agrees to transfer and assign to BMS (and BMS hereby agrees to receive from PDL) all of PDL's right, title and interest to the IND(s) (i) for the HuLuc63 Product, no later than the Commencement of the first Phase II Clinical Trial for the HuLuc63 Product and (ii) in the event BMS exercises the BMS Option pursuant to **Section 3.7**, for the PDL-241 Product, no later than the completion of all Phase I Clinical Trials for the PDL-241 Product. Additionally, PDL shall notify the applicable Regulatory Authorities in writing at the time that it is transferring such IND(s) for the HuLuc63 Product or the PDL-241 Product, as applicable, to BMS, and BMS shall notify the applicable Regulatory Authorities in writing that it is accepting such IND(s) and all responsibilities associated therewith, including without limitation, the responsibility for reporting adverse events. BMS shall own all other regulatory filings with respect to Products.

4.2 Regulatory Lead Party. PDL shall be the Regulatory Lead Party for the HuLuc63 Product until all studies ongoing as of the Effective Date have been completed and the IND(s) has been transferred to BMS in accordance with **Section 4.1**. Thereafter, BMS shall be the Regulatory Lead Party for the HuLuc63 Product. In the event BMS exercises the BMS Option pursuant to **Section 3.7**, and subject to the JDC's approval of the Phase I Clinical Trial program design and costs, PDL shall be the Regulatory Lead Party for the PDL-241 Product until all Phase I Clinical Trials for the PDL-241 Product have been completed and the IND(s) has been transferred to BMS in accordance with **Section 4.1**, and, thereafter, BMS shall be the Regulatory Lead Party for the PDL-241 Product. BMS shall be the Regulatory Lead Party, as of the Effective Date, for all Other Products (other than PDL-241 Products). PDL shall have a participatory role in all material regulatory activities that would have a potential impact on Licensed Antibodies and Products in the U.S. All material regulatory decisions would be made and implemented by the JDC, provided that routine interactions with Regulatory Authorities, as well as any interaction with respect to a country outside of the U.S. that would not have a potential impact on obtaining or maintaining Regulatory Approval in the U.S., will be excluded from the requirement of conferring through the JDC. BMS shall be the lead Party for worldwide pharmacovigilance. Notwithstanding any other provision of this Agreement, in the event any dispute with respect to the content of any regulatory filing or dossier, pharmacovigilance reports, patient risk management strategies and plans, Core Data Sheet, Product labeling, safety, and the decision to file any DAA is not resolved by the JDC, BMS shall have final decision-making authority with respect to such matters at the JDC, submitting such dispute to any dispute resolution procedures provided for in **Section 2.4(c)**.

4.3 Regulatory Matters Relating to Products in the United States. With respect to Products in the United States:

(a) Regulatory Filings. The Regulatory Lead Party shall prepare, for review by the JDC, all submissions (including any supplements or modifications thereto, but excluding routine adverse event filings (i.e., not relating to serious adverse events as defined by applicable law)) to the FDA (including the preparation of an electronic submission of a Drug Approval Application to the

FDA, with BMS having primary responsibility for preparing the electronic dossier for each indication). The other Party shall have a right to review and comment upon (through its members of the appropriate Committee), the content and subject matter of, and strategy for, each Drug Approval Application to be filed in the United States, all correspondence submitted to the FDA related to clinical trial design, all proposed Product labeling (including the final FDA-approved labeling) and post-Regulatory Approval labeling changes. Prior to filing with the FDA, the Regulatory Lead Party shall afford the other Party a reasonable opportunity for review and comment with respect to any material regulatory filings, and shall take such comments into account, but without any obligation to accept or incorporate such comments. Each Party shall promptly provide the other with copies of all written or electronic communications received by it from, or sent by it to, the FDA with respect to obtaining and maintaining, Regulatory Approvals for a Product in the United States (it being understood that routine adverse event filings (i.e., not relating to serious adverse events as defined by applicable law) shall not fall within the meaning of maintenance) and copies of all contact reports produced by such Party. The Regulatory Lead Party shall be the sole point of contact with any Regulatory Authorities.

(b) Notice of Regulatory Filing Requirements. The Regulatory Lead Party shall provide to the other Party, within [****]* of discovery by the Regulatory Lead Party, notice of any event with respect to any Product that triggers any FDA filing requirement that is subject to a deadline imposed by applicable law of less than [****]* after the discovery of such an event. The co-chairpersons of the JDC shall discuss in good faith and on a timely basis determine the most effective and expeditious means of responding to such FDA filing requirement.

(c) Notice of Changed Regulatory Requirements. The Regulatory Lead Party shall provide notice to other Party of any additional requirements which the FDA may impose with respect to obtaining or maintaining Regulatory Approval for a Product (including additional clinical trials), and, within [****]* of receipt thereof by the Regulatory Lead Party, of all FDA inquiries with respect to a Product that require a response or for a which a response may be advisable.

(d) Regulatory Meetings. The Regulatory Lead Party shall provide the other Party with notice of all meetings, conferences, and discussions (including FDA advisory committee meetings and any other meeting of experts convened by the FDA concerning any topic relevant to a Product, as well as Product labeling and post-Regulatory Approval Product labeling discussions with the FDA) scheduled with the FDA concerning any pending Drug Approval Application or any material regulatory matters relating to a Product within [****]* after the Regulatory Lead Party receives notice of the scheduling of such meeting, conference, or discussion (or within such shorter period as may be necessary in order to give the other Party a reasonable opportunity to participate in such meetings, conferences and discussions). The other Party shall be entitled to be present at, and to participate in, all such meetings, conferences or discussions. PDL's and BMS' respective members of the JDC shall use reasonable efforts to agree in advance on the scheduling of such meetings and on the objectives to be accomplished at such meetings, conferences, and discussions and the agenda for the meetings, conferences, and discussions with the FDA. The Regulatory Lead Party shall also include the other Party in any unscheduled, ad-hoc meetings, conferences and discussions with the FDA concerning any pending IND, Drug Approval Application or any material regulatory matters relating to a Product.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(e) Regulatory Data. Each Party shall provide to the other Party on a timely basis copies of all material pre-clinical and clinical data generated or compiled pursuant to a Global Development Plan, Annual Development Plan or U.S. Commercialization Plan (via electronic copies of such data in a form that may be analyzed and manipulated by the other Party).

(f) Common Database. If deemed appropriate by the JDC, the Parties will establish a common database to be controlled, maintained and administered by BMS for the receipt, investigation, recordation, communication, and exchange (as between the Parties) of data arising from clinical trials for Products. The Parties shall agree upon guidelines and procedures for such common database that shall be in accordance with, and enable the Parties and their Affiliates to fulfill their reporting obligations under applicable law. Furthermore, such guidelines and procedures shall be consistent with relevant International Council for Harmonisation (**"ICH"**) guidelines. The Parties' costs incurred in connection with receiving, investigating, recording, reviewing, communicating, and exchanging such efficacy data shall be included as an element of Development Costs or as Allowable Expenses, calculated on a FTE cost and direct out-of-pocket cost basis.

(g) Rights of Reference. Each Party shall have the right to cross reference, file or incorporate by reference any regulatory filing or drug master file (as defined in the Code of Federal Regulations) (and any data contained therein) for any Product, or any component thereof, made in any country in the Territory (including all Approvals) in order to support regulatory filings that such Party is permitted to make under this Agreement for any Product in the United States and to enable either Party to fulfill its obligations under this Agreement to Develop or manufacture (anywhere in the world) any such Product for use in the United States or Commercialize any such Product in the United States. Each Party shall support the other, as may be reasonably necessary, in obtaining Regulatory Approvals for each Product in the United States, including providing necessary documents, or other materials required by applicable law to obtain Regulatory Approvals, in each case in accordance with the terms and conditions of this Agreement.

4.4 Recalls in the United States. Any decision to initiate a recall or withdrawal of a Product in the United States shall be made by BMS, after consultation with the JDC; provided, however, that if, as a result of patient safety concerns, there is not sufficient time for the JDC to meet, and in any event before BMS initiates a recall or withdrawal, the Parties shall promptly and in good faith discuss the reasons therefor and the strategy for implementing any such recall or withdrawal. The costs of any such recall or withdrawal relating to: (i) the Development of a Product for an indication prior to the approval of the Drug Approval Application (or compendia listing, as the case may be) for such indication; or (ii) the Commercialization of a Product shall each be included in Regulatory Expenses. Notwithstanding the preceding sentence, to the extent that any such recall or withdrawal is attributable to the negligence of a Party, such Party shall bear such costs, and such costs shall be excluded from Development Costs and Allowable Expenses. Under no circumstances shall either Party unreasonably object to a recall or withdrawal requested by the other Party, and neither Party shall have any right to object to a recall or

withdrawal requested by the other Party for failure of a Product to meet the applicable specifications, for material safety concerns, for the manufacture of such Product in a manner that does not comply with applicable law or as requested by Regulatory Authorities. In the event of any recall or withdrawal of a Product in the U.S., BMS shall take any and all necessary action to implement such recall or withdrawal in accordance with applicable law, with assistance from PDL as reasonably requested.

4.5 Regulatory Matters Relating Products in the Royalty Territory. With respect to Products in the Royalty Territory:

(a) Preparation of Regulatory Filings. BMS shall prepare and draft all filings (including any supplements or modifications thereto and including the preparation of any electronic submission of a Drug Approval Application) to Regulatory Authorities in the Royalty Territory, with input from key PDL regulatory personnel. BMS shall keep PDL informed with respect to, and shall promptly provide to PDL copies of, all material written or electronic communications received by it from, or sent by it to: (a) a Regulatory Authority in Japan, a Major European Country or for the EU; and (b) a Regulatory Authority outside the Major European Countries to the extent that the substance of such communications: (i) varies materially from what BMS has already disclosed to PDL with respect to Japan, a Major European Country or for the EU under this **Section 4.5(a)**; and (ii) is material to the Collaboration.

(b) Pricing and Reimbursement Approvals. BMS and its Affiliates shall take the lead in all pricing and reimbursement approval proceedings relating to each Product in the Royalty Territory, and BMS shall have decision-making authority with respect to Product pricing in the U.S.

(c) Rights of Reference. BMS shall have the right to cross reference, file or incorporate by reference any regulatory filing or drug master file (as defined in the Code of Federal Regulations) (and any data contained therein) for any Product made in any country in the Territory (including all Approvals) in order to support regulatory filings that BMS is permitted to make under this Agreement for any such Product in the Royalty Territory and to enable BMS to fulfill its obligations under this Agreement to Develop, Manufacture (anywhere in the world), or Commercialize any such Product for use in the Royalty Territory.

4.6 Recalls in the Royalty Territory. Any decision to initiate a recall or withdrawal of a Product in the Royalty Territory shall be made by BMS. In the event of any recall or withdrawal, BMS shall take any and all necessary action to implement such recall or withdrawal in accordance with applicable law, with assistance from PDL as reasonably requested by BMS and at BMS' sole expense. The costs of any such recall or withdrawal in the Royalty Territory shall be borne solely by BMS, except to the extent that the recall or withdrawal is attributable to: (a) the negligence of PDL, in which event PDL shall bear such costs; or (b) the negligence of both Parties, in which event each Party shall bear such costs to the extent of its respective responsibility, and in either case ((a) or (b)), such costs shall be excluded from Development Costs and Allowable Expenses.

4.7 Pharmacovigilance Agreement. Subject to the terms of this Agreement, and within [****]* after the Effective Date, BMS and PDL (under the guidance of their respective Pharmacovigilance Departments, or equivalent thereof) shall define and finalize the responsibilities the Parties shall employ to protect patients and promote their well-being in a written Agreement (hereafter referred to as the **"Pharmacovigilance Agreement"**). These responsibilities shall include mutually acceptable guidelines and procedures for the receipt, investigation, recordation, communication, and exchange (as between the Parties) of adverse event reports, pregnancy reports, and any other information concerning the safety of any Product. Such guidelines and procedures shall be in accordance with, and enable the Parties and their Affiliates to fulfill, local and national regulatory reporting obligations to government authorities. Furthermore, such agreed procedures shall be consistent with relevant ICH guidelines, except where said guidelines may conflict with existing local regulatory safety reporting requirements, in which case local reporting requirements shall prevail. The

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Pharmacovigilance Agreement will provide for a worldwide safety database to be maintained by BMS. Each Party hereby agrees to comply with its respective obligations under such Pharmacovigilance Agreement (as the Parties may agree to modify it from time to time) and to cause its Affiliates and Sublicensees to comply with such obligations.

5. COMMERCIALIZATION

5.1 Overview. As between the Parties, BMS shall be solely responsible for all (and PDL shall have no responsibility for any) Commercialization activities throughout the world, and BMS shall book sales of all Products in all countries.

5.2 Commercialization Plans.

(a) Commercialization Plans. For each Product, BMS shall be responsible for creating a [****]* forecast and a comprehensive [****]* commercialization plan setting forth the anticipated Commercialization activities in the U.S. (including without limitation market research, launch plans, product positioning, and detailing activities) (the **"U.S. Commercialization Plan"**) consistent with BMS then-current internal practices.

(b) No later than [****]* after Commencement of the first Registrational Trial for a particular Product, and on [****]* basis thereafter, BMS shall prepare, and present to the USJCC for review and discussion, a U.S. Commercialization Plan that meets the requirements of **Section 5.2(a)** and is consistent with the terms of this Agreement. Each updated U.S. Commercialization Plan for a particular Product shall become effective and supersede the previous U.S. Commercialization Plan for such Product.

(c) Notwithstanding the foregoing **clauses (a)** and **(b)**, in the event that PDL is actively developing or commercializing a Competing Product, then BMS shall have no obligation to present a U.S. Commercialization Plan to the USJCC for review.

5.3 Commercialization Costs. All Allowable Expenses incurred by BMS in connection with the Commercialization of Products in the U.S. shall be included in the calculation of Operating Profit (or Losses), and shall be allocated between the Parties, in accordance with **Sections 8.2** and **8.3**.

5.4 Commercialization Reports. BMS shall keep the USJCC fully informed regarding the progress and results of its Commercialization activities and those of its Affiliates, sublicensees, and Third Party contractors in the Royalty Territory. On [****]* basis, BMS shall provide the USJCC with a written report that summarizes, in reasonable detail, all Commercialization activities performed in the Royalty Territory during the preceding [****]*.

5.5 Standards of Conduct. BMS shall perform, or shall ensure that its Affiliates, sublicensees and Third Party contractors perform, all Commercialization activities in a good scientific and ethical business manner and in compliance with applicable laws and regulations.

5.6 Sales Force Training. BMS shall develop and conduct training programs specifically relating to the Products for its sales representatives. BMS agrees to utilize such training programs on

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

an ongoing basis to assure a consistent, focused promotional strategy, that complies with all applicable laws, rules, and regulations.

6. MANUFACTURING

6.1 Clinical and Commercial Supply.

(a) HuLuc63 Product. Prior to the completion of PDL's transfer under **Section 6.2** of the Manufacturing technology for HuLuc63, PDL shall Manufacture, or arrange with Third Parties for the Manufacture of (or shall maintain existing agreements with Third Parties for the Manufacture of), HuLuc63 Product for the purpose of transitional supply of HuLuc63 Product for any ongoing Phase I Clinical Trials or Phase II Clinical Trials with respect to HuLuc63 Product and any pre-clinical Development activities set forth in the initial Global Development Plan. As part of such Phase I Clinical Trial and Phase II Clinical Trial supply, and prior to the technology transfer to BMS described in **Section 6.2**, PDL shall be responsible for testing the supplies of HuLuc63 Product. Prior to transfer of the IND to BMS, PDL shall be responsible for release and stability testing. Once the IND is transferred to BMS, then PDL will enable BMS' manufacturing and quality units to review manufacturing records and test results performed and to release supplies of HuLuc63 Product. Upon such technology transfer (which shall include the transfer of all test methods), BMS shall be responsible for all testing and releasing of supplies of HuLuc63 Product. PDL shall continue and complete stability studies with respect to the materials manufactured prior to technology transfer to BMS. From and after the Effective Date, PDL shall not enter into any agreements with Third Parties for the manufacture of HuLuc63 Product without the prior written consent of BMS. The costs and expenses incurred by PDL in carrying out such Manufacturing (or the costs associated with any such agreements with Third Parties) shall be treated as Development Costs. After the completion of PDL's transfer of the applicable Manufacturing technology under **Section 6.2(a)**, BMS shall be responsible for Manufacturing, or arranging with Third Parties for the Manufacture of, HuLuc63 Product, in bulk and finished form, for use in Development and for commercial sale.

(b) PDL-241 Product. In the event of BMS' exercise of the BMS Option, and prior to the completion of PDL's transfer under **Section 6.2** of the Manufacturing technology for PDL-241, PDL shall Manufacture, or arrange with Third Parties for the Manufacture of PDL-241 Product for the purpose of transitional supply of PDL-241 Product for any ongoing Phase I Clinical Trials with respect to PDL-241 Product and any pre-clinical PDL-241 Product Development activities set forth in an Approved Plan. As part of such Phase I Clinical Trial supply, and prior to the technology transfer to BMS described in **Section 6.2**, PDL shall be responsible for testing the supplies of PDL-241 Product and PDL will enable BMS' manufacturing and quality units to review manufacturing records and test results performed and to release supplies of PDL-241 Product. Upon such technology transfer (which shall include the transfer of all test methods), BMS shall be responsible for all testing and releasing of supplies of PDL-241 Product. PDL shall continue and complete stability studies with respect to the materials manufactured prior to technology transfer to BMS. From and after the exercise by BMS of the BMS Option, PDL shall not enter into any agreements with Third Parties for the Manufacture of PDL-241 Product without the prior written consent of BMS. The costs and expenses incurred by PDL in carrying out such Manufacturing (or the costs associated with any such agreements with Third Parties) shall be treated as Development Costs. For clarity, if BMS does not exercise the BMS Option, PDL shall have the right to Manufacture, or retain Third Parties to Manufacture, PDL-241 Product, without BMS' consent and consistent with PDL's rights as provided in **Section 3.8**. After the completion of PDL's transfer of the applicable Manufacturing technology under **Section 6.2(a)**, BMS shall be responsible for Manufacturing, or arranging with Third Parties for the Manufacture of, PDL-241

Product, in bulk and finished form, for use in Development and for commercial sale.

(c) Other Products (other than PDL-241 Product). BMS shall be responsible for Manufacturing, or arranging with Third Parties for the Manufacture of, all Other Products (other than PDL-241 Product), in bulk and finished form, for use in Development and for commercial sale. For clarity, if BMS does not exercise the BMS Option, PDL shall have the right to Manufacture, or retain Third Parties to Manufacture, all Products containing Option Antibodies, without BMS' consent and consistent with PDL's rights as provided in **Section 3.8**.

(d) Manufacturing Decisions. [****]*.

6.2 Transfer of Manufacturing Right.

(a) At dates determined by the JDC (or a manufacturing Working Group thereof), PDL shall transfer the Manufacturing technology for (i) HuLuc63 and any other Existing Antibodies and Future Antibodies for which PDL has developed Manufacturing technology and (ii) provided that BMS has exercised the BMS Option, PDL-241 and any other Option Antibodies for which PDL has developed Manufacturing technology, to either (y) BMS or (z) a Third Party manufacturer chosen by BMS. The Parties expect that the transfer of Manufacturing technology for HuLuc63 shall occur no later than

[****]* and, provided that [****]*, that the transfer of Manufacturing technology for PDL-241 shall occur no later than [****]* with respect to PDL-241. In connection with such transfer, PDL shall transfer to BMS or such Third Party manufacturer, as the case may be, all PDL Licensed Know-How that is related to the Manufacturing of, and is reasonably necessary or useful to enable BMS or such Third Party manufacturer (as appropriate) to Manufacture, each such Licensed Antibody and Products containing or incorporating them. PDL shall use reasonable efforts to ensure that any Third Party manufacturer retained by PDL is obligated to assist with respect to such technology transfer. The costs and expenses incurred by the Parties in carrying out such transfer shall be treated as Development Costs.

(b) BMS and/or its Third Party manufacturer shall use any Information transferred pursuant to **Section 6.2(a)** solely for the purpose of Manufacturing Products for use by PDL or BMS under this Agreement, and for no other purpose.

(c) BMS acknowledges and agrees that PDL may condition its agreement to transfer of any Manufacturing technology or Information to a Third Party manufacturer on the execution of a confidentiality agreement between such Third Party manufacturer and PDL that contains terms substantially equivalent to those of **Article 10** of this Agreement.

7. LICENSES; EXCLUSIVITY

7.1 Licenses to BMS. Subject to the terms and conditions of this Agreement:

(a) Development and Commercialization under PDL Licensed Patents and PDL Licensed Know-How.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(i) PDL hereby grants to BMS a revenue-bearing license under the PDL Licensed Patents and the PDL Licensed Know-How to (1) Develop Licensed Antibodies and Products in the U.S., (2) Manufacture and use Licensed Antibodies and Products in the U.S. solely for Development purposes, (3) Commercialize, sell, offer for sale and import Products in the U.S. and (4) Manufacture and use Products in the U.S. solely for Commercialization purposes. The licenses set forth in subparts (1) and (2) above shall be co-exclusive and the licenses set forth in subparts (3) and (4) above shall be exclusive.

(ii) PDL hereby grants to BMS a royalty-bearing license under the PDL Licensed Patents and the PDL Licensed Know-How to (1) Develop Licensed Antibodies and Products in the Royalty Territory, (2) Manufacture and use Licensed Antibodies and Products in the Royalty Territory solely for Development purposes, (3) Commercialize, sell, offer for sale and import Products in the Royalty Territory and (4) Manufacture and use Products in the Royalty Territory solely for Commercialization purposes. The licenses set forth in subparts (1) and (2) above shall be co-exclusive and the licenses set forth in subparts (3) and (4) above shall be exclusive.

(b) Development and Commercialization under the Queen Patents. PDL hereby grants to BMS a non-exclusive license under the Queen Patents to (1) Develop Licensed Antibodies and Products in the Territory, (2) Manufacture and use Licensed Antibodies and Products in the Territory solely for Development purposes, (3) Commercialize, sell, offer for sale and import Products in the Territory and (4) Manufacture and use Products in the Territory solely for Commercialization purposes. Such license shall be revenue-bearing with respect to Products Commercialized in the U.S. and royalty-bearing with respect to Products Commercialized in the Royalty Territory.

(c) Development and Commercialization under the BioBetter Technology. In the event the JDC decides that it is in the best interests of the Collaboration to Develop a Licensed Antibody through the application of BioBetter Technology and the resulting Licensed Antibody would, in the absence of a license from PDL infringe or misappropriate the BioBetter Technology, PDL hereby grants to BMS a non-exclusive license under the BioBetter Technology to (1) Develop such Licensed Antibody and Products incorporating such Licensed Antibody in the Territory, (2) Manufacture and use such Licensed Antibody and Products incorporating such Licensed Antibody in the Territory solely for Development purposes, (3) Commercialize, sell, offer for sale and import Products incorporating such Licensed Antibody in the Territory and (4) Manufacture and use Products incorporating such Licensed Antibody in the Territory solely for Commercialization purposes; provided, however, that BMS shall not have the right to practice the BioBetter Technology (except for purposes of Manufacturing Licensed Antibodies or Products to which BioBetter Technology has already been applied). Such license shall be revenue-bearing with respect to Products Commercialized in the U.S. and royalty-bearing with respect to Products Commercialized in the Royalty Territory.

(d) Sublicensing. The licenses granted to BMS in **Sections 7.1(a)**, **7.1(b)** and **7.1(c)** are, subject to **Section 7.1(f)** and **Section 7.5,** freely sublicensable by BMS only with respect to (i) the Manufacture and use for Commercialization purposes and Commercialization of Products in the Royalty Territory and (ii) Products for which Co-Development has been terminated pursuant to **Section 3.6(b)** or **Section 11.3(b)**, and is otherwise sublicenseable by BMS solely with the prior written consent of PDL, which consent shall not be unreasonably withheld. For clarity, BMS shall have the right to engage contract service providers (including without limitation clinical trial services providers, pre-clinical and clinical research services providers, contract manufacturers and institutions) for the purpose of exercising its rights and performing its obligations hereunder, without providing

notice to or obtaining the consent of PDL, and otherwise subject to the terms and conditions of this Agreement.

(e) PDL Retained Rights. PDL retains all rights to use the PDL Licensed Know-How and PDL Patents, subject to the terms of this Agreement.

(f) Pre-existing Third Party IP. The Parties acknowledge that the licenses granted by PDL to BMS under this **Section 7.1** include sublicenses of pre-existing Third Party intellectual property licensed to PDL under the agreements set forth on **Schedule 7.1(f)** (the **"Existing License Agreements"**). Notwithstanding anything to the contrary in this Agreement, the licenses granted under the provisions of this **Section 7.1** are (i) subject to the applicable terms and conditions of the Existing License Agreements, and (ii) BMS shall, in exercising such sublicense rights, comply with all applicable

provisions of the Existing License Agreements other than any obligations to make payments to such Third Party. The Parties further agree that to the extent that any PDL Licensed Patents and PDL Licensed Know-How is non-exclusively licensed to PDL by a Third Party, the licenses granted to BMS in **Section 7.1** shall include exclusive or co-exclusive (as the case may be) sublicenses of PDL's interest in such licensed technology.

(g) Option Agreements. [****]*.

7.2 Licenses to PDL.

(a) Development. Subject to the terms and conditions of this Agreement, BMS hereby grants to PDL a co-exclusive license under the BMS Licensed Patents and the BMS Licensed Know-How to Develop, Manufacture and use Licensed Antibodies and Products in the Territory.

(b) Sublicensing. The license granted to PDL in **Section 7.2(a)** is, subject to **Section 7.5**, sublicensable solely with the prior written consent of BMS. Notwithstanding the foregoing PDL shall have the right to engage contract service providers (including without limitation clinical trial services providers, pre-clinical and clinical research services providers, contract manufacturers and institutions) for the purpose of exercising its rights and performing its obligations hereunder, without providing notice to or obtaining the consent of BMS, and otherwise subject to the terms and conditions of this Agreement.

(c) BMS Retained Rights. BMS retains all rights to use the BMS Licensed Know-How and BMS Licensed Patents, subject to the terms of this Agreement.

7.3 Mutual Covenants.

(a) BMS hereby covenants that BMS shall not (and shall ensure that any of its permitted sublicensees shall not) use any PDL Licensed Know-How, PDL Licensed Patents, BioBetter Technology or Queen Patents for a purpose other than that expressly permitted in **Section 7.1**.

(b) PDL hereby covenants that PDL shall not (and shall ensure that any of its permitted sublicensees shall not) use any BMS Licensed Know-How or BMS Licensed Patents for a purpose other than that expressly permitted in **Section 7.2**.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

7.4 No Additional Licenses. Except as expressly provided in **Sections 7.1, 7.2**, and **Article 11**, nothing in this Agreement grants either Party any right, title or interest in and to the intellectual property rights of the other Party (either expressly or by implication or estoppel).

7.5 Sublicensing. Each Party shall provide the other Party with the name of each permitted sublicensee of its rights under this **Article 7** and a copy of the applicable sublicense agreement; provided that each Party may redact confidential or proprietary terms from such copy, including financial terms. The sublicensing Party shall remain responsible for each permitted sublicensee's compliance with the applicable terms and conditions of this Agreement.

7.6 Exclusivity.

(a) Exclusivity Term**.** For a period commencing on the Effective Date and ending [****]* subsequent to BMS' receipt from PDL of the report on PDL-241 Pre-Clinical Testing, described in **Section 3.7(b)** (the **"Exclusivity Term"**), subject to **Section 3.8** and **Section 7.6(d)**, neither PDL nor BMS shall conduct (directly or indirectly, and either with or without a *bona* fide collaborator) outside of the Collaboration any programs that are intended to identify, optimize, develop and/or commercialize Antibodies (any such program, a **"Competing Program"**); provided that the foregoing shall not prevent either Party from conducting pre-clinical research with respect to the discovery or optimization of Antibodies.

(b) Commercial Launch of Competing Product**.**

(i) *No Competing Products for [****]**. (A) Subject to **Section 3.8** and **Section 7.6(d)**, neither Party may commercialize in any country in the Territory a product comprising or incorporating an Antibody (other than BMS' Commercialization of a Product pursuant to the Collaboration) (any such product, a **"Competing Product"**), until the date which is [****]* subsequent to Launch in such country of the first Product to achieve Launch in such country (the **"First Product"**); and (B) if BMS does not exercise the BMS Option pursuant to **Section 3.7**, BMS may not commercialize a Competing Product in the [****]* until the date which is [****]* subsequent to the first arm's length sale by PDL or its Affiliate or licensee of a product incorporating an Option Antibody to a Third Party for use or consumption by the public of such product in any country in which such product has obtained regulatory approval.

(ii) *Royalty on Net Sales of a Competing Product*. In the event of any commercialization of a Competing Product in a particular country that is permitted under **clause (b)(i)** above, the Party commercializing such Competing Product in such country shall pay to the other Party a royalty equivalent to (A) [****]* of net sales of such Competing Product in such country during the period beginning [****]* subsequent to initial launch of the First Product in such country and ceasing at the end of the [****]* subsequent to initial launch of the First Product in such country; and (B) if such country is not the U.S., [****]* of net sales of such Competing Product in such country for a period beginning [****]* subsequent to initial launch of the First Product in such country and ceasing upon the expiration of the Royalty Term in such country with respect to the First Product; and (C) if such country is the U.S., [****]* of net sales of any such Competing Product in the U.S. for a period beginning [****]* subsequent to initial launch of the First Product in the U.S. and ceasing at such time

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

as there is no Valid Claim within a Patent Controlled by a Party covering the composition of matter, formulation containing, or approved method of use of the First Product in the U.S.

(c) Acquisition of Competing Program or Competing Product Due to a Change of Control. In the event that, due to a Change of Control transaction, a Party is either (A) conducting (directly or indirectly, and either with or without a *bona fide* collaborator), outside the scope of this Collaboration and during the Exclusivity Term any Competing Programs; or (B) commercializing a Competing Product in any country in the Territory during the period prior to or within the [****]* after Launch in such country of the First Product (such period, a "**Non-Compete Period**"), then the following terms and conditions shall apply:

(i) In the event that a Party controls a Competing Program or Competing Product during the Exclusivity Term as a result of, and subsequent to, a Change of Control, such Party must within [****]* of such Change of Control, either:

(1) (A) if such Party is BMS, return all Product(s) to PDL on the terms set forth in **Sections 11.6(a)**, **11.6(c)**, **11.6(d)**, **11.6(e)**, and **11.6(g)**, except that a royalty shall be payable to BMS on net sales of such Product(s) on a worldwide basis, of (i) [****]* of the net sales of such Product(s) if such return is made prior to the [****]* with respect to such Product(s), and (ii) [****]* of the net sales of such Product(s) if such return is made subsequent to the [****]* with respect to any Product(s); or (B) if such Party is PDL, forfeit its profit-sharing rights as described in **Sections 8.2 and 8.3** as well as its obligation to pay part of the Development Costs pursuant to **Section 3.6**, in which case the U.S. shall be deemed to be part of the Royalty Territory; *provided* that royalties payable on net sales in the U.S. shall be calculated using the sales thresholds set forth in the table set forth below being applied to the U.S. only, and royalties payable on net sales in the Royalty Territory but outside the U.S. shall be calculated using the sales thresholds set forth in **Section 8.5(a)** being applied only to the Royalty Territory outside the U.S.;

Calendar year Net Sales of HuLuc63 Products in the U.S.	**Royalty Rate**
[****]*	[****]*

Calendar year Net Sales of Other Products in the U.S.	**Royalty Rate**
[****]*	[****]*

(2) divest such Competing Program or Competing Product to a Third Party; or

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(3) discontinue such Competing Program or development or commercialization of such Competing Product until the end of the Exclusivity Term or, if longer, as long as necessary to comply with **Section 7.6(b)**;

For clarity, in the event that PDL controls a Competing Program or Competing Product during the Exclusivity Term as a result of, and subsequent to, a Change of Control, BMS shall continue to owe milestone payments to PDL pursuant to **Section 8.4**, regardless of whether PDL chooses option (1), (2) or (3) above. For further clarity, in the event PDL is owed royalties pursuant to **Section 7.6(c)(i)(1)(B)**, PDL shall continue to be responsible for its payment obligations under **Sections 8.6(a)** and **8.6(b)** with respect to such Product(s). In no event shall the royalty payments received by PDL based on Net Sales of a Product during a [****]*, after any applicable deduction of royalties pursuant to **Section 8.6(d)**, be less than the aggregate royalties payable to Third Parties for which PDL is responsible, pursuant to **Sections 8.6(a)** and **8.6(b)**, in such [****]*, for such Product; provided, that, application of the foregoing shall only limit the operation of **Section 8.6(d)** and shall not increase the base royalty rates specified in **Section 7.6(c)(i)**.

(ii) In the event that a Party controls in at least one country in the Territory a Competing Product as a result of, and subsequent to, a Change of Control, during the Non-Compete Period for such Competing Product in such country, then solely with respect to each such country, such Party must within [****]* of such Change of Control either:

(1) (A) if such Party is BMS, return all Product(s) to PDL with respect to such countries on the terms set forth in **Sections 11.6(a)**, **11.6(c)**, **11.6(d)**, **11.6(e)**, and **11.6(g)**, except that a royalty shall be payable to BMS on net sales of such Product(s) in such countries of (i) [****]* of the net sales of such Product(s) if such return is made prior to the [****]* with respect to such Product(s), and (ii) [****]* of the net sales of such Product(s) if such return is made subsequent to the [****]* with respect to any Product(s); or (B) if such Party is PDL and one such country is the U.S., forfeit its profit-sharing rights (and Allowable Expense sharing obligations) as described in **Sections 8.2 and 8.3** as well as its obligation to pay part of the Development Costs pursuant to **Section 3.6**, in which case the U.S. shall be deemed to be part of the Royalty Territory; *provided* that royalties payable on net sales in the U.S. shall be calculated using the sales thresholds set forth in the table below being applied to the U.S. only, and royalties payable on net sales in the Royalty Territory but outside the U.S. shall be calculated using the sales thresholds set forth in **Section 8.5(a)** being applied only to the Royalty Territory outside the U.S.; or

Calendar year Net Sales of HuLuc63 Products in the U.S.	**Royalty Rate**
[****]*	[****]*

Calendar year Net Sales of Other Products in the U.S.	**Royalty Rate**
[****]*	[****]*

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(2) divest or outlicense to a Third Party at least its commercialization rights with respect to such Competing Product in such countries; or

(3) discontinue or delay commercialization of such Competing Product in each such country until the end of the Non-Compete Period in such country.

For clarity, in the event that PDL controls a Competing Product during a Non-Compete Period as a result of, and subsequent to, a Change of Control, BMS shall continue to owe milestone payments to PDL pursuant to **Section 8.4**, regardless of whether PDL chooses option (1), (2) or (3) above. For further clarity, in the event PDL is owed royalties pursuant to **Section 7.6(c)(ii)(1)(B)** above, PDL shall continue to be responsible for its payment obligations under **Sections 8.6(a)** and **8.6(b)** with respect to such Product(s). In no event shall the royalty payments received by PDL based on Net Sales of a Product during a [****]*, after any applicable deduction of royalties pursuant to **Section 8.6(d)**, be less than the aggregate royalties payable to Third Parties for which PDL is responsible, pursuant to **Sections 8.6(a)** and **8.6(b)**, in such [****]*, for such Product; provided, that, application of the foregoing shall only limit the operation of **Section 8.6(d)** and shall not increase the base royalty rates specified in **Section 7.6(c)(ii)**.

(iii) In the event that a Party controls in at least one country in the Territory a Competing Product as a result of, and subsequent to, a Change of Control, after the expiration of the Non-Compete Period with respect to such country, then, solely with respect to each such country in which the Non-Compete Period has expired, the terms of **Section 7.6(b)(ii)** shall apply to such Competing Product in each such country.

(d) For clarification, if BMS does not exercise the BMS Option, PDL's and its Affiliate's and sublicensee's work on any Option Antibody shall not be considered work on a Competing Program, and PDL's or its Affiliate's or sublicensee's commercialization of a product containing or including an Option Antibody shall not be considered a Competing Product.

7.7 **License to** [****]*. [****]*.

8. COMPENSATION

8.1 Upfront Payment and Option Exercise Fee.

(a) BMS shall pay to PDL a one-time upfront fee of Thirty Million Dollars ($30,000,000) within [****]* after the Effective Date. Such fee shall be noncreditable and nonrefundable.

(b) In the event that BMS exercises the BMS Option pursuant to **Section 3.7**, BMS shall pay to PDL a one-time option exercise fee of Fifteen Million Dollars ($15,000,000) within

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

[****]* after the date of such exercise by BMS. Such fee shall be noncreditable and nonrefundable.

8.2 Profit Sharing in the U.S. The terms and conditions of this **Section 8.2** shall govern each Party's rights and obligations with respect to Operating Profits (or Losses) relating to each Product in the U.S. For clarity, PDL shall have no right to share Operating Profits, and no obligation to bear any Operating Losses, in each case pursuant to this **Section 8.2**, with respect to any Product in the Royalty Territory and PDL shall instead be entitled to receive from BMS royalties pursuant to **Section 8.5(a)**.

(a) **Basic Concept.** Subject to **Sections 8.6(a) and 8.6(b)**, the Parties shall share all Operating Profits and all Operating Losses (as applicable) for each Product in the U.S. on a [****]* to BMS, [****]* to PDL basis. Specifically, the Net Sales of Product in the U.S. shall be allocated first to reimburse each Party for its share of Allowable Expenses for Product in the U.S., which shall be allocated [****]* to BMS and [****]* to PDL, and any remaining sums, shall be Operating Profit or Operating Loss (as applicable), which shall be shared as follows: [****]* by BMS and [****]* by PDL. For clarity, any upfront fees, milestone payments or royalties payable to Third Parties that are subject to **Section 8.6(a) or 8.6(b)** shall not be allocable to Development Costs or Allowable Expenses.

8.3 Calculation and Payment of Profit or Loss Share.

(a) **Reports and Payments in General.** With respect to each Product, BMS shall report to PDL, within [****]* after the end of each [****]*, with regard to Net Sales and Allowable Expenses (including any Allowable Expenses that are incurred by BMS prior to Launch of such Product) for such Product during such quarter in the U.S. Each such report shall specify in reasonable detail all deductions allowed in the calculation of such Net Sales and all expenses included in Allowable Expenses, and, if requested by PDL, any invoices or other supporting documentation for any payments to a Third Party that individually exceed [****]* shall be promptly provided. Within [****]* after the end of each [****]* (or for the last [****]* in a [****]*,[****]* after the end of [****]*), BMS shall reconcile all Net Sales and Allowable Expenses to ascertain whether there is an Operating Profit or an Operating Loss and payments shall be made as set forth in paragraphs (i) and (ii) below, as applicable.

(i) If there is an Operating Profit for such quarter, then BMS shall pay to PDL an amount equal to [****]* of the Operating Profit for such quarter within [****]* subsequent to BMS' preparation of such reconciliation; or

(ii) If there is an Operating Loss for such quarter, then PDL shall make a reconciling payment to BMS to assure that PDL bears its share of such Operating Loss during such quarter within [****]* subsequent to PDL's receipt of such reconciliation.

(b) Last Calendar Quarter. No separate payment shall be made for the last calendar quarter in any calendar year. Instead, at the end of each such year, a final annual reconciliation shall be conducted by comparing the share of Operating Profit (or Loss) to which a Party is otherwise entitled for such year pursuant to **Section 8.2** against the sum of all amounts (if any) previously paid or retained by such Party for prior quarters during such year, and the Parties shall make

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

reconciling payments to one another no later than [****]* after the end of such quarter, if and as necessary to ensure that each Party receives for such year its share of Operating Profits and bears its share of Operating Losses in accordance with **Section 8.2**.

8.4 Milestone Payments to PDL.

(a) Development Milestone Payments to PDL. For each Licensed Antibody or Product, BMS shall make the development milestone payments set forth below to PDL within [****]* after the first achievement of each indicated event by PDL or BMS or any of its Affiliates or sublicensees with respect to such Licensed Antibody or Product. All development milestone payments made by BMS to PDL hereunder shall be noncreditable and nonrefundable. In the event a Licensed Antibody or Product achieves a development milestone with respect to a particular indication without having achieved a prior milestone with respect to such indication, then BMS will make the prior milestone payment together with the payment of the milestone payment for the achieved subsequent milestone event.

[****]*

(b) Milestone Payment Restrictions. Each milestone payment set forth in **Section 8.4(a)** shall be paid only once with respect to a given Product, regardless of the number of indications sought or approved beyond the first [****]* such indications for that Product, or the number of presentations, dosages or formulations developed for that Product. Where milestones are payable for the achievement of [****]* indication(s) with respect to a Product, such [****]* indications must be, with respect to all Products, therapeutically distinct, from both the clinical development and commercialization standpoints, to the previous indication(s) on which such milestone payment was made.

(c) Sales Milestone Payments to PDL. For each Product, BMS shall make the milestone payments set forth below to PDL after the achievement of each of the following events by BMS or any of its Affiliates or sublicensees. Each milestone payment shall be made by BMS in [****]* equal installments, with the first installment due and payable [****]* after the end of the first [****]* in which such milestone event is met. BMS shall pay the second installment to PDL on the [****]*.

(i) $[****]* upon the first time the worldwide, aggregate Net Sales of a Product over [****]* reach or exceed $[****]*;

(ii) $[****]* upon the first time the worldwide, aggregate Net Sales of a Product over [****]* reach or exceed $[****]*; and

(iii) $[****]* upon the first time the worldwide, aggregate Net Sales of a Product over [****]* reach or exceed $[****]*.

For example, if the worldwide, aggregate Net Sales of a Product over [****]*.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

For clarity, the milestone payments under this **Section 8.4(c)** shall be additive such that if [****]* milestones described in **clauses (i)**, **(ii)**, and **(iii)** are met in the [****]* period, BMS shall owe to PDL installment payments under each of **clauses (i)**, **(ii)**, and **(iii)**, as applicable.

8.5 Royalty Payments to PDL.

(a) Sales of Products in the Royalty Territory. For each Product, BMS shall pay to PDL royalties on Net Sales of such Product by BMS (or its Affiliates or sublicensees) in the Royalty Territory at a royalty rate determined by aggregate Net Sales in the Royalty Territory of such Product in a calendar year as follows:

Calendar year Net Sales of HuLuc63 Products in Royalty Territory	**Royalty Rate**
[****]*	[****]*

Calendar year Net Sales of Other Products in Royalty Territory	**Royalty Rate**
[****]*	[****]*

(b) Sales of Products in the U.S.

(i) For each Product for which PDL's Co-Development rights and obligations have been terminated pursuant to **Section 3.6(b)**, BMS shall pay to PDL royalties on Net Sales of such Product by BMS (or its Affiliates or sublicensees) in the U.S. at a royalty rate determined by aggregate Net Sales in the U.S. of such Product in a calendar year as follows:

Calendar year Net Sales of HuLuc63 Products in the U.S.	Royalty Rate
[****]*	[****]*

Calendar year Net Sales of Other Products in the U.S.	Royalty Rate
[****]*	[****]*

(ii) For each Product for which PDL's Co-Development rights and obligations have been terminated pursuant to **Section 11.3(b)**, BMS shall pay to PDL royalties on Net Sales of such Product by BMS (or its Affiliates or sublicensees) in the U.S. at a royalty rate determined

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

by aggregate Net Sales in the U.S. of such Product in a calendar year as follows:

Calendar year Net Sales of HuLuc63 Products in the U.S.	Royalty Rate
[****]*	[****]*

Calendar year Net Sales of Other Products in the U.S.	Royalty Rate
[****]*	[****]*

(c) Clarification. With respect to **clause (a)** and **clause (b)** above, Net Sales shall be aggregated only with respect to a given Product, and not aggregated for all Products that may be Commercialized. All royalty payments made by BMS to PDL hereunder shall be noncreditable and nonrefundable, except in the event that an audit pursuant to **Section 8.16** confirms that BMS had overpaid royalties to PDL, in which case such overpayment shall be credited (after deduction for PDL's reasonable expenses for such audit) against future royalties due to PDL (or, in the event that such audit takes place subsequent to the Royalty Term, such overpayment shall be refunded to BMS).

8.6 Third Party Royalties

(a) *Pre-existing Third Party IP*. [****]* shall bear [****]* Third Party milestones and royalties owed with respect to a Product, on intellectual property that: (i) is licensed by PDL as of the Effective Date pursuant to the Existing License Agreements; or (ii) is intellectual property that: (A) PDL received written notice of potential infringement from a Third Party prior to the Effective Date, did not disclose same to BMS in writing prior to the Effective Date (B) covers the composition of matter, method of making or method of using an Antibody, a Collaboration Target and/or related animal models.

(b) [****]*.

(c) *Other Third Party IP*. Subject to **clause (d)** below, [****]* shall be responsible for the payment of [****]* royalties and other payments owed to Third Parties, other than amounts payable pursuant to **Sections 8.6(a)** and **8.6(b)**, in consideration of intellectual property rights that BMS reasonably believes are necessary or reasonably useful in connection with the Development or Commercialization or Manufacture of a Product in the Territory; provided, that any such royalties and other payments (including upfront fees and milestone payments) shall be treated as Allowable Expenses with respect to the U.S.; and provided, further, that each Party shall bear all Third Party royalties arising from any infringing activities by such Party prior to the Effective Date. For avoidance of doubt, this **clause (c)** shall apply to payments owed to Third Parties under (i) any license to [****]* or U.S. and ex-U.S. patents and pending patent applications that claim priority thereto, have a common priority claim therewith or are a foreign equivalent thereof, to the extent such patents and pending patent applications claim [****]*; (ii) any license taken as a result of exercising an option under

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

[****]*, entered into as of [****]*; and (iii) any license taken as a result of exercising an option under the [****]* entered into as of [****]*.

(d) Subject to **Sections 3.6(b)** and **7.6(c)**, BMS may deduct from the royalties it would otherwise owe to PDL pursuant to **Sections 7.6(c)** or **8.5**, as applicable, for a particular Product for a particular [****]*, an amount equal to [****]* of all royalties owed to Third Parties pursuant to **Section 8.6(c)** with respect to such Product in such [****]*, up to a maximum deduction of [****]* of the royalties due PDL for such Product in such [****]*.

8.7 Generic Competition. During the applicable Royalty Term for a particular Product in a particular country in the Royalty Territory, if any Third Parties are: (a) selling a Generic Product in any given country in any year; and (b) such sales of such Generic Product(s) in such country for such year are, in the aggregate (on a unit equivalent basis):

(i) greater than [****]*, but less than or equal to [****]* of the sum of the entire market for such Product in such country, then the royalties due to PDL for such country in such year shall be reduced by [****]* from what would otherwise have been due under **Section 8.5**; or

(ii) greater than [****]* of the sum of the entire market for such Product in such country, then the royalties due to PDL for such country in such year shall be reduced by [****]* from what would otherwise have been due under **Section 8.5**;

[****]*.

8.8 Quarterly Payments and Reports. All royalties due under **Section 8.5** shall be paid quarterly, on a country-by-country basis, within [****]* of the end of the relevant [****]* for which royalties are due. BMS shall also provide to PDL within [****]* after the end of each [****]* a report that summarizes the Net Sales of each Product in the Royalty Territory during such quarter, provided that to the extent additional information is reasonably required by PDL to comply with its obligations to any of its licensors, the Parties shall work together in good faith to timely compile and produce such additional information. Such reports shall also include detailed information regarding the calculation of royalties due pursuant to **Section 8.5**, including allowable deductions pursuant to **Section 8.6(d)**, in the calculation of Net Sales of each Product on which royalties are paid, and, to the extent **Section 8.7** is applicable, the calculation of sales and market share (by volume) of Generic Products.

8.9 Term of Royalties. PDL's right to receive royalties under **Section 8.5** shall expire on a country-by-country and Product-by-Product basis upon the later of: (a) [****]* from the Launch of such Product in such country; or (b) expiration in such country of the last Valid Claim of the last to expire Patent that is Controlled by PDL or BMS (either solely or jointly) and that covers the composition, manufacture or method of use of such Product (the **"Royalty Term"**). Upon the expiration of the Royalty Term with respect to a Product in a country, BMS shall have a fully-paid-up perpetual license under **Section 7.1** for the making, using, selling, offering for sale and importing of such Product in such country.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

8.10 Payment Method. All payments due under this Agreement to PDL shall be made by bank wire transfer in immediately available funds to an account designated by PDL. All payments hereunder shall be made in Dollars.

8.11 Taxes. PDL shall pay any and all taxes levied on account of all payments it receives under this Agreement. If laws or regulations require that taxes be withheld, BMS shall: (a) deduct those taxes from the remittable payment; (b) pay the taxes to the proper taxing authority; and (c) send evidence of the obligation together with proof of tax payment to PDL within [****]* following that tax payment. The Parties shall discuss appropriate mechanisms for minimizing such taxes to the extent possible in compliance with applicable law.

8.12 Blocked Currency. In each country where the local currency is blocked and cannot be removed from the country, royalties accrued in that country shall be paid to PDL in Dollars based on the Dollar reported sales for the quarter (translated for such country per Statement of Financial Standards No. 52), unless otherwise mutually agreed.

8.13 Sublicenses. In the event BMS grants any permitted licenses or sublicenses to Third Parties to sell Products that are subject to royalty payments under **Section 8.5**, BMS shall have the responsibility to account for and report sales of any Product by a licensee or a sublicensee on the same basis as if such sales were Net Sales by BMS. BMS shall pay to PDL (or cause the licensee or sublicensee to pay to PDL, with BMS remaining responsible for any failure of the licensee or sublicensee to pay amounts when due under this Agreement): (a) royalties on such sales as if such sales of the licensee or sublicensee were Net Sales of BMS or any of its Affiliates; and (b) milestones payments pursuant to **Section 8.4** based on the achievement by such licensee or sublicensee of any milestone event contemplated in such Sections as if such milestone event had been achieved by BMS or any of its Affiliates hereunder.

8.14 Foreign Exchange. Conversion of sales recorded in local currencies to Dollars shall be performed in a manner consistent with BMS' normal practices used to prepare its audited financial statements for internal and external reporting purposes, which uses a widely accepted source of published exchange rates.

8.15 Records. Each Party shall keep (and shall ensure that its Affiliates and sublicensees shall keep) such records as are required to determine, in accordance with GAAP and this Agreement, the sums or credits due under this Agreement, including Development Costs, Allowable Expenses and Net Sales. All such books, records and accounts shall be retained by such Party until the later of (a) [****]* after the end of the period to which such books, records and accounts pertain and (b) the expiration of the applicable tax statute of limitations (or any extensions thereof), or for such longer period as may be required by applicable law. Each Party shall require its sublicensees to provide to it a report detailing the foregoing expenses and calculations incurred or made by such sublicensee, which report shall be made available to the other Party in connection with any audit conducted by such other Party pursuant to **Section 8.16**.

8.16 Audits. Each Party shall have the right to have an independent certified public accountant, reasonably acceptable to the audited Party, to have access during normal business hours,

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

and upon reasonable prior written notice, to examine only those records of the audited Party (and its Affiliates and sublicensees) as may be reasonably necessary to determine, with respect to any [****]* ending not more than [****]* prior to such Party's request, the correctness or completeness of any report or payment made under this Agreement. The foregoing right of review may be exercised [****]* with respect to each such periodic report and payment. Results of any such examination shall be (a) limited to information relating to the Products, (b) made available to both Parties and (c) subject to **Article 10**. The Party requesting the audit shall bear the full cost of the performance of any such audit, unless such audit discloses a variance to the detriment of the auditing Party of more than [****]* from the amount of the original report, royalty or payment calculation, in which case the audited Party shall bear the full cost of the performance of such audit. The results of such audit shall be final, absent manifest error.

8.17 Interest. Any payments or portions thereof due hereunder that are not paid on the date such payments are due under this Agreement shall bear interest at a rate equal to the lesser of: (a) [****]* above the Prime Rate as published by Citibank, N.A., New York, New York, or any successor thereto, at 12:01 a.m. on the first day of each [****]* in which such payments are overdue; or (b) the maximum rate permitted by law, in each case calculated on the number of days such payment is delinquent, compounded [****]*.

8.18 Non-Monetary Consideration. Neither Party shall sell a Product for any consideration other than cash except on terms specified in the Annual Commercialization Plan then in effect. In the event a Party receives any non-monetary consideration in connection with the sale of a Product or Competing Product, such Party's payment obligations under this **Article 8** or **Section 7.6**, as applicable, shall be based on the fair market value of such other consideration. In such case, the selling Party shall disclose the terms of such arrangement to the other Party and the Parties shall endeavor in good faith to agree on such fair market value.

8.19 Payments to or Reports by Affiliates. Any payment required under any provision of this Agreement to be made to either Party or any report required to be made by any Party shall be made to or by an Affiliate of that Party if designated in writing by that Party as the appropriate recipient or reporting entity.

9. INTELLECTUAL PROPERTY

9.1 Ownership.

(a) The inventorship of all Sole Inventions and Joint Inventions shall be determined under the U.S. patent laws.

(b) Each Party shall own the entire right, title and interest in and to any and all of its Sole Inventions, and Patents claiming only such Sole Inventions (and no Joint Inventions) (**"Sole Invention Patents"**). BMS and PDL shall be each own an undivided one-half interest in and to any and all Joint Inventions and Patents claiming such Joint Inventions (**"Joint Invention Patents"**). BMS and PDL as joint owners each shall have the right to exploit and to grant licenses under such Joint Inventions without accounting for profits or other consideration, or sharing of any proceeds, to

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

the other Party, in each case without the consent of the other Party, unless otherwise specified in this Agreement.

(c) All employees, agents and contractors of each Party shall be under written obligation to assign any Inventions and related intellectual property rights (including Patents) to such Party.

(d) The Parties acknowledge and agree that this Agreement shall be deemed to be a **"Joint Research Agreement"** as defined under 35 U.S.C. 103(c).

9.2 Disclosure. Each Party shall submit a written report to the JDC, no less frequently than within [****]* of the end of each [****]*, describing any Sole Invention or Joint Invention arising during the prior quarter in the course of the Collaboration or thereafter in accordance with this Agreement (or at such earlier time as may be necessary to preserve patentability of such invention) or, if no such Sole Invention or Joint Invention has arisen during such time period, reporting such information. Each Party shall provide to the other Party such assistance and execute such documents as are reasonably necessary to permit the filing and prosecution of such patent application to be filed claiming such Sole Invention or Joint Invention, or the issuance, maintenance or extension of any resulting Patent.

9.3 Patent Prosecution and Maintenance; Abandonment.

(a) Filing, Prosecution and Maintenance of Invention Patents Controlled by PDL.

(i) Subject to **Section 9.3(a)(ii)** below, PDL shall be responsible for the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all Joint Invention Patents, Sole Invention Patents Controlled by PDL, and PDL Licensed Patents that in each case are co-exclusively or exclusively licensed to BMS under **Section 7.1(a)** (the **"PDL Prosecuted Patents"**), provided that such responsibilities shall be carried out by external patent counsel selected by PDL, or by PDL's internal patent counsel in conjunction with external patent counsel selected by it, and provided further that, in each case, such external patent counsel shall be subject to BMS' approval (such approval not to be unreasonably withheld). PDL, or its outside counsel, shall use commercially reasonable efforts to consult with and cooperate with BMS with respect to the filing, prosecution and maintenance of the PDL Prosecuted Patents, including providing BMS with drafts of material proposed filings to allow BMS a reasonable opportunity for review and comment before such filings are due (with such comments to be considered in good faith by PDL). PDL, or its outside counsel, shall provide to BMS copies of any material papers relating to the filing, prosecution and maintenance of the PDL Prosecuted Patents promptly upon their being filed and received. BMS' rights under this **Section 9.3(a)** with respect to any PDL Prosecuted Patent licensed to PDL by a Third Party shall be subject to the rights of such Third Party to file, prosecute, and/or maintain such PDL Prosecuted Patent.

(ii) Abandonment. In no event shall PDL knowingly permit any of the PDL Prosecuted Patents to be abandoned in any country, or elect not to file a new patent application within the PDL Prosecuted Patents or a new patent application claiming priority to a patent application

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

within the PDL Prosecuted Patents either before such patent application's issuance or within the time period required for the filing of an international (i.e., Patent Cooperation Treaty), regional (including European Patent Office) or national application, without BMS' written consent (such consent to not be unreasonably withheld, delayed or conditioned) or BMS otherwise first being given an opportunity to assume full responsibility (at BMS' expense) for the continued prosecution and maintenance of such PDL Prosecuted Patents or the filing of such new patent application, provided that it qualifies as a PDL Prosecuted Patent. Accordingly, PDL, or its outside counsel, shall provide BMS with notice of the allowance and expected issuance date of any patent within the PDL Prosecuted Patents, or any of the aforementioned filing deadlines or deadlines for preventing abandonment, and BMS shall provide PDL with prompt notice as to whether BMS desires PDL to file such new patent application or maintain such application. In the event that PDL decides either: (A) not to continue the prosecution or maintenance of a patent application or patent within the PDL Prosecuted Patents in any country; or (B) not to file such new patent application requested to be filed by BMS that would qualify as a PDL Prosecuted Patent, PDL shall provide BMS with notice of this decision at least [****]* prior to any pending lapse or abandonment thereof, and BMS shall thereafter have the right to assume responsibility for the filing, prosecution and maintenance of such patent or patent application. In the event that BMS assumes such responsibility for such filing, prosecution and maintenance, BMS shall have the right to transfer the responsibility for such filing, prosecution and maintenance of such patent applications and patents to patent counsel selected by BMS and, where such counsel is external, approved by PDL (such approval not to be unreasonably withheld), and PDL shall cooperate as reasonably requested by BMS to facilitate control of such filing, prosecution and maintenance by BMS. PDL shall, at the expense of BMS, provide such assistance and execute such documents as are reasonably necessary to continue or permit the filing, prosecution or maintenance of such patent or patent application or the issuance, maintenance or extension of any resulting patent or permit enforcement of such patent application or any such patent.

(b) Filing, Prosecution and Maintenance of Sole Invention Patents Controlled by BMS. BMS shall be responsible for the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all Sole Invention Patents Controlled by BMS and that are co-exclusively or exclusively licensed to PDL under this Agreement (the **"BMS Prosecuted Patents"**). BMS, or its outside counsel, shall use commercially reasonable efforts to consult with and cooperate with PDL with respect to the filing, prosecution and maintenance of the BMS Prosecuted Patents, including providing PDL with drafts of material proposed filings to allow PDL a reasonable opportunity for review and comment before such filings are due (with such comments to be considered in good faith by BMS). BMS, or its outside counsel, shall provide to PDL copies of any material papers relating to the filing, prosecution and maintenance of the BMS Prosecuted Patents promptly upon their being filed and received.

(c) Patent Term Extension. PDL and BMS shall each cooperate with each another and shall use commercially reasonable efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country with respect to patent rights covering the Products. If elections with respect to obtaining such patent term extensions are to be made, PDL and BMS shall discuss and make reasonable efforts to agree upon such elections; provided that BMS shall have final decision-making authority with respect any such elections to seek patent term extension or supplemental protection.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(d) Payment of Prosecution Costs. BMS shall bear the out-of-pocket expenses (including reasonable fees for any outside counsel, but not PDL's inside counsel fees) associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of: (X) the BMS Prosecuted Patents; and (Y) the PDL Prosecuted Patents, provided that:

(i) if PDL or a Third Party licensee of PDL is practicing a particular Joint Invention or Sole Invention of PDL outside the scope of any of the licenses set forth in **Section 7.1(a)**, and such Joint Invention or Sole Invention is covered by a Patent for which BMS would otherwise bear the out-of-pocket patent expenses pursuant to **Section 9.3(d)** above, then, subject to **Section 9.3(d)(ii)** below, PDL shall provide written notice to BMS and the Parties shall mutually agree on the percentage of such expenses that each Party shall bear (which, in the absence of any other agreement between the Parties, shall be divided evenly); and

(ii) if any Sole Invention of PDL or Joint Invention covered by this **Section 9.3(d)** is part of a patent application or patent that covers other inventions that are not subject to **Section 9.3(d)** and that are not licensed to BMS under **Section 7.1(a)**, then the Parties shall mutually agree upon an appropriate allocation of the expenses so that BMS does not bear any portion of the out-of-pocket expenses attributable to such other inventions.

(e) PDL and BMS shall mutually agree on the percentage of expenses that each Party shall bear with respect to Joint Inventions for which the cost of filing, prosecuting or maintaining such Joint Invention is not the responsibility of a Party under **Section 9.3(d)** hereof (which, in the absence of any other agreement between the Parties, shall be divided evenly).

(f) Non-payment of Expenses.

(i) If PDL elects not to pay its share of any expenses with respect to a Patent covering a Joint Invention in a given country under any of **Section 9.3(d)** or **(e)** (each such Patent, a **"Joint Patent"**), PDL shall inform BMS in writing not less than [****]* before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable), and, if BMS assumes the expenses associated with the Joint Patent, then BMS shall be entitled to credit such expenses against current or future royalties payable on Net Sales of Products in such country, if any, pursuant to **Section 8.5(a)**.

(ii) If BMS elects not to pay its share of any expenses with respect to a Joint Patent, BMS shall inform PDL in writing not less than [****]* before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable), and, if PDL assumes the expenses associated with the Joint Patent, then PDL shall thereby become the sole owner of such Joint Patent in such country and BMS shall assign to PDL its rights, title and interests in such Joint Patent in such country.

(iii) If a Party is the licensee of a Patent (other than a Joint Patent) under any of **Section 7.1(a) or Section 7.2**, and such Party elects not to pay its share of expenses pursuant to **Sections 9.3(d)** or **9.3(e)** in a given country, such Party shall inform the other Party in writing not less than [****]* before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable) (such Patent(s) in such countries, as identified in such

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

notice, being a **"Cost-Terminated Patent Right"**), and shall no longer have any rights under such **Section 7.1(a) or Section 7.2**, as applicable, with respect to the relevant Patent in such country, provided that all remaining rights and licenses under all other Patent(s) within such licensed Patents would remain in effect. It is also understood that such licensee shall have the opportunity to assume its share of the responsibility for the costs of filing, prosecution and maintenance of any Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right, and that where such expenses are assumed by such licensee, it shall be afforded all the rights and licenses as provided under this Agreement for the licensed Patents (other than the Cost-Terminated Patent Right) with respect to such Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right.

(g) Notwithstanding **Sections 9.3(d), 9.3(e) and 9.3(f),** any costs incurred by the Parties associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of a U.S. Patent in the PDL Prosecuted Patents or the BMS Licensed Patents shall, solely to the extent such Patent claims the composition of matter, use, manufacture, or sale of a Product in the U.S., be included as an element of Allowable Expenses.

(h) **Reports.** Each Party shall provide to the other Party, on a quarterly basis, a patent report that includes the serial number, docket number and status of each Patent for which, pursuant to **Section 9.3(a)** or **Section 9.3(b)**, such Party has the right to direct the filing, prosecution and maintenance.

9.4 **Enforcement of Patent Rights**.

(a) **Enforcement of PDL Licensed Patents**.

(i) **Enforcement by BMS**. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement by a Third Party of a PDL Licensed Patent that claims the composition of matter (including formulation), manufacture or use of one or more Products that are being Developed or Commercialized using Diligent Efforts and which is co-exclusively or exclusively licensed to BMS under **Section 7.1(a)**, such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel (or designated outside counsel if such Party does not have in-house counsel at such time) concerning suspected infringement of such PDL Licensed Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. Provided that the suspected infringement involves the Third Party's manufacture, use, offer for sale, sale or import of an Antibody or a product containing an Antibody, BMS shall have the right, but shall not be obligated, to bring an infringement action against such Third Party or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. PDL shall reasonably assist BMS (at BMS' expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by BMS or required by law, and BMS shall hold PDL harmless from any liability incurred by PDL arising out of any such proceedings or actions at BMS' request. PDL shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of any such PDL Licensed Patent may be entered into by BMS without the prior consent of PDL (such consent to not be unreasonably withheld, delayed or conditioned).

(ii) **Enforcement by PDL**. If BMS elects not to bring any action for infringement or to defend any proceeding described in **Section 9.4(a)(i)** and so notifies PDL, or where PDL (or any other party other than BMS who is licensed under such PDL Licensed Patent) otherwise desires to bring an action or to defend any proceeding directly involving a PDL Licensed Patent, then PDL may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control. BMS shall reasonably assist PDL (at PDL's expense) in any action or proceeding being prosecuted or defended by PDL, if so requested by PDL or required by law, and PDL shall hold BMS harmless from any liability incurred by BMS arising out of any such proceedings or actions. BMS shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of such PDL Licensed Patent with respect to Licensed Antibodies or Products may be entered into by PDL without the prior consent of BMS (such consent to not be unreasonably withheld, delayed or conditioned).

(b) **Enforcement of Joint Patents**.

(i) **Enforcement by BMS.** In the event that management or in-house counsel for either Party becomes aware of a suspected infringement by a Third Party of a Patent that claims a Joint Invention but is not subject to **Section 9.4(a)** (an **"Other Joint Patent"**), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of an Other Joint Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. BMS shall have the right, but shall not be obligated, to prosecute an infringement action or to defend such proceedings at its own expense, in its own name and entirely under

its own direction and control. PDL shall reasonably assist BMS (at BMS' expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by BMS or required by law, and BMS shall hold PDL harmless from any liability incurred by PDL arising out of any such proceedings or actions. PDL shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by BMS without the prior consent of PDL (such consent to not be unreasonably withheld, delayed or conditioned).

(ii) Enforcement by PDL. If BMS elects not to bring any action for infringement or to defend any proceeding described in **Section 9.4(b)(i)** and so notifies PDL in writing or fails to bring such an action within [****]* after the initial notice of suspected infringement pursuant to **Section 9.4(b)(i)**, then PDL may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control. BMS shall reasonably assist PDL (at PDL's expense) in any action or proceeding being prosecuted or defended by PDL, if so requested by PDL or required by law, and PDL shall hold BMS harmless from any liability incurred by BMS arising out of any such proceedings or actions. BMS shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by PDL without the prior consent of BMS (such consent to not be unreasonably withheld, delayed or

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

conditioned).

(c) General Provisions Relating to Enforcement of Patents.

(i) Withdrawal. If either Party brings such an action or defends such a proceeding under this **Section 9.4** and subsequently ceases to pursue or withdraws from such action or proceeding, it shall promptly notify the other Party and the other Party may substitute itself for the withdrawing Party under the terms of this **Section 9.4** (including such prior written consent as provided for under this **Section 9.4**) at its own expense.

(ii) Recoveries. In the event either Party exercises the rights conferred in this **Section 9.4** and recovers any damages or other sums in such action, suit or proceeding or in settlement thereof, such damages or other sums recovered shall first be applied to all out-of-pocket costs and expenses incurred by the Parties in connection therewith, including attorneys fees. If such recovery is insufficient to cover all such costs and expenses of both Parties, it shall be shared in proportion to the total such costs and expenses incurred by each Party. If after such reimbursement any funds shall remain from such damages or other sums recovered, such amount shall be included in Net Sales, for actions, suits, proceedings, or settlements thereof occurring in the Royalty Territory, for the purpose of calculating sales milestone payments due under **Section 8.4(c)** and royalty payments due under **Section 8.5**.

(iii) Patent Enforcement in the U.S. Notwithstanding any cost allocations set forth in **Sections 9.4(a)** and **(b),** and notwithstanding the allocation of recoveries set forth in **Section 9.4(c)(ii)**: (1) any costs incurred by either Party in connection with actions taken under this **Section 9.4** against suspected infringement by a Third Party in the U.S. that involves such Third Party's development, manufacture, use or sale of a product reasonably likely to materially affect sales of a Product shall constitute Patent Costs and shall be included as an element of Allowable Expenses; and (2) any recoveries received by either Party in connection with such actions shall, solely for the purpose of calculating Operating Profit (or Loss) and sales milestone payments due under **Section 8.4(c)**, be included in Net Sales.

(d) Data Exclusivity. With respect to data exclusivity periods (including any available pediatric extensions) or periods under national implementations of Article 9.1(a)(iii) of Directive 2001/EC/83, any future laws or regulations covering similar subject matter, and all international equivalents), BMS shall use commercially reasonable efforts consistent with its obligations under applicable law (including any applicable consent order) to seek, maintain and enforce all such data exclusivity periods available for the Products.

(e) Patents Licensed By PDL From Third Parties. BMS' rights under this **Section 9.4** with respect to any PDL Licensed Patent licensed to PDL by a Third Party shall be subject to the rights of such Third Party to enforce such PDL Licensed Patent and/or defend against any claims that such PDL Licensed Patent is invalid or unenforceable.

(f) No Action in Violation of Law. Neither Party shall be required to take any action pursuant to this **Section 9.4** that such Party reasonably determines in its sole judgment and discretion conflicts with or violates any court or government order or decree applicable to such Party.

(g) Notification of Patent Certification. PDL shall notify and provide BMS with copies of any allegations of alleged patent invalidity, unenforceability or non-infringement of any PDL Licensed Patent pursuant to a certification by a Third Party under any applicable law governing the

filing of an expedited new drug application for a biological product (similar to a Paragraph IV Patent Certification by a Third Party filing an Abbreviated New Drug Application). Such notification and copies shall be provided to BMS by PDL as soon as practicable and at least within [****]* after PDL receives such certification, and shall be sent by facsimile and overnight courier to the address set forth below:

Bristol-Myers Squibb Company
P.O. Box 4000
Route 206 & Province Line Road
Princeton, New Jersey 08543-4000
Attention: Vice President and Chief Intellectual Property Counsel
Telephone: 609-252-4825
Facsimile: 609-252-7884

9.5 Defense of Third Party Claims. If a claim is brought by a Third Party that any activity related to work performed by a Party under the Collaboration infringes the intellectual property rights of such Third Party, each Party shall give prompt written notice to the other Party of such claim, and following such notification, the Parties shall confer on how to respond.

9.6 Patent Marking. BMS shall, and shall require its Affiliates and sublicensees to, mark Products sold by it hereunder with appropriate Patent numbers or indicia to the extent permitted by applicable law and regulations, in those countries in which such markings or such notices impact recoveries of damages or equitable remedies available with respect to infringements of Patents.

9.7 Copyright Registrations. Copyrights and copyright registrations on copyrightable subject matter shall be filed, prosecuted, defended, and maintained, and the Parties shall have the right to pursue infringers of any copyrights owned or Controlled by it, in substantially the same manner as the Parties have allocated such responsibilities, and the expenses therefor, for patent rights under this **Article 9.**

10. CONFIDENTIALITY

10.1 Nondisclosure of Confidential Information. All Information disclosed by one Party to the other Party pursuant to this Agreement shall be **"Confidential Information"** of the disclosing Party for all purposes hereunder. Subject to **Section 10.6**, Information that is generated in furtherance of the Collaboration pursuant to this Agreement with respect to Licensed Antibodies or Products, shall be **"Confidential Information"** of both Parties for all purposes hereunder. The Parties agree that during the term of this Agreement and for a period of [****]* thereafter, a Party receiving Confidential Information of the other Party shall: (a) maintain in confidence such Confidential Information and not to disclose such Confidential Information to any Third Party without prior written consent of the other Party (such consent to not be unreasonably withheld, delayed or conditioned), except for disclosures made in confidence to any Third Party under terms consistent with this Agreement and made in furtherance of this Agreement or of rights granted to a Party hereunder; and (b) not use such other Party's Confidential Information for any purpose except those permitted by this Agreement (it being

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

understood that this **Section 10.1** shall not create or imply any rights or licenses not expressly granted under **Article 7** hereof).

10.2 Exceptions. The obligations in **Section 10.1** shall not apply with respect to any portion of the Confidential Information of the disclosing Party that the receiving Party can show by competent written proof:

(a) Is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder; or

(b) Was known to the receiving Party or any of its Affiliates, without obligation to keep it confidential, prior to disclosure by the disclosing Party; or

(c) Is subsequently disclosed to the receiving Party or any of its Affiliates by a Third Party lawfully in possession thereof and without obligation to keep it confidential; or

(d) Is published by a Third Party or otherwise becomes publicly available or enters the public domain, either before or after it is disclosed to the receiving Party, and is not directly or indirectly supplied by the receiving Party in violation of this Agreement; or

(e) Has been independently developed by employees or contractors of the receiving Party or any of its Affiliates without the aid, application or use of the disclosing Party's Confidential Information.

10.3 Authorized Disclosure. A Party may disclose the Confidential Information belonging to the other Party to the extent such disclosure is reasonably necessary in the following instances, provided that prior written notice of any such disclosure shall be provided to the other Party:

(a) Filing or prosecuting Patents relating to Sole Inventions or Joint Inventions, in each case pursuant to activities under this Agreement;

(b) Regulatory filings for Products pursuant to activities under this Agreement;

(c) Prosecuting or defending litigation with respect to this Agreement;

(d) Complying with applicable governmental laws and regulations; and

(e) Disclosure, in connection with the performance of this Agreement, to Affiliates, potential collaborators, partners, and actual and potential licensees (including potential co-marketing and co-promotion contractors, research contractors and manufacturing contractors), research collaborators, potential investment bankers, investors, lenders, and investors, employees, consultants, or agents, in each case to the extent permitted by this Agreement, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 10**.

The Parties acknowledge that the terms of this Agreement shall be treated as Confidential Information of both Parties. Such terms may be disclosed by a Party to individuals or entities covered by **Section 10.3(e)** above, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 10.** In addition, a copy of this Agreement may be filed by either Party with the Securities and Exchange

Commission in connection with any public offering of such Party's securities or as otherwise necessary under applicable law or regulations. In connection with any such filing, such Party shall endeavor to obtain confidential treatment of economic, competitively sensitive, and trade secret information.

In any event, each Party agrees to take all reasonable action to avoid disclosure of Confidential Information of the other Party except as permitted hereunder.

10.4 Termination of Prior Agreements. This Agreement supersedes the Confidential Disclosure Agreement between PDL and BMS effective as of [****]* (such confidential disclosure agreement, the **"Prior CDA"**). All Information disclosed by one Party to the other Party under the Prior CDA shall be deemed Confidential Information of such disclosing Party and shall be subject to the terms of this **Article 10**.

10.5 Publicity. The Parties agree that the public announcement of the execution of this Agreement shall be substantially in the form of the press release attached as **Schedule 10.5**. Any other publication, news release or other public announcement relating to this Agreement or to the performance hereunder, shall first be reviewed and approved by both Parties; *provided*, *however*, that any disclosure which is required by law, including disclosures required by the U.S. Securities and Exchange Commission or made pursuant to the requirements of the national securities exchange or other stock market on which such Party's securities are traded, as advised by the disclosing Party's counsel may be made without the prior consent of the other Party, although the other Party shall be given prompt notice of any such legally required disclosure and shall, to the extent practicable, be provided an opportunity to comment on the proposed disclosure.

10.6 Publications.

(a) Neither Party shall publish or present the results of studies performed in connection with the Development of a Product without the opportunity for prior review by the other Party. Publication decisions regarding the results of studies performed in connection with Products shall be made by the JDC or USJCC, as appropriate, and, in all cases, in accordance with both Parties' corporate policies with respect to the disclosure of clinical trial results. For clarity, BMS shall not use its final decision-making authority pursuant to **Section 2.4(c)** to withhold publication of negative clinical trial results where such decision would not be in accordance with both Parties' corporate policy with respect to the disclosure of clinical trial results.

(b) Subject to paragraph (a) above and **Section 10.3**, each Party agrees to provide the other Party the opportunity to review any proposed disclosure which contains Confidential Information of the other Party and would or may constitute an oral, written or electronic public disclosure if made (including the full content of proposed abstracts, manuscripts or presentations), which relate to any Inventions, or which otherwise may contain Confidential Information of the other Party, at least [****]* prior to its intended submission for publication and agrees, upon request, not to submit any such abstract or manuscript for publication until the other Party is given a reasonable period of time to secure patent protection (or communicate to the prosecuting Party that patent protection should be secured) for any material in such publication which it believes to be patentable. Both Parties understand that a reasonable commercial strategy may require delay of publication of

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

information or filing of patent applications. The Parties agree to review and consider delay of publication and filing of patent applications under certain circumstances. The JDC shall review such requests and recommend subsequent action. Subject to **clause (a)** above and **Section 10.3,** neither Party shall have the right to publish or present Confidential Information of the other Party which is subject to **Section 10.1**. Any disputes between the Parties regarding delaying a publication or presentation to permit the filing of a patent application shall be referred to the JDC.

11. TERM AND TERMINATION

11.1 Term. This Agreement shall become effective on the Effective Date and shall remain in effect until terminated in accordance with **Sections 11.2**, **11.3**, or **11.4**, or by mutual written agreement, or until the expiration of all payment obligations under **Article 8** and **Section 7.6** (the **"Term"**).

11.2 BMS' Right to Terminate.

(a) With respect to each Product arising from the Collaboration pursuant to the terms of this Agreement, BMS shall have the right to terminate this Agreement [****]*. If PDL notifies BMS, within [****]* of BMS' notice pursuant to this **Section 11.2**, that PDL does not intend to further Develop or Commercialize such Product in the applicable Region (either directly or through a new licensee), then (X) the Parties shall wind down all Development and Commercialization activities with respect to such Product in the applicable Region, and each Party shall pay its applicable share of the Development Costs and Allowable Expenses, if any, arising from such wind-down, effective as of the earliest notice from a Party pursuant to **Section 3.6(b)** or this **Section 11.2(a)**, as applicable; and (Y) [****]*.

(b) Notwithstanding the foregoing, in the event that, subsequent to BMS' termination of a Product pursuant to clause (a) of this **Section 11.2**, [****]*.

11.3 Termination for Material Breach.

(a) If either Party believes that the other Party is in material breach of this Agreement (including any material breach of a representation or warranty made in this Agreement), then the non-breaching Party may deliver written notice of such breach to the other Party. In such notice the non-breaching Party shall identify the actions or conduct that such Party would consider to be an acceptable cure of such breach. For all breaches other than a failure to make a payment set forth in **Article 8** or **Section 7.6**, the allegedly breaching Party shall have [****]* to cure such breach. Subject to **Section 11.3(b)**, for any breach arising from a failure to make a payment set forth in **Article 8** or **Section 7.6**, the allegedly breaching Party shall have [****]* to cure such breach.

(b) Subject to **Section 11.3(c)**, if the Party receiving notice of breach fails to cure such breach within the [****]* period or [****]* period (as applicable, and subject to the remainder of this **Section 11.3(b)**), or the Party providing the notice reasonably determines that the proposed

corrective plan or the actions being taken to carry it out are not commercially practicable, the Party originally delivering the notice may terminate this Agreement upon [****]* advance written notice; provided, that if the breach applies only to a given Product or to a given Region, the non-breaching

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Party may only terminate the breaching Party's rights with respect to such Product or such Region; and provided further, that the failure of PDL to cure, within [****]* of BMS' notice pursuant to **Section 11.3(a)**, a material breach by PDL of its obligations to pay Development Costs under **Section 3.6**, or Operating Losses under **Section 8.3** with respect to a Product, shall not give BMS any right to terminate this Agreement, but shall give BMS the right, upon [****]* advance written notice to PDL, to terminate PDL's right to Co-Develop such Product (in the manner set forth in **Section 3.6(b)**) and to convert PDL's profit-sharing rights in such Product to rights to receive royalties under **Section 8.5(b)(ii)**. In the event BMS converts PDL's profit-sharing rights to rights to receive royalties pursuant to the foregoing, the terms of **Section 11.6(e)** shall apply with respect to such Product as though PDL were the terminating Party.

(c) If a Party gives notice of material breach under **Section 11.3(a)** and the other Party disputes whether such notice was proper, or if a Party determines under **Section 11.3(b)** that the other Party's proposed corrective plan or the actions being taken to carry it out is not commercially practicable and such other Party disputes such determination, then the issues of: (i) whether a breach has occurred; or (ii) whether a proposed corrective plan or the related actions are commercially practicable, shall in any case be resolved in accordance with **Section 14.1**. If as a result of such dispute resolution process it is determined that the notice of breach was proper, then such termination (or conversion of profit-sharing rights) shall be deemed to have been effective if the breaching Party fails thereafter to cure such breach in accordance with the determination made in the resolution process under **Section 14.1** within the time period set forth in **Section 11.3(a)** for the applicable breach following such determination. If as a result of such dispute resolution process it is determined that the notice of breach was improper, then no termination (or conversion of profit-sharing rights) shall have occurred and this Agreement shall have remained in effect.

11.4 Termination for Patent Challenge. PDL may terminate this Agreement in its entirety if BMS or its Affiliates or sublicensees, directly or indirectly, individually or in association with any other person or entity, challenge the validity, enforceability or scope of any PDL Licensed Patent(s) or Queen Patent(s) anywhere in the Territory; provided that, if BMS, due to a Change of Control transaction, acquires control of a company that is challenging, directly or indirectly, individually or in association with another person or entity, the validity, enforceability or scope of a PDL Licensed Patent(s) or Queen Patent(s), BMS shall have [****]* from the date of such acquisition to terminate shall challenge to such PDL Licensed Patent(s) or Queen Patent(s) before PDL's right to terminate under this **Section 11.4** becomes effective. For clarity, any dispute as to whether a given Patent is within the scope of PDL Licensed Patents, such matter shall be subject to dispute resolution as set forth in **Section 14.1**.

11.5 Survival; Effect of Termination.

(A) In the event of termination of this Agreement, the following provisions of this Agreement shall survive: **Articles 1**, **10**, **13**, and **14** and **Sections 3.6(g), 8.15**, **8.16**, **9.1**, **9.4(b)**, **11.5**, and **11.6**. In addition, the following provisions of this Agreement shall survive solely to the extent required to make final reimbursements, reconciliations or other payments with respect to Net Sales and costs and expenses incurred or accrued prior to the date of termination or expiration: **Article 8** (excluding **Sections 8.15** and **8.16**) and **Sections 3.6** (excluding **3.6(g)), 7.6(b)**, **7.6(c)**, and **11.2**.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(b) In any event, termination of this Agreement shall not relieve the Parties of any liability which accrued hereunder prior to the effective date of such termination nor preclude either Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation.

11.6 Licenses and Payments on Termination.

(a) Termination by BMS (Section 11.2). If BMS terminates this Agreement pursuant to **Section 11.2**, with respect to a particular Product in one or more Regions, then the licenses granted to BMS under **Section 7.1** shall automatically terminate solely with respect to such Product in such Region(s), and BMS shall, and hereby does, grant to PDL a royalty-free license, with the right to grant sublicenses, under the BMS Licensed Patents and BMS Licensed Know-How to clinically develop, make, use, sell, offer for sale and import such Product in such Region(s). The license described in this **Section 11.6(a)** shall be exclusive (even as to BMS). PDL and its Affiliates and sublicensees shall have the right to Develop and Commercialize such Product in such Region(s) and shall not be subject to the restrictions set forth in **Sections 3.5** and **7.6** with respect to such Product in such Region and such Product shall not be considered a Competing Product or part of a Competing Program.

(b) Termination by PDL (Section 11.3 and Section 11.4). If PDL terminates this Agreement pursuant to **Section 11.3**, with respect to a particular Product in one or more Regions, or pursuant to **Section 11.4**, then the licenses granted to BMS under **Section 7.1** shall automatically terminate solely with respect to such Product in such Region(s), and BMS shall, and hereby does, grant to PDL a license, with the right to grant sublicenses, under the BMS Licensed Patents and BMS Licensed Know-How to clinically develop, make, use, sell, offer for sale and import such Product in such Region(s). The license described in this **Section 11.6(b)** shall be exclusive (even as to BMS). PDL and its Affiliates and sublicensees shall have the right to Develop and Commercialize such Product in such Region(s) and shall not be subject to the restrictions set forth in **Sections 3.5** and **7.6** with respect to such Product in such Region and such Product shall not be considered a Competing Product or part of a Competing Program. For Products on which BMS has not initiated a Registrational Trial prior to termination, the license described in this **Section 11.6(b)** shall be fully-paid and royalty-free. For Products on which BMS has initiated a Registrational Trial but which has not received Regulatory Approval prior to termination and that are covered by a Valid Claim of a PDL Licensed Patent or BMS Licensed Patent that, in either case, covers the Product or the manufacture, use or sale of such Product, the license described in this

Section 11.6(b) shall bear a royalty of [****]* of PDL's Net Sales of such Product. For Products on which BMS has received Regulatory Approval prior to termination and that are covered by a Valid Claim of a PDL Licensed Patent or BMS Licensed Patent that, in either case, covers the Product or the manufacture or use of such Product, the license described in this **Section 11.6(b)** shall bear a royalty of [****]* of PDL's Net Sales of such Product. BMS' right to receive royalties under this **Section 11.6(b)** shall expire on a country-by-country and Product-by-Product basis upon the later of: (i) [****]* from the Launch of such Product in such country; or (ii) expiration of the last Valid Claim of the last to expire BMS Licensed Patent in such country that, in either case, claims the Product or the manufacture or use of such Product.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

(c) Transfers Related to Licenses. For each license granted under **Sections 11.6(a)** and **11.6(b)**, the licensing Party shall transfer via assignment, license or sublicense to the licensee Party: (i) all Information reasonably necessary for the development and commercialization of the Product to which such license relates; (ii) all regulatory filings (including any Regulatory Approvals, drug dossiers, and drug master files) that specifically relate to such Product and that are in the name of the licensing Party; (iii) at PDL's request, agreements with Third Parties that specifically relate to such Product; (iv) trademark rights Controlled by the licensing Party that specifically relate to such Product; and (v) supplies of such Product (including any intermediates, retained samples and reference standards), that, in each case ((i) through (v)) are existing and in the Control of the licensing Party. Any such transfer(s) shall be at the sole expense of the licensing Party.

(d) Interim Supply. In the event of any termination pursuant to **Section 11.2**, **Section 11.3**, or **Section 11.4**, at PDL's request, BMS shall supply, or cause to be supplied, to PDL sufficient quantities of Product to satisfy PDL's and its Affiliate's requirements for Product for a period of up to [****]* following the effective date of termination, as PDL may require until PDL can itself assume or transition to a Third Party such manufacturing responsibilities; *provided* that PDL shall use commercially reasonable efforts to affect such assumption (or transition) as promptly as practicable. Such supply shall be at a price equal to BMS' fully-burdened manufacturing costs for such Product(s). Any such supply will be made pursuant to a supply agreement between the parties with typical provisions relating to quality, forecasting and ordering to forecast, force majeure and product liability and indemnity. In the event that BMS has one or more agreements with Third Party manufacturers with respect to the manufacture of a Licensed Product, at PDL's request, BMS shall use commercially reasonable efforts to transfer its rights and obligations under such agreement(s) to PDL upon any such termination.

(e) Technology Transfer. Promptly after the effective date of any termination, pursuant to **Section 11.2**, **Section 11.3**, or **Section 11.4**, the terminating Party, to the extent that it has responsibility for the Manufacturing of such Product(s), pursuant to **Section 6.1**, prior to the effective date of termination, shall provide (or, in the event that such Party's agreement with a Third Party manufacturer is not assignable to the other Party, shall ensure that any Third Party manufacturer shall provide), at its sole expense, technical assistance and technology transfer as necessary or useful for the other Party or its Third Party designee to manufacture Products. Each Party hereby grants the other Party, effective upon the effective date of such termination, a non-exclusive, royalty-free, perpetual, sublicensable, worldwide license, under any Information disclosed by such Party to the other Party in the course of such activities and all Patents Controlled by such Party that claim such Information, to manufacture or have manufactured Products.

(f) Exception for Termination for Safety Reasons. Any license granted to PDL under **Sections 11.5(a)-(e)** shall be of no force or effect with respect to any given Product where BMS' termination of Development and/or Commercialization of such Product was due to Safety Reasons. For purposes of this **Section 11.5(f)**, **"Safety Reasons"** means it is BMS' or any of its Affiliates' or sublicensee's reasonable belief, after due inquiry and in a manner consistent with BMS' then-current decision-making policies and procedures with respect to such a determination, that there is an unacceptable risk for harm in humans based upon: (i) pre-clinical safety data, including data from animal toxicology studies; or (ii) the observation of serious adverse effects in humans after a Product

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

has been administered to or taken by humans, such as during a clinical trial or after the launch of a Product. BMS shall provide PDL with all relevant data for such terminated Product but shall not be obligated to assign to PDL any regulatory documents/filings relating to such terminated Product. If PDL does not agree with BMS' opinion that BMS' termination was due to Safety Reasons, such dispute shall be handled in accordance with **Section 14.1**.

(g) Additional Effects of Termination. In the event of any termination pursuant to **Section 11.2** or **Section 11.4,** or pursuant to **Section 11.3** where BMS is the breaching Party, BMS shall transfer and assign to PDL: (i) all Information relating to the Product, and all regulatory filings and Regulatory Approvals (including all INDs, NDAs, drug dossiers and master files) with respect to Product in BMS' name; (ii) upon PDL's request, any agreement with a Third Party related to the Product, provided such agreement is assignable; (iii) all trademarks related to the Product; and (iv) all supplies of Product (including any intermediates, retained samples and reference standards) that in each case are in BMS' Control and that relate to the Product. BMS shall take such other actions and execute such other instruments, assignments and documents as may be necessary to effect the transfer of rights hereunder to PDL.

12. REPRESENTATIONS AND WARRANTIES AND COVENANTS

12.1 Mutual Authority. PDL and BMS each represents and warrants to the other as of the Execution Date that: (a) it has the authority and right to enter into and perform this Agreement, (b) this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, subject to applicable limitations on such enforcement based on bankruptcy laws and other debtors' rights, (c) its execution, delivery and performance of this Agreement neither conflicts in any material fashion with the terms of any other agreement or instrument to which it is or becomes a party nor shall it conflict in any material fashion with the terms of any other agreement or instrument, (d) its execution, delivery, and performance of this Agreement does not and will not conflict in any material fashion with any law or regulation of any court, governmental body or administrative or other agency having authority over it, and

(e) in the course of Development of Products, it has not used during the Term, any employee, agent or independent contractor who has been debarred by any Regulatory Authority, or, to the best of such Party's Knowledge, is the subject of debarment proceedings by a Regulatory Authority.

12.2 Rights in Technology.

(a) During the term of this Agreement, each Party shall use commercially reasonable efforts to maintain (but without an obligation to renew) and not to breach any agreements with Third Parties that provide a grant of rights from such Third Party to a Party that are Controlled by such Party and are licensed and/or would become subject to a license from such Party to the other Party under **Article 7**. Each Party agrees to provide promptly the other Party with notice of any such alleged breach or obligation to renew. As of the Execution Date, each Party is in compliance in all material respects with any aforementioned agreements with Third Parties, and, in the case of PDL, PDL has disclosed the existence of any such agreements with Third Parties (or options to enter into any such agreements with Third Parties) to BMS.

(b) PDL represents and warrants that it has as of the Execution Date full legal or beneficial title to, or a sublicensable license to, the PDL Licensed Patents that have been listed on **Schedule 1.56** to this Agreement. Each Party represents and warrants to the other that it (i) has no Knowledge as of the Execution Date of claims to inventorship by persons not already listed as

inventors with respect to any PDL Licensed Patents owned by PDL, except as set forth on **Schedule 12.2(b)** to this Agreement; (ii) does not own or have a license to practice any intellectual property rights that would constitute PDL Licensed Patents but for an agreement with a Third Party that precludes PDL from Controlling such intellectual property; (iii) has the ability to grant the licenses contained in or required by this Agreement; and (iv) is not currently subject to any agreement with any Third Party or to any outstanding order, judgment or decree of any court or administrative agency that prohibits it in any way from granting to the other Party such licenses or the right to exercise its rights hereunder.

(c) PDL represents and warrants that, to its Knowledge as of the Execution Date, all fees required to maintain the PDL Licensed Patents owned by PDL have been paid to date; and that there are no pending litigations or patent re-examinations ongoing with respect to the PDL Licensed Patents owned by PDL.

(d) Each Party represents and warrants that: (i) except as provided in one or more material transfer agreements, clinical trial agreements or sponsored research agreements entered into by PDL prior to the Effective Date or [****]*, it has not granted, and covenants that it shall not grant after the Execution Date and during the term of this Agreement, any right, license or interest in or to, or an option to acquire any of the foregoing with respect to, the intellectual property rights licensed to the other Party hereunder (including the PDL Licensed Patents, the PDL Licensed Know-How, the BMS Licensed Patents, and the BMS Licensed Know-How, as the case may be) that is in conflict with the rights (including the rights set forth in **Article 9**) or licenses granted or to be granted (including any conditional license rights) to the other Party under this Agreement; and (ii) it has not granted any lien, security interest or other encumbrance (excluding any licenses) with respect to any of the intellectual property rights licensed to the other Party hereunder that would prevent it from performing its obligations under this Agreement.

(e) PDL represents and warrants that, to its Knowledge as of the Execution Date, no Third Party has infringed any of the PDL Licensed Patents owned by PDL as they relate to the Licensed Antibodies.

12.3 Performance by Affiliates. Each Party recognizes that the other may perform some or all of its obligations under this Agreement through Affiliates controlled by such other Party; *provided, however*, that each Party shall remain responsible and be guarantor of the performance by such Affiliates under its control and shall cause such Affiliates to comply with the provisions of this Agreement in connection with such performance. In particular, if any Affiliate controlled by a Party participates under this Agreement with respect to Products: (a) the restrictions of this Agreement which apply to the activities of a Party with respect to Antibodies shall apply equally to the activities of such Affiliates under its control; and (b) the Party affiliated with such controlled Affiliate shall assure, and hereby guarantees, that any intellectual property developed by such controlled Affiliate shall be governed by the provisions of this Agreement (and subject to the licenses set forth in **Article 7**) as if such intellectual property had been developed by the Party.

12.4 Third Party Rights. Each Party represents and warrants to the other Party that, to its Knowledge as of the Execution Date, it will not violate a contractual or fiduciary obligation owed to a

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Third Party (including misappropriation of trade secrets) by performing its work under the Collaboration as contemplated by this Agreement.

12.5 Notice of Infringement or Misappropriation. Each Party represents and warrants to the other Party that, as of the Execution Date, it has received no notice of infringement or misappropriation of any alleged rights asserted by any Third Party in relation to any technology that such Party intends, as of the Execution Date, for use in connection with the Collaboration.

12.6 HSR Act Filing; Effective Date. The Parties shall each, prior to or as promptly as practicable after the Execution Date of this Agreement, file or cause to be filed with the U.S. Federal Trade Commission and the U.S. Department of Justice and any relevant foreign governmental authority any notifications required to be filed under the HSR Act and any applicable foreign equivalent thereof with respect to the transactions contemplated hereby; *provided* that the Parties shall each file the notifications required to be filed under the HSR Act no later than [****]* after the Execution Date of this Agreement. [****]*. The Parties shall use commercially reasonable efforts to respond promptly to any requests for additional information made by either of such agencies, and to cause the waiting periods under the HSR Act and any applicable foreign equivalent thereof to terminate or expire at the earliest possible date after the date of filing. Each Party shall use its commercially reasonable efforts to ensure that its representations and warranties set forth in this Agreement remain true and correct at and as of the Effective Date as if such representations and warranties were made at and as of the Effective Date. Notwithstanding anything in this Agreement to the contrary, this Agreement (other than **Article 10** and this **Section 12.6**) shall not become effective until the

expiration or earlier termination of the waiting period under the HSR Act in the U.S., the expiration or earlier termination of any applicable waiting period under the antitrust or competition laws of any other jurisdiction, and the approval or clearance of the transactions contemplated by this Agreement in any jurisdiction requiring advance approval or clearance (the **"Effective Date"**).

13. INDEMNIFICATION AND LIMITATION OF LIABILITY

13.1 Mutual Indemnification. Subject to **Section 13.4**, each Party hereby agrees to indemnify, defend and hold harmless the other Party, its Affiliates, and their respective directors, employees and agents from and against any and all Third Party suits, claims, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and reasonable attorneys' fees (**"Losses"**) to the extent such Losses result from any: (a) breach of warranty by the indemnifying Party contained in the Agreement; (b) breach of the Agreement or applicable law by such indemnifying Party; (c) negligence or willful misconduct of the indemnifying Party, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; (d) criminal investigations of, defense of criminal charges against, and criminal penalties levied on, such Party, its Affiliates, and their respective directors, employees and agents; and/or (e) breach of a contractual or fiduciary obligation owed by it to a Third Party (including misappropriation of trade secrets).

13.2 Indemnification by BMS. Subject to **Section 13.4**, BMS hereby agrees to indemnify, defend and hold harmless PDL and its directors, employees and agents from and against any and all Losses to the extent such Losses result from the manufacture, use, handling, storage, sale or other disposition of Products (other than Products in the U.S. for which Co-Development has been not been

---

* Certain information on this page has been omitted and filed separately with the SEC. confidential treatment has been requested with respect to the omitted portions.

terminated pursuant to **Section 3.6(b)** or **Section 11.3(b)**) by a Party or its Affiliates, agents or sublicensees, except to the extent such Losses result from any: (a) breach of warranty by PDL contained in the Agreement; (b) breach of the Agreement or applicable law by PDL; (c) negligence or willful misconduct by PDL, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by PDL to a Third Party (including misappropriation of trade secrets).

13.3 Certain Losses. Any Losses resulting from the manufacture, use, handling, storage, sale or other disposition of Products in the U.S. by a Party or its Affiliates, agents or sublicensees with respect to which neither Party owes an indemnification obligation under **Section 13.1** shall be included as: (a) a Development Cost, if incurred prior to the first Regulatory Approval of a Product to which such Loss relates; or (b) a Sales and Marketing Cost, if incurred after such Regulatory Approval of a Product to which such Loss relates.

13.4 Conditions to Indemnification. As used herein, **"Indemnitee"** shall mean a party entitled to indemnification under the terms of **Sections 13.1** or **13.2**. A condition precedent to each Indemnitee's right to seek indemnification under such **Sections 13.1** or **13.2** is that such Indemnitee shall:

(a) inform the indemnifying Party under such applicable Section of a Loss as soon as reasonably practicable after it receives notice of the Loss;

(b) if the indemnifying Party acknowledges that such Loss falls within the scope of its indemnification obligations hereunder, permit the indemnifying Party to assume direction and control of the defense, litigation, settlement, appeal or other disposition of the Loss (including the right to settle the claim solely for monetary consideration); provided, that the indemnifying Party shall seek the prior written consent (such consent to not be unreasonably withheld, delayed or conditioned) of any such Indemnitee as to any settlement which would materially diminish or materially adversely affect the scope, exclusivity or duration of any Patents licensed under this Agreement, would require any payment by such Indemnitee, would require an admission of legal wrongdoing in any way on the part of an Indemnitee, or would effect an amendment of this Agreement; and

(c) fully cooperate (including providing access to and copies of pertinent records and making available for testimony relevant individuals subject to its control) as reasonably requested by, and at the expense of, the indemnifying Party in the defense of the Loss.

Provided that an Indemnitee has complied with all of the conditions described in **subsections (a) – (c)**, as applicable, the indemnifying Party shall provide attorneys reasonably acceptable to the Indemnitee to defend against any such Loss. Subject to the foregoing, an Indemnitee may participate in any proceedings involving such Loss using attorneys of the Indemnitee's choice and at the Indemnitee's expense. In no event may an Indemnitee settle or compromise any Loss for which the Indemnitee intends to seek indemnification from the indemnifying Party hereunder without the prior written consent of the indemnifying Party (such consent to not be unreasonably withheld, delayed or conditioned), or the indemnification provided under such **Section 13.1** or **13.2** as to such Loss shall be null and void.

13.5 Limitation of Liability. EXCEPT FOR AMOUNTS PAYABLE TO THIRD PARTIES BY A PARTY FOR WHICH IT SEEKS REIMBURSEMENT OR INDEMNIFICATION PROTECTION FROM THE OTHER PARTY PURSUANT TO **SECTIONS 13.1** AND **13.2**, AND

EXCEPT FOR BREACH OF **SECTION 7.6** or **10.1** HEREOF, IN NO EVENT SHALL EITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THE AGREEMENT, UNLESS SUCH DAMAGES ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY (INCLUDING GROSS NEGLIGENCE OR WILLFUL BREACH WITH RESPECT TO A PARTY'S REPRESENTATIONS AND WARRANTIES IN **ARTICLE 12**).

13.6 Collaboration Disclaimer. EXCEPT AS PROVIDED IN **ARTICLE 12** ABOVE, PDL EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS

FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY PDL AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO BMS PURSUANT TO THE TERMS OF THE AGREEMENT. EXCEPT AS PROVIDED IN ARTICLE 12 ABOVE, BMS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY BMS AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO PDL PURSUANT TO THE TERMS OF THE AGREEMENT.

14. MISCELLANEOUS

14.1 Dispute Resolution. Unless otherwise set forth in this Agreement and excluding in particular any dispute over matters within the authority of the JDC pursuant to **Article 2** (which will be handled exclusively in accordance with **Section 2.4(c)**), in the event of any dispute, controversy or claim arising out of, relating to or in connection with any provision of the Agreement, the Parties shall try to settle their differences amicably between themselves first, by referring the disputed matter to the Party's respective Executive Officers. Either Party may initiate such informal dispute resolution by sending written notice of the dispute to the other Party, and, within [****]* after such notice, such Executive Officers shall meet for attempted resolution by good faith negotiations. If such Executive Officers are unable to resolve such dispute within [****]* of their first meeting for such negotiations, either Party may seek to have such dispute resolved in accordance with **Section 14.2.**

14.2 Arbitration. Any dispute, controversy or claim arising out of or relating to the validity, construction, interpretation, enforceability, breach, performance, application or termination of this Agreement that is not resolved pursuant to **Section 14.1**, except for a dispute, claim or controversy under **Section 14.9**, shall be settled by binding arbitration administered by JAMS (formerly, the Judicial Arbitration and Mediation Service) ("**JAMS**") pursuant to its Comprehensive Arbitration

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

Rules and Procedures of JAMS then in effect (the **"JAMS Rules"**), except as otherwise provided herein and applying the substantive law specified in **Section 14.5**. The United States Federal Rules of Civil Procedure shall govern discovery and the rules of evidence for the arbitration. The arbitration will be conducted in California and the Parties consent to the personal jurisdiction of the United States federal courts, for any case arising out of or otherwise related to this arbitration, its conduct and its enforcement. Any situation not expressly covered by this Agreement shall be decided in accordance with the JAMS Rules.

14.3 Disputes Relating to Competition Testing and Calculation of Payment Obligations. Any dispute arising out of the determination of (i) whether an Antibody Competes with PDL-241 for binding of the Target that is not resolved by the JDC pursuant to **Section 3.10** or (ii) the method for calculating a payment owed by a Party to the other Party under this Agreement shall be resolved in accordance with **Section 14.2**; provided that JAMS' Streamlined Arbitration Rules and Procedures in effect at the time the dispute arises shall be followed. Either Party may initiate arbitration under this **Section 14.3** by written notice to the other Party of its intention to arbitrate, and such notice shall specify in reasonable detail the nature of the dispute. For each arbitration: (A) each Party shall submit to the arbitrator its proposal for resolving such dispute, such proposal based on available scientific or financial evidence, as applicable, and shall provide a copy of such proposal to the other Party; (B) each Party may, within [****]* of receipt of the other Party's proposal, provide a rebuttal to such other Party's proposal to the arbitrator (which rebuttal shall be limited to responding to arguments or evidence presented in such other Party's proposal), and shall provide a copy of such rebuttal to the other Party; (C) the arbitrator shall select the proposal that is the most reasonable in light of the available evidence; and (D) such proposal shall become the final determination as to (i) whether an Antibody Competes with PDL-241 for binding of the Target or (ii) the appropriate method for calculating of such payment obligation. Notwithstanding anything to the contrary, the arbitrator will not have the ability to change the terms of either Party's proposal.

14.4 Arbitrator. The arbitrator shall be one (1) neutral, independent and impartial arbitrator selected from a pool of retired federal judges to be presented to the Parties by JAMS. Failing the agreement of the Parties as to the selection of the arbitrator within [****]*, the arbitrator shall be appointed by JAMS in accordance with the JAMS Rules.

14.5 Governing Law. Resolution of all disputes, controversies or claims arising out of, relating to or in connection with the Agreement or the performance, enforcement, breach or termination of the Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of the State of Delaware, without regard to conflicts of law rules.

14.6 Decision. The power of the arbitrator to fashion procedures and remedies within the scope of this Agreement is recognized by the Parties as essential to the success of the arbitration process. The arbitrator shall not have the authority to fashion remedies which would not be available to a federal judge hearing the same dispute. The arbitrator is encouraged to operate on this premise in an effort to reach a fair and just decision. Reasons for the arbitrator's decisions should be complete and explicit, including all determinations of law and fact. The written reasons should also include the basis for any damages awarded and a statement of how the damages were calculated. Such a written decision shall be rendered by the arbitrator following a full comprehensive hearing, no later than

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

[****]* following the selection of the arbitrator as provided for in **Section 14.4**; provided, that with respect to a dispute under **Section 14.3**, a written decision shall be rendered no later than [****]* following the selection of the arbitrator.

14.7 Award. Any award shall be promptly paid in United States dollars free of any tax, deduction or offset; and any costs, fees or taxes incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the Party resisting enforcement. If as to any issue the arbitrator should determine under the applicable law that the position taken by a Party is frivolous or otherwise irresponsible or that any wrongdoing they find is in callous disregard of law and equity or the rights of the other Party, the arbitrator shall also award an appropriate allocation of the adversary's reasonable attorney fees, costs and expenses to be paid by the offending Party, the precise sums to be determined after a bill of attorney fees, expenses and costs consistent with such award has been presented following the award on the merits. Each Party agrees to abide by the award rendered in any arbitration conducted pursuant to **Sections 14.1 – 14.11**, and agrees that judgment may be entered upon the final award in the Federal District Court in Delaware and that other courts may award full faith and credit to such judgment in order to enforce such award. The award shall include interest from the date of any damages incurred for breach of the Agreement, and from the date of the award until paid in full, at a rate fixed by the arbitrator. With respect to money damages, nothing contained herein shall be construed to permit the arbitrator or any court or any other forum to award punitive or exemplary damages.

14.8 Costs. Except as set forth in **Section 14.7**, each Party shall bear its own legal fees. The arbitrator shall assess his or her costs, fees and expenses against the Party losing the arbitration unless he or she believes that neither Party is the clear loser, in which case the arbitrator shall divide his or her fees, costs and expenses according to his or her sole discretion.

14.9 Disputes Relating to Patents and Trademarks and Equitable Relief.

(a) Any dispute, controversy or claim arising out of, relating to or in connection with: (i) the scope, validity, enforceability or infringement of any Patent rights covering the research, development, manufacture, use or sale of any Product; or (ii) any trademark rights related to any Product, shall in each case be submitted to a court of competent jurisdiction in the territory in which such Patent or trademark rights were granted or arose.

(b) Any dispute, controversy or claim arising out of, relating to or in connection with the need to seek preliminary or injunctive measures or other equitable relief (e.g., in the event of a potential or actual breach of the confidentiality and non-use provisions in **Article 10**) need not be resolved through the procedure described in **Section 14.1** but may be immediately brought in a court of competent jurisdiction.

14.10 Injunctive Relief; Remedy for Breach of Exclusivity. Provided a Party has made a sufficient showing under the rules and standards set forth in the Federal Rules of Civil Procedure and applicable case law, the arbitrator shall have the freedom to invoke, and the Parties agree to abide by, injunctive measures after either Party submits in writing for arbitration claims requiring immediate relief. Additionally, nothing in this **Article 14** will preclude either Party from seeking equitable relief

---

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

or interim or provisional relief from a court of competent jurisdiction, including a temporary restraining order, preliminary injunction or other interim equitable relief, concerning a dispute either prior to or during any arbitration if necessary to protect the interests of such Party or to preserve the status quo pending the arbitration proceeding. Specifically, the Parties agree that a material breach by either Party of its obligations in **Section 7.6** of this Agreement is likely to cause irreparable harm to the other Party, for which damages would not be an adequate remedy. Therefore, in addition to its rights and remedies otherwise available at law, including, without limitation, the recovery of damages for breach of this Agreement, upon an adequate showing of material breach of such **Section 7.6**, and without further proof of irreparable harm other than this acknowledgement, such non-breaching Party shall be entitled to (a) immediate equitable relief, specifically including, but not limited to, both interim and permanent restraining orders and injunctions, and (b) such other and further equitable relief as the court may deem proper under the circumstances.

14.11 Confidentiality. The arbitration proceeding shall be confidential and the arbitrator shall issue appropriate protective orders to safeguard each Party's Confidential Information. Except as required by law, no Party shall make (or instruct the arbitrator to make) any public announcement with respect to the proceedings or decision of the arbitrator without prior written consent of the other Party. The existence of any dispute submitted to arbitration, and the award, shall be kept in confidence by the Parties and the arbitrator, except as required in connection with the enforcement of such award or as otherwise required by applicable law.

14.12 Entire Agreement; Amendments. This Agreement sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior agreements and understandings between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth herein and therein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

14.13 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the U.S. or other countries which may be imposed upon or related to PDL or BMS from time to time. Each Party agrees that it shall not export, directly or indirectly, any technical information acquired from the other Party under this Agreement or any products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity.

14.14 Bankruptcy.

(a) All rights and licenses granted under or pursuant to this Agreement, including amendments hereto, by each Party to the other Party are, for all purposes of Section 365(n) of Title 11 of the U.S. Code (**"Title 11"**), licenses of rights to intellectual property as defined in Title 11. Each Party agrees during the term of this Agreement to create and maintain current copies or, if not amenable to copying, detailed descriptions or other appropriate embodiments, to the extent feasible, of all such intellectual property. If a case is commenced by or against either Party (the **"Bankrupt Party"**) under Title 11, then, unless and until this Agreement is rejected as provided in Title 11, the

Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall, at the election of the Bankrupt Party made within [****]* after the commencement of the case (or, if no such election is made, immediately upon the request of the non-Bankrupt Party) either (i) perform all of the obligations provided in this Agreement to be performed by the Bankrupt Party including, where applicable, providing to the non-Bankrupt Party portions of such intellectual property (including embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them or (ii) provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them.

(b) If a Title 11 case is commenced by or against the Bankrupt Party and this Agreement is rejected as provided in Title 11 and the non-Bankrupt Party elects to retain its rights hereunder as provided in Title 11, then the Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them immediately upon the non-Bankrupt Party's written request therefor. Whenever the Bankrupt Party or any of its successors or assigns provides to the non-Bankrupt Party any of the intellectual property licensed hereunder (or any embodiment thereof) pursuant to this **Section 14.14**, the non-Bankrupt Party shall have the right to perform the obligations of the Bankrupt Party hereunder with respect to such intellectual property, but neither such provision nor such performance by the non-Bankrupt Party shall release the Bankrupt Party from any such obligation or liability for failing to perform it.

(c) All rights, powers and remedies of the non-Bankrupt Party provided herein are in addition to and not in substitution for any and all other rights, powers and remedies now or hereafter existing at law or in equity (including Title 11) in the event of the commencement of a Title 11 case by or against the Bankrupt Party. The non-Bankrupt Party, in addition to the rights, power and remedies expressly provided herein, shall be entitled to exercise all other such rights and powers and resort to all other such remedies as may now or hereafter exist at law or in equity (including under Title 11) in such event. The Parties agree that they intend the foregoing non-Bankrupt Party rights to extend to the maximum extent permitted by law and any provisions of applicable contracts with Third Parties, including for purposes of Title 11, (i) the right of access to any intellectual property (including all embodiments thereof) of the Bankrupt Party or any Third Party with whom the Bankrupt Party contracts to perform an obligation of the Bankrupt Party under this Agreement, and, in the case of the Third Party, which is necessary for the development, registration and manufacture of licensed products and (ii) the right to contract directly with any Third Party described in (i) in this sentence to complete the contracted work. Any intellectual property provided pursuant to the provisions of this **Section 14.14** shall be subject to the licenses set forth elsewhere in this Agreement and the payment obligations of this Agreement, which shall be deemed to be royalties for purposes of Title 11.

(d) In the event that PDL enters into a license agreement with a Third Party with respect to intellectual property that will be sublicensed to BMS hereunder, PDL will use commercially reasonable efforts to enable BMS to concurrently enter arrangements with PDL and any such Third Party whereby BMS will receive a direct license from any such Third Party in the event that PDL becomes a Bankrupt Party.

---

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

14.15 Force Majeure. Each Party shall be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, **"force majeure"** shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe. The payment of invoices due and owing hereunder shall in no event be delayed by the payer because of a force majeure affecting the payer.

14.16 Notices. Any notices given under this Agreement shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile (with receipt confirmation), or by FedEx or other reputable courier service. Any such notice shall be deemed to have been given: (a) as of the day of personal delivery; (b) one (1) day after the date sent by facsimile service; or (c) on the day of successful delivery to the other Party confirmed by the courier service. Unless otherwise specified in writing, the mailing addresses of the Parties shall be as described below.

For PDL:	PDL BioPharma, Inc. 1400 Seaport Blvd. Redwood City, CA 94063 Attention: Chief Executive Officer Phone: 650-454-2999 Fax: 650-454-1438
With a copy to:	PDL BioPharma, Inc. 1400 Seaport Blvd. Redwood City, CA 94063 Attention: General Counsel Phone: 650-454-2569 Fax: 650-399-8569
For BMS:	Bristol-Myers Squibb Company P.O. Box 4000 Route 206 and Province Line Road Princeton, NJ 08543-4000 Attention: Vice President, Business Development

Phone: 609-252-4418
Fax: 609-252-6880

With a copy to: Bristol-Myers Squibb Company
P.O. Box 4000
Route 206 and Province Line Road
Princeton, NJ 08543-4000
Attention: Vice President and Senior Counsel, Business Development
Phone: 609-252-5328
Fax: 609-252-4232

Furthermore, a copy of any notices required or given under **Article 9** of this Agreement shall also be addressed to the Vice President and Chief Intellectual Property Counsel of BMS at the address set forth in **Section 9.4(g)**.

14.17 Maintenance of Records Required by Law or Regulation. Each Party shall keep and maintain all records required by law or regulation with respect to Products and shall make copies of such records available to the other Party upon request.

14.18 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other (such consent to not be unreasonably withheld, delayed or conditioned), except a Party may make such an assignment without the other Party's consent to an Affiliate or to a Third Party successor to all or substantially all of the business of such Party to which this Agreement relates, whether in a merger, sale of stock, sale of assets or other transaction; provided that any such permitted successor or assignee of rights and/or obligations hereunder is obligated, by reason of operation of law or pursuant to a written agreement with the other Party, to assume performance of this Agreement or such rights and/or obligations; and provided, further, that if assigned to an Affiliate, the assigning Party shall remain jointly and severally responsible for the performance of this Agreement by such Affiliate. Notwithstanding the foregoing, in the event of a Separation Transaction, PDL may assign this Agreement to PDL Operating Company, without the prior written consent of BMS. In such event, PDL Holding Company shall not be jointly and severally liable for the performance of this Agreement by PDL Operating Company. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this **Section 14.18** shall be null and void and of no legal effect.

14.19 Electronic Data Interchange. If both Parties elect to facilitate business activities hereunder by electronically sending and receiving data in agreed formats (also referred to as Electronic Data Interchange or **"EDI"**) in substitution for conventional paper-based documents, the terms and conditions of this Agreement shall apply to such EDI activities.

14.20 Non-Solicitation of Employees. [****]*, each Party agrees that neither it nor any of its divisions, operating groups or Affiliates shall recruit, solicit or induce any employee of the other Party directly involved in the activities conducted pursuant to this Agreement to terminate his or her employment with such other Party and become employed by or consult for such Party, whether or not such employee is a full-time employee of such other Party, and whether or not such employment is pursuant to a written agreement or is at-will. For purposes of the foregoing, **"recruit**,**" "solicit"** or **"induce"** shall not be deemed to mean: (a) circumstances where an employee of a Party initiates contact with the other Party or any of its Affiliates with regard to possible employment; or (b) general solicitations of employment not specifically targeted at employees of a Party or any of its Affiliates, including responses to general advertisements.

14.21 Further Actions. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.

* Certain information on this page has been omitted and filed separately with the SEC. Confidential treatment has been requested with respect to the omitted portions.

14.22 Severability. If any of the provisions of this Agreement are held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Agreement may be realized.

14.23 No Waiver. Any delay in enforcing a Party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

14.24 Construction of this Agreement. Except where the context otherwise requires, wherever used, the use of any gender shall be applicable to all genders, and the word **"or"** are used in the inclusive sense. When used in this Agreement, **"including"** means **"including without limitation."** References to either Party include the successors and permitted assigns of that Party. The headings of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The Parties have each consulted counsel of their choice regarding this Agreement, and, accordingly, no provisions of this Agreement shall be construed against either Party on the basis that the Party drafted this Agreement or any provision thereof. If the terms of this Agreement conflict with the terms of any Exhibit, then the terms of this Agreement shall govern. The official text of this Agreement and any Exhibits hereto, any notice given or accounts or statements required by this Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language.

14.25 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, each of which shall be binding when sent.

Signature page follows.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their proper officers as of the Execution Date.

BRISTOL-MYERS SQUIBB COMPANY

By: /s/ Jeremy Levin
Name: Jeremy Levin
Title: Sr. VP, Strategic Transactions Group
Date: August 18, 2008

PDL BIOPHARMA, INC.

By: /s/ Andrew Guggenhime
Name: Andrew Guggenhime
Title: Chief Financial Officer
Date: August 18, 2008

By: /s/ Mark McCamish
Name: Mark A. McCamish
Title: Sr. VP & Chief Medical Officer
Date: August 18, 2008

EXHIBIT 31.1

CERTIFICATIONS

I, Faheem Hasnain, 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 (the registrant's fourth fiscal quarter in the case of an annual report) 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: November 7, 2008

/s/ Faheem Hasnain

Faheem Hasnain
President and Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATIONS

I, Andrew L. Guggenhime, Senior 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 (the registrant's fourth fiscal quarter in the case of an annual report) 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: November 7, 2008

/s/ Andrew L. Guggenhime

Andrew L. Guggenhime
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

EXHIBIT 32.1

CERTIFICATION

Faheem Hasnain, President and Chief Executive Officer, and Andrew L. Guggenhime, Senior Vice President and Chief Financial Officer, of PDL BioPharma, Inc. (the "Registrant"), each hereby certify 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 knowledge:

(1) the Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 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: November 7, 2008

/s/ Faheem Hasnain
Faheem Hasnain
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Andrew L. Guggenhime
Andrew L. Guggenhime
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)