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, 1999

OR

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

Commission File Number: 0-19756

PROTEIN DESIGN LABS, 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)

34801 Campus Drive
Fremont, Ca. 94555
(Address of principal executive offices)
Telephone Number (510) 574-1400

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 [ ]

As of September 30, 1999, there were 18,723,114 shares of the Registrant's Common Stock outstanding.

PROTEIN DESIGN LABS, INC.

INDEX

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

PROTEIN DESIGN LABS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except net income (loss) per share data)
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	1999	1998	1999	1998
Revenues:				
Revenue under agreements with third parties	$8,401	$9,610	$20,902	$17,274
Interest and other income	2,172	2,268	6,795	7,198
Total revenues	10,573	11,878	27,697	24,472
Costs and expenses:				
Research and development	7,944	8,949	24,738	22,683
General and administrative	2,448	2,240	7,343	6,040
Total costs and expenses	10,392	11,189	32,081	28,723
Net income (loss)	$181	$689	($4,384)	($4,251)
Net income (loss) per share:				
Basic	$0.01	$0.04	($0.24)	($0.23)
Diluted	$0.01	$0.04	($0.24)	($0.23)
Weighted average number of shares:				
Basic	18,668	18,545	18,637	18,506
Diluted	19,355	18,845	18,637	18,506

See accompanying notes

PROTEIN DESIGN LABS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except par value per share)

	September 30, 1999	December 31, 1998
	(unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	$14,341	$27,907
Short-term investments	6,538	59,233
Other current assets	3,000	4,608
Total current assets	23,879	91,748
Property and equipment, net	37,727	23,016
Long-term investments	113,789	56,299
Other assets	550	787
	$175,945	$171,850
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$822	$1,310
Accrued compensation	1,156	925
Accrued clinical trials	203	1,293
Other accrued liabilities	1,700	3,591
Deferred revenue	3,169	2,235
Current portion of long-term debt	343	--
Total current liabilities	7,393	9,354
Long-term debt	9,807	--
Total liabilities	17,200	9,354
Stockholders' equity:		
Preferred stock, par value $0.01 per share, 10,000 shares authorized; no shares issued and outstanding	--	--
Common stock, par value $0.01 per share, 40,000 shares authorized; 18,723 and 18,595 issued and outstanding at September 30, 1999 and December 31, 1998, respectively	187	186
Additional paid-in capital	233,405	231,035
Accumulated deficit	(73,269)	(68,884)
Accumulated other comprehensive income (loss)	(1,578)	159
Total stockholders' equity	158,745	162,496
	$175,945	$171,850

See accompanying notes

PROTEIN DESIGN LABS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS
(unaudited)

(In thousands)

	Nine Months Ended September 30,	
	1999	1998
Cash flows from operating activities:		
Net loss	($4,384)	($4,251)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	2,667	2,595
Other	(175)	735
Changes in assets and liabilities:		
Other current assets	1,608	(9,028)
Accounts payable	(488)	700
Accrued liabilities	(2,751)	2,508
Deferred revenue	934	1,125
Total adjustments	1,795	(1,365)
Net cash used in operating activities	(2,589)	(5,616)
Cash flows from investing activities:		
Purchases of short- and long-term investments	(81,336)	(92,320)
Maturities of short- and long-term investments	74,900	145,000
Capital expenditures	(17,624)	(14,810)
Proceeds from sale of equipment	325	-
(Increase) decrease in other assets	237	(114)
Net cash provided by (used in) investing activities	(23,498)	37,756
Cash flows from financing activities:		
Proceeds from issuance of capital stock	2,371	3,334
Proceeds from long-term debt	10,150	-
Net cash provided by financing activities	12,521	3,334
Net increase (decrease) in cash and cash equivalents	(13,566)	35,474
Cash and cash equivalents at beginning of period	27,907	9,266
Cash and cash equivalents at end of period	$14,341	$44,740

See accompanying notes

PROTEIN DESIGN LABS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
September 30, 1999
(unaudited)

Summary of Significant Accounting Policies

Organization and Business

Since the Company's founding in 1986, a primary focus of its operations has been research and development. Achievement of successful research and development and commercialization of products derived from such efforts is subject to high levels of risk and significant resource commitments. The Company has a history of operating losses and expects to incur substantial additional expenses over at least the next few years as it continues to develop its proprietary products, devote significant resources to preclinical studies, clinical trials, and manufacturing and to defend its patents and other proprietary rights. The Company's revenues to date have consisted principally of research and development funding, licensing and signing fees, milestone payments and royalties from pharmaceutical and biotechnology companies under collaborative research and development, humanization, patent licensing and clinical supply agreements. These revenues may vary considerably from quarter to quarter and from year to year, and revenues in any period may not be predictive of revenues in any subsequent period, and variations may be significant depending on the terms of the particular agreements.

The Company receives royalties on sales of Synagisr, Herceptinr and Zenapaxr. Royalty revenues from third party sales of these licensed humanized antibodies are subject to the specific terms of each agreement and, under the Company's policy, are recognized by the Company during the quarter such royalties are reported to PDL. This method of revenue recognition may increase fluctuations reported in any particular quarter since the agreements generally provide for royalty reports to the Company following completion of each calendar quarter or semi-annual period. Further, royalty revenues are unpredictable as they are dependent upon numerous factors including the seasonality of sales of licensed products, the existence of competing products, the marketing efforts of the Company's licensees and the rights certain licensees have to partially offset certain previously paid milestones and third party royalties against royalties payable to the Company. In addition, expenses may fluctuate from quarter to quarter due to the timing of certain expenses, including milestone payments that may be payable by the Company under certain licensing arrangements.

Although the Company anticipates entering into new collaborations from time to time, the Company presently does not know whether or not it will realize non-royalty revenue from its new and proposed collaborations at levels commensurate with the revenue historically recognized under its older collaborations. Moreover, the Company anticipates that it will incur significant operating expenses as the Company significantly increases its research and development, manufacturing, preclinical, clinical, marketing and administrative and patent activities. In particular, the commitment of resources to the development of Zenapax and the humanized anti-IL-4 antibody, two humanized antibodies with respect to which PDL recently obtained development rights, taken together with the continued development of the Company's existing products will require significant additional funds for development. Accordingly, in the absence of substantial revenues from new corporate collaborations or patent licensing or humanization agreements, significant royalties on sales of products licensed under the Company's intellectual property rights, or other sources, the Company expects to incur substantial operating losses in the foreseeable future as the Company undertakes development of Zenapax in autoimmune indications and the humanized anti-IL-4 antibody, as certain of its earlier stage potential products move into later stage clinical development, as additional potential products are selected as clinical candidates for further development, as the Company invests in additional manufacturing capacity, as the Company defends or prosecutes its patents and patent applications and as the Company invests in research or acquires additional technologies, product candidates or businesses.

Basis of Presentation and Responsibility for Quarterly Financial Statements

The consolidated balance sheet as of September 30, 1999, and the consolidated statements of operations for the three and nine month periods and cash flows for the nine month periods ended September 30, 1999 and 1998 are unaudited but include all adjustments (consisting only of normal recurring adjustments) which the Company considers necessary for a fair

presentation of the financial position at such dates and the operating results and cash flows for those periods. During the third quarter of 1999, the Company formed two wholly owned subsidiaries to facilitate the purchase of the Company's Fremont, California facilities. Financial statements are presented on a consolidated basis to include these subsidiaries. Although the Company believes that the disclosures in these financial statements are adequate to make the information presented not misleading, certain information and footnote information normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission. The accompanying financial statements should be read in conjunction with the Company's Annual Report on Form 10-K, filed with the Securities and Exchange Commission, for the year ended December 31, 1998. The balance sheet as of December 31, 1998 is derived from audited financial statements. Results for any quarterly period are not necessarily indicative of results for any other quarterly period or for the entire year.

Cash Equivalents, Investments and Concentration of Credit Risk

The Company considers all highly liquid investments purchased with a maturity of three months or less at the date of acquisition to be cash equivalents. Included in the "Other" adjustments line item in the Statements of Cash Flows is the accretion of the book value of certain debt securities. The Company places its cash and short-term and long-term investments with high-credit-quality financial institutions and in securities of the U.S. government and U.S. government agencies and, by policy, limits the amount of credit exposure in any one financial instrument. To date, the Company has not experienced credit losses on investments in these instruments.

Cash and cash equivalents for the period ended September 30, 1999 decreased primarily as a result of the purchases of short-term investments and long-term investments. Long-term investments increased during the period as a result of the Company purchasing investments with maturities longer than twelve months.

Revenue Recognition

Contract revenues from research and development arrangements are recorded as earned based on the performance requirements of the contracts. Revenues from achievement of milestone events are recognized when the funding party agrees that the scientific or clinical results stipulated in the agreement have been met. Deferred revenue arises principally due to timing of cash payments received under research and development contracts.

The Company's collaborative, humanization and patent licensing agreements with third parties provide for the payment of royalties to the Company based on net sales of the licensed product under the agreement. The agreements generally provide for royalty payments to the Company following completion of each calendar quarter or semi-annual period and royalty revenue is recognized when royalty reports are received from the third party. Non-refundable signing and licensing fees under these arrangements are recognized as revenue when there are no future performance obligations remaining with respect to such fees.

Net Income (Loss) Per Share

In accordance with Financial Accounting Standards Board Statement No. 128, "Earnings Per Share" ("FAS 128"), basic and diluted net income (loss) per share amounts have been computed using the weighted average number of shares of common stock outstanding during the periods presented. Calculation of diluted net income per share includes the dilutive effect of stock options. If the Company had a net loss position for the applicable period, as is the case for the nine month periods ended September 30, 1999 and 1998, FAS 128 specifies that the Company shall not include the effect of stock options outstanding for the applicable period as the effect would be antidilutive.

The following is a reconciliation of the numerators and denominators of the basic and diluted net income (loss) per share computations for the periods presented below:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	1999	1998	1999	1998

Numerator:				
Net income (loss)	$181	$689	$(4,384)	$(4,251)
Denominator:				
Basic net income (loss) per share - weighted-average shares	18,668	18,545	18,637	18,506
Dilutive potential common shares:				
Stock Options	687	300	--	--
Denominator for diluted net loss per share	19,355	18,845	18,667	18,506
Basic net income (loss) per share	$0.01	$0.04	$(0.24)	$(0.23)
Diluted net income (loss) per share	$0.01	$0.04	$(0.24)	$(0.23)

Comprehensive Income (Loss)

In accordance with Financial Accounting Standards Statement No. 130, "Reporting Comprehensive Income," ("FAS 130"), the Company is required to display comprehensive income (loss) and its components as part of the Company's complete set of financial statements. The measurement and presentation of net loss did not change. Comprehensive income (loss) is comprised of net loss and other comprehensive income (loss). Other comprehensive income (loss) includes certain changes in equity of the Company that are excluded from net loss. Specifically, FAS 130 requires unrealized gains and losses on the Company's holdings of available-for-sale securities, which were reported separately in stockholders' equity, to be included in accumulated other comprehensive income (loss). FAS 130 permits the disclosure of this information in notes to interim financial statements and the Company has elected this approach. For the three month periods ended September 30, 1999 and 1998, total comprehensive income (loss) amounted to ($0.1) million and $0.9 million respectively. For the nine month periods ended September 30, 1999 and 1998, total comprehensive income (loss) amounted to ($6.1) million and ($4.2) million, respectively.

Derivative Instruments and Hedging Activities

In June 1998, the Financial Accounting Standards Board issued Statement No. 133 "Accounting for Derivative Instruments and Hedging Activities" ("FAS 133"). FAS 133 is not required to be adopted until 2001. However, the Company has reviewed FAS 133 and because it does not use derivatives, the adoption of FAS 133 is not expected to effect the results of operations or the financial position of the Company.

Management Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires the use of management's estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. For example, the Company has a policy of recording expenses for clinical trials based upon pro rating estimated total costs of a clinical trial over the estimated length of the clinical trial and the number of patients anticipated to be enrolled in the trial. Expenses related to each patient are recognized ratably beginning upon entry into the trial and over the course of the trial. In the event of early termination of a clinical trial, management accrues an amount based on its estimate of the remaining non-cancellable obligations associated with the winding down of the clinical trial. These estimates and assumptions could differ significantly from the amounts which may actually be realized.

Property, Plant and Equipment

Property, plant and equipment increased at September 30, 1999 compared to December 31, 1998 primarily as a result of the purchase of the Company's Fremont, California facilities which has an estimated useful life of thirty years.

Accrued Clinical Trials

Accrued clinical trials reflected a $1.1 million reduction associated with the favorable resolution of a contract-related dispute with Boehringer Mannheim GmbH (which was acquired by affiliates of F. Hoffmann-La Roche Ltd).

Long-Term Debt

In September 1999, Fremont Holding L.L.C. (a wholly owned subsidiary of Protein Design Labs, Inc.) obtained a $10.2 million term loan to purchase its Fremont, California facilities. The loan bears interest at the rate of 7.64% per year amortized over 15 years with principal and interest payable monthly beginning in October 1999. The loan is secured by the Company's Fremont, California facilities and is subject to the terms and covenants of the loan agreement.

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

This Quarterly Report contains forward-looking statements which involve risks and uncertainties. The Company's actual results may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such a difference include, but are not limited to those discussed in "Risk Factors" as well as those discussed elsewhere in this document and the Company's Annual Report on Form 10-K, filed with the Securities and Exchange Commission for the year ended December 31, 1998.

OVERVIEW

Since the Company's founding in 1986, a primary focus of its operations has been research and development. Achievement of successful research and development and commercialization of products derived from such efforts is subject to high levels of risk and significant resource commitments. The Company has a history of operating losses and expects to incur substantial additional expenses over at least the next few years as it continues to develop its proprietary products, devote significant resources to preclinical studies, clinical trials, and manufacturing and to defend its patents and other proprietary rights. The Company's revenues to date have consisted principally of research and development funding, licensing and signing fees, milestone payments and royalties from pharmaceutical and biotechnology companies under collaborative research and development, humanization, patent licensing and clinical supply agreements. These revenues may vary considerably from quarter to quarter and from year to year, and revenues in any period may not be predictive of revenues in any subsequent period, and variations may be significant depending on the terms of the particular agreements.

The Company receives royalties on sales of Synagis[R], Herceptin[R] and Zenapax[R]. Royalty revenues from third party sales of these licensed humanized antibodies are subject to the specific terms of each agreement and, under the Company's policy, are recognized by the Company during the quarter such royalties are reported to PDL. This method of revenue recognition may increase fluctuations reported in any particular quarter since the agreements generally provide for royalty reports to the Company following completion of each calendar quarter or semi-annual period. Further, royalty revenues are unpredictable as they are dependent upon numerous factors including the seasonality of sales of licensed products, the existence of competing products, the marketing efforts of the Company's licensees and the rights certain licensees have to partially offset certain previously paid milestones and third party royalties against royalties payable to the Company. In addition, expenses may fluctuate from quarter to quarter due to the timing of certain expenses, including milestone payments that may be payable by the Company under certain licensing arrangements.

Although the Company anticipates entering into new collaborations from time to time, the Company presently does not know whether or not it will realize non-royalty revenue from its new and proposed collaborations at levels commensurate with the revenue historically recognized under its older collaborations. Moreover, the Company anticipates that it will incur significant operating expenses as the Company significantly increases its research and development, manufacturing, preclinical, clinical, marketing and administrative and patent activities. In particular, the commitment of resources to the development of Zenapax and the humanized anti-IL-4 antibody, two humanized antibodies with respect to which PDL recently obtained development rights, taken together with the continued development of the Company's existing products will require significant additional funds for development. Accordingly, in the absence of substantial revenues from new corporate collaborations or patent licensing or humanization agreements, significant royalties on sales of products licensed under the Company's intellectual property rights, or other sources, the Company expects to incur substantial operating losses in the foreseeable future as the Company undertakes development of Zenapax in autoimmune indications and the humanized anti-IL-4 antibody, as certain of its earlier stage potential products move into later stage clinical development, as additional potential products are selected as clinical candidates for further development, as the

Company invests in additional manufacturing capacity, as the Company defends or prosecutes its patents and patent applications and as the Company invests in research or acquires additional technologies, product candidates or businesses.

Contract revenues from research and development are recorded as earned based on the performance requirements of the contracts. Revenues from achievement of milestone events are recognized when the funding party agrees that the scientific or clinical results stipulated in the agreement have been met. Deferred revenue arises principally due to timing of cash payments received under research and development contracts.

RESULTS OF OPERATIONS

Three Months Ended September 30, 1999 and 1998

The Company's total revenues for the three months ended September 30, 1999 were $10.6 million compared to $11.9 million in the third quarter of 1998. Total revenues recognized under agreements with third parties were $8.4 million in the third quarter of 1999 compared to $9.6 million in the comparable period in 1998. Interest and other income was $2.2 million in the third quarter of 1999 compared to $2.3 million in the comparable period in 1998.

Revenues under agreements with third parties of $8.4 million for the three months ended September 30, 1999 consisted principally of milestone payments earned under licensing agreements, royalties, signing and licensing fees and research and development reimbursement funding. In the third quarter of 1998, revenues of $9.6 million under agreements with third parties consisted principally of a $6.0 million licensing and signing fee from Genentech, Inc. ("Genentech"), milestone payments earned under licensing agreements, manufacturing services revenues under clinical supply agreements, research and development reimbursement funding and royalties.

Total costs and expenses for the three months ended September 30, 1999 were $10.4 million compared with $11.2 million in the comparable period in 1998. Total cost and expenses in the 1999 third quarter reflected a $1.1 million reduction associated with the favorable resolution of a contract dispute with a third party. In 1998, total cost and expenses in the third quarter included a $1.0 million licensing and signing fee paid to Genentech. Excluding these non-recurring items in the third quarters of 1999 and 1998, total costs and expenses increased by $1.3 million, primarily due to the addition of staff in the Company's pharmaceutical research and development programs, administrative functions and associated expenses to manage and support the Company's expanding operations.

Research and development expenses for the three month period ended September 30, 1999 were $7.9 million compared with $8.9 million in the year-earlier quarter. Excluding the two non-recurring items discussed above, research and development costs increased by $1.1 million, primarily due to the addition of staff, the continuation of clinical trials and expansion of research and pharmaceutical development capabilities, including support for both clinical development and manufacturing process development.

General and administrative expenses for the three months ended September 30, 1999 increased to $2.4 million from $2.2 million in the comparable period in 1998. These increases were primarily the result of increased staffing and associated expenses to manage and support the Company's expanding operations.

Nine Months Ended September 30, 1999 and 1998

The Company's total revenues for the nine months ended September 30, 1999 were $27.7 million compared with $24.5 million for the nine months ended September 30, 1998. Total revenues recognized under agreements with third parties were $20.9 million in the nine month period of 1999 compared with $17.3 million in the comparable period in 1998. Interest and other income was $6.8 million in the nine month period of 1999 compared with $7.2 million in the comparable period in 1998.

Revenues under agreements with third parties of $20.9 million for the nine months ended September 30, 1999 consisted principally of royalties, signing and licensing fees, maintenance fees and research and development reimbursement funding. In the comparable period of 1998, revenues of $17.3 million under agreements with third parties consisted principally of signing and licensing fees, milestone payments earned under licensing agreements, manufacturing services revenues under clinical supply agreements, research and development reimbursement funding and royalties.

Total costs and expenses for the nine months ended September 30, 1999 increased to $32.1 million from $28.7 million in the comparable period in

1998. Excluding non-recurring expense adjustments due to one-time events, the increase in costs and expenses was primarily due to the addition of staff in the Company's pharmaceutical research and development programs, administrative functions and associated expenses to manage and support the Company's expanding operations.

Research and development expenses for the nine month period ended September 30, 1999 increased to $24.7 million from $22.7 million in the comparable period in 1998. Excluding the two non-recurring items discussed above, the increase in costs was primarily due to the addition of staff, the continuation of clinical trials and expansion of research and pharmaceutical development capabilities, including support for both clinical development and manufacturing process development.

General and administrative expenses for the nine months ended September 30, 1999 increased to $7.3 million from $6.0 million in the comparable period in 1998. These increases were primarily the result of increased staffing and associated expenses to manage and support the Company's expanding operations.

LIQUIDITY AND CAPITAL RESOURCES

To date, the Company has financed its operations primarily through public and private placements of equity securities, research and development revenues and interest income on invested capital. At September 30, 1999, the Company had cash, cash equivalents and investments in the aggregate of $134.7 million, compared to $143.4 million at December 31, 1998.

As set forth in the Statements of Cash Flows, net cash used in operating activities was $2.6 million for the nine months ended September 30, 1999 compared to $5.6 million in the same period in 1998. This change was primarily the result of changes in other current assets and accrued liabilities.

As set forth in the Statements of Cash Flows, net cash used in investing activities for the nine months ended September 30, 1999 was $23.5 million resulting primarily from the reinvestment of maturing investments and the purchase of the Company's Fremont, California facilities. Net cash provided by investing activities for the comparable period in 1998 was $37.8 million resulting primarily from the maturities of short- and long-term investments.

As set forth in the Statements of Cash Flows, net cash provided by financing activities for the nine months ended September 30, 1999 was $12.5 million resulting primarily from the proceeds associated with the long-term financing of the Company's purchase of its Fremont, California facilities. Net cash provided by financing activities in the comparable period in 1998 was $3.3 million resulting primarily from the exercise of outstanding stock options.

The Company's future capital requirements will depend on numerous factors, including, among others, royalties from sales of products of third party licensees, including Synagis, Herceptin and Zenapax; the ability of the Company to enter into additional collaborative, humanization and patent licensing arrangements; the progress of the Company's product candidates in clinical trials; the ability of the Company's licensees to obtain regulatory approval and successfully manufacture and market products licensed under the Company's patents; the continued or additional support by collaborative partners or other third parties of research and development efforts and clinical trials; enhancement of existing and investment in new research and development programs; the time required to gain regulatory approvals; the resources the Company devotes to self-funded products, manufacturing facilities and methods and advanced technologies; the ability of the Company to obtain and retain funding from third parties under collaborative arrangements; the continued development of internal marketing and sales capabilities; the demand for the Company's potential products, if and when approved; potential acquisitions of technology, product candidates or businesses by the Company; and the costs of defending or prosecuting any patent opposition or litigation necessary to protect the Company's proprietary technology. In order to develop and commercialize its potential products the Company 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 will be available on acceptable terms, if at all, and such financing may only be available on terms dilutive to existing stockholders. The Company believes that existing capital resources will be adequate to satisfy its capital needs through at least 2001.

YEAR 2000 COMPLIANCE

As is true for most companies, the ability of the Company's systems

and equipment as well as those of its key suppliers to address the Year 2000 ("Y2K") issue presents a potential risk for the Company. If systems software and/or equipment containing embedded software or controllers do not correctly recognize date information when the year changes to 2000, there could be an adverse impact on the Company's operations. The risk for the Company exists in two areas: systems used by the Company to run its business and systems used by the Company's suppliers. The Company is currently evaluating its exposure in these two areas and has completed a review of at least 90% of potentially affected systems. The Company has also reviewed, but views as a much less significant risk, claims related to potential warranty or other claims from its collaborative research customers.

Based on a comprehensive assessment recently completed by an outside consultant retained by the Company, the Company believes that its most important information systems, equipment and facilities are Y2K-compliant. To date, the Company has either received software or system upgrades or assurances that Y2K-compliant software will be made available in a manner designed for the Company to timely address the Y2K issue with respect to its key systems.

The outside consultant retained by the Company performed a comprehensive inventory and review of all significant systems and equipment of the Company and is in the process of preparing a contingency plan for any mission critical systems that may present potential Y2K problems.

The Company has established a Y2K committee with responsibility for coordinating awareness and identifying potential Y2K risk areas within the Company. As part of its comprehensive review of potentially affected systems, equipment and facilities, the Company is also reviewing controllers used to perform key functions in its manufacturing facility in Plymouth, Minnesota. At this time, the Company has been advised that the need for remediation or replacement plans for systems and equipment is minimal. For Y2K non-compliance issues identified to date, the cost of upgrade or remediation has not been and is not expected to be material to the Company's operating results. The Company has completed a work and project plan for Company awareness and a detailed assessment and inventory review process corresponding to the five-step General Accounting Office recommended process guidelines. For Y2K compliance, the total out-of-pocket costs expended to date and currently planned budget expenditures are expected to be less than the originally estimated $100,000 amount budgeted. However, if implementation of scheduled replacement systems is significantly delayed, or if any significant new non-compliance issues are identified, the Company's results of operations or financial condition could be materially adversely affected.

The Company has identified and inquired of most of its critical suppliers and has ongoing inquiries of other suppliers in order to determine whether the operations and the products or services provided by these identified vendors are Y2K-compliant. Where practicable, the Company will attempt to mitigate its risks with respect to the failure of vendors to be Y2K-compliant. In the event that vendors are not compliant, the Company may adjust its purchasing decisions or seek alternative sources of supplies or services. However, many of the Company's vendors have been qualified for regulatory purposes such that qualifying new vendors could involve significant time and resource commitments by the Company. Failure of vendors to be Y2K-compliant remains a possibility and could limit the ability of the Company to manufacture material for clinical studies or timely conduct regulatory compliance programs that would result in a delay in the initiation or continuation of certain planned clinical studies. Significant delays or expenditures due to vendors' failures to become Y2K-compliant could have an adverse impact on the Company's results of operations or financial condition.

With respect to research conducted by the Company in support of its collaborative research customers, many of the systems and software used to support such efforts are new. Where appropriate, the Company has, as a condition to accepting such systems and software, required that the systems be Y2K-compliant.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company maintains a non-trading investment portfolio of investment grade, highly liquid, debt securities which limits the amount of credit exposure to any one issue, issuer, or type of instrument. The Company does not use derivative financial instruments for speculative or trading purposes. The securities in the Company's investment portfolio are not leveraged and are classified as available for sale and therefore are subject to interest rate risk. The Company does not currently hedge interest rate

exposure. As of September 30, 1999, there has been no material change in the Company's interest rate exposure from that described in the Company's Annual Report on Form 10-K for the year ended December 31, 1998.

PART II. OTHER INFORMATION

ITEM 5. OTHER INFORMATION - RISK FACTORS

This Quarterly Report contains, in addition to historical information, forward-looking statements which involve risks and uncertainties. The Company's actual results may differ significantly from the results discussed in forward-looking statements. Factors that may cause such a difference include those discussed in the material set forth in this document and in the discussion captioned "Risk Factors" in the Company's Annual Report on Form 10-K for the year ending December 31, 1998.

History Of Losses; Future Profitability Uncertain. The Company has a history of operating losses and expects to incur substantial additional expenses over at least the next several years as it continues to develop its potential products, to invest in new research areas and to devote significant resources to preclinical studies, clinical trials and manufacturing. As of September 30, 1999, the Company had an accumulated deficit of approximately $73.3 million. The time and resource commitment required to achieve market success for any individual product is extensive and uncertain. No assurance can be given that the Company, its collaborative partners or licensees will successfully develop products, obtain required regulatory approvals, manufacture products at an acceptable cost and with appropriate quality, or successfully market such products.

The Company's revenues to date have consisted principally of research and development funding, licensing and signing fees, milestone payments and royalties from pharmaceutical and biotechnology companies under collaborative research and development, humanization, patent licensing and clinical supply agreements. These revenues may vary considerably from quarter to quarter and from year to year, and revenues in any period may not be predictive of revenues in any subsequent period, and variations may be significant depending on the terms of the particular agreements. Further, royalty revenues are unpredictable as they are dependent upon numerous factors, including the seasonality of sales of licensed products, the existence of competing products, the marketing efforts of the Company's licensees and rights certain licensees may have to partially offset certain previously paid milestones and third party royalties against royalties payable to the Company. In addition, expenses may fluctuate from quarter to quarter due to the timing of certain expenses, including milestone payments that may be payable by the Company under licensing arrangements.

Although the Company anticipates entering into new collaborations from time to time, the Company presently does not know whether or not it will realize non-royalty revenue from its new and proposed collaborations at levels commensurate with the revenue historically recognized under its older collaborations. Moreover, the Company anticipates that it will incur significant operating expenses as the Company significantly increases its research and development, manufacturing, preclinical, clinical, marketing and administrative and patent activities. In particular, the commitment of resources to the development of Zenapax and the humanized anti-IL-4 antibody, two humanized antibodies with respect to which PDL recently obtained development rights, taken together with the continued development of the Company's existing products, will require significant additional funds for development. Accordingly, in the absence of substantial revenues from new corporate collaborations or patent licensing or humanization agreements, significant royalties on sales of products licensed under the Company's intellectual property rights, or other sources, which may or may not occur, the Company expects to incur substantial operating losses in the foreseeable future as the Company undertakes development of Zenapax in autoimmune indications and the humanized anti-IL-4 antibody, as certain of its earlier stage potential products move into later stage clinical development, as additional potential products are selected as clinical candidates for further development, as the Company invests in additional manufacturing capacity, as the Company defends or prosecutes its patents and patent applications and as the Company invests in research or acquires additional technologies, product candidates or businesses. For example, revenues in the third quarter of 1999 included significant amounts from certain milestones and non-refundable, non-creditable licensing and signing fees. Moreover, expenses in the third quarter were also reduced by $1.1 million due to a favorable resolution of a contract dispute with a third party. Revenues in the fourth quarter of 1999 are not expected to include arrangements involving payments to the Company of a similar magnitude and

certain of the milestone payments in the third quarter which are expected to be credited against royalties which otherwise would be due to the Company in the fourth quarter of 1999. In the absence of substantial non-recurring revenues or significant royalty revenues in any future period, there can be no assurance that the Company's level of revenue in any particular reporting period will be similar to or higher than that reported for the prior corresponding period.

Hoffmann-La Roche Inc. and its affiliates ("Roche") have received regulatory approval to distribute Zenapax in the U.S. and certain other countries. Zenapax, a product created by the Company, is licensed exclusively to Roche. The Company has also entered into nonexclusive patent license agreements covering Synagis[R], a product developed by MedImmune, Inc., and Herceptin[R], a product developed by Genentech, Inc. The Company recognizes royalty revenues when royalty reports are received from its collaborative partners, including Roche. With respect to royalties based on revenue from sales of Zenapax by Roche, royalties based on U.S. sales are reported to the Company on a quarterly basis and royalties based on sales outside of the U.S. are currently reported on a semi-annual basis. With respect to royalties on sales of Synagis and Herceptin, royalty reports are due in the quarter following the quarter in which sales occur or are reported by sublicensees, as the case may be. Each of these licensees has certain rights to partially offset certain payments previously made to the Company or paid to third parties. For example, Roche has a right to partially offset certain third party royalties, patent reimbursement expenses and previously paid milestones against royalties payable to the Company with respect to Zenapax. The Company records revenue when reports are received from its licensees. This method of accounting for royalty revenues from the Company's licensees, taken together with the unpredictable timing of payments of non-recurring licensing and signing fees, payments for manufacturing services and milestones under new and existing collaborative, humanization, patent licensing and clinical supply agreements, is likely to result in significant quarterly fluctuations in revenues in quarterly and annual periods. Thus, revenues in any period may not be predictive of revenues in any subsequent period, and variations may be significant depending on the terms of the particular agreements.

The amount of net losses and the time required to reach sustained profitability are highly uncertain. To achieve sustained profitable operations, the Company, alone or with its collaborative partners, must successfully discover, develop, manufacture, obtain regulatory approvals for and market potential products. No assurances can be given that the Company will be able to achieve or sustain profitability, and results are expected to fluctuate from quarter to quarter and year to year.

Dependence On Licensees With Respect to Royalties. The Company is dependent upon the development and marketing efforts of its licensees with respect to products for which the Company may receive royalties. For example, in 1998, the Company began receiving royalties from sales of Zenapax, a product exclusively licensed to Roche. The Company's royalties on Zenapax sales in transplantation depend upon the efforts of Roche and there can be no assurance that Roche's development, regulatory and marketing efforts will be successful, including without limitation, whether or how quickly Zenapax might receive regulatory approvals in various countries throughout the world and how rapidly it might be adopted by the medical community. Moreover, Simulect[R], a product competitive with Zenapax, is marketed in the U.S. and other countries and there can be no assurance that Roche will successfully market and sell Zenapax against this and other available competitive products. In addition, there can be no assurance that other independently developed products of Roche, including CellCept[R], or others will not compete with or prevent Zenapax from achieving meaningful sales. Roche's development and marketing efforts for CellCept may result in delays or a relatively smaller resource commitment to marketing and sales support efforts than might otherwise be obtained for Zenapax if this potentially competitive product were not under development or being marketed. In addition, the Company recently obtained exclusive rights to develop Zenapax in autoimmune indications. There can be no assurance that the Company's development efforts in autoimmune indications will show that Zenapax is safe and efficacious in this setting, or that the clinical trials will result in approval to market Zenapax in these indications. Any adverse event or announcement related to Zenapax would have a material adverse effect on the business and financial condition of the Company.

The Company has also entered into non-exclusive patent licensing arrangements for Synagis and Herceptin. The Company is dependent upon the further development, regulatory and marketing efforts of its licensees with respect to these products and there can be no assurance that the development, regulatory and marketing efforts of these licensees will be successful, including, without limitation, if and when regulatory approvals in various countries may be obtained and whether or how quickly these products might be adopted by the medical community.

Uncertainty Of Patents And Proprietary Technology; Opposition Proceedings. The Company's success is significantly dependent on its ability to obtain and maintain patent protection for its products and technologies and to preserve its trade secrets and operate without infringing on the proprietary rights of third parties. The Company files and prosecutes patent applications to protect its inventions. No assurance can be given that the Company's pending patent applications will result in the issuance of patents or that any patents will provide competitive advantages or will not be invalidated or circumvented by its competitors. Moreover, no assurance can be given that patents are not issued to, or patent applications have not been filed by, other companies which would have an adverse effect on the Company's ability to use, import, manufacture, market or sell its products or maintain its competitive position with respect to its products. Other companies obtaining patents claiming products or processes useful to the Company may bring infringement actions against the Company. As a result, the Company may be required to obtain licenses from others or not be able to use, import, manufacture, market or sell its products. Such licenses may not be available on commercially reasonable terms, if at all.

Patents in the U.S. are issued to the party that is first to invent the claimed invention. Since patent applications in the U.S. are maintained in secrecy until patents issue, the Company cannot be certain that it was the first inventor of the inventions covered by its pending patent applications or patents or that it was the first to file patent applications for such inventions. The patent positions of biotechnology firms generally are highly uncertain and involve complex legal and factual questions. No consistent policy has emerged regarding the breadth of claims in biotechnology patents, and patents of biotechnology products are uncertain, so that even issued patents may later be modified or revoked by the U.S. Patent and Trademark Office ("PTO") or the courts. Moreover, the issuance of a patent in one country does not assure the issuance of a patent with similar claims in another country, and claim interpretation and infringement laws vary among countries, so the extent of any patent protection may vary in different countries.

The Company has a number of patents and has exclusively licensed certain patents from third parties. In June 1996, the Company was issued a U.S. patent covering Zenapax and certain related antibodies against the IL-2 receptor. The Company has been issued patents by the PTO, the Japanese Patent Office ("JPO"), European Patent Office ("EPO") and other patent offices around the world that relate to humanized antibodies and the methods of making those antibodies. With respect to its issued antibody humanization patents, the Company believes the patent claims cover Zenapax, Herceptin and Synagis and, based on its review of the scientific literature, most other humanized antibodies. In addition, the Company is currently prosecuting other patent applications with the PTO and in other countries, including members of the European Patent Convention, Canada, Japan and Australia. The patent applications are directed to various aspects of the Company's SMART and human antibodies, antibody technology and other programs, and include claims relating to compositions of matter, methods of preparation and use of a number of the Company's compounds. However, the Company does not know whether any pending applications will result in the issuance of patents or whether such patents will provide protection of commercial significance. Further, there can be no assurance that the Company's patents will prevent others from developing competitive products using related technology.

The Company's two humanization patents issued by the EPO apply in the United Kingdom, Germany, France, Italy and eight other European countries. The EPO (but not PTO) procedures provide for an opposition period in which other parties submit arguments as to why the patent was incorrectly granted and should be withdrawn or limited. Eighteen notices of opposition to the Company's first European patent were filed during the opposition period for such patent, including oppositions by major pharmaceutical and biotechnology companies, which cited references and made arguments not considered by the EPO and PTO before grant of the respective patents. The Company submitted its response to the briefs filed by these parties and a preliminary view from the EPO was received in May 1999. The preliminary view represents the initial non-binding statement from the EPO with respect to the issued European patent and does not represent the final determination concerning the patent. Complex preliminary views are common in EPO proceedings, and are intended to set an agenda for discussion at the oral hearing. The final determination from the EPO is expected to occur at an oral hearing currently scheduled to take place in March 2000. At or following the oral hearing, the Company expects that the European patent will either be maintained in full, maintained in an amended version or revoked. Any of the parties to the opposition may appeal a decision to a board of appeals within the EPO. Such an appeal can take two or more years to be resolved.

The preliminary view from the EPO raises significant questions regarding the validity of the first European patent, which, if not

satisfactorily responded to by the Company in the oral hearing, could result in revocation of certain claims or the entire European patent. If the key claims in the European patent are revoked following the oral hearing and the Company's other humanization patents do not provide sufficient coverage of certain products licensed under the Company's patents, then the Company's ability to collect royalties on European sales of existing licensed products and to license its patents relating to humanized antibodies may be materially adversely affected, which would have a material adverse affect on the business and financial condition of the Company. The Company is currently reviewing the preliminary view with counsel in preparation for the scheduled oral hearing. Although the entire opposition process, including appeals, may take several years to complete, and although the European patent remains issued and any revocation of the European patent is suspended during the appeals process, the validity of the European patent will be at issue, which may limit the Company's ability to collect royalties or to negotiate future licensing or collaborative research and development arrangements based on this patent. In addition, the Company may need to initiate formal legal actions, if permissible, in order to enforce its rights under its various humanization patents, including the European patent, and there can be no assurance that the Company will successfully enforce its rights under the European or similar U.S. and Japanese patents of the Company. The nine month opposition period for the Company's second European antibody humanization patent has recently begun and the Company expects that, depending upon the outcome of the opposition proceedings for the first European patent, a significant number of notices of opposition may be filed with respect to the second European patent.

A similar opposition period in Japan has recently expired with respect to the Company's humanization patent issued in Japan in late 1998. Similar to the process in Europe, third parties had the opportunity to file their opposition to the issuance of the JPO patent. The Company has been advised that three opposition statements have been filed. The Company intends to vigorously defend the European patent and the Japanese patent and, if necessary, the U.S. patents; however, there can be no assurance that the Company will prevail in the opposition proceedings or any litigation contesting the validity or scope of these patents. If the outcome of the European or Japanese opposition proceeding or any litigation involving the Company's antibody humanization patents were to be unfavorable, the Company's ability to collect royalties on existing licensed products and to license its patents relating to humanized antibodies may be materially adversely affected, which could have a material adverse affect on the business and financial condition of the Company. In addition, such proceedings or litigation, or any other proceedings or litigation to protect the Company's 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 have a material adverse effect on the business and financial condition of the Company.

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 the Company's programs. Some of these applications or patents may be competitive with the Company's applications or contain claims that conflict with those made under the Company's patent applications or patents. Such conflicts could prevent issuance of patents to the Company, provoke an interference with the Company's patents or result in a significant reduction in the scope or invalidation of the Company's patents, if issued. An interference is an administrative proceeding conducted by the PTO to determine the priority of invention and may determine questions of patentability. Moreover, if patents are held by or issued to other parties that contain claims relating to the Company's products or processes, and such claims are ultimately determined to be valid, no assurance can be given that the Company would be able to obtain licenses to these patents at a reasonable cost, if at all, or to develop or obtain alternative technology.

The Company is aware that Celltech Limited ("Celltech") has been granted a patent by the EPO covering certain humanized antibodies ("European Adair Patent"), which the Company has opposed, and that Celltech has also been issued a corresponding U.S. patent (the "U.S. Adair Patent") that contains claims that may be considered broader in scope than the European Adair Patent. If it were determined that the Company's SMART antibodies were covered by the European or U.S. Adair Patents, the Company might be required to obtain a license under such patents or to significantly alter its processes or products, if necessary to make, use or sell its products in Europe and the U.S. There can be no assurance that the Company would be able to successfully alter its processes or products to avoid infringing such patents or to obtain such a license from Celltech on commercially reasonable terms, if at all, and the failure to do so could have a material adverse effect on the business and financial condition of the Company.

In addition, if the claims of the U.S. Adair Patent or any related patent applications conflict with claims in the Company's U.S. patents or

patent applications, there can be no assurance that an interference would not be declared by the PTO, which could take several years to resolve and could involve significant expense to the Company. Also, such conflict could prevent issuance of additional patents to the Company relating to humanization of antibodies or result in a significant reduction in the scope or invalidation of the Company's patents, if issued. Moreover, uncertainty as to the validity or scope of patents issued to the Company relating generally to humanization of antibodies may limit the Company's ability to negotiate or collect royalties or to negotiate future collaborative research and development agreements based on these patents.

The Company is aware that Lonza Biologics, Inc. has a patent issued in Europe to which the Company does not have a license (although Roche has advised the Company that it has a license covering Zenapax), which may cover a process the Company uses to produce its potential products. If it were determined that the Company's processes were covered by such patent, the Company might be required to obtain a license under such patent or to significantly alter its processes or products, if necessary to manufacture or import its products in Europe. There can be no assurance that the Company would be able to successfully alter its processes or products to avoid infringing such patent or to obtain such a license on commercially reasonable terms, if at all, and the failure to do so could have a material adverse effect on the business and financial condition of the Company.

The Company is also aware of an issued U.S. patent assigned to Stanford University and Columbia University to which the Company does not have a license, which may cover a process the Company uses to produce its potential products. The Company has been advised that an exclusive license has been previously granted to a third party under this patent. If it were determined that the Company's processes were covered by such patent, the Company might be required to obtain a license under such patent or to significantly alter its processes or products, if necessary to manufacture or import its products in the U.S. There can be no assurance that the Company would be able to successfully alter its processes or products to avoid infringing such patent or to obtain such a license on commercially reasonable terms, if at all, and the failure to do so could have a material adverse effect on the business and financial condition of the Company. Moreover, any alteration of processes or products to avoid infringing the patent could result in a significant delay in achieving regulatory approval with respect to the products affected by such alterations.

In addition to seeking the protection of patents and licenses, the Company also relies upon trade secrets, know-how and continuing technological innovation which it seeks to protect, in part, by confidentiality agreements with employees, consultants, suppliers and licensees. There can be no assurance that these agreements will not be breached, that the Company would have adequate remedies for any breach or that the Company's trade secrets will not otherwise become known, independently developed or patented by competitors.

Uncertainty Of Clinical Trial Results. Before obtaining regulatory approval for the commercial sale of any of its potential products, the Company must demonstrate through preclinical studies and clinical trials that the product is safe and efficacious for use in the clinical indication for which approval is sought. There can be no assurance that the Company will be permitted to undertake or continue clinical trials for any of its potential products or, if permitted, that such products will be demonstrated to be safe and efficacious. Moreover, the results from preclinical studies and early-stage clinical trials may not be predictive of results that will be obtained in late-stage clinical trials. Thus, there can be no assurance that the Company's present or future clinical trials will demonstrate the safety and efficacy of any potential products or will result in approval to market products.

In advanced clinical development, numerous factors may be involved that may lead to different results in larger, late-stage clinical trials from those obtained in early-stage trials. For example, early-stage clinical trials usually involve a small number of patients, often at a single center, and thus may not accurately predict the actual results regarding safety and efficacy that may be demonstrated with a large number of patients in a late-stage multi-center clinical trial. Also, differences in the clinical trial design between early-stage and late-stage clinical trials may cause different results regarding the safety and efficacy of a product to be obtained. In addition, many early-stage trials are unblinded and based on qualitative evaluations by clinicians involved in the performance of the trial, whereas late-stage trials are generally required to be blinded in order to provide more objective data for assessing the safety and efficacy of the product. Moreover, preliminary results from clinical trials may not be representative of results that may be obtained as the trial proceeds to completion.

The Company may at times elect to aggressively enter potential products into Phase I/II trials to determine preliminary safety and efficacy in specific indications. In addition, in certain cases the Company has commenced clinical trials without conducting preclinical animal testing where an appropriate animal model does not exist. Similarly, the Company or its partners at times will conduct potentially pivotal Phase II/III or Phase III trials based on limited Phase I or Phase I/II data. As a result of these and other factors, the Company anticipates that only some of its potential products will show safety and efficacy in clinical trials and that the number of products that fail to show safety and efficacy may be significant. For example, the Company has entered the SMART M195 Antibody into a Phase III clinical trial in acute myelogenous leukemia with a clinical regimen that has not been tested previously with this antibody. Results from the Company's prior Phase II and Phase II/III studies showed a limited number of complete and partial remissions. In addition, the Phase III study was initiated by the Company without a meeting with the FDA or European regulatory authorities to discuss the protocol and its adequacy to support registration of the SMART M195 Antibody. The Company believes that its Phase III program is reasonable in view of the nature and severity of the disease. However, there can be no assurance that the study will be successful or that the FDA or European regulatory authorities will agree that the study will be adequate to obtain regulatory approval, even if the study is successful.

Limited Experience With Clinical Trials; Risk Of Delay. The Company has conducted only a limited number of clinical trials to date. There can be no assurance that the Company will be able to successfully commence and complete all of its planned clinical trials without significant additional resources and expertise. In addition, there can be no assurance that the Company will meet its contemplated development schedule for any of its potential products. The inability of the Company or its collaborative partners to commence or continue clinical trials as currently planned, to complete the clinical trials on a timely basis or to demonstrate the safety and efficacy of its potential products, would have a material adverse effect on the business and financial condition of the Company.

The rate of completion of the Company's or its collaborators' clinical trials is significantly dependent upon, among other factors, the rate of patient enrollment. Patient enrollment is a function of many factors, including, among others, the size of the patient population, perceived risks and benefits of the drug under study, availability of competing therapies, access to reimbursement from insurance companies or government sources, design of the protocol, proximity of and access by patients to clinical sites, patient referral practices, eligibility criteria for the study in question and efforts of the sponsor of and clinical sites involved in the trial to facilitate timely enrollment in the trial. Delays in the planned rate of patient enrollment may result in increased costs and expenses in completion of the trial or may require the Company to undertake additional studies in order to obtain regulatory approval if the applicable standard of care changes in the therapeutic indication under study. These considerations may lead the Company to consider the termination of ongoing clinical trials or halting further development of a product for a particular indication.

Dependence On Collaborative Partners. The Company has collaborative agreements with several pharmaceutical or other companies to develop, manufacture and market certain potential products. The Company granted its collaborative partners certain exclusive rights to commercialize the products covered by these collaborative agreements. In some cases, the Company is relying on its collaborative partners to conduct clinical trials, to compile and analyze the data received from such trials, to obtain regulatory approvals and, if approved, to manufacture and market these licensed products. As a result, the Company often has little or no control over the development and marketing of these potential products and little or no opportunity to review clinical data prior to or following public announcement.

The Company's collaborative research agreements are generally terminable by its partners on short notice. Suspension or termination of certain of the Company's current collaborative research agreements could have a material adverse effect on the Company's operations and could significantly delay the development of the affected products.

Continued funding and participation by collaborative partners will depend on the timely achievement of research and development objectives by the Company, the retention of key personnel performing work under those agreements and the successful achievement of research or clinical trial goals, none of which can be assured, as well as on each collaborative partner's own financial, competitive, marketing and strategic considerations. Such considerations include, among other things, the commitment of management of the collaborative partners to the continued development of the licensed products, the relationships among the individuals responsible for the implementation and maintenance of the

collaborative efforts, the relative advantages of alternative products being marketed or developed by the collaborators or by others, including their relative patent and proprietary technology positions, and their ability to manufacture potential products successfully.

The Company's ability to enter into new collaborations and the willingness of the Company's existing collaborators to continue development of the Company's potential products depends upon, among other things, the Company's patent position with respect to such products. In this regard, the Company has been issued patents by PTO, EPO and JPO with claims that the Company believes, based on its survey of the scientific literature, cover most humanized antibodies. The Company has also been allowed patents with similar claims in other countries and has applied for similar patents in certain other countries. See "Risk Factors -- Uncertainty of Patents and Proprietary Technology; Opposition Proceedings." The EPO and JPO patents are currently in the opposition proceeding stages in those patent offices. In addition, all of the Company's antibody humanization patents may be further challenged through administrative or judicial proceedings. The Company has entered into several collaborations related to both the humanization and patent licensing of certain antibodies whereby it granted licenses to its patent rights relating to such antibodies, and the Company anticipates entering into additional collaborations and patent licensing agreements partially as a result of the Company's patent and patent applications with respect to humanized antibodies. As a result, the inability of the Company to successfully defend the opposition proceedings before the EPO or JPO or, if necessary, to defend patents granted by the PTO, EPO or JPO or to successfully prosecute the corresponding patent applications in other countries could adversely affect the ability of the Company to collect royalties on existing licensed products, and enter into additional collaborations, humanization or patent licensing agreements and could therefore have a material adverse effect on the Company's business or financial condition.

No Sales And Marketing Experience; Further Development of Zenapax. The Company intends to market and sell certain of its products, if successfully developed and approved, either directly or through sales and marketing partnership arrangements with collaborative partners. Although the Company does not expect to establish a direct sales capability at this time, the Company has no history or experience in sales, marketing or distribution. To market products directly, the Company must either establish a more extensive marketing group and direct sales force or obtain the assistance of another company. There can be no assurance that the Company will be able to establish marketing, sales and distribution capabilities or succeed in gaining market acceptance for its products. If the Company enters into co-promotion or other marketing or patent licensing arrangements with pharmaceutical or biotechnology companies, the Company's revenues will be subject to the payment provisions of such arrangements and dependent on the efforts of third parties.

The Company has recently obtained rights from Roche to conduct development activities for Zenapax in autoimmune indications. The Company has no experience in conducting development activities for products that are currently approved and marketed for use in other indications such as Zenapax. U.S. Food and Drug Administration ("FDA") regulations prohibit promotion of the use of Zenapax for unapproved indications until appropriate clinical studies are conducted and the data from those studies is presented for the FDA to review and approve. There can be no assurance that the Company will be able to successfully develop Zenapax in autoimmune indications and substantial investment by the Company in such development may be required with no assurance that such efforts will be successful. Even if such development efforts succeed, there can be no assurance that the Company, by itself or with a collaborative partner, will successfully market, promote and detail Zenapax in those countries where PDL has or obtains such rights. The inability of the Company, Roche or its other collaborators to develop, market and sell Zenapax could have a material adverse effect on the business and financial condition of the Company.

Absence Of Manufacturing Experience. Of the products which are currently in clinical development by the Company, Roche is responsible for manufacturing Zenapax, Smithkline Beecham is responsible for manufacturing the humanized anti-IL-4 antibody and BioNet is responsible for manufacturing the SMART Anti-L-Selectin Antibody. The Company is responsible for manufacturing the Company's other products for its own development. The Company currently leases approximately 47,000 square feet housing its manufacturing facilities in Plymouth, Minnesota. The Company intends to continue to manufacture potential products for use in preclinical and clinical trials using this manufacturing facility in accordance with standard procedures that comply with current Good Manufacturing Practices ("cGMP") and appropriate regulatory standards. The manufacture of sufficient quantities of antibody products in accordance with such standards is an expensive, time-consuming and complex process and is subject to a number of

risks that could result in delays. For example, the Company has experienced some difficulties in the past in manufacturing certain potential products on a consistent basis. Production interruptions, if they occur, could significantly delay clinical development of potential products, reduce third party or clinical researcher interest and support of proposed clinical trials, and possibly delay commercialization of such products and impair their competitive position, which would have a material adverse effect on the business and financial condition of the Company.

The Company has no experience in manufacturing commercial quantities of its potential products and currently does not have sufficient capacity to manufacture all of its potential products on a commercial scale. In order to obtain regulatory approvals and to create capacity to produce its products for commercial sale at an acceptable cost, the Company will need to improve and expand its existing manufacturing capabilities, including demonstration to the FDA and corresponding foreign authorities of its ability to manufacture its products using controlled, reproducible processes. The Company has approved plans to improve and expand the capacity of its current manufacturing facility. Such plans, if fully implemented, will result in substantial costs to the Company. There can be no assurance that construction delays will not occur, and any such delays could impair the Company's ability to produce adequate supplies of its potential products for clinical use or commercial sale on a timely basis. Further, there can be no assurance that the Company will successfully improve and expand its manufacturing capability sufficiently to obtain necessary regulatory approvals and to produce adequate commercial supplies of its potential products on a timely basis. Failure to do so could delay commercialization of such products and impair their competitive position, which could have a material adverse effect on the business or financial condition of the Company.

Uncertainties Resulting From Manufacturing Changes. Manufacturing of antibodies for use as therapeutics in compliance with regulatory requirements is complex, time-consuming and expensive. When certain changes are made in the manufacturing process, it is necessary 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, if results of prior preclinical studies and clinical trials performed using the previously produced drug material are to be relied upon in regulatory filings. Such changes could include, for example, changing the cell line used to produce the antibody, changing the fermentation or purification process or moving the production process to a new manufacturing plant. Depending upon the type and degree of differences between the newer and older drug material, various studies could be required to demonstrate that the newly produced drug material is sufficiently similar to the previously produced drug material, possibly requiring additional animal studies or human clinical trials. Manufacturing changes have been made or are likely to be made for the production of the Company's products currently in clinical development, in particular the SMART M195 and SMART Anti-CD3 Antibodies. There can be no assurance that such changes will not result in delays in development or regulatory approvals or, if occurring after regulatory approval, in reduction or interruption of commercial sales. In addition, manufacturing changes to its manufacturing facility may require the Company to shut down production for a period of time. There can be no assurance that the Company will be able to reinitiate production in a timely manner, if at all, following such shutdown. Delays as a result of manufacturing changes or shutdown of the manufacturing facility could have an adverse effect on the competitive position of those products and could have a material adverse effect on the business and financial condition of the Company.

Dependence On Suppliers. The Company is dependent on outside vendors for the supply of raw materials used to produce its product candidates. The Company currently qualifies only one or a few vendors for its source of certain raw materials. Therefore, once a supplier's materials have been selected for use in the Company's manufacturing process, the supplier in effect becomes a sole or limited source of such raw materials to the Company due to the extensive regulatory compliance procedures governing changes in manufacturing processes. Although the Company believes it could qualify alternative suppliers, there can be no assurance that the Company would not experience a disruption in manufacturing if it experienced a disruption in supply from any of these sources. Any significant interruption in the supply of any of the raw materials currently obtained from such sources, or the time and expense necessary to transition a replacement supplier's product into the Company's manufacturing process, could disrupt the Company's operations and have a material adverse effect on the business and financial condition of the Company. A problem or suspected problem with the quality of raw materials supplied could result in a suspension of clinical trials, notification of patients treated with products or product candidates produced using such materials, potential product liability claims, a recall of products or product candidates produced using such materials, and an

interruption of supplies, any of which could have a material adverse effect on the business or financial condition of the Company.

Competition; Rapid Technological Change. The Company's potential products are intended to address a wide variety of disease conditions, including autoimmune diseases, inflammatory conditions and cancers. Competition with respect to these disease conditions is intense and is expected to increase. This competition involves, among other things, successful research and development efforts, obtaining appropriate regulatory approvals, establishing and defending intellectual property rights, successful product manufacturing, marketing, distribution, market and physician acceptance, patient compliance, price and potentially securing eligibility for reimbursement or payment for the use of the Company's products. The Company believes its most significant competitors may be fully integrated pharmaceutical companies with substantial expertise in research and development, manufacturing, testing, obtaining regulatory approvals, marketing and securing eligibility for reimbursement or payment, and substantially greater financial and other resources than the Company. Smaller companies also may prove to be significant competitors, particularly through collaborative arrangements with large pharmaceutical companies. Furthermore, academic institutions, governmental agencies and other public and private research organizations conduct research, seek patent protection, and establish collaborative arrangements for product development, clinical development and marketing. These companies and institutions also compete with the Company in recruiting and retaining highly qualified personnel. The biotechnology and pharmaceutical industries are subject to rapid and substantial technological change. The Company's competitors may develop and introduce other technologies or approaches to accomplishing the intended purposes of the Company's products which may render the Company's technologies and products noncompetitive and obsolete.

In addition to currently marketed competitive drugs, the Company is aware of potential products in research or development by its competitors that address all of the diseases being targeted by the Company. These and other products may compete directly with the potential products being developed by the Company. In this regard, the Company is aware that potential competitors are developing antibodies or other compounds for treating autoimmune diseases, inflammatory conditions and cancers. In particular, a number of other companies have developed and will continue to develop human and humanized antibodies. In addition, protein design is being actively pursued at a number of academic and commercial organizations, and several companies have developed or may develop technologies that can compete with the Company's SMART and human antibody technologies. In particular, the Company believes that certain companies that use alternative technologies to produce human-like antibodies have recently entered into collaborative arrangements that are competitive with and may negatively impact the Company's efforts to enter into humanization and development arrangements for early stage antibody research and development. There can be no assurance that competitors will not succeed in more rapidly developing and marketing technologies and products that are more effective than the products being developed by the Company or that would render the Company's products or technology obsolete or noncompetitive. Further, there can be no assurance that the Company's collaborative partners will not independently develop products competitive with those licensed to such partners by the Company, thereby reducing the likelihood that the Company will receive revenues under its agreements with such partners.

Any potential product that the Company or its collaborative partners succeed in developing and for which regulatory approval is obtained must then compete for market acceptance and market share. For certain of the Company's potential products, an important factor will be the timing of market introduction of competitive products. Accordingly, the relative speed with which the Company and its collaborative partners can develop products, complete the clinical testing and approval processes, and supply commercial quantities of the products to the market compared to competitive companies is expected to be an important determinant of market success. For example, Novartis has received approval to market Simulect, a product competitive with Zenapax, in the U.S. and Europe. In addition to an earlier launch in Europe, Novartis has a significant marketing and sales force directed to the transplantation market and there can be no assurance that Roche will successfully market and sell Zenapax against this and other available products.

Other competitive factors include the capabilities of the Company's collaborative partners, product efficacy and safety, timing and scope of regulatory approval, product availability, marketing and sales capabilities, reimbursement coverage, the amount of clinical benefit of the Company's products relative to their cost, method of administration, price and patent protection. There can be no assurance that the Company's competitors will not develop more efficacious or more affordable products, or achieve earlier product development completion, patent protection, regulatory approval or

product commercialization than the Company. The occurrence of any of these events by the Company's competitors could have a material adverse effect on the business and financial condition of the Company.

Dependence on Key Personnel. The Company's success is dependent to a significant degree on its key management personnel. To be successful, the Company will have to retain its qualified clinical, manufacturing, scientific and management personnel. The Company faces competition for personnel from other companies, academic institutions, government entities and other organizations. There can be no assurance that the Company will be successful in hiring or retaining qualified personnel, and its failure to do so could have a material adverse effect on the business and financial condition of the Company.

Potential Volatility Of Stock Price. The market for the Company's securities is volatile and investment in these securities involves substantial risk. The market prices for securities of biotechnology companies (including the Company) have been highly volatile, and the stock market from time to time has experienced significant price and volume fluctuations that may be unrelated to the operating performance of particular companies. Factors such as disappointing sales of approved products, approval or introduction of competing products and technologies, results of clinical trials, delays in manufacturing or clinical trial plans, fluctuations in the Company's operating results, disputes or disagreements with collaborative partners, unfavorable news or information resulting in the reduction in value of significant intellectual property assets, market reaction to announcements by other biotechnology or pharmaceutical companies, announcements of technological innovations or new commercial therapeutic products by the Company or its competitors, initiation, termination or modification of agreements with collaborative partners, failures or unexpected delays in manufacturing or in obtaining regulatory approvals or FDA advisory panel recommendations, developments or disputes as to patent or other proprietary rights, loss of key personnel, litigation, public concern as to the safety of drugs developed by the Company, regulatory developments in either the U.S. or foreign countries (such as opinions, recommendations or statements by the FDA or FDA advisory panels, health care reform measures or proposals), market acceptance of products developed and marketed by the Company's collaborators, sales of the Company's common stock held by collaborative partners or insiders and general market conditions could result in the Company's failure to meet the expectations of securities analysts or investors. In such event, or in the event that adverse conditions prevail or are perceived to prevail with respect to the Company's business, the price of the Company's common stock would likely drop significantly. With respect to the possible sale of the Company's common stock held by collaborative partners, Roche acquired 1,682,877 shares of the Company's common stock held by Corange Limited which are no longer subject to the contractual limitations on disposition other than certain restrictions on transfers of significant blocks of stock. In the past, following significant drops in the price of a company's common stock, securities class action litigation has often been instituted against such a company. Such litigation against the Company could result in substantial costs and a diversion of management's attention and resources, which would have a material adverse effect on the Company's business and financial condition.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits

Exhibit 10.46 Agreement of Purchase and Sale between Fremont Holding L.L.C., a Delaware limited liability company, as assignee effective September 13, 1999, and Ardenstone LLC, a Delaware limited liability company, effective June 21, 1999.

Exhibit 10.47 Promissory Note between Fremont Holding L.L.C., a Delaware limited liability company and Wells Fargo Bank, National Association, dated September 9, 1999.

Exhibit 10.48 Deed of Trust and Absolute Assignment of Rents and Security Agreement (Fixture Filings) between Fremont Holding L.L.C., a Delaware limited liability company and Wells Fargo Bank, National Association, dated September 9, 1999.

Exhibit 10.49 Patent Rights Agreement between the Company and Smithkline Beecham Corporation, effective as of September 28, 1999 (with certain confidential portions deleted and marked by notation indicating such deletion).

Exhibit 10.50 IL-5 Patent License Agreement between the Company and Smithkline Beecham Corporation, effective as of September 28, 1999 (with certain confidential portions deleted and marked by

notation indicating such deletion).

Exhibit 10.51 Development and License Agreement between the Company and Smithkline Beecham Corporation, effective as of September 28, 1999 (with certain confidential portions deleted and marked by notation indicating such deletion).

Exhibit 10.52 Amended and Restated Agreement between the Company and Hoffmann-La Roche Inc. and F. Hoffmann-La Roche Ltd, dated as of October 20, 1999 (with certain confidential portions deleted and marked by notation indicating such deletion).

Exhibit 10.53 Amended and Restated Agreement between the Company and F. Hoffmann-La Roche Ltd, dated as of October 20, 1999 (with certain confidential portions deleted and marked by notation indicating such deletion).

Exhibit 21.1 Fremont Holding L.L.C., a Delaware limited liability company. Fremont Management, Inc., a Delaware corporation, doing business in California as Delaware Fremont Management.

(b) No Reports on Form 8-K were filed during the quarter ended June 30, 1999.

SIGNATURE

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

Dated: November 15, 1999

PROTEIN DESIGN LABS, INC.
(Registrant)

/s/Laurence Jay Korn
Chief Executive Officer,
Chairperson of the
Board of Directors
(Principal Executive Officer)

/s/Robert Kirkman
Vice President Corporate
Communications and Business
Development
(Principal Accounting Officer)

AGREEMENT OF PURCHASE AND SALE
SUMMARY OF CERTAIN TERMS

EFFECTIVE DATE:
June ___,1999

SELLER:
ARDENSTONE LLC, a Delaware limited liability company

SELLER'S ADDRESSES:
c/o Freestone Properties, Inc.
4400 Bohannon Drive, Suite 260
Menlo Park, CA 94025
Attn: Mr. Michael E. Tamas
Telephone: (650) 329-9030
Facsimile: (650) 329-0129

With a copy to:
Brobeck, Phleger & Harrison LLP
One Market
Spear Street Tower, Floor 25
San Francisco, CA 94105
Attn: Michael F. Potter, Esq.
Telephone: (415) 442-1163
Facsimile: (415) 979-2580

BUYER:
PROTEIN DESIGN LABS, INC., a Delaware corporation

BUYER'S ADDRESS:
34801 Campus Drive
Fremont, CA 94555
Attn: Chief Executive Officer
Telephone: (510) 574-1400
Facsimile: (510) 574-1500

With a copy to:
Protein Design Labs, Inc.
34801 Campus Drive
Fremont, CA 94555
Attn: General Counsel
Telephone: (510) 574-1400
Facsimile: (510) 574-1500

REAL PROPERTY:
That certain improved real property commonly known as 34801 Campus Drive/7450 Paseo Padre Parkway and 34781 Campus Drive/7400 Paseo Padre Parkway, located in Ardenwood Corporate Commons, Fremont, California. The land portion is more particularly described in Exhibit A, attached hereto.

PURCHASE PRICE:
Thirteen Million Five Hundred Thirty Thousand Dollars ($13,530,000.00).

DUE DILIGENCE PERIOD:

The period commencing on the Effective Date and ending at 5:00 p.m. Pacific Daylight Savings Time on the thirtieth (30th) day after the Effective Date.

FINANCING CONTINGENCY EXPIRATION DATE:

The sixtieth (60th) day after the Effective Date.

SELLER'S REPRESENTATIVE:

Mr. Michael E. Tamas

BUYER'S REPRESENTATIVES:

Mr. Glen Y. Sato and Mr. Douglas O. Ebersole

ESCROW HOLDER:
First American Title Company
1850 Mt. Diablo Blvd., Suite #300
Walnut Creek, CA 94596
Attn: Ms. Kitty Schlesinger
Telephone: (925) 927-2100
Facsimile: (925) 927-2180

SCHEDULED CLOSING DATE:

The fifteenth (15th) day after the satisfaction or waiver of the conditions precedent set forth in Sections 9.2.1, 9.2.2, 9.2.3 and 9.2.4.

SELLER'S BROKER:
None
BUYER'S BROKER:
Cornish and Carey Commercial
CLOSING COST
ALLOCATIONS:

- - BUYER:
TITLE INSURANCE
100%

ESCROW FEES
100%

RECORDING FEES (DEED)
100%

ALTA SURVEY
100%

PHASE I ENVIRONMENTAL REPORT
100%
- - SELLER:
COUNTY TRANSFER TAXES
100%

RECORDING FEES (OTHER)
100%

TABLE OF CONTENTS

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this "Agreement") is entered into as of June ___, 1999 (the "Effective Date"), by and among ARDENSTONE LLC, a Delaware limited liability company ("Seller"), and PROTEIN DESIGN LABS, INC., a Delaware corporation ("Buyer").

THIS AGREEMENT IS ENTERED INTO on the basis of the following facts, intentions and understandings of the parties:

A. Seller is the owner of the land (the "Land") and the improvements located thereon (the "Improvements"), commonly known as 34801 Campus Drive/7450 Paseo Padre Parkway and 34781 Campus Drive/7400 Paseo Padre Parkway, located in Ardenwood Corporate Commons, Fremont, California. The Land is more particularly described in Exhibit A, attached hereto. The Land and the Improvements are hereinafter collectively referred to as the "Real Property."

B. The Real Property is subject to that certain lease (the "Lease") listed on Exhibit B, attached hereto.

C. Seller desires to sell the Property (as hereinafter defined) to Buyer, and Buyer desires to purchase the Property from Seller, in accordance with the terms of this Agreement.

NOW THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

Purchase and Sale of Property. Seller shall sell and assign to Buyer, and Buyer shall purchase and assume from Seller, on the terms, covenants and conditions set forth in this Agreement, the following described property (collectively, the "Property"):

Real Property. All of Seller's interest in the Real Property, and all rights and appurtenances pertaining thereto;

Intangible Property. Seller's interest in any and all intangible personal property (collectively, the "Intangible Property") arising out of or in connection with the ownership or operation of the Real Property, including the right to use the current names of the Real Property, all licenses, permits, certificates of occupancy and franchises issued to Seller by federal, state or local municipal authorities relating to the use, maintenance, occupancy or operation of the Real Property, all warranties given by third parties with respect to the Real Property (including all warranties given to Seller under or in connection with construction contracts entered into by Seller for the construction of Improvements) and all service, equipment, maintenance and employment agreements (collectively, the "Service Contracts") entered into by Seller with respect to the Real Property and listed on Exhibit C, attached hereto; and

Lease. The Lease, together with all security and damage deposits held by Seller in accordance with the terms of the Lease.

Purchase Price. Buyer shall pay to Seller the purchase price (the "Purchase Price") in the amount of Thirteen Million Five Hundred Thirty Thousand Dollars ($13,530,000.00) for the Property. The Purchase Price shall be paid in the manner described in Section 4.

Escrow. Buyer and Seller shall open an escrow account (the "Escrow") with First American Title Company ("Escrow Holder") within three (3) business days after the expiration of the Due Diligence Period.

Payment of Purchase Price. On or before Close of Escrow, Buyer shall deposit with Escrow Holder by immediately available federal wire transfer or cashier's check an amount equal to the Purchase Price, plus or minus the closing adjustments and prorations described in Section 11.7.

Remedies; Liquidated Damages.

Tenant Improvement Allowance. Pursuant to the terms of the Lease, Seller, as landlord, is obligated to pay to Buyer, as tenant, a tenant improvement allowance (the "Tenant Improvement Allowance") in the amount of One Million Eight Hundred Forty-Five Thousand Dollars ($1,845,000.00) upon the satisfaction of certain conditions set forth therein. With respect thereto, Buyer, as tenant, and Seller, as landlord, hereby agree that, notwithstanding anything to the contrary contained in the Lease, (i) in the event that the transfer of the Property from Seller to Buyer is not consummated due to a default by Buyer under this Agreement, the amount of the Tenant Improvement Allowance shall be reduced by Five Hundred Thousand Dollars ($500,000.00) (the "Liquidated Damages Amount") and Seller shall be entitled to retain the Liquidated Damages Amount as liquidated damages pursuant to Section 5.3 below and (ii) Buyer's entitlement to receive the Tenant Improvement Allowance shall be deferred until (A) the termination of this Agreement or thirty (30) days after Close of Escrow (whichever is first to occur) and (B) Buyer's satisfaction of all of the conditions precedent set forth in Section VI.B of the Work Letter, attached as Exhibit C to the Lease, regarding Seller's obligation to pay to Buyer the Tenant Improvement Allowance. In the event that the transfer of the Property from Seller to Buyer is not consummated due to any reason other than a default by Buyer under this Agreement, the amount of the Tenant Improvement Allowance shall be One Million Eight Hundred Forty-Five Thousand Dollars (1,845,000.00).

Remedies. If the transfer of the Property from Seller to Buyer does not close as a result of a default by Seller under this Agreement, Buyer's sole remedy shall be either (but not both) (i) reimbursement of all third party costs incurred by Buyer as a result of entering into this Agreement (e.g., attorneys' fees) and in performing any due diligence in connection with the Property, not to exceed Fifty Thousand Dollars ($50,000.00) in the aggregate (with Buyer thereby waiving any other remedy, including specific performance, which Buyer may have against Seller), or (ii) an action for specific performance of this Agreement (with Buyer thereby waiving any other remedy which Buyer may have against Seller at law or in equity). In addition, provided and on the condition that (i) Buyer is the tenant under the Lease and (ii) Buyer has satisfied all of the conditions precedent set forth in Section VI.B of the Work Letter attached as Exhibit C to the Lease with respect to Seller's obligation to pay to Buyer the Tenant Improvement Allowance, Seller shall immediately pay to Buyer the Tenant Improvement Allowance owed to Buyer under the Lease.

LIQUIDATED DAMAGES. IF THE TRANSFER OF THE PROPERTY FROM SELLER TO BUYER IS NOT CONSUMMATED DUE TO A DEFAULT BY BUYER UNDER THIS AGREEMENT, SELLER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT IN WRITING IMMEDIATELY AND WITHOUT FURTHER OBLIGATION TO BUYER, AND SELLER SHALL HAVE THE RIGHT TO (1) REDUCE THE TENANT IMPROVEMENT ALLOWANCE DUE TO THE TENANT UNDER THE LEASE BY AN AMOUNT EQUAL TO THE LIQUIDATED DAMAGES AMOUNT AND (2) RETAIN THE LIQUIDATED DAMAGES AMOUNT AS LIQUIDATED DAMAGES AND AS SELLER'S SOLE REMEDY (EXCEPT AS PROVIDED BELOW). THE PARTIES AGREE THAT SELLER'S ACTUAL DAMAGES AS A RESULT OF BUYER'S DEFAULT UNDER THIS AGREEMENT WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, AND THE LIQUIDATED DAMAGES AMOUNT IS THE BEST ESTIMATE OF THE AMOUNT OF DAMAGES SELLER WOULD SUFFER AS A RESULT OF SUCH DEFAULT; PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT , AFFECT BUYER'S RESTORATION OBLIGATIONS UNDER SECTION 6.3.6, OR WAIVE OR AFFECT BUYER'S INDEMNITY OBLIGATIONS UNDER SECTIONS 6.3.7 AND 12 AND SELLER'S RIGHTS TO THOSE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT. THE PAYMENT OF THE LIQUIDATED DAMAGES AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. THE PARTIES WITNESS THEIR AGREEMENT TO THIS LIQUIDATED DAMAGES PROVISION BY INITIALING THIS SECTION:

Seller: (_____) Buyer: (_____)

Due Diligence.

Seller's Studies. Seller has provided to Buyer copies of the documents (the "Due Diligence Documents") listed in Exhibit D, attached hereto. In addition, within five (5) days after Buyer's written request, Seller shall make available at Seller's office for Buyer's review all studies, reports, maps, surveys and other documents and information relating to the Property in Seller's possession (together with the Due Diligence Documents hereinafter referred to as the "Due Diligence Materials"); provided, however, that Seller shall not make available for Seller's review and the Due Diligence Materials shall not include (i) any proprietary information related to Seller's ownership of the Property or Seller's financing or proposed financing of the Property or other documents relating to Seller's venture (including, without limitation, balance sheets, internal financial reports, lease proposals and the operating agreement or partnership agreement of Seller), (ii) any appraisals of the Property, (iii) any offers or solicitations to purchase, sell or lease the Property, and (iv) any loan documents of Seller or

any correspondence between Seller and Seller's lenders. At Buyer's request, Seller shall deliver to Buyer copies of specific Due Diligence Materials. The Due Diligence Materials are for Buyer's use in connection with Buyer's investigation of the Property. Buyer acknowledges that the Due Diligence Materials were prepared by or at the direction of others and that, except as otherwise provided in Section 14.2, Seller is not making any representation or warranty of any kind with respect to the Due Diligence Materials, including their accuracy, completeness or suitability for reliance thereon by Buyer.

Survey. Buyer, at its sole cost and expense, shall have the right to update that certain ALTA survey (the "Survey") of the Real Property prepared by Kier & Wright, dated September 2, 1998.

Buyer's Inspections. During the period (the "Contract Period") commencing on the Effective Date and ending on the earlier of Close of Escrow or termination of this Agreement, Buyer and Buyer's representatives, agents, consultants and contractors shall have the right to inspect (including the performance of tests, surveys and other studies, inspections and investigations) the Property including, without limitation, structural components of the Improvements, plumbing, sewer/septic system, wells, heating, ventilation and air conditioning systems, electrical systems and components, built-in appliances, roofs, soils, foundation, existing pipelines and power lines (each, a "Buyer Inspection"), pursuant to the following terms and conditions:

No Default. Buyer shall not be in default of this Agreement.

Buyer's Expense. Each Buyer Inspection shall be at Buyer's sole cost and expense.

Licensed and Qualified. The persons or entities performing the Buyer Inspections shall be properly licensed and qualified and shall have obtained all appropriate permits for performing relevant tests on the Real Property and shall have delivered to Seller, prior to performing any tests on the Real Property or entering the Real Property, copies of insurance policies or certificates of insurance evidencing that such consultants have obtained and are maintaining a policy of general commercial liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars ($1,000,000.00) per occurrence and workers' compensation insurance with limits not less than those required by law.

Seller's Approval Rights. Seller shall have the right to approve of any proposed physical testing or drilling of the Real Property, which approval may not be unreasonably withheld.

Seller's Representatives. Buyer shall provide Seller with twenty-four (24) hours' prior written or oral notice of the date and time on which Buyer proposes to conduct any physical testing or drilling of the Real Property and Seller shall have right to have one (1) or more representatives of Seller present during the physical testing or drilling.

Restoration. Buyer, at Buyer's sole cost and expense, shall immediately restore the Real Property to its condition existing immediately prior to Buyer's Inspections if, for any reason, the Property is not transferred by Seller to Buyer. Until restoration is complete, Buyer shall take all steps necessary to ensure that any conditions on the Real Property created by Buyer's Inspections do not interfere with the normal operation of the Real Property, create any dangerous, unhealthy, unsightly or noisy conditions on the Real Property or violate the terms of the Lease. The restoration obligation contained in this Section 6.3.6 shall survive the termination of this Agreement.

Indemnity. Buyer shall indemnify, protect and defend (with counsel reasonably acceptable to Seller) and hold harmless Seller for, from and against any and all claims, damages, costs, liabilities and losses (including mechanics' liens) and expenses (including, without limitation, attorneys' fees) arising out of any entry by Buyer or its agents, representatives, consultants or contractors; provided that this indemnity shall not apply to, and Buyer shall not be obligated to remedy, any pre-existing conditions, including those discovered by Buyer in any inspection conducted in connection with this Agreement. Notwithstanding the foregoing, nothing contained in this Section shall reduce or modify Buyer's remediation or indemnification obligations contained in the Lease. The indemnity obligations contained in this Section 6.3.7 shall survive Close of Escrow or any termination of this Agreement.

Confidentiality. Each Buyer's Inspection, and the results thereof, shall remain confidential pursuant to the terms of Section 15.16 of this Agreement.

Designation of Representatives. Seller and Buyer each shall designate one (1) or more representatives to act for them in scheduling and arranging visits to and inspections of the Real Property and in coordinating the delivery of and/or access to the Due Diligence Materials pursuant to Section 6.1 above. Buyer's Representative and Seller's Representative are identified in the Summary of Certain Terms. Each party shall have the right to change its respective representative by notice to the other party given in accordance with Section 15.8.

Disapproval of Seller's Studies or Buyer's Inspections.

Termination Notice. Buyer shall have the right, at any time during the period (the "Due Diligence Period") commencing on the Effective

Date and ending at 5:00 p.m. Pacific Daylight Savings Time on the thirtieth (30th) day after the Effective Date, to disapprove of the results of Buyer's review of the Due Diligence Materials, Buyer's Inspections of the Real Property or any aspect of this transaction, by notifying Seller in writing (a "Termination Notice"). If Buyer fails to provide Seller with a Termination Notice prior to the expiration of the Due Diligence Period, then Buyer shall be deemed to have disapproved the results of Buyer's review of the Due Diligence Materials and Buyer's Inspections. Nothing contained herein shall prevent Buyer from waiving the condition precedent described in Section 9.2.1 and proceeding with Close of Escrow pursuant to the terms of this Agreement.

Result of Termination Notice. If Buyer delivers a Termination Notice to Seller during the Due Diligence Period or is deemed to have disapproved the results of Buyer's review of the Due Diligence Materials or Buyer's Inspections, then (i) this Agreement, and all of the obligations, rights and liabilities of Buyer and Seller to each other hereunder (except for Buyer's restoration obligation under Section 6.3.6, Buyer's indemnity obligations under this Agreement, and the parties' confidentiality obligations under Section 15.16) shall terminate; (ii) Buyer shall immediately return to Seller all originals and copies of the Due Diligence Materials which Buyer or Buyer's consultants, agents, contractors or representatives received from Seller or copied from Seller's files and (iii) Buyer shall deliver to Seller, at no cost to Seller, the updated Survey and any environmental or geotechnical reports, tests and studies (collectively, the "Buyer Reports") obtained or conducted by Buyer in connection with Buyer's due diligence of the Real Property to the extent requested by Seller within five (5) days after Seller's receipt of the Termination Notice. Buyer makes no representation or warranty regarding the Buyer Reports, including their accuracy, completeness or suitability for reliance thereon by Seller.

Title Review. Buyer shall notify Seller in writing (the "Title Objection Notice") prior to the expiration of the Due Diligence Period if Buyer objects to the condition of title as shown on a title report (the "Title Report") for the Real Property issued by First American Title Insurance Company ("Title Company") or any items shown on the Survey. Buyer shall be deemed to have approved the condition of title as shown on the Title Report and the Survey if Buyer fails to deliver to Seller the Title Objection Notice by the expiration of the Due Diligence Period. If Buyer timely delivers to Seller the Title Objection Notice, Seller shall notify Buyer in writing within five (5) business days after Seller's receipt of the Title Objection Notice of Seller's election to either (i) attempt to cure or satisfy all or some of the objection(s) (the "Objections") set forth in the Title Objection Notice and/or (ii) not to cure or satisfy any of the Objections. Seller shall have until Close of Escrow to cure or satisfy any Objections that Seller elects to cure or satisfy. If Seller fails to notify Buyer in writing of its election within the five (5) business day period referenced above, Seller shall be deemed to have elected not to cure or satisfy all of the Objections. If Seller notifies Buyer in writing of its election not to cure or satisfy any of the Objections (or is deemed to have elected not to cure or satisfy the Objections), then Buyer shall either: (A) waive the Objections and proceed with Close of Escrow pursuant to all of the terms of this Agreement without any reduction in the Purchase Price, or (B) terminate this Agreement by written notice to Seller. Buyer shall notify Seller in writing of its election either to terminate this Agreement or waive the Objections pursuant to the foregoing sentence on or before the earlier of the second business day after (i) Buyer's receipt of Seller's response to the Title Objection Notice or (ii) the expiration of the five (5) business day period referenced above. If Buyer fails to notify Seller in writing of its election to terminate this Agreement within the time period provided above, Buyer shall be deemed to have waived the Objections and elected to proceed with Close of Escrow.

Modification of Title Report. In the event that Title Company issues any modification or supplement to the Title Report between the end of the Due Diligence Period and Close of Escrow that is not the result of activities of Buyer or any of Buyer's agents, representatives, consultants or contractors, Buyer shall promptly give Seller written notice of the change and, if, in Buyer's reasonable judgment, the change materially and adversely affects the Real Property or Buyer's projected use thereof, Buyer shall have three (3) days after receipt of the modification or supplement to the Title Report in which to object thereto by written notice to Seller. If Buyer objects to such a change, Seller shall have ten (10) days after the date Seller receives Buyer's objection notice (and, if necessary, Close of Escrow shall be extended by the number of days necessary to give Seller this full ten (10) day period) in which to satisfy Buyer's objection or notify Buyer in writing of its election not to satisfy Buyer's objection. If Seller fails to satisfy Buyer's objection within the ten (10) day period or notifies Buyer in writing of its election not to satisfy the objection, then Buyer shall either: (A) waive the objection and proceed with Close of Escrow pursuant to all of the terms of this Agreement without any reduction in the Purchase Price, or (B) terminate this Agreement. Buyer shall notify Seller in writing of its election either to terminate this Agreement or waive its objection within two (2) business days after the earlier of expiration of such ten (10) day period or Buyer's receipt of Seller's written notice election not to cure Buyer's objection. If Buyer terminates this Agreement pursuant to this Section,

(i) this Agreement, and all of the obligations, rights and liabilities of Buyer and Seller to each other hereunder (except for Buyer's restoration obligation under Section 6.3.6, Buyer's indemnity obligations under this Agreement, and the parties' confidentiality obligations under Section 15.16) shall terminate; (ii) Buyer shall immediately return to Seller all originals and copies of the Due Diligence Materials which Buyer or Buyer's consultants, agents, contractors or representatives received from Seller or copied from Seller's files and (iii) Buyer shall deliver to Seller, at no cost to Seller, the updated Survey and any Buyer Reports within three (3) days after Buyer notifies Seller of its election to terminate this Agreement to the extent requested by Seller.

Assumption of Bonds. Notwithstanding anything to the contrary contained in Section 6.6 of this Agreement, Buyer agrees to purchase the Property subject to outstanding bonds attributable to and unpaid assessments, appropriately pro-rated and only to the extent not delinquent, that are assessed against the Property (with no adjustment to the Purchase Price).

Status.

As-Is Purchase. Except as otherwise provided in Section 14.2, Seller hereby specifically disclaims any warranty, guaranty or representation, oral or written, past, present or future, of, as to or concerning (i) the nature and condition of the Property, including, but not by way of limitation, the water, soil, geology, environmental conditions (including the presence or absence of any Hazardous Materials (defined below)), and the suitability thereof for any and all activities and uses which Buyer may elect to conduct thereon; (ii) the nature and extent of any right-of-way, lease, possessory interest, lien, encumbrance, license, reservation, condition or otherwise; and (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other body. The sale of the Property as provided for herein is made on an "AS IS" basis, and Buyer expressly acknowledges that, in consideration of the agreements of Seller herein, and except as otherwise expressly specified herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. The term "Hazardous Materials" shall mean any substance: (i) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; (ii) which is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any federal, state or local statute, regulation, ordinance, rule, directive or order or any amendments thereto (hereinafter referred to as "Environmental Laws") including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and/or the Resource Conservation and Recovery Act (41 U.S.C. Section 6901 et seq.); (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of California or any political subdivision thereof; (iv) which contains gasoline, diesel fuel or other petroleum hydrocarbons; (v) which contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (vi) radon gas.

Release. Excluding any claim that Buyer may have against Seller as a result of any breach by Seller of any of Seller's representations or warranties set forth in Section 14.2, effective as of Close of Escrow, Buyer, for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges Seller and its officers, directors, shareholders, members, partners, agents, affiliates, successors and assigns (collectively, "Seller's Parties") from, and waives any right to proceed against Seller or Seller's Parties for, any and all costs, expenses, claims, liabilities and demands (including attorneys' fees and costs) at law or in equity, whether known or unknown, arising out of the physical, environmental, economic, legal or other condition of the Property (collectively, "Claims"), including any claims for contribution pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any other Environmental Laws which Buyer has or may have in the future. Without limiting the foregoing, Buyer hereby specifically waives the provisions of Section 1542 of the California Civil Code which provide:

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

Notwithstanding anything to the contrary contained in this Section 7.2, Buyer shall not release Seller from any Claims which Buyer, as tenant, may have against Seller, as landlord, under the Lease that accrue prior to Close of Escrow, and such claims as against Seller shall survive Seller's assignment to Buyer of the Lease. Buyer hereby specifically acknowledges that Buyer has carefully reviewed this Section 7.2, and discussed its import with legal counsel, is fully aware of its consequences, and that the provisions of this Section 7.2 are a material part of this Agreement.

Buyer (_____) (_____) agrees.

Operation of Property Through Closing Date. Seller hereby covenants with Buyer that during the Contract Period:

Leases, Contracts. Seller shall not enter into or amend any lease, service contract or any other agreement or contract affecting or relating to the Real Property that will survive Close of Escrow (including the Lease or any Service Contract) without the prior written consent of Buyer, which consent shall not be unreasonably withheld or conditioned. Buyer shall be deemed to have given its consent if Buyer does not deliver a written response to Seller within five (5) days after Seller's written request for such consent;

Insurance. All insurance coverage carried by Seller with respect to the Real Property and in effect as of the Effective Date shall remain continuously in full force and effect; and

Maintenance. Seller shall continue to maintain the Real Property in substantially the same manner in which Seller is maintaining the Real Property as of the Effective Date.

Grant Deed. Seller shall convey to Buyer all of its interest in the Real Property by a grant deed (the "Deed") in the form of Exhibit E, attached hereto.

Conditions Precedent. In addition to the documents and funds which must be placed into Escrow prior to Close of Escrow as stated in Section 11 of this Agreement, the following are conditions precedent to Close of Escrow:

Seller. The following are conditions precedent to Seller's obligation to proceed with Close of Escrow:

No Proceedings. No suit, action or other proceeding (instituted by any party other than Seller) shall be pending which seeks, nor shall there exist any judgment the effect of which is, to restrain the purchase and sale of the Property;

Buyer's Representations True and Correct. Buyer's representations and warranties set forth herein shall be true and correct in all material respects on Close of Escrow;

Performance of Covenants. Buyer shall have performed all of Buyer's covenants and agreements contained in this Agreement that are required to be performed by Buyer prior to or on Close of Escrow; and

Corporate Resolutions. Buyer shall have provided to Seller and Title Company prior to Close of Escrow certified copies of corporate resolutions approving the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, together with such other certificates of incumbency and other evidences of corporate or regulatory authority, including certificates of good standing, as Seller or Title Company may reasonably require.

Buyer. The following are conditions precedent to the Buyer's obligation to proceed with Close of Escrow:

Satisfaction with Due Diligence. Buyer's inspection and approval during the Due Diligence Period of the Due Diligence Materials, the Service Contracts, the updated Survey and all other physical, environmental, legal and any other matters relating to the Property that Buyer may elect to investigate.

Title. Buyer's inspection and approval or deemed approval of all title and survey matters relating to the Property within the time periods provided in Sections 6.6 and 6.7 and Escrow Holder shall be ready, willing and able to insure Buyer's fee title interest in the Property subject only to the exceptions approved (or deemed approved) by Buyer pursuant to Sections 6.6 and 6.7 or those caused by or attributable to the acts of Buyer or its consultants.

Financing Contingency.

Loan Commitment. Buyer's receipt prior to the sixtieth (60th) day after the Effective Date of a commitment (the "Loan Commitment") from a lender acceptable to Buyer pursuant to which the lender commits to lend to Buyer (the "Loan") an amount equal to sixty-five percent (65%) of the Purchase Price at a fixed interest rate not to exceed eight percent (8%), compounded monthly. The Loan shall have a term of not less than five (5) years and be amortized over twenty (20) year period. The Loan shall be secured by a first priority deed of trust on the Real Property. The contingency described in this Section 9.2.3.a is hereinafter referred to as the "Financing Contingency."

Conditional Commitment Letter. Within thirty (30) days after the Effective Date, Buyer shall either (i) provide to Seller evidence reasonably acceptable to Seller that Buyer has obtained the Loan Commitment, subject only to the lender's review and approval of certain third party reports regarding the condition of the Property and the estimated value of the Property (e.g., Phase I Report, property condition assessment, appraisal) and other commercially reasonable conditions or (ii) waive the Financing Contingency by written notice to Seller. If Buyer fails to provide to Seller the evidence described in subsection (i) above or waive the Financing Contingency by written notice to Seller, then Seller shall have the right to terminate this Agreement by written notice to Buyer within five (5) business days after the expiration of the thirty (30) day period referenced above. Failure by Seller to terminate this Agreement within the time period provided above shall be deemed a waiver by Seller of its right to terminate this Agreement pursuant to this Section.

Conditions as of Closing. As of Close of Escrow:
No Proceedings. No suit, action or other proceeding (instituted by any party other than Buyer) shall be pending which seeks, nor shall there exist any judgment the effect of which is, to restrain the purchase and sale of the Property;
Seller's Representations True and Correct. Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects; and
Performance and Covenants. Seller shall have performed all of the covenants and agreements herein that Seller is required to perform on or before Close of Escrow.
Resolutions. To the extent requested by Buyer or Title Company, Seller shall have provided to Buyer and Title Company at Close of Escrow with evidence of authority to transfer the Property to Buyer.
Failure of Buyer's Conditions Precedent. If any of Buyer's conditions precedent described in Section 9.2 have not been satisfied, waived or deemed waived by the time provided therein, then, except in the case of a failure of the condition precedent in Section 9.2.4.c or a failure of the condition precedent set forth in Section 9.2.4.b. due to any reason other than a change in circumstances over which Seller has no reasonable control (either of which failure shall constitute a default by Seller under this Agreement), this Agreement shall terminate. If Close of Escrow fails to occur due to a default under this Agreement by either Seller or Buyer, the parties' respective remedies shall be as described in Section 5 hereof.
Waiver. Notwithstanding anything to the contrary contained in this Agreement, the parties' participation in Close of Escrow shall be deemed a waiver of (i) each party's ability to terminate this Agreement on the basis of any failure of any conditions precedent and (ii) each party's right to seek damages from the other party for the breach of any representations, warranty or covenant of which the non-breaching party had actual knowledge prior to Close of Escrow; provided, however, that such waivers shall not be deemed to waive a party's right to such damages for any subsequently discovered breach of any representation, warranty or covenant made by the other party to this Agreement, subject to the express limitations provided in Section 15.12. For purposes of this Section 9.4, a party shall be deemed to have "knowledge" of a misrepresentation or breach of warranty or covenant if either it, or any of its consultants in connection with this Agreement (including, without limitation, in Buyer's case, Buyer's Representative), has such knowledge.
Closing Date. The close of Escrow (the "Close of Escrow") shall occur on the fifteenth (15th) day after the satisfaction or waiver of the conditions precedent set forth in Sections 9.2.1, 9.2.2 and 9.2.3 above (the "Scheduled Closing Date"); provided, however, so long as it is acceptable to Buyer's lender, Seller shall have the right to delay the Scheduled Closing Date for up to sixty (60) days by written notice to Buyer to the extent necessary in order to cure any Objections. The day on which Escrow actually closes is hereinafter referred to as the "Closing Date."
Escrow.
Time. Close of Escrow shall occur when all documents and funds specified in this Section 11 have been deposited into Escrow. The failure of Seller or Buyer to be in a position by the Scheduled Closing Date to fulfill their respective obligations with respect to Close of Escrow and thus enable Title Company to cause Close of Escrow to occur on the Scheduled Closing Date shall constitute a default by the party so failing.
Documents. On or before the business day immediately preceding the Scheduled Closing Date, the parties shall deposit into Escrow the funds and documents described below.
Seller. Seller shall deposit the following:
Deed. A duly executed and acknowledged Deed, conveying to Buyer all of its interest in the Real Property;
Assignment. Two (2) duly executed counterparts of a General Assignment (the "Assignment") in the form of Exhibit F, attached hereto, transferring to Buyer all of Seller's interest in the Lease and Intangible Property;
Non-Foreign Person Certificate. A duly executed non-foreign person certificate (the "Non-Foreign Person Certificate") under Section 1445 of the Internal Revenue Code in the form of Exhibit G, attached hereto;
Form 590-RE. A duly executed Withholding Exemption Certificate for Real Estate Sales (Form 590-RE) (the "Form 590-RE");
Seller's Date Down Certificates. A Seller's Date Down Certificate ("Seller's Date Down Certificate") in the form of Exhibit H, attached hereto; and
Additional Documents. Such additional documents and funds, including without limitation, escrow instructions consistent with the terms and conditions of this Agreement, as may be reasonably required of Seller to close the transaction in accordance with this Agreement.
Buyer. Buyer shall deposit the following:
Purchase Price. The Purchase Price, plus or minus the closing adjustments and prorations due hereunder;
Assignment. Two (2) duly executed original counterparts of the Assignment;

Buyer's Date Down Certificate. A duly executed
Buyer's Date Down Certificate in the form of Exhibit I, attached hereto; and
Additional Documents. Such additional documents and
funds, including without limitation, escrow instructions consistent with the
terms and conditions of this Agreement, as may be reasonably required of Buyer
to close the transaction in accordance with this Agreement.
Procedure. Escrow Holder shall close the Escrow as follows:
Record Deed. Record the Deed in the Official Records of
Alameda County, California (instructing the County Recorder not to affix the
amount of any documentary transfer taxes to the Deed but to attach a separate
statement to the Deed after recording) and deliver conformed copies thereof to
Buyer and Seller;
Purchase Price. Deliver to Seller by wire transfer to the
account designated by Seller in writing, the Purchase Price, minus prorations
and closing costs;
Additional Deliveries to Seller. Deliver to Seller one
(1) fully executed original of the Assignment and Buyer's Date Down
Certificate; and
Additional Deliveries to Buyer. Deliver to Buyer (i) one
(1) fully executed original of the Non-Foreign Certificate, Assignment, Form
590-RE, and Seller's Date Down Certificate, and (ii) the owner's title policy
purchased by Buyer.
Possession. To the extent Buyer is not already in possession of
the Property at Close of Escrow as the tenant under the Lease, Seller shall
deliver possession of the Property to Buyer at Close of Escrow.
Deliveries Outside Escrow. Upon Close of Escrow, Seller shall
deliver (or shall have previously delivered) to Buyer, without any
representation as to accuracy or completeness, the following items to the
extent in Seller's possession:
Keys; Security Systems. Keys to all buildings located on
the Real Property and access codes to any security systems comprising part of
the Property;
Approvals. Originals or, to the extent originals are not
available, copies of all governmental licenses, permits and approvals relating
to the occupancy or use of the Real Property;
Project Agreements and Project Documents. Originals, or to
the extent originals are not available, copies of all construction drawings
and specifications (including, without limitation, structural, electrical,
HVAC, mechanical and plumbing plans and specifications) and any addenda
thereto, and all other blueprints, architectural documents, operating manuals
and similar documents, landscaping plans, development plans and shop drawings
relating to the Improvements; and
Warranties. Originals or, to the extent originals are not
available, copies of all existing warranties given by third parties with
respect to the Real Property that are in Seller's possession.
Escrow Instructions. This Agreement shall serve as escrow
instructions and an executed copy of this Agreement shall be deposited by
Seller and Buyer with Escrow Holder following the execution and delivery
hereof. The parties agree to execute for the benefit of Escrow Holder such
additional escrow instructions as required, provided that the additional
escrow instructions do not change the terms of this Agreement but merely offer
protection to Escrow Holder. Seller and Buyer hereby designate Escrow Holder
as the "Reporting Person" for the transaction pursuant to Section 6045(e) of
the Internal Revenue Code.
Closing Costs and Prorations.
11.7.1. Closing Costs
Buyer's Share of Closing Costs. Buyer shall pay the
following portions of the closing costs (the "Closing Costs") in connection
with transfer of the Property: (A) the title insurance premiums for the
owner's title policy and any endorsements requested by Buyer; (B) the Escrow
fees; and (C) all recording fees incurred in connection with the Deed.
Seller's Share of Closing Costs. Seller shall pay the
following portions of the Closing Costs: (A) all County documentary transfer
taxes; and (B) all recording fees not the responsibility of Buyer pursuant to
Section 11.7.1.a above.
No Close of Escrow. If Close of Escrow does not occur
because of a failure of either Seller or Buyer to comply with its obligations
under this Agreement, the costs incurred in connection with the Escrow,
including the cost of the Title Report and any cancellation fees or other
costs of Title Company, shall be paid by the defaulting party. If Close of
Escrow does not occur because of any other reason, including any termination
of this Agreement by Buyer pursuant to Sections 6.5, 6.6 (other than as a
result of Seller's failure to cure or satisfy any Objection which Seller has
agreed to cure or satisfy) or 6.7, such costs shall be paid equally by Buyer
and Seller.
11.7.2. Lease Rentals
Prorations. All accrued rent (including all accrued
operating expenses and tax escalations and recoveries), charges and revenues
of any kind under the Lease shall be prorated as of 11:59 p.m. Pacific
Daylight Savings Time on the day immediately prior to Close of Escrow (the
"Proration Date") based on the actual number of days in the month in which

Close of Escrow occurs; provided, however, Seller shall receive a credit at Close of Escrow for any uncollected rent, charges or revenues. If, after Close of Escrow, either Buyer or Seller receives any revenue to which it is not entitled under the terms of this Agreement, the party receiving the revenue shall promptly forward such amount to the other party.

Order of Application. The rents and other payments collected after the Proration Date from any tenant shall be applied to rents and/or payments in the order in which the rents and/or payments became due (i.e., on a FIFO basis).

Re-Proration. After the Closing Date, when periodic tenant reconciliations are performed (which tenant reconciliations shall be performed no later than sixty (60) days after the end of the calendar year), Buyer and Seller shall promptly re-prorate the rent, charges and revenues under the Lease if any additional rent is due to or owed by the tenant under the terms of the Lease for the period prior to Close of Escrow. Any amounts due from one party to the other as a result of the re-proration shall be paid in cash at the time of the re-proration.

Leasing Costs. All brokerage commissions which are the obligation of the landlord due in connection with the Lease (collectively, "Leasing Costs") shall be paid in full by Seller. Buyer shall be responsible for all brokerage commissions which shall become due after Close of Escrow in connection with any modifications or amendments to the Lease or any other leases entered into by Buyer.

Security Deposits. Buyer shall receive a credit against the Purchase Price equal to all security deposits or any other deposits currently held by Seller in connection with the Lease.

Real Estate Taxes. All real and personal property taxes, installments of bonds and special taxes and assessments (collectively, "Taxes") attributable to the Real Property (to the extent they are not the obligation of the tenant under the Lease) shall be prorated as of 11:59 p.m. Pacific Daylight Savings Time on the Proration Date based on a 365-day year and the assessed value of the Property in effect on the Proration Date. Seller shall pay or credit Buyer for all such Taxes attributable to periods through and including the Proration Date. If at any time after the Proration Date additional or supplemental Taxes (which are not the obligation of the tenant under the Lease) are assessed against the Real Property by reason of any event occurring prior to or on the Proration Date, or there is any rebate of such Taxes (with Seller being responsible for the supplemental or additional taxes attributable to the period prior to and including the Proration Date and Buyer being responsible for the supplemental or additional taxes attributable to the period after the Proration Date), Buyer and Seller shall promptly re-prorate such Taxes, and any amounts due from one party to the other shall be paid in cash at that time. All Taxes which the tenant is obligated to pay to Seller as landlord under the Lease shall be considered to be rent for purposes of prorating such Taxes and shall be prorated among Buyer and Seller pursuant to Section 11.7.2.

Utilities. Buyer shall arrange with all utility services and companies serving the Real Property to have accounts started in the name of Buyer or its property manager beginning as of the Closing Date. Seller shall not assign to Buyer any deposits Seller has with any utility services or companies. Buyer and Seller shall cooperate to have the utility services and companies make utility readings as of the Proration Date. If readings cannot be made, utility charges shall be prorated as of 11:59 p.m. Pacific Daylight Savings Time on the Proration Date based on estimates from the latest bills available; provided, in any event, Seller shall pay, through and including the Proration Date, all utility charges attributable to the Real Property that are not payable directly by the tenant under the Lease. All utility charges attributable to the Real Property that the tenant is obligated to pay to Seller as landlord under the Lease shall be considered to be rent for purposes of prorating such utility charges and shall be prorated among Buyer and Seller pursuant to Section 11.7.2).

Insurance. Seller shall not assign to Buyer any insurance policies in connection with the Property.

Owner's Association Dues. All owner's association dues with respect to the Property shall be prorated as of 11:59 p.m. on the Proration Date, with Seller being responsible for all owner's association dues applicable to the period prior to the Closing Date and Buyer being responsible for all owner's association dues applicable to the period after and including the Closing Date.

Calculations for Closing. Seller and Buyer shall provide Escrow Holder with a preliminary calculation of prorations no later than three (3) days prior to the Proration Date and a final calculation no later than one (1) day prior to the Proration Date. The final calculation shall be executed by each party and may be relied upon by Escrow Holder in completing the closing adjustments and prorations. In the event incomplete information is available, or estimates have been utilized to calculate prorations as of the Proration Date, any prorations relating thereto shall be further adjusted and completed outside of Escrow within sixty (60) days after the Proration Date or as soon as possible after complete information becomes available to Buyer and Seller. Any adjustments to initial estimated prorations that are required upon review of such complete information shall be made by Buyer and Seller,

with due diligence and cooperation, by prompt cash payment to the party entitled to a credit as a result of such adjustments. Any errors or adjustments in calculations of the foregoing adjustments shall be corrected or adjusted as soon as practicable after Close of Escrow; provided, however, the provisions hereof shall survive Close of Escrow for not more than one (1) year.

Additional Costs. Buyer and Seller each shall pay their own legal, lending and other fees and expenses incurred in connection with the negotiation, documentation and closing of the contemplated transactions.

Brokerage Commission. Upon Close of Escrow, a real estate sales commission (the "Commission") shall be paid by Seller to Buyer's Broker (defined in the Summary of Certain Terms) pursuant to a separate agreement entered into between Seller and Buyer's Broker. Except for Seller's payment to Buyer's Broker of the Commission (from payment of which Seller shall indemnify and hold harmless Buyer), each party to this Agreement warrants to the other that no person or entity can properly claim a right to a real estate commission, finder's fee or other real estate brokerage-type compensation (collectively, "Real Estate Compensation") based upon the acts of that party with respect to the transaction contemplated by this Agreement. Each party hereby agrees to indemnify, protect and defend the other (by counsel reasonably acceptable to the party seeking indemnification) against and hold the other harmless from and against any and all loss, damage, liability or expense, including costs and reasonable attorneys' fees, resulting from any claims for Real Estate Compensation by any person or entity based upon such acts.

Condemnation/Casualty.

Right to Terminate If, before Close of Escrow, all or any portion of the Real Property is materially (as defined below) damaged or destroyed by fire or other casualty, or is taken by a material (as defined below) condemnation or action of eminent domain (or a material condemnation or eminent domain action has been commenced against all or any portion of the Real Property), then (i) upon obtaining actual knowledge thereof each party shall notify the other of the casualty or the condemnation or eminent domain action and (ii) except as provided in this Section 13, Buyer shall have the option to terminate this Agreement upon written notice to Seller within five (5) business days after Buyer's receipt of notice of any casualty or condemnation or eminent domain action.

Election to Terminate. Provided and on the condition that (i) Buyer is the tenant under the Lease and (ii) Buyer has satisfied all of the conditions precedent set forth in Section VI.B of the Work Letter attached as Exhibit C to the Lease with respect to Seller's obligation to pay to Buyer the Tenant Improvement Allowance, Seller shall immediately pay to Buyer the Tenant Improvement Allowance owed to Buyer under the Lease upon Buyer's termination of this Agreement pursuant to Section 13. Upon termination of this Agreement, neither Buyer nor Seller shall have any further rights or obligations under this Agreement (except for Buyer's restoration obligation under 6.3.6, Buyer's indemnity obligations under this Agreement and the parties' confidentiality obligations under Section 15.16).

No Election to Terminate. If Buyer does not exercise the option to terminate this Agreement, or does not have the option pursuant to the express provisions of this Section 13, neither Buyer nor Seller shall have the right to terminate this Agreement; however, Buyer shall be entitled to receive and keep at Close of Escrow all insurance proceeds, in the event of any casualty that occurs during the Contract Period, and all rights to receive awards, in the case of a taking by condemnation or eminent domain that occurs during the Contract Period with respect to the Property, regardless of when paid and regardless of whether paid to Buyer or Seller, and Close of Escrow shall be consummated pursuant to the terms hereof. There shall be no reduction of the Purchase Price as a result of the casualty or condemnation.

Definition of Materiality.

Casualty. For purposes of this Agreement, the Real Property shall be deemed "materially" damaged by fire or other casualty if (i) in the reasonable opinion of Seller, it would take more than ninety (90) days from after the date of the damage to repair the damage, or (ii) the cost of repairing the damage caused by the fire or other casualty which is not covered by insurance is reasonably estimated by Seller to exceed Two Hundred Fifty Thousand Dollars ($250,000.00). In addition, a casualty shall be deemed material if the damage or loss is uninsured and the cost to repair the Property to its condition prior to the occurrence of the damage or destruction is reasonably estimated by Seller to exceed the amount of Two Hundred Fifty Thousand Dollars ($250,000.00).

Condemnation. For purposes of this Agreement, a material condemnation or action in eminent domain shall be deemed to have occurred only if, (i) the taking would materially impair access or require any substantial reconfiguration of the Improvements located on the Real Property, or (ii) the amount of the award as reasonably estimated by Seller would exceed Two Hundred Fifty Thousand Dollars ($250,000.00).

Damage Caused by Tenant. Notwithstanding anything to the contrary contained in this Section, if the Real Property is damaged due to the gross negligence or willful misconduct of the tenant under the Lease, Buyer shall not have the right to terminate this Agreement.

Representations and Warranties.
Buyer. Buyer represents and warrants to Seller the following:
Buyer's Investigation. Buyer has (or will have) examined, inspected and conducted its own investigation of all matters with respect to the physical and environmental condition of the Property, taxes, bonds, permissible uses, zoning, covenants, conditions and restrictions and all other matters which in Buyer's judgment bear upon the value and suitability of the Property for Buyer's purposes. Buyer acknowledges that, except as otherwise provided herein, Seller has not made any representation of any kind in connection with soils, environmental or physical conditions on, or bearing on, the use of the Real Property or the financial condition or creditworthiness of any tenant, and Buyer is relying solely on Buyer's own inspection and examination of such items and not on any representation of Seller.
Formation and Standing. Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.
Authority. Buyer has the full power to execute and deliver and fully perform its obligations under this Agreement; and this Agreement constitutes a valid and legally binding obligation of Buyer, enforceable in accordance with its terms.
No Violation. Neither this Agreement nor anything provided to be done hereunder violates or shall violate any contract, agreement or instrument to which Buyer is a party, the effect of which shall be to prohibit or to seek or purport to prohibit Buyer from fulfilling its obligations under this Agreement.
No Assignment. Buyer has not made (i) a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Buyer's creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of Buyer's assets; (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Buyer's assets; (v) admitted in writing its inability to pay its debts as they become due; or (vi) made an offer of settlement, extension or composition to its creditors generally.
Seller. Seller represents and warrants to Buyer the following:
Authority. Seller has the full power to execute and deliver and fully perform its obligations under this Agreement; and this Agreement constitutes a valid and legally binding obligation of Seller, enforceable in accordance with its terms.
No Conflicts. There is no agreement to which Seller is a party or, to Seller's actual knowledge, which is binding on Seller which is in conflict with this Agreement.
No Assignment. Seller has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets; (iv) suffered the attachment or other judicial seizure of all, or substantially all, of its assets; (v) admitted in writing its inability to pay its debts as they come due; or (vi) made an offer of settlement, extension or composition to its creditors generally.
No Additional Leases. Seller has not entered into or assumed any lease relating to the Property that is in effect as of the Effective Date except for the Lease.
Good Standing. Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware.
No Warranties. Except for those representations and warranties expressly set forth in Section 14.2, the parties understand and acknowledge that no person acting on behalf of either Seller or Buyer is authorized to make, and by execution hereof each party hereto acknowledges that no person has made, any representation or warranty regarding the Property, or the transaction contemplated herein, or regarding the Lease or the zoning, construction, physical condition or other status of the Real Property. No representation, warranty, agreement, statement, guaranty or promise, if any, made by any person acting on behalf of either Seller or Buyer which is not contained in this Agreement shall be valid or binding on that party.
Miscellaneous.
Indemnity. Seller shall indemnify, protect and defend (by counsel reasonably acceptable to Buyer) and hold harmless Buyer from any Leasing Costs payable in connection with the Lease. Buyer shall indemnify, protect and defend (by counsel reasonably acceptable to Seller) and hold harmless Seller from any brokerage commissions relating to any modification or amendment to the Lease or the Property after Close of Escrow (other than Leasing Costs payable by Seller pursuant to Section 11.7.4). The indemnification obligations set forth in this Section 15.1 shall survive Close of Escrow.
Successors and Assigns. This Agreement shall be binding upon the heirs, executors, administrator, and successors and assigns of Seller and Buyer. Notwithstanding the forgoing, neither party may assign its rights and obligations under this Agreement without the prior written consent of the other party (which consent may be withheld in each party's sole discretion); provided, however, (i) Seller may assign this Agreement without Buyer's consent to any member of Seller in connection with a transfer of a portion of

the Property by Seller to a member in order to facilitate an Exchange (defined in Section 16) by the member, (ii) Seller may assign this Agreement without Buyer's consent to effectuate an Exchange, and (iii) Buyer may assign this Agreement without Seller's consent to an Affiliate or to effect an Exchange. For purposes of this Section 15.2, an "Affiliate" means (a) an entity that directly or indirectly controls, is controlled by or is under common control with Buyer or (b) an entity at least a majority of whose economic interest is owned by Buyer; and "control" means the power to direct the management of such entity through voting rights, ownership or contractual obligations. Any assignment by Buyer (to which Seller has consented or for which Seller's consent is not required) shall not be effective against Seller until Buyer delivers to Seller a fully executed copy of the assignment instrument pursuant to which the assignee (i) assumes and agrees to perform for the benefit of the Seller all of the obligations of Buyer under this Agreement and (ii) makes the warranties and representations required of Buyer under this Agreement. No assignment by Buyer shall result in Buyer being released from any obligations of Buyer to Seller under this Agreement. Any assignment in violation of this Section shall be void.

Entire Agreement. This Agreement contains all of the covenants, conditions and agreements between the parties and shall supersede all prior correspondence, agreements and understandings, both oral and written.

Attorneys' Fees. Should either party employ attorneys to enforce any of the provisions of this Agreement or to protect its interest in any manner arising under this Agreement, or to recover damages for breach of this Agreement, or to enforce any judgment relating to this Agreement and the transaction contemplated hereby, the prevailing party shall be entitled to reasonable attorneys' fees and court costs; provided, however, if Buyer defaults hereunder the Liquidated Damages Amount shall be deemed to include all attorneys' fees, court costs and all other amounts to which Seller otherwise may be entitled under this Section 15.4, and Seller shall not be entitled to recover any additional attorneys' fees and court costs under this Agreement.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Further Assurances. Seller and Buyer shall promptly perform, execute and deliver or cause to be performed, executed and/or delivered at or after Close of Escrow any and all acts, deeds and assurances, including the delivery of any documents, as either party or Escrow Holder may reasonably require in order to carry out the intent and purpose of this Agreement.

Severability. In case any one (1) or more of the provisions contained in this Agreement for any reason is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Notices.

Means/Receipt. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by national overnight courier service (next business day delivery) or facsimile, and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by national overnight courier service (next business day delivery), one (1) business day after delivery to such courier service, or (iii) if given by facsimile, upon electronic evidence of receipt. Notices or other communications may not be sent by U.S. Mail.

Addresses. Any notice to Seller shall be sent to Seller at Seller's Address, as stated on page (i) of this Agreement. Any notice to Buyer shall be sent to Buyer at Buyer's Address, as stated on page (i) of this Agreement.

Counterparts. This Agreement may be executed in one (1) or more counterparts, and all the counterparts shall constitute but one (1) and the same agreement, notwithstanding that all parties hereto are not signatory to the same or original counterpart.

Time. Time is of the essence of every provision contained in this Agreement.

Nonwaiver. Unless otherwise expressly provided in this Agreement, no waiver by Seller or Buyer of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Seller or Buyer, as the case may be. No delay or omission in the exercise of any right or remedy accruing to Seller or Buyer, as the case may be, upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by Seller or Buyer of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant or condition.

Survival. Each of the terms, covenants and conditions of this Agreement contained in Sections 6.3.7, 7.1, 7.2, 11.7.2, 11.7.3, 11.7.4, 11.7.6, 11.7.7, 11.7.9, , 11.7.10, 14, and 15 shall survive the delivery of the Deed to Buyer and shall not be deemed to have merged into the Deed; provided, however, that unless Seller or Buyer, as the case may be, receives a written notice regarding an alleged breach of any representation, warranty or covenant of Seller or Buyer contained in the Sections referenced above on or

prior to the date that is one (1) year after Close of Escrow, then Seller's or Buyer's obligations and liability with respect to such representation, warranty or covenant, as applicable, shall terminate on the date that is one (1) year after Close of Escrow.

Captions. Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extent or describe the scope of this Agreement.

Exhibits. All exhibits attached hereto shall be incorporated herein by reference as if set out herein in full.

Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment or exhibits hereto.

Confidentiality. Neither Buyer nor Seller shall make any public announcement or disclosure of any information related to this Agreement to outside brokers or third parties, before or after the Close of Escrow, without the specific prior written consent of the other, except for such disclosures to the parties' lenders, creditors, partners, members, officers, employees, agents, consultants, attorneys, accountants, and exchange facilitators as may be necessary to permit each party to perform its obligations hereunder and as required to comply with applicable laws and/or rules of any exchange upon which a party's shares may be traded; provided, however, Seller may disclose the existence of this Agreement and the contents of any Due Diligence Materials to other potential purchases of the Property. Seller's obligations under this Section 15.16 shall terminate upon the termination of this Agreement (other than by the Close of Escrow). Buyer's obligations under this Section 15.16 shall survive the termination of this Agreement; provided, however, Buyer's obligations under this Section 15.16 shall terminate upon Close of Escrow.

Tenant Improvement Allowance. Buyer acknowledges that Seller is assigning to Buyer all of its obligations under the Lease, including, without limitation, the obligation to pay to the tenant under the Lease the Tenant Improvement Allowance in the amount of One Million Eight Hundred Forty-Five Thousand Dollars ($1,845,000.00). There shall be no adjustment to the Purchase Price as the result of Buyer's assumption of Seller's obligation to pay the outstanding Tenant Improvement Allowance to the tenant under the Lease.

Deferred Exchange. Either party may consummate the purchase or sale of the Property as part of a so-called like kind exchange (the "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, provided that (i) Close of Escrow shall not be delayed or affected by reason of the Exchange, nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to either party's obligations under this Agreement; (ii) the party electing to consummate this transaction as part of an Exchange (the "Electing Party") shall effect the Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary; (iii) the other party (the "Accommodator") shall not be required to take an assignment of the purchase agreement for the relinquished property or be required to acquire or hold title to any real property for purposes of consummating the Exchange; and (iv) at Close of Escrow the Electing Party shall pay any additional costs that would not otherwise have been incurred by the Accommodator had the Electing Party not consummated this transaction through the Exchange. The Accommodator shall not by this Agreement or acquiescence to the Exchange proposed by the Electing Party have its rights under this Agreement affected or diminished in any manner or be responsible for compliance with or be deemed to have warranted to the Electing Party that the Exchange in fact complies with Section 1031 of the Internal Revenue Code of 1986, as amended.

[No further text on this page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in one or more counterparts, on the date set forth above, effective as of the date first above written.

"Seller"

ARDENSTONE LLC,
a Delaware limited liability company

By:
Name:
Its:

By:
Name:
Its:

"Buyer"

PROTEIN DESIGN LABS, INC.,

a Delaware corporation

By:
Name:
Its:

By:
Name:
Its:

EXHIBIT A

LAND

REAL PROPERTY in the City of Fremont, County of Alameda, State of California, described as follows:
Parcel 16, Parcel Map 4483, filed March 28, 1985 in Book 152, Pages 78 through 82 of Maps, Alameda County Records.

A.P. Nos. 543-0439-108
543-0439-109

EXHIBIT B

LEASE

That certain Industrial Lease dated as of July 1, 1997, entered into between Ardenstone LLC, a Delaware limited liability company, and Protein Design Labs, Inc., a Delaware corporation, as amended.

EXHIBIT C

SERVICE CONTRACTS

EXHIBIT D

DUE DILIGENCE DOCUMENTS

EXHIBIT E
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Attn:

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE
GRANT DEED
FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a _____ grants, transfers and assigns to _____, a _____, all of its interest in that certain real property located in the City of _____, County of _____, State of California, and which is more particularly described in Schedule 1, attached hereto and incorporated herein by this reference, subject to all matters of record in the Official Records of _____ County, California.
IN WITNESS WHEREOF, this Grant Deed has been executed this day of _____, ____.

a

By:
Name:
Its:

Date:
MAIL ALL TAX STATEMENTS TO:

_____
_____
_____
_____

EXHIBIT F

GENERAL ASSIGNMENT
THIS GENERAL ASSIGNMENT (this "Assignment") is executed as of _____, _____, by and among _____, a _____ ("Assignor"), and _____, a

_____ ("Assignee"), with reference to the following facts:

1. Concurrently herewith, Assignor is conveying to Assignee certain real property, together with all improvements thereon, situated in City of _____, County of _____, State of California, as described on Exhibit 1, attached hereto (collectively, the "Property"), in accordance with the terms of that certain Agreement of Purchase and Sale (the "Agreement") dated as of _____, _____, by and between Assignor and Assignee. Capitalized terms used herein and not defined herein shall have the meanings set forth in the Agreement.

2. Assignor desires to assign, transfer and convey to Assignee all of Assignor's interests in: (i) the Lease listed in Exhibit 2, attached hereto, and refundable security deposits, if any, posted by the tenant under the Lease; and (ii) all Intangible Property, including the Service Contracts listed on Exhibit 3, attached hereto, but only to the extent assignable (all of the foregoing being referred to herein collectively as "Assigned Property"). All of the exhibits attached hereto are incorporated herein by reference thereto.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby ASSIGN, TRANSFER and DELIVER and GRANT, SELL and CONVEY to Assignee all of the Assigned Property, including, without limitation of the generality of the foregoing, the following:

(a) The Intangible Property; and

(b) The Lease.

Assignor agrees to indemnify and hold harmless Assignee from all obligations and liabilities arising prior to the Effective Date (hereinafter defined) out of Assignor's performance or failure to perform Assignor's obligations as landlord under the Lease and as owner under the Service Contracts.

Assignee hereby accepts and agrees to perform all of the terms, covenants and conditions of the Lease and Service Contracts on the part of the landlord and owner therein required to be performed, from and after the Effective Date but not prior thereto, including (i) the obligation to repay to the tenant under the Lease the security and other deposits, but only to the extent such deposits have been delivered (or credited) to Assignee and (ii) the obligation to pay to the tenant under the Lease the outstanding Tenant Improvement Allowance in the amount of One Million Eight Hundred Forty-Five Thousand Dollars ($1,845,000.00).

Assignee agrees to indemnify and hold harmless Assignor from all obligations and liabilities arising from and after the Effective Date out of Assignee's performance or failure to perform Assignee's obligations as landlord under the Lease and as owner under the Service Contracts.

This Assignment shall be governed by the laws of the State of California.

This Assignment shall be effective as of the Closing Date, as such term is defined under the Agreement (the "Effective Date").

This Assignment may be executed in one (1) or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one (1) agreement.

IN WITNESS WHEREOF, the undersigned have executed this Assignment, on the date set forth above, as of the Effective Date.

Assignor:

By:
Name:

Its:

By:
Name:

Its:

Assignee:

By:
Name:

Its:

By:
Name:

Its:

EXHIBIT G

NON-FOREIGN CERTIFICATE

Section 1445 of the Internal Revenue Code provides that a buyer of a U.S. real property interest must withhold tax if the seller is a foreign

person. To inform _____, a _____ ("Buyer"), that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ ("Seller"), the undersigned hereby certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Seller's U.S. employer identification number is _____; and

3. Seller's office address is _____.

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by Buyer and that any false statement the undersigned has made here could be punished by fine, imprisonment, or both.

Under penalty of perjury, the undersigned declares that they have examined this certification and to the best of their knowledge and belief it is true, correct and complete, and the undersigned further declares that they have the authority to sign this document on behalf of Seller.

By:
Name:
Its:

Dated:

By:
Name:
Its:

Dated:

EXHIBIT H
SELLER'S DATE DOWN CERTIFICATE

This Seller's Date Down Certificate is made and delivered by _____, a _____ ("Seller") with reference to that certain Agreement of Purchase and Sale ("Agreement") dated _____, ____, entered into between Seller and _____.

Seller hereby restates and reaffirms its representations and warranties set forth in Section 14.2 of the Agreement with full force and effect as if set forth fully herein and made and delivered on the date hereof without any exception or qualification.

"Seller"

By:
Name:
Title:

Dated:

EXHIBIT I
BUYER'S DATE DOWN CERTIFICATE

This Buyer's Date Down Certificate is made and delivered by _____, a _____ ("Buyer") with reference to that certain Agreement of Purchase and Sale (the "Agreement") dated October __, 1997, entered into between _____, a _____ and Buyer.

Buyer hereby restates and reaffirms its representations and warranties set forth in Section 14.1 of the Agreement with full force and effect as if set forth fully herein and made and delivered on the date hereof without any exception or qualification.

"Buyer"
By:
Name:
Title:

Dated:

By:
Name:
Title:

Dated:

06/22/99

EXHIBIT A

06/22/99

EXHIBIT B

06/22/99

EXHIBIT C

06/22/99

EXHIBIT D

06/22/99

EXHIBIT E

06/22/99

EXHIBIT F
2.

06/22/99

EXHIBIT G

06/22/99

EXHIBIT H

06/22/99

EXHIBIT I

06/22/99

Loan No. 31-0900011A
$10,150,000.00 San Francisco, California
September 9, 1999

1.PROMISE TO PAY. For value received, the undersigned FREMONT HOLDING L.L.C., a Delaware limited liability company ("Borrower"), promise(s) to pay to the order of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender"), 1320 Willow Pass Road, Suite 205, Concord, California 94520, or at such other place as may be designated in writing by Lender, the principal sum of TEN MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100THS DOLLARS ($10,150,000.00) ("Loan"), with interest thereon as specified herein. All sums owing hereunder are payable in lawful money of the United States of America, in immediately available funds, without offset, deduction or counterclaim of any kind.

2.SECURED BY DEED OF TRUST. This Note is secured by, among other things, that Deed of Trust and Absolute Assignment of Rents and Leases and Security Agreement(and Fixture Filing) ("Deed of Trust") of even date herewith, encumbering certain real property described therein ("Property").

3.DEFINITIONS. For the purposes of this Note, the following terms shall have the following meanings:

"Business Day" shall mean any day other than a Saturday, Sunday, legal holiday or other day on which commercial banks in California are authorized or required by law to close. All references in this Note to a "day" or a "date" shall be to a calendar day unless specifically referenced as a Business Day.

"Default" shall have the meaning set forth in the Deed of Trust.

"Disbursement Date" shall mean the date upon which the Loan proceeds are funded into escrow in connection with the closing of the Loan.

"Effective Date" shall mean the date the Deed of Trust is recorded in the Office of the County Recorder of the county where the Property is located and Lender authorizes the Loan proceeds to be released to Borrower.

"Loan Documents" shall mean the documents listed in Exhibit B attached hereto and incorporated herein by this reference.

"Maturity Date" shall mean October 1, 2014.

4. INTEREST; PAYMENTS.

4.1 Definitions. The following terms shall have the meanings indicated:

"Actual/360 Basis" shall mean on the basis of a 360-day year and charged on the basis of actual days elapsed for any whole or partial month in which interest is being calculated.

"30/360 Basis" shall mean on the basis of a 360-day year consisting of 12 months of 30 days each.

"Interest Rate" shall mean a fixed interest rate equal to 1.70 plus the yield to maturity at the bid price of obligations of the United States Treasury which will mature on the date that is 15 years after the Disbursement Date or, if a bid price is not readily quoted in the public securities market for such obligations as will mature on the earliest date thereafter for which a bid price is readily quoted in the public securities market. The Interest Rate shall be determined on the Disbursement Date.

4.2 Interest Accrual. Interest on the outstanding principal balance of this Note shall accrue from the Disbursement Date at an annual rate equal to the Interest Rate calculated on an Actual/360 Basis.

4.3 Payments. Monthly payments hereunder shall commence on the first day of the calendar month following the Disbursement Date and continue on the first day of each calendar month thereafter through the Maturity Date. If the Disbursement Date is a date other than the first day of a calendar month, the first monthly payment shall be interest only. Subsequent monthly payments shall be calculated on the basis of an equal-payment 15 year amortization of principal and interest. Notwithstanding that interest on this Note accrues on an Actual/360 Basis, the total amount of each such amortized monthly payment of principal and interest shall be determined using a 30/360 Basis. On the Maturity Date, all unpaid principal and accrued but unpaid interest shall be due and owing in full. All interest shall be paid in arrears.

4.4 Acknowledgments. Borrower acknowledges that interest calculated on an

Actual/360 Basis exceeds interest calculated on a 30/360 Basis and, therefore: (a) a greater portion of each monthly installment of principal and interest will be applied to interest using the Actual/360 Basis than would be the case if interest accrued on a 30/360 Basis; and (b) the unpaid principal balance of this Note on the Maturity Date will be greater using the Actual/360 Basis than would be the case if interest accrued on a 30/360 Basis.

4.5 Application of Payments. In the absence of a specific determination by Lender to the contrary, all payments paid by Borrower to Lender in connection with the obligations of Borrower under this Note and under the other Loan Documents shall be applied in the following order of priority: (a) to amounts, other than principal and interest, due to Lender pursuant to this Note or the other Loan Documents; (b) to accrued but unpaid interest on this Note; and (c) to the unpaid principal balance of this Note. Borrower irrevocably waives the right to direct the application of any and all payments at any time hereafter received by Lender from or on behalf of Borrower, and Borrower irrevocably agrees that Lender shall have the continuing exclusive right to apply any and all such payments against the then due and owing obligations of Borrower in such order of priority as Lender may deem advisable.

5. LATE CHARGE; DEFAULT RATE.

5.1 Late Charge. If any payment required hereunder is not paid on or before the fifth calendar day of the month in which it is due, Borrower shall pay a late or collection charge, as liquidated damages, equal to 4% of the amount of such unpaid payment. Borrower acknowledges that Lender will incur additional expenses as a result of any late payments hereunder, which expenses would be impracticable to quantify, and that Borrower's payments under this paragraph are a reasonable estimate of such expenses. The foregoing to the contrary notwithstanding, no late or collection charge shall be payable by Borrower as a result of any delay in the payment of any sum due and payable on the Maturity Date.

5.2 Default Rate. Commencing upon a Default and continuing until such Default shall have been cured by Borrower, all sums owing on this Note shall bear interest until paid in full at a rate per annum equal to 5% plus the Interest Rate ("Default Rate").

6.MAXIMUM RATE PERMITTED BY LAW. Neither this Note nor any of the other Loan Documents shall require the payment or permit the collection of any interest or any late payment charge in excess of the maximum rate permitted by law. If any such excess interest or late payment charge is provided for under this Note or any of the other Loan Documents or if this Note or any of the other Loan Documents shall be adjudicated to provide for such excess, neither Borrower nor Borrower's successors or assigns shall be obligated to pay such excess, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Note or any of the other Loan Documents. If Lender shall collect amounts which are deemed to constitute interest and which would increase the effective interest rate to a rate in excess of the maximum rate permitted by law, all such amounts deemed to constitute interest in excess of the maximum legal rate shall, upon such determination, at the option of Lender, be returned to Borrower or credited against the outstanding principal balance of this Note.

7.ACCELERATION. If (a) Borrower shall fail to pay when due any sums payable under this Note; (b) any other Default shall occur; or (c) any other event or condition shall occur which, under the terms of the Deed of Trust or any other Loan Document, gives rise to a right of acceleration of sums owing under this Note, then Lender, at its sole option, shall have the right to declare all sums owing under this Note immediately due and payable; provided, however, that if the Deed of Trust or any other Loan Document provides for the automatic acceleration of payment of sums owing under this Note, all sums owing under this Note shall be automatically due and payable in accordance with the terms of the Deed of Trust or such other Loan Document.

8. BORROWER'S LIABILITY.

8.1 Limitation. Except as otherwise provided in this Section 8, Lender's recovery against Borrower under this Note and the other Loan Documents shall be limited solely to the Property and the "Collateral" (as defined in the Deed of Trust).

8.2 Exceptions. Nothing contained in Section 8.1 or elsewhere in this Note or the other Loan Documents, however, shall limit in any way the personal liability of Borrower owed to Lender for any losses or damages incurred by Lender (including, without limitation, any impairment of Lender's security for the Loan) with respect to any of the following matters: (a) fraud or willful misrepresentation; (b) material physical waste of the Property or the Collateral; (c) failure to pay property or other taxes, assessments or

charges (other than amounts paid to Lender for taxes, assessments or charges pursuant to Impounds as defined in Exhibit A and where Lender elects not to apply such funds toward payment of the taxes, assessments or charges owed) which may create liens senior to the lien of the Deed of Trust on all or any portion of the Property; (d) failure to deliver any insurance or condemnation proceeds or awards or any security deposits received by Borrower to Lender or to otherwise apply such sums as required under the terms of the Loan Documents or any other instrument now or hereafter securing this Note; (e) failure to apply any rents, royalties, accounts, revenues, income, issues, profits and other benefits from the Property which are collected or received by Borrower during the period of any Default or after acceleration of the indebtedness and other sums owing under the Loan Documents to the payment of either (i) such indebtedness or other sums or (ii) the normal and necessary operating expenses of the Property; or (f) any breach by Borrower of any covenant in this Note or in the Deed of Trust regarding Hazardous Materials (as defined in the Deed of Trust) or any representation or warranty of Borrower regarding Hazardous Materials proving to have been untrue when made.

8.3 No Release or Impairment. Nothing contained in Section 8.1 shall be deemed to release, affect or impair the indebtedness evidenced by this Note or the obligations of Borrower under, or the liens and security interests created by the Loan Documents, or Lender's rights to enforce its remedies under this Note and the other Loan Documents, including, without limitation, the right to pursue any remedy for injunctive or other equitable relief, or any suit or action in connection with the preservation, enforcement or foreclosure of the liens, mortgages, assignments and security interests which are now or at any time hereafter security for the payment and performance of all obligations under this Note or the other Loan Documents.

8.4 Prevail and Control. The provisions of this Section 8 shall prevail and control over any contrary provisions elsewhere in this Note or the other Loan Documents.

9.NON-TRUSTOR BORROWER. If any Borrower is not also a "Trustor" under the Deed of Trust, such Borrower hereby makes all representations and warranties in favor of Lender contained in Article 5 of the Deed of Trust, all covenants contained in Section 6.15 of the Deed of Trust, and all indemnities of Lender contained in Section 6.19 of the Deed of Trust, jointly and severally with the "Trustor."

10. MISCELLANEOUS.

10.1 Joint and Several Liability. If this Note is executed by more than one person or entity as Borrower, the obligations of each such person or entity shall be joint and several. No person or entity shall be a mere accommodation maker, but each shall be primarily and directly liable hereunder.

10.2 Waiver of Presentment. Except as otherwise provided in any other Loan Document, Borrower hereby waives presentment, demand, notice of dishonor, notice of default or delinquency, notice of acceleration, notice of nonpayment, notice of costs, expenses or losses and interest thereon, and notice of interest on interest and late charges.

10.3 Delay In Enforcement. No previous waiver or failure or delay by Lender in acting with respect to the terms of this Note or the Deed of Trust shall constitute a waiver of any breach, default or failure of condition under this Note, the Deed of Trust or the obligations secured thereby. A waiver of any term of this Note, the Deed of Trust or of any of the obligations secured thereby must be made in writing signed by Lender, shall be limited to the express terms of such waiver, and shall not constitute a waiver of any subsequent obligation of Borrower. The acceptance at any time by Lender of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable.

10.4 Time of the Essence. Time is of the essence with respect to every provision hereof.

10.5 Governing Law. This Note was accepted by Lender in the state of California and the proceeds of this Note were disbursed from the state of California, which state the parties agree has a substantial relationship to the parties and to the underlying transaction embodied hereby. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Note, the Deed of Trust and the other Loan Documents and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the state of California applicable to contracts made and performed in such state and any applicable law of the United States of America, except that at all times the

provisions for the enforcement of Lender's STATUTORY POWER OF SALE granted under the Deed of Trust securing this Note and the creation, perfection and enforcement of the security interests created pursuant thereto and pursuant to the other Loan Documents shall be governed by and construed according to the law of the state where the Property is located. Except as provided in the immediately preceding sentence, Borrower hereby unconditionally and irrevocably waives, to the fullest extent permitted by law, any claim to assert that the law of any jurisdiction other than California governs the Deed of Trust, this Note and the other Loan Documents.

10.6 Consent to Jurisdiction. Borrower irrevocably submits to the jurisdiction of: (a) any state or federal court sitting in the state of California over any suit, action, or proceeding, brought by Borrower against Lender, arising out of or relating to this Note or the Loan evidenced hereby; (b) any state or federal court sitting in the state where the Property is located or the state in which Borrower's principal place of business is located over any suit, action or proceeding, brought by Lender against Borrower, arising out of or relating to this Note or the Loan evidenced hereby; and (c) any state court sitting in the county of the state where the Property is located over any suit, action, or proceeding, brought by Lender to exercise its STATUTORY POWER OF SALE under the Deed of Trust or any action brought by the Lender to enforce its rights with respect to the Collateral. Borrower irrevocably waives, to the fullest extent permitted by law, any objection that Borrower may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

10.7 Counterparts. This Note may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original and all of which taken together shall be deemed to be one and the same Note.

10.8 Heirs, Successors and Assigns. All of the terms, covenants, conditions and indemnities contained in this Note and the other Loan Documents shall be binding upon the heirs, successors and assigns of Borrower and shall inure to the benefit of the successors and assigns of Lender. The foregoing sentence shall not be construed to permit Borrower to assign the Loan except as otherwise permitted in this Note or the other Loan Documents.

10.9 Severability. If any term of this Note, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

10.10 Consents and Approvals. Wherever Lender's consent, approval, acceptance or satisfaction is required under any provision of this Note or any of the other Loan Documents, such consent, approval, acceptance or satisfaction shall not be unreasonably withheld, conditioned or delayed by Lender unless such provision expressly so provides.

11.NOTICES. All notices and other communications that are required or permitted to be given to a party under this Note shall be in writing and shall be sent to such party, either by personal delivery, by overnight delivery service, by certified first class mail, return receipt requested, or by facsimile transmission to the address or facsimile number below. All such notices and communications shall be effective upon receipt of such delivery or facsimile transmission. The addresses and facsimile numbers of the parties shall be:

Borrower: Lender:
FREMONT HOLDING L.L.C.
34801 Campus Drive
Fremont, CA 94555
FAX No.: (510) 574-1500
Wells Fargo Bank, N.A.
1320 Willow Pass Road, Suite 205
Concord, CA 94520
Loan No. 31-0900011A
FAX No.: (925) 691-5947

12. ADDITIONAL TERMS AND CONDITIONS. The additional terms and conditions set forth in Exhibit A attached hereto are incorporated herein by this reference.

13.PREPAYMENT. Borrower acknowledges that any prepayment of this Note will cause Lender to lose its interest rate yield on this Note and will possibly require that Lender reinvest any such prepayment amount in loans of a lesser interest rate yield (including, without limitation, in debt obligations other than first mortgage loans on commercial properties). As a consequence, Borrower agrees as

follows, as an integral part of the consideration for Lender's making the Loan:

13.1 Restrictions. Any voluntary prepayment of this Note: (a) is prohibited except during the last 3 months of the term, (b) is permitted in full only, and not in part; and (c) may only be made on the first day of a month.

13.2 Prepayment Charge. Except as provided below, if this Note is prepaid prior to the last 3 months of the term, whether such prepayment is involuntary or upon acceleration of the principal amount of this Note by Lender following a Default, Borrower shall pay to Lender on the prepayment date (in addition to all other sums then due and owing to Lender under the Loan Documents) a prepayment charge equal to the greater of the following two amounts: (a) an amount equal to 1% of the then outstanding principal balance of the Loan; or (b) an amount equal to (i) the amount, if any, by which the sum of the present values as of the prepayment date of all unpaid principal and interest payments required under this Note, calculated by discounting such payments from their respective scheduled payment dates back to the prepayment date at a discount rate equal to the Periodic Treasury Yield (defined below) exceeds the outstanding principal balance of the Loan as of the prepayment date, multiplied by (ii) a fraction whose numerator is the amount of the prepayment and whose denominator is the outstanding principal balance of the Loan as of the prepayment date. Notwithstanding the foregoing, no prepayment charge shall apply in respect to any insurance or condemnation proceeds received by Lender and applied by Lender to the outstanding principal balance of the Loan. For purposes of the foregoing, "Periodic Treasury Yield" means (c) the annual yield to maturity of the actively traded non-callable United States Treasury fixed interest rate security (other than any such security which can be surrendered at the option of the holder at face value in payment of federal estate tax or which was issued at a substantial discount) that has a maturity closest to (whether before, on or after) the Maturity Date (or if two or more such securities have maturity dates equally close to the Maturity Date, the average annual yield to maturity of all such securities), as reported in The Wall Street Journal or other authoritative publication or news retrieval service on the fifth Business Day preceding the prepayment date, divided by (d) 12, if scheduled payment dates are monthly, or 4, if scheduled payment dates are quarterly.

13.3 Waiver. Borrower waives any right to prepay this Note except under the terms and conditions set forth in this Section and agrees that if this Note is prepaid, Borrower will pay the prepayment charge set forth above. Borrower hereby acknowledges that: (a) the inclusion of this waiver of prepayment rights and agreement to pay the prepayment charge for the right to prepay this Note was separately negotiated with Lender; (b) the economic value of the various elements of this waiver and agreement was discussed; (c) the consideration given by Borrower for the Loan was adjusted to reflect the specific waiver and agreement negotiated between Borrower and Lender and contained herein; and (d) this waiver is intended to comply with California Civil Code Section 2954.10.

Borrower's Initials: _____

13.4 Insurance Proceeds; Condemnation Awards. Notwithstanding anything herein to the contrary, no prepayment charge shall be due and owing with respect to any involuntary prepayment resulting from Lender's application of any insurance proceeds or condemnation awards to the Loan.

14.DEFEASANCE. At any time after the Lockout Expiration Date (defined below), Borrower may elect to cause Lender to release the Property and the Collateral from the lien of the Deed of Trust and the other Loan Documents and to accept other collateral in substitution therefor, in accordance with the provisions of this Section ("Defeasance"), at Borrower's sole cost and expense. "Lockout Expiration Date" means the earlier of (a) the second anniversary of the "startup day" (as defined in Internal Revenue Code Section 860(G)(a)(9)) of any "real estate mortgage investment conduit" (as defined in Internal Revenue Code Section 860D) that holds this Note and (b) the 4th anniversary of the date of this Note.

14.1 Conditions. Borrower shall only have the right to cause a Defeasance if no Default has occurred and is continuing and all of the following conditions have been satisfied:

a. Notice. Borrower shall give at least 60 days but not more than 90 days' notice to Lender specifying the date of Borrower's intended Defeasance ("Release Date"), which date shall be a scheduled payment date;

b. Payments. Borrower shall pay in full, on or before the Release Date, all accrued and unpaid interest and all other sums due under this

Note and the other Loan Documents on or before the Release Date, including without limitation, (i) all costs and expenses paid or incurred by Lender or its agents in connection with the Defeasance, the purchase of the Defeasance Collateral (defined below), the release of the Property and the Collateral, the review of the proposed Defeasance Collateral and the preparation of the Defeasance Security Agreement (defined below) and related documentation, and (ii) any revenue, documentary stamp, intangible or other taxes, charges or fees due in connection with the transfer or assumption of this Note or the Defeasance;

c. Deliveries. Borrower shall deliver the following items to Lender on or before the Release Date:

(i) immediately available funds ("Defeasance Deposit") in an amount sufficient to enable Lender to purchase, through means and sources customarily employed and available to Lender, for the account of Borrower, direct, non-callable obligations of the United States of America that provide for payments prior, but as close as possible, to all successive scheduled payment dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding installment of principal and interest required to be paid under this Note (including, without limitation, all amounts due on the Maturity Date) for the balance of the term hereof ("Defeasance Collateral"), each of which shall be duly endorsed by the holder as directed by Lender or accompanied by a written instrument of transfer in form and substance satisfactory to Lender in its sole discretion (including, without limitation, such instruments as may be required by the depository institution holding such securities or the issuer of such securities, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement (as defined below) the first priority security interest in the Defeasance Collateral in favor of Lender;

(ii) a pledge and security agreement, in form and substance satisfactory to Lender in its sole discretion, creating a first priority security interest in favor of Lender in the Defeasance Collateral ("Defeasance Security Agreement"), which shall provide, among other things, that any payments generated by the Defeasance Collateral shall be paid directly to Lender and applied by Lender to amounts then due and payable under this Note and that any excess received by Lender from the Defeasance Collateral over the amounts payable by Borrower under this Note shall be refunded to Borrower promptly after each scheduled payment date;

(iii) a certificate of Borrower certifying that all of the requirements of this Section 14.1 have been satisfied;

(iv) an opinion of counsel for Borrower in form and substance and delivered by counsel satisfactory to Lender in its sole discretion stating, among other things, that (aa) Lender has a perfected first priority security interest in the Defeasance Collateral, (bb) the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms and (cc) any REMIC Trust formed pursuant to a securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Internal Revenue Code Section 860D, as amended from time to time, or any successor statute, as a result of the Defeasance;

(v) a certificate from a firm of independent certified public accountants acceptable to Lender certifying that the Defeasance Collateral satisfies the requirements of Section 14.1c(i);

(vi) written evidence from the applicable rating agencies that the Defeasance will not result in a downgrading, withdrawal or qualification of the respective ratings in effect immediately prior to the Defeasance for any securities issued in connection with the securitization which are then outstanding;

(vii) such other certificates, documents or instruments as Lender may reasonably require, including, without limitation, such amendments to this Note and the other Loan Documents as Lender deems appropriate to reflect the Defeasance.

14.2 Release of Lien. Upon satisfaction of all conditions specified above,

the Property and the Collateral shall be released from the lien of the Deed of Trust and the other Loan Documents, and the Defeasance Collateral and the proceeds thereof shall constitute the only collateral which shall secure the obligations of Borrower under this Note and the other Loan Documents. Lender shall, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Deed of Trust from the Property.

14.3 Defeasance Deposit. Borrower hereby authorizes and directs Lender, using the means and sources customarily employed and available to Lender, to use the Defeasance Deposit to purchase the Defeasance Collateral as agent and for the account of Borrower. Payments from the Defeasance Collateral shall be made directly to Lender for application to the Loan. Any part of the Defeasance Deposit exceeding the amount necessary to purchase the Defeasance Collateral and to pay the other costs which Borrower is obligated to pay under this Section 14 shall be refunded to Borrower. Borrower agrees to pay all sums referred to in Section 14.1b above on or before the Release Date.

14.4 Assignment and Assumption. Upon the release of the Property and the Collateral in accordance with this Section 14, Borrower shall, at the request of Lender, assign all of its right, title and interest in and to the pledged Defeasance Collateral and all its obligations and rights under this Note, the Defeasance Security Agreement and the other Loan Documents, to a successor entity designated by Borrower and approved by Lender in its sole discretion. Such successor entity shall execute an assumption agreement in form and substance satisfactory to Lender in its sole discretion pursuant to which it shall assume Borrower's obligations under this Note, the Defeasance Security Agreement and the other Loan Documents. As conditions to such assignment and assumption, Borrower shall: (a) deliver to Lender a new limited guaranty in form and substance satisfactory to Lender in its sole discretion executed by the principals of such successor entity; (b) deliver to Lender an opinion of counsel in form and substance and delivered by counsel satisfactory to Lender in its sole discretion stating, among other things, that such assumption agreement is enforceable against Borrower and such successor entity in accordance with its terms and that this Note, the Defeasance Security Agreement and the other Loan Documents, as so assumed, are enforceable against such successor entity in accordance with their respective terms; and (c) pay all costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, the review of the proposed transferee and the preparation of the assumption agreement and related documentation). Upon such assumption, Borrower shall be relieved of its obligations under this Note, the Defeasance Security Agreement and the other Loan Documents other than those obligations which are specifically intended to survive the payment of the Loan or other termination, satisfaction or assignment of this Note, the Defeasance Security Agreement or the other Loan Documents or Lender's exercise of its rights and remedies under any of such documents and instruments.

15.WAIVER OF JURY TRIAL. LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS NOTE OR ANY OTHER LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF LENDER OR BORROWER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN TO BORROWER.

"BORROWER"

FREMONT HOLDING L.L.C.,
a Delaware limited liability company

By: Fremont Management, Inc.,
a Delaware corporation,
Manager

By: _____

Its: _____

Loan No. 31-0900011A

EXHIBIT A TO PROMISSORY NOTE
Additional Terms And Conditions

This Exhibit A is attached to and forms a part of that Promissory Note ("Note") executed by FREMONT HOLDING L.L.C., a Delaware limited liability company ("Borrower") in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender").

16. DISBURSEMENT OF LOAN PROCEEDS; LIMITATION OF LIABILITY. Borrower hereby authorizes Lender to disburse the proceeds of the Loan, after deducting any and all fees owed by Borrower to Lender in connection with the Loan, to First American Title Guaranty Company. With respect to such disbursement, Borrower understands and agrees that Lender does not accept responsibility for errors, acts or omissions of others, including, without limitation, the escrow company, other banks, communications carriers or clearinghouses through which the transfer of Loan proceeds may be made or through which Lender receives or transmits information, and no such entity shall be deemed Lender's agent. As a consequence, Lender shall not be liable to Borrower for any actual (whether direct or indirect), consequential or punitive damages which may arise with respect to the disbursement of Loan proceeds, whether or not (a) any claim for such damages is based on tort or contract, or (b) either Lender or Borrower knew or should have known of the likelihood of such damages in any situation.

17. FINANCIAL STATEMENTS.

17.1 Statements Required. During the term of the Loan and while any liabilities of Borrower to Lender under any of the Loan Documents remain outstanding and unless Lender otherwise consents in writing, Borrower shall provide to Lender the following:

a. Operating Statement. Not later than 30 days after and as of the end of each calendar quarter, an operating statement, signed and dated by Borrower and in a form acceptable to Lender, showing all revenues and expenses during such month or quarter and year-to-date, relating to the Property, including, without limitation, all information requested under any of the Loan Documents;

b. Rent Roll. Not later than 30 days after and as of the end of each calendar quarter, a rent roll signed and dated by Borrower and in a form acceptable to Lender, showing the following lease information with regard to each tenant: the name of the tenant, monthly or other periodic rental amount, dates of commencement and expiration of the lease, and payment status;

c. Balance Sheet. If requested by Lender, not later than 90 days after and as of the end of each fiscal year, a balance sheet, signed and dated by Borrower and in a form acceptable to Lender (or audited financial statements if Borrower obtains them), showing all assets and liabilities of Borrower; and

d. Other Information. From time to time, upon Lender's delivery to Borrower of at least 10 days' prior written notice, such other information with regard to Borrower, principals of Borrower, guarantors or the Property as Lender may reasonably request in writing.

17.2 Form; Warranty. Borrower agrees that all financial statements to be delivered to Lender pursuant to Section 2.1 shall: (a) be complete and correct; (b) present fairly the financial condition of the party; (c) disclose all liabilities that are required to be reflected or reserved against; and (d) be prepared in accordance with the same accounting standard used by Borrower to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan or other accounting standards acceptable to Lender. Borrower shall be deemed to warrant and represent that, as of the date of delivery of any such financial statement, there has been no material adverse change in financial condition, nor have any assets or properties been sold, transferred, assigned, mortgaged, pledged or encumbered since the date of such financial statement except as disclosed by Borrower in a writing delivered to Lender. Borrower agrees that all rent rolls and other information to be delivered to Lender pursuant to Section 2.1 shall not contain any misrepresentation or omission of a material fact.

17.3 Late Charge. If any financial statement, leasing schedule or other item required to be delivered to Lender pursuant to Section 2.1 is not timely delivered, Borrower shall promptly pay to Lender, as a late charge, the sum of $500 per item. In addition, Borrower shall promptly pay to Lender an additional late charge of $500 per item for each full month during which such item remains undelivered following written notice from Lender. Borrower acknowledges that Lender will incur additional expenses as a result of any such late deliveries, which expenses would be impracticable

to quantify, and that Borrower's payments under this Section 2.3 are a reasonable estimate of such expenses.

18. IMPOUNDS.

18.1 Amounts. Borrower shall deposit with Lender, the amounts ("Impounds") stated below on the dates stated below, for the purpose of paying the costs stated below:

a. Taxes. On the first payment date on which both principal and interest under the Loan are payable and on each payment date thereafter, an amount estimated from time to time by Lender in its sole discretion to be sufficient to pay for taxes and other liabilities payable by Borrower under Section 6.9 of the Deed of Trust. The initial estimated monthly amount to be deposited by Borrower on each payment date is $11,130.00.

b. Capital Expenditures. $1,538.00 on the first payment date on which both principal and interest under the Loan are payable and on each payment date thereafter for payment or reimbursement of Capital Expenditures (defined below).

18.2 Application.

a. Taxes. If no Default exists, Lender shall apply the Impounds to the payment of the taxes and other liabilities stated above.

b. Capital Expenditures. If no Default exists, Lender shall release the Impounds to Borrower once a month, to pay or reimburse Borrower for the Capital Expenditures stated above; provided, however, that Lender shall have received and approved each of the following:

(i) Borrower's written request for such release, describing the Capital Expenditures and certifying that all Capital Expenditures have been paid or incurred by Borrower for work completed lien-free and in a workmanlike manner;

(ii) copies of invoices supporting the request for such release; and

(iii) if deemed necessary by Lender, an inspection report signed by an inspector selected by Lender, whose fees and expenses shall be paid by Borrower, and such other evidence as Lender shall require, confirming borrower's certification.

18.3 General. Any portion of the Impounds that exceeds the amount required for payment of the foregoing costs shall be repaid to Borrower upon Borrower's compliance with the foregoing. Reference is made to Section 6.12(b) of the Deed of Trust for a description of the account into which the Impounds shall be deposited and for a description of certain rights and remedies of Lender with respect to amounts in such account. Notwithstanding anything to the contrary in the Deed of Trust, all accounts containing Impounds for taxes, insurance and capital expenditures shall bear interest at a rate established by Lender or its servicing agent, which may or may not be the highest rate then available.

18.4 Maintenance and Construction.

a. Capital Expenditures. Borrower shall complete the lien-free performance or installation of the Capital Expenditures (as defined below) from time to time as necessary, in a workmanlike manner and in accordance with all applicable laws, ordinances, rules and regulations. "Capital Expenditures" shall mean major repairs and replacements to maintain or improve the Property, including, without limitation, structural repairs, roof replacements, HVAC repairs and replacements, mechanical and plumbing repairs and replacements and boiler repair and replacements.

b. Right of Inspection. Lender shall have the right to enter upon the Property at all reasonable times to inspect all work for the purpose of verifying information disclosed or required pursuant to this Note. Notwithstanding the foregoing, Lender shall not be obligated to supervise or inspect any work or to inform Borrower or any third party regarding any aspect of any work.

18.5 Release. Lender shall release any Impounds to Borrower through a funds transfer of such Impounds initiated by Lender to the following account or such other account as Borrower specifies in a notice to Lender:

Bank Name:

ABA Routing
No.:

Account Name:

Reference:

Advise:

Lender will determine the funds transfer system and other means to be used in making each such release. Borrower agrees that each such funds transfer initiated by Lender will be deemed to be a funds transfer properly authorized by Borrower, even if the transfer is not actually properly authorized by Borrower. Borrower acknowledges that Lender will rely on the account number and ABA routing number set forth above or specified in a notice from Borrower to Lender, even if such account number identifies an account with a name different from the name so specified, or the routing number identifies a bank different from the bank so specified. If Borrower learns of any error in the transfer of any Impounds or of any transfer which was not properly authorized, Borrower shall notify Lender as soon as possible in writing but in no case more than 14 days after Lender's first confirmation to Borrower of such transfer.

19. ONE-TIME RIGHT OF TRANSFER OF PROPERTY. Notwithstanding anything to the contrary contained in Section 6.15 of the Deed of Trust, Lender shall, one time only, consent to the voluntary sale or exchange of all of the Property by Trustor (as defined in the Deed of Trust) to a bona-fide third party purchaser, without any modification of the terms of this Note or the other Loan Documents, if no Default has occurred and is continuing and all of the following conditions have been satisfied:

19.1 Lender's reasonable determination that the proposed purchaser, the proposed guarantor, if any, and the Property all satisfy Lender's then applicable credit review and underwriting standards, taking into consideration, among other things, (a) any decrease in the Property's cash flow which would result from any increase in real property taxes due to any anticipated reassessment of the Property for tax purposes and (b) any requirement of Lender that the proposed borrowing entity satisfy Lender's then applicable criteria for a single asset or special purpose bankruptcy remote entity;

19.2 Lender's reasonable determination that the proposed purchaser possesses satisfactory recent experience in the ownership and operation of properties comparable to the Property;

19.3 the execution and delivery to Lender of such documents and instruments as Lender shall reasonably require, in form and content reasonably satisfactory to Lender, including, without limitation, (i) an assumption agreement under which the purchaser assumes all obligations and liabilities of Borrower under this Note and the other Loan Documents and agrees to periodically pay such new or additional Impounds to Lender as Lender may reasonably require, and (ii) a consent to the transfer by any existing guarantor and a reaffirmation of such guarantor's obligations and liabilities under any guaranty made in connection with the Loan or a new guaranty executed by a new guarantor reasonably satisfactory to Lender;

19.4 if required by Lender, delivery to Lender of evidence of title insurance reasonably satisfactory to Lender insuring Lender that the lien of the Deed of Trust and the priority thereof will not be impaired or affected by reason of such transfer or exchange of the Property;

19.5 payment to Lender of an assumption fee equal to 1% of the then outstanding principal balance of this Note;

19.6 if required by Lender, deposit with Lender of any new or additional Impounds;

19.7 reimbursement to Lender of any and all costs and expenses paid or incurred by Lender in connection with such transfer or exchange, including, without limitation, all in-house or outside counsel attorneys' fees, title insurance fees, appraisal fees, inspection fees, environmental consultant's fees and any fees or charges of the applicable rating agencies; and

19.8 if required by Lender, delivery to Lender of written evidence from the applicable rating agencies that such transfer or exchange will not result in a downgrading, withdrawal or qualification of the respective ratings in effect immediately prior to the transfer or exchange for any securities issued in connection with the securitization of the Loan which are then outstanding.

Lender shall fully release Borrower and any existing guarantor from any further obligation or liability to Lender under this Note and the other Loan Documents upon the assumption by the purchaser and any new guarantor of all such obligations and liabilities and the satisfaction of all other conditions precedent to a transfer or exchange in accordance with the provisions of this Section.

Loan No. 31-0900011A

EXHIBIT B TO PROMISSORY NOTE
Loan Documents and Other Related Documents

This Exhibit B is attached to and forms a part of that Promissory Note ("Note") executed by FREMONT HOLDING L.L.C., a Delaware limited liability company ("Borrower") in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender").

20.LOAN DOCUMENTS. The documents numbered 1.1 through 1.6 below of even date herewith (unless otherwise specified) and any amendments, modifications and supplements thereto which have received the prior written approval of Lender and any documents executed in the future that are approved by Lender and that recite that they are "Loan Documents" for purposes of this Note are collectively referred to as the "Loan Documents".

20.1 This Note;

20.2 Deed of Trust;

20.3 State of California Uniform Commercial Code - Financing Statement - Form UCC-1;

20.4 Limited Liability Company Borrowing Certificate;

20.5 Corporate Resolution Authorizing Limited Liability Company Activity and Certificate of Incumbency;

20.6 Estoppel, Non-Disturbance and Attornment Agreement.

21. OTHER RELATED DOCUMENTS WHICH ARE NOT LOAN DOCUMENTS.

21.1 Agreement for Disbursement Prior to Recording and Amendment to Note.

PROMISSORY NOTE SECURED BY DEED OF TRUST

Recording Requested by
and when recorded return to:

WELLS FARGO BANK, N.A.
Commercial Mortgage Servicing
417 Montgomery Street, 5th Floor
San Francisco, California 94104

Attention: Jean Hembree
Loan No. : 31-0900011A

D E E D O F T R U S T
and
A B S O L U T E A S S I G N M E N T O F R E N T S A N D L E A S E S
and
S E C U R I T Y A G R E E M E N T (A N D F I X T U R E F I L I N G)

The parties to this DEED OF TRUST AND ABSOLUTE ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT (AND FIXTURE FILING) ("Deed of Trust"), dated as of September 9, 1999 are FREMONT HOLDING L.L.C., a Delaware limited liability company ("Trustor"), with a mailing address at 34801 Campus Drive, Fremont, CA 94555, AMERICAN SECURITIES COMPANY, a California corporation ("Trustee"), with a mailing address at 1320 Willow Pass Road, Suite 205, Concord, California 94520, and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Beneficiary"), with a mailing address at 1320 Willow Pass Road, Suite 205, Concord, California 94520.

R E C I T A L S

A. FREMONT HOLDING L.L.C., a Delaware limited liability company ("Borrower") proposes to borrow from Beneficiary, and Beneficiary proposes to lend to Borrower the principal sum of TEN MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100THS DOLLARS ($10,150,000.00) ("Loan"). The Loan is evidenced by a promissory note ("Note") executed by Borrower, dated the date of this Deed of Trust, payable to the order of Beneficiary in the principal amount of the Loan.

B. The loan documents include this Deed of Trust, the Note and the other documents described in the Note as Loan Documents ("Loan Documents").

ARTICLE 1. DEED OF TRUST

1.1 GRANT. For the purposes of and upon the terms and conditions of this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may hereafter acquire in, to, under or derived from any or all of the following:

a. That real property ("Land") located in Fremont, county of Alameda, state of California, and more particularly described on Exhibit A attached hereto;

b. All appurtenances, easements, rights of way, water and water rights, pumps, pipes, flumes and ditches and ditch rights, water stock, ditch and/or reservoir stock or interests, royalties, development rights and credits, air rights, minerals, oil rights, and gas rights, now or later used or useful in connection with, appurtenant to or related to the Land;

c. All buildings, structures, facilities, other improvements and fixtures now or hereafter located on the Land;

d. All apparatus, equipment, machinery and appliances and all accessions thereto and renewals and replacements thereof and substitutions therefor used in the operation or occupancy of the Land, it being intended by the parties that all such items shall be conclusively considered to be a part of the Land, whether or not attached or affixed to the Land;

e. All land lying in the right-of-way of any street, road, avenue, alley or right-of-way opened, proposed or vacated, and all sidewalks,

strips and gores of land adjacent to or used in connection with the Land;

f. All additions and accretions to the property described above;

g. All licenses, authorizations, certificates, variances, consents, approvals and other permits now or hereafter pertaining to the Land and all estate, right, title and interest of Trustor in, to, under or derived from all tradenames or business names relating to the Land or the present or future development, construction, operation or use of the Land; and

h. All proceeds of any of the foregoing.

All of the property described above is hereinafter collectively defined as the "Property". The listing of specific rights or property shall not be interpreted as a limitation of general terms.

ARTICLE 2. OBLIGATIONS SECURED

2.1 OBLIGATIONS SECURED. Trustor makes the foregoing grant and assignment for the purpose of securing the following obligations ("Secured Obligations"):

a. Full and punctual payment to Beneficiary of all sums at any time owing under the Note;

b. Payment and performance of all covenants and obligations of Trustor under this Deed of Trust including, without limitation, indemnification obligations and advances made to protect the Property;

c. Payment and performance of all additional covenants and obligations of Borrower and Trustor under the Loan Documents;

d. Payment and performance of all covenants and obligations, if any, which any rider attached as an exhibit to this Deed of Trust recites are secured hereby;

e. Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when the obligation is evidenced by a writing which recites that it is secured by this Deed of Trust;

f. All interest and charges on all obligations secured hereby including, without limitation, prepayment charges, late charges and loan fees; and

g. All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; and (ii) modifications, extensions or renewals at a different rate of interest whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 OBLIGATIONS. The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges, late charges and loan fees at any time accruing or assessed on any of the Secured Obligations.

2.3 INCORPORATION. All terms and conditions of the documents which evidence any of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice that the rate of interest on one or more Secured Obligation may vary from time to time.

ARTICLE 3. ABSOLUTE ASSIGNMENT OF RENTS AND LEASES

3.1 ASSIGNMENT. Trustor irrevocably assigns to Beneficiary all of Trustor's right, title and interest in, to and under: (a) all present and future leases of the Property or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Property or any portion thereof, and all other agreements of any kind

relating to the use or occupancy of the Property or any portion thereof, whether such leases, licenses and agreements are now existing or entered into after the date hereof ("Leases"); and (b) the rents, issues, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases ("Payments"). The term "Leases" shall also include all guarantees of and security for the tenants' performance thereunder, and all amendments, extensions, renewals or modifications thereto which are permitted hereunder. This is a present and absolute assignment, not an assignment for security purposes only, and Beneficiary's right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Property.

3.2 GRANT OF LICENSE. Beneficiary confers upon Trustor a revocable license ("License") to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined). Upon a Default, the License shall be automatically revoked and Beneficiary may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All Payments thereafter collected by Trustor shall be held by Trustor as trustee under a constructive trust for the benefit of Beneficiary. Trustor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall have no right or duty to inquire as to whether any Default has actually occurred or is then existing. Trustor hereby relieves the tenants from any liability to Trustor by reason of relying upon and complying with any such notice or demand by Beneficiary. Beneficiary may apply, in its sole discretion, any Payments so collected by Beneficiary against any Secured Obligation or any other obligation of Borrower, Trustor or any other person or entity, under any document or instrument related to or executed in connection with the Loan Documents, whether existing on the date hereof or hereafter arising. Collection of any Payments by Beneficiary shall not cure or waive any Default or notice of Default or invalidate any acts done pursuant to such notice.

3.3 EFFECT OF ASSIGNMENT. The foregoing irrevocable assignment shall not cause Beneficiary to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; (c) responsible or liable for any waste committed on the Property by the tenants under any of the Leases or by any other parties; for any dangerous or defective condition of the Property; or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee, invitee or other person; or (d) responsible for or impose upon Beneficiary any duty to produce rents or profits. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (e) the exercise or failure to exercise any of the rights, remedies or powers granted to Beneficiary hereunder; or (f) the failure or refusal of Beneficiary to perform or discharge any obligation, duty or liability of Trustor arising under the Leases.

3.4 COVENANTS.

a. All Leases. Trustor shall, at Trustor's sole cost and expense:

(i) perform all obligations of the landlord under the Leases and use reasonable efforts to enforce performance by the tenants of all obligations of the tenants under the Leases;

(ii) use reasonable efforts to keep the Property leased at all times to tenants which Trustor reasonably and in good faith believes are creditworthy at rents not less than the fair market rental value (including, but not limited to, free or discounted rents to the extent the market so requires);

(iii) promptly upon Beneficiary's request, deliver to Beneficiary a copy of each requested Lease and all amendments thereto and waivers thereof; and

(iv) promptly upon Beneficiary's request, execute and record any additional assignments of landlord's interest under any Lease to Beneficiary and specific subordinations of any Lease to this Deed of Trust, in form and substance satisfactory to Beneficiary.

Unless consented to in writing by Beneficiary or otherwise permitted

under any other provision of the Loan Documents, Trustor shall not:

(v) grant any tenant under any Lease any option, right of first refusal or other right to purchase all or any portion of the Property under any circumstances;

(vi) grant any tenant under any Lease any right to prepay rent more than 1 month in advance;

(vii) except upon Beneficiary's request, execute any assignment of landlord's interest in any Lease; or

(viii) collect rent or other sums due under any Lease in advance, other than to collect rent 1 month in advance of the time when it becomes due.

Any such attempted action in violation of the provisions of this Section shall be null and void.

Beneficiary's failure to deny any written request by Trustor for consent under the foregoing provisions of this Section within 5 Business Days after Beneficiary's receipt of such request (and all documents and information reasonably related thereto) shall be deemed to constitute Beneficiary's consent to such request.

Trustor shall deposit with Beneficiary any sums received by Trustor in consideration of any termination, modification or amendment of any Lease or any release or discharge of any tenant under any Lease from any obligation thereunder and any such sums received by Trustor shall be held in trust by Trustor for such purpose. Notwithstanding the foregoing, so long as no Default exists, the portion of any such sum received by Trustor with respect to any Lease which is less than $50,000 shall be payable to Trustor. All such sums received by Beneficiary with respect to any Lease shall be deemed "Impounds" (as defined in Section 6.12b) and shall be deposited by Beneficiary into a pledged account in accordance with Section 6.12b. If no Default exists, Beneficiary shall release such Impounds to Trustor from time to time as necessary to pay or reimburse Trustor for such tenant improvements, brokerage commissions and other leasing costs as may be required to re-tenant the affected space; provided, however, Beneficiary shall have received and approved each of the following for each tenant for which such costs were incurred; (1) Trustor's written request for such release, including the name of the tenant, the location and net rentable area of the space and a description and cost breakdown of the tenant improvements or other leasing costs covered by the request; (2) Trustor's certification that any tenant improvements have been completed lien-free and in a workmanlike manner; (3) a fully executed Lease, or extension or renewal of the current Lease; (4) an estoppel certificate executed by the tenant including its acknowledgement that all tenant improvements have been satisfactorily completed; and (5) such other information with respect to such costs as Beneficiary may require. Following the re-tenanting of all affected space (including, without limitation, the completion of all tenant improvements), and provided no Default exists, Beneficiary shall release any remaining such Impounds relating to the affected space to Trustor. Trustor shall construct all tenant improvements in a workmanlike manner and in accordance with all applicable laws, ordinances, rules and regulations.

b. Major Leases. Trustor shall, at Trustor's sole cost and expense, give Beneficiary prompt written notice of any material default by landlord or tenant under any Major Lease (as defined below). Unless consented to in writing by Beneficiary or otherwise permitted under any other provision of the Loan Documents, Trustor shall not:

(i) enter into any Major Lease which (aa) is not on fair market terms (which terms may include free or discounted rent to the extent the market so requires); (bb) does not contain a provision requiring the tenant to execute and deliver to the landlord an estoppel certificate in form and substance satisfactory to the landlord promptly upon the landlord's request; or (cc) allows the tenant to assign or sublet the premises without the landlord's consent;

(ii) reduce any rent or other sums due from the tenant under any Major Lease;

(iii) terminate or materially modify or amend any Major Lease; or

(iv) release or discharge the tenant or any guarantor under any Major Lease from any material obligation thereunder.

Any such attempted action in violation of the provisions of this Section shall be null and void.

"Major Lease", as used herein, shall mean any Lease, which is, at any time: (1) a Lease of more than 20% of the total rentable area of the Property, as reasonably determined by Beneficiary; or (2) a Lease which generates a gross base monthly rent exceeding 20% of the total gross base monthly rent generated by all Leases (excluding all Leases under which the tenant is then in default), as reasonably determined by Beneficiary. Trustor's obligations with respect to Major Leases shall be governed by the provisions of Section 3.4a as well as by the provisions of this Section. Beneficiary's failure to deny any written request by Trustor for consent under this Section within 5 Business Days after Beneficiary's receipt of such request (and all documents and information reasonably related thereto) such be deemed to constitute Beneficiary's consent to such request.

3.5 ESTOPPEL CERTIFICATES. Within 30 days after request by Beneficiary, Trustor shall deliver to Beneficiary and to any party designated by Beneficiary, estoppel certificates relating to the Leases executed by Trustor and by each of the tenants, in form and substance acceptable to Beneficiary; provided, however, if any tenant shall fail or refuse to so execute and deliver any such estoppel certificate upon request, Trustor shall use reasonable efforts to cause such tenant to execute and deliver such estoppel certificate but such tenant's continued failure or refusal to do so, despite Trustor's reasonable efforts, shall not constitute a default by Trustor under this Section.

3.6 RIGHT OF SUBORDINATION. Beneficiary may at any time and from time to time by specific written instrument intended for the purpose unilaterally subordinate the lien of this Deed of Trust to any Lease, without joinder or consent of, or notice to, Trustor, any tenant or any other person. Notice is hereby given to each tenant under a Lease of such right to subordinate. No subordination referred to in this Section shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lienholder. Nothing herein shall be construed as subordinating this Deed of Trust to any Lease.

ARTICLE 4. SECURITY AGREEMENT AND FIXTURE FILING

4.1 SECURITY INTEREST. Trustor grants and assigns to Beneficiary a security interest to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Trustor now or at any time hereafter has any interest ("Collateral"):

All goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property, wherever situated, which are or are to be incorporated into, used in connection with or appropriated for use on the Property; all rents, issues, deposits and profits of the Property (to the extent, if any, they are not subject to the Absolute Assignment of Rents and Leases); all inventory, accounts, cash receipts, deposit accounts, impounds, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes, drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the Property or any business now or hereafter conducted thereon by Trustor; all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Property; all deposits or other security now or hereafter made with or given to utility companies by Trustor with respect to the Property; all advance payments of insurance premiums made by Trustor with respect to the Property; all plans, drawings and specifications relating to the Property; all loan funds held by Beneficiary, whether or not disbursed; all funds deposited with Beneficiary pursuant to any Loan Document, including, without limitation, all "Restoration Funds" as defined herein; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Property or any portion thereof, including, without limitation, all "Impounds" as defined herein; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing, and all books, records and files relating to any of the foregoing.

As to all of the above described personal property which is or which hereafter becomes a "fixture" under applicable law, this Deed of Trust constitutes a fixture filing under the California Uniform Commercial Code,

as amended or recodified from time to time ("UCC").

4.2 RIGHTS OF BENEFICIARY. In addition to Beneficiary's rights as a "Secured Party" under the UCC, Beneficiary may, but shall not be obligated to, at any time without notice and at the expense of Trustor: (a) give notice to any person of Beneficiary's rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Beneficiary therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Trustor under or from the Collateral. Notwithstanding the above, in no event shall Beneficiary be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Beneficiary shall make an express written election of said remedy under the UCC or other applicable law.

4.3 ADDITIONAL RIGHTS OF BENEFICIARY UPON DEFAULT. Upon the occurrence of a Default hereunder, then in addition to all of Beneficiary's rights as a "Secured Party" under the UCC or otherwise at law:

a. Sale of Collateral. Beneficiary may: (i) upon written notice, require Trustor to assemble any or all of the Collateral and make it available to Beneficiary at a place designated by Beneficiary; (ii) without prior notice, enter upon the Property or other place where any of the Collateral may be located and take possession of, collect, sell and dispose of any or all of the Collateral, and store the same at locations acceptable to Beneficiary at Trustor's expense; or (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become purchaser at any such sales; and

b. Other Rights. Beneficiary may, for the account of Trustor and at Trustor's expense: (i) operate, use, consume, sell or dispose of the Collateral as Beneficiary deems appropriate for the purpose of performing any or all of the Secured Obligations; (ii) enter into any agreement, compromise or settlement including insurance claims, which Beneficiary may deem desirable or proper with respect to any of the Collateral; and (iii) endorse and deliver evidences of title for, and receive, enforce and collect by legal action or otherwise, all indebtedness and obligations now or hereafter owing to Trustor in connection with or on account of any or all of the Collateral.

Trustor acknowledges and agrees that a disposition of the Collateral in accordance with Beneficiary's rights and remedies as heretofore provided is a disposition thereof in a commercially reasonable manner and that 5 days prior notice of such disposition is commercially reasonable notice. Trustor further agrees that any sale or other disposition of all or any portion of the Collateral may be applied by Beneficiary first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and disbursements, and then to the payment of the Secured Obligations.

4.4 POWER OF ATTORNEY. Trustor hereby irrevocably appoints Beneficiary as Trustor's attorney-in-fact (such agency being coupled with an interest), and as such attorney-in-fact, Beneficiary may, without the obligation to do so, in Beneficiary's name or in the name of Trustor, prepare, execute, file and record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve any of Beneficiary's security interests and rights in or to any of the Collateral, and upon a Default hereunder, take any other action required of Trustor; provided, however, that Beneficiary as such attorney-in-fact shall be accountable only for such funds as are actually received by Beneficiary.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES

5.1 REPRESENTATIONS AND WARRANTIES. Trustor represents and warrants to Beneficiary that, to Trustor's current actual knowledge after reasonable investigation and inquiry, the following statements are true and correct as of the Effective Date:

a. Legal Status. Trustor and Borrower are duly organized and existing and in good standing under the laws of the state(s) in which Trustor and Borrower are organized. Trustor and Borrower are qualified or licensed to do business in all jurisdictions in which such qualification or licensing is required.

b. Permits. Trustor and Borrower possess all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, necessary to enable Trustor and Borrower to

conduct the business(es) in which Trustor and Borrower are now engaged in compliance with applicable law.

c. Authorization and Validity. The execution and delivery of the Loan Documents have been duly authorized and the Loan Documents constitute valid and binding obligations of Trustor, Borrower or the party which executed the same, enforceable in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights, or by the application of rules of equity.

d. Violations. The execution, delivery and performance by Trustor and Borrower of each of the Loan Documents do not violate any provision of any law or regulation, or result in any breach or default under any contract, obligation, indenture or other instrument to which Trustor or Borrower is a party or by which Trustor or Borrower is bound.

e. Litigation. There are no pending or threatened actions, claims, investigations, suits or proceedings before any governmental authority, court or administrative agency which may adversely affect the financial condition or operations of Trustor or Borrower other than those previously disclosed in writing by Trustor or Borrower to Beneficiary.

f. Financial Statements. The financial statements of Trustor and Borrower, of each general partner (if Trustor or Borrower is a partnership), of each member (if Trustor or Borrower is a limited liability company) and of each guarantor, if any, previously delivered by Trustor or Borrower to Beneficiary: (i) are materially complete and correct; (ii) present fairly the financial condition of such party; and (iii) have been prepared in accordance with the same accounting standard used by Trustor or Borrower to prepare the financial statements delivered to and approved by Beneficiary in connection with the making of the Loan, or other accounting standards approved by Beneficiary. Since the date of such financial statements, there has been no material adverse change in such financial condition, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered except as previously disclosed in writing by Trustor or Borrower to Beneficiary and approved in writing by Beneficiary.

g. Reports. All reports, documents, instruments and information delivered to Beneficiary in connection with the Loan: (i) are correct and sufficiently complete to give Beneficiary accurate knowledge of their subject matter; and (ii) do not contain any misrepresentation of a material fact or omission of a material fact which omission makes the provided information misleading.

h. Income Taxes. There are no pending assessments or adjustments of Trustor's or Borrower's income tax payable with respect to any year.

i. Subordination. There is no agreement or instrument to which Borrower is a party or by which Borrower is bound that would require the subordination in right of payment of any of Borrower's obligations under the Note to an obligation owed to another party.

j. Title. Trustor lawfully holds and possesses fee simple title to the Property, without limitation on the right to encumber same. This Deed of Trust is a first lien on the Property prior and superior to all other liens and encumbrances on the Property except: (i) liens for real estate taxes and assessments not yet due and payable; (ii) senior exceptions previously approved by Beneficiary and shown in the title insurance policy insuring the lien of this Deed of Trust; and (iii) other matters, if any, previously disclosed to Beneficiary by Trustor in a writing specifically referring to this representation and warranty.

k. Mechanics' Liens. There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are outstanding that under law could give rise to any such liens) affecting the Property which are or may be prior to or equal to the lien of this Deed of Trust.

l. Encroachments. Except as shown in the survey, if any, previously delivered to Beneficiary, none of the buildings or other improvements which were included for the purpose of determining the appraised value of the Property lies outside of the boundaries or building restriction lines of the Property and no buildings or other improvements located on adjoining properties encroach upon the

Property.

m. Leases. All existing Leases are in full force and effect and are enforceable in accordance with their respective terms. No material breach or default by any party, or event which would constitute a material breach or default by any party after notice or the passage of time, or both, exists under any existing Lease. None of the landlord's interests under any of the Leases, including, but not limited to, rents, additional rents, charges, issues or profits, has been transferred or assigned. No rent or other payment under any existing Lease has been paid by any tenant for more than 1 month in advance.

n. Collateral. Trustor has good title to the existing Collateral, free and clear of all liens and encumbrances except those, if any, previously disclosed to Beneficiary by Trustor in writing specifically referring to this representation and warranty. Trustor's principal place of business is located at the address shown in this Deed of Trust.

o. Condition of Property. Except as shown in the property condition survey or other engineering reports, if any, previously delivered to or obtained by Beneficiary, the Property is in good condition and repair and is free from any damage that would materially and adversely affect the value of the Property as security for the Loan or the intended use of the Property.

p. Hazardous Materials. Except as shown in the environmental assessment report(s), if any, previously delivered to or obtained by Beneficiary, the Property is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of Hazardous Materials (as hereinafter defined) except as otherwise previously disclosed in writing by Trustor to Beneficiary.

q. Hazardous Materials Laws. The Property complies with all Hazardous Materials Laws (as hereinafter defined).

r. Hazardous Materials Claims. There are no pending or threatened Hazardous Materials Claims (as hereinafter defined).

s. Wetlands. No part of the Property consists of or is classified as wetlands, tidelands or swamp and overflow lands.

t. Compliance With Laws. All federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990, as amended from time to time (42 U. S. C. Section 12101 et seq.) have been satisfied or complied with. Trustor is in possession of all certificates of occupancy and all other licenses, permits and other authorizations required by applicable law for the existing use of the Property. All such certificates of occupancy and other licenses, permits and authorizations are valid and in full force and effect.

u. Property Taxes and Other Liabilities. All taxes, governmental assessments, insurance premiums, water, sewer and municipal charges, and ground rents, if any, which previously became due and owing in respect of the Property have been paid.

v. Condemnation. There is no proceeding pending or threatened for the total or partial condemnation of the Property.

w. Homestead. There is no homestead or other exemption available to Trustor which would materially interfere with the right to sell the Property at a trustee's sale or the right to foreclose this Deed of Trust.

x. Solvency. None of the transactions contemplated by the Loan will be or have been made with an actual intent to hinder, delay or defraud any present or future creditors of Trustor, and Trustor, on the Effective Date, will have received fair and reasonably equivalent value in good faith for the grant of the liens or security interests effected by the Loan Documents. On the Effective Date, Trustor will be solvent and will not be rendered insolvent by the transactions contemplated by the Loan Documents. Trustor is able to pay its debts as they become due.

y. Separate Tax Parcel(s). The Property is assessed for the real estate tax purposes as one or more wholly independent tax parcels, separate from any other real property, and no other real property is

assessed and taxed together with the Property or any portion thereof.

5.2 REPRESENTATIONS, WARRANTIES AND COVENANTS REGARDING STATUS. Trustor and FREMONT MANAGEMENT, INC., a Delaware corporation hereby represent, warrant and covenant to Beneficiary as follows:

a. each such entity was organized solely for the purpose of (i) owning the Property; (ii) acting as a general partner of a partnership which owns the Property; or (iii) acting as a managing member of a limited liability company which owns the Property;

b. each such entity has not and will not engage in any business unrelated to (i) the ownership of the Property; (ii) acting as general partner of a partnership which owns the Property; or (iii) acting as a managing member of a limited liability company which owns the Property;

c. each such entity has not and will not have any assets other than the Property (and personal property incidental to the ownership and operation of the Property) or its partnership or membership interest in the partnership or limited liability company which owns the Property;

d. each such entity has not and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, asset sale, transfer of partnership or membership interest, or amendment of its articles of incorporation, articles of organization, certificate of formation, partnership agreement or operating agreement, as applicable;

e. if such entity is a partnership, all of its general partners are corporations that satisfy the requirements set forth in this Section 5.2;

f. if such entity is a limited liability company, it has at least one managing member that is a corporation that satisfies the requirements set forth in this Section 5.2;

g. each such entity, without the unanimous consent of all of its general partners, directors or members, as applicable, shall not file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or any other entity in which it has a direct or indirect legal or beneficial ownership interest;

h. each such entity has no indebtedness (and will have no indebtedness) other than (i) the Loan (to the extent it is liable under the terms of the Loan Documents); and (ii) unsecured trade debt which is not evidenced by a note and is incurred in the ordinary course of its business in connection with owning, operating and maintaining the Property (or its interest in Trustor, as applicable) and is paid within 30 days from the date incurred;

i. each such entity has not and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

j. each such entity has maintained and will maintain its accounts, books and records separate from any other person or entity;

k. each such entity has maintained and will maintain its books, records, resolutions and agreements as official records;

l. each such entity (i) has not and will not commingle its funds or assets with those of any other entity; and (ii) has held and will hold its assets in its own name;

m. each such entity has conducted and will conduct its business in its own name;

n. each such entity has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other person or entity;

o. each such entity has paid and will pay its own liabilities out of its own funds and assets;

p. each such entity has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

q. each such entity has not and will not assume or guarantee or

become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of any other entity except for liabilities permitted to be guaranteed by the Loan Documents;

r. each such entity has not and will not acquire obligations or securities of its partners, members or shareholders;

s. each such entity has allocated and will allocate fairly and reasonably any overhead for shared office space and uses separate stationery, invoices and checks;

t. each such entity has not and will not pledge its assets for the benefit of any other person or entity;

u. each such entity has held and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity;

v. each such entity has not made and will not make loans to any person or entity;

w. each such entity has not and will not identify its partners, members or shareholders, as applicable, or any affiliates of any of the foregoing, as a division or part of it;

x. each such entity has not entered into and will not enter into or be a party to, any transaction with its partners, members, shareholders, or any affiliates of any of the foregoing, except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

y. if such entity is a corporation, the directors of the corporation shall consider the interests of the creditors of the corporation in connection with all corporate action;

z. each such entity has paid and will pay the salaries of its own employees and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

aa. each such entity has maintained and will maintain adequate capital in light of its contemplated business operations;

bb. if such entity is a limited liability company (i) its articles of organization, certificate of formation and/or operating agreement, as applicable, provide that the vote of a majority-in-interest of the remaining members is sufficient to continue the life of the limited liability company in the event of a termination event, such as a bankruptcy of the managing member; and (ii) if the vote of a majority-in-interest of the remaining members is not obtained to continue the life of the limited liability company upon a termination event, its articles of organization, certificate of formation and/or operating agreement, as applicable, provide that the limited liability company may not liquidate its assets without the consent of the Beneficiary;

cc. if such entity is a partnership with more than one general partner, its partnership agreement requires the remaining partners to continue the partnership as long as one solvent general partner exists; and

dd. if such entity is a limited liability company, its operating agreement, if such entity is a partnership, its partnership agreement, and if such entity is a corporation, to the full extent permitted by applicable law, its articles of incorporation, contain the provisions set forth in this Section 5.2 and such entity shall conduct its business and operations in strict compliance with the terms contained therein.

ARTICLE 6. RIGHTS AND DUTIES OF THE PARTIES

6.1 MAINTENANCE AND PRESERVATION OF THE PROPERTY. Trustor shall: (a) keep the Property in good condition and repair; (b) complete or restore promptly and in workmanlike manner the Property or any part thereof which may be damaged or destroyed (unless, if and to the extent permitted under Section 6.11, Beneficiary elects to require that insurance proceeds be used to reduce the Secured Obligations and after such repayment the ratio

of Secured Obligations to the value of the Property, as reasonably determined by Beneficiary is the same as or lower than it was immediately before the loss or taking occurred); (c) comply and cause the Property to comply with (i) all laws, ordinances, regulations and standards, (ii) all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character and (iii) all requirements of insurance companies and any bureau or agency which establishes standards of insurability, which laws, covenants or requirements affect the Property and pertain to acts committed or conditions existing thereon, including, without limitation, any work of alteration, improvement or demolition as such laws, covenants or requirements mandate; (d) operate and manage the Property at all times in a professional manner and do all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value; (e) promptly after execution, deliver to Beneficiary a copy of any management agreement concerning the Property and all amendments thereto and waivers thereof; and (f) execute and acknowledge all further documents, instruments and other papers as Beneficiary or Trustee deems necessary or appropriate to preserve, continue, perfect and enjoy the benefits of this Deed of Trust and perform Trustor's obligations, including, without limitation, statements of the amount secured hereby then owing and statements of no offset. Trustor shall not: (g) remove or demolish all or any material part of the Property; (h) alter either (i) the exterior of the Property in a manner which materially and adversely affects the value of the Property or (ii) the roof or other structural elements of the Property in a manner which requires a building permit except for tenant improvements required under the Leases; (i) initiate or acquiesce in any change in any zoning or other land classification which affects the Property; (j) materially alter the type of occupancy or use of all or any part of the Property; or (k) commit or permit waste of the Property.

6.2 HAZARDOUS MATERIALS. Without limiting any other provision of this Deed of Trust, Trustor agrees as follows:

a. Prohibited Activities. Trustor shall not cause or permit the Property to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any oil or other petroleum products, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under the Hazardous Materials Laws (defined below) and/or other applicable environmental laws, ordinances or regulations ("Hazardous Materials").

The foregoing to the contrary notwithstanding, (i) Trustor may store, maintain and use on the Property janitorial and maintenance supplies, paint and other Hazardous Materials of a type and in a quantity readily available for purchase by the general public and normally stored, maintained and used by owners and managers of properties of a type similar to the Property; and (ii) tenants of the Property may store, maintain and use on the Property (and, if any tenant is a retail business, hold in inventory and sell in the ordinary course of such tenant's business) Hazardous Materials of a type and quantity readily available for purchase by the general public and normally stored, maintained and used (and, if tenant is a retail business, sold) by tenants in similar lines of business on properties similar to the Property; and (iii) tenants of the Property may store, maintain and use on the Property Hazardous Materials of types and quantities necessary or appropriate for carrying out their biotechnology business operations so long as all such storage, maintenance and use of Hazardous Material is carried on in compliance with all applicable Hazards Materials Laws.

b. Hazardous Materials Laws. Trustor shall comply and cause the Property to comply with all federal, state and local laws, ordinances and regulations relating to Hazardous Materials ("Hazardous Materials Laws"), including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health

Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; and all comparable state and local laws, laws of other jurisdictions or orders and regulations.

c. Notices. Trustor shall immediately notify Beneficiary in writing of: (i) the discovery of any Hazardous Materials on, under or about the Property (other than Hazardous Materials permitted under Section 6.2(a)); (ii) any knowledge by Trustor that the Property does not comply with any Hazardous Materials Laws; (iii) any claims or actions ("Hazardous Materials Claims") pending or threatened against Trustor or the Property by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws; and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to become contaminated with Hazardous Materials.

d. Remedial Action. In response to the presence of any Hazardous Materials on, under or about the Property, Trustor shall immediately take, at Trustor's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise in respect to any Hazardous Materials Claims.

e. Inspection By Beneficiary. Upon reasonable prior notice to Trustor, Beneficiary, its employees and agents, may from time to time (whether before or after the commencement of a nonjudicial or judicial foreclosure proceeding), enter and inspect the Property for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property.

f. Legal Effect of Section. Trustor and Beneficiary agree that: (i) this Hazardous Materials Section is intended as Beneficiary's written request for information (and Trustor's response) concerning the environmental condition of the real property security as required by California Code of Civil Procedure Section 726.5; and (ii) each representation and warranty and covenant in this Section (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by Beneficiary and Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

6.3 COMPLIANCE WITH LAWS. Trustor shall comply with all federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as amended from time to time. Trustor shall possess and maintain or cause Borrower to possess and maintain in full force and effect at all times (a) all certificates of occupancy and other licenses, permits and authorizations required by applicable law for the existing use of the Property and (b) all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, required by applicable law for Trustor and Borrower to conduct the business(es) in which Trustor and Borrower are now engaged.

6.4 LITIGATION. Trustor shall promptly notify Beneficiary in writing of any litigation pending or threatened against Trustor or Borrower claiming damages in excess of $50,000 and of all pending or threatened litigation against Trustor or Borrower if the aggregate damage claims against Trustor or Borrower exceed $100,000.

6.5 MERGER, CONSOLIDATION, TRANSFER OF ASSETS. Trustor shall not:(a) merge or consolidate with any other entity or permit Borrower to merge or consolidate with any other entity; (b) make any substantial change in the nature of Trustor's business or structure or permit Borrower to make any substantial change in the nature of Borrower's business or structure; (c) acquire all or substantially all of the assets of any other entity or permit Borrower to acquire all or substantially all of the assets of any other entity; or (d) sell, lease, assign, transfer or otherwise dispose of a material part of Trustor's assets except in the ordinary course of Trustor's business or permit Borrower to sell, lease, assign, transfer or otherwise dispose of a material part of Borrower's assets except in the ordinary course of Borrower's business.

6.6 ACCOUNTING RECORDS. Trustor shall maintain and cause Borrower to maintain adequate books and records in accordance with the same accounting standard used by Trustor or Borrower to prepare the financial statements delivered to and approved by Beneficiary in connection with the making of the Loan or other accounting standards approved by Beneficiary. Trustor

shall permit and shall cause Borrower to permit any representative of Beneficiary, at any reasonable time and from time to time, to inspect, audit and examine such books and records and make copies of same.

6.7 COSTS, EXPENSES AND ATTORNEYS' FEES. Trustor shall pay to Beneficiary the full amount of all costs and expenses, including, without limitation, reasonable attorneys' fees and expenses of Beneficiary's in-house or outside counsel, incurred by Beneficiary in connection with: (a) appraisals and inspections of the Property or Collateral required by Beneficiary as a result of (i) a Transfer or proposed Transfer (as defined below), or (ii) a Default; (b) appraisals and inspections of the Property or Collateral required by applicable law, including, without limitation, federal or state regulatory reporting requirements; and (c) any acts performed by Beneficiary at Trustor's request or wholly or partially for the benefit of Trustor (including, without limitation, the preparation or review of amendments, assumptions, waivers, releases, reconveyances, estoppel certificates or statements of amounts owing under any Secured Obligation). In connection with appraisals and inspections, Trustor specifically (but not by way of limitation) acknowledges that: (aa) a formal written appraisal of the Property by a state certified or licensed appraiser may be required by federal regulatory reporting requirements on an annual or more frequent basis; and (bb) Beneficiary may require inspection of the Property by an independent supervising architect, a cost engineering specialist, or both. Trustor shall pay all indebtedness arising under this Section immediately upon demand by Beneficiary together with interest thereon following notice of such indebtedness at the rate of interest then applicable to the principal balance of the Note as specified therein.

6.8 LIENS, ENCUMBRANCES AND CHARGES. Trustor shall immediately discharge by bonding or otherwise any lien, charge or other encumbrance which attaches to the Property in violation of Section 6.15. Subject to Trustor's right to contest such matters under this Deed of Trust or as expressly permitted in the Loan Documents, Trustor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber or appear to encumber all or any part of the Property or any interest therein, whether senior or subordinate hereto, including, without limitation, all claims for work or labor performed, or materials or supplies furnished, in connection with any work of demolition, alteration, repair, improvement or construction of or upon the Property, except such as Trustor may in good faith contest or as to which a bona fide dispute may arise (provided provision is made to the satisfaction of Beneficiary for eventual payment thereof in the event that Trustor is obligated to make such payment and that any recorded claim of lien, charge or other encumbrance against the Property is immediately discharged by bonding or otherwise).

6.9 TAXES AND OTHER LIABILITIES. Trustor shall pay and discharge when due any and all indebtedness, obligations, assessments and taxes, both real and personal and including federal and state income taxes and state and local property taxes and assessments. Trustor shall promptly provide to Beneficiary copies of all tax and assessment notices pertaining to the Property. Trustor hereby authorizes Beneficiary to obtain, at Trustor's expense, a tax service contract which shall provide tax information on the Property to Beneficiary for the term of the Loan and any extensions or renewals of the Loan.

6.10 INSURANCE COVERAGE. Trustor shall insure the Property against loss or damage by fire and such other hazards as Beneficiary shall from time to time require; provided, however, (a) Beneficiary, at Beneficiary's election, may only require flood insurance if all or any portion of the improvements located on the Property is or becomes located in a special flood hazard area, and (b) Beneficiary, at Beneficiary's election, may only require earthquake insurance if all or any portion of the Property is or becomes located in an earthquake fault zone. Trustor shall also carry public liability insurance and such other insurance as Beneficiary may require, including, without limitation, business interruption insurance or loss of rents insurance. Such policies shall contain a standard mortgage clause naming Beneficiary and its successors in interest as a loss payee and requiring at least 30 days prior notice to the holder at termination or cancellation. Trustor shall maintain all required insurance throughout the term of the Loan and while any liabilities of Borrower or Trustor to Beneficiary under any of the Loan Documents remain outstanding at Trustor's expense, with companies, and in substance and form satisfactory to Beneficiary. Neither Beneficiary nor Trustee, by reason of accepting, rejecting, approving or obtaining insurance shall incur any liability for: (c) the existence, nonexistence, form or legal sufficiency of any insurance; (d) the solvency of any insurer; or (e) the payment of claims.

6.11 INSURANCE AND CONDEMNATION PROCEEDS.

a. Assignment of Claims. Trustor absolutely and irrevocably assigns to Beneficiary all of the following rights, claims and amounts (collectively, "Claims"), all of which shall be paid to Beneficiary: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Property; (ii) all other claims and awards for damages to or decrease in value of all or any part of, or any interest in, the Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Property; and (iv) all interest which may accrue on any of the foregoing. Trustor shall give Beneficiary prompt written notice of the occurrence of any casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Property or any portion thereof. So long as no Default has occurred and is continuing at the time, Trustor shall have the right to adjust, compromise and settle any Claim of $100,000 or less without the consent of Beneficiary, provided, however, all awards, proceeds and other sums described herein shall continue to be payable to Beneficiary. Beneficiary may commence, appear in, defend or prosecute any Claim exceeding $100,000, and may adjust, compromise and settle all Claims (except for Claims which Trustor may settle as provided herein), but shall not be responsible for any failure to commence, appear in, defend, prosecute or collect any such Claim regardless of the cause of the failure. All awards, proceeds and other sums described herein shall be payable to Beneficiary.

b. Application of Proceeds; No Default. So long as no Default has occurred and is continuing at the time of Beneficiary's receipt of the proceeds of the Claims ("Proceeds") and no Default occurs thereafter, Beneficiary shall apply the Proceeds in the following order of priority: First, to Beneficiary's expenses in settling, prosecuting or defending the Claims; Second, to the repair or restoration of the Property; and Third, to Trustor if the repair or restoration of the Property has been completed, but to the Secured Obligations in any order without suspending, extending or reducing any obligation of Trustor to make installment payments if the repair or restoration of the Property has not been completed. Notwithstanding the foregoing, Beneficiary shall have no obligation to make any Proceeds available for the repair or restoration of the Property unless and until all the following conditions have been satisfied: (i) delivery to Beneficiary of the Proceeds plus any additional amount which is needed to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) establishment of an arrangement for lien releases and disbursement of funds acceptable to Beneficiary; (iii) delivery to Beneficiary in form and content acceptable to Beneficiary of all of the following: (aa) plans and specifications for the work; (bb) a contract for the work, signed by a contractor acceptable to Beneficiary; (cc) a cost breakdown for the work; (dd) if required by Beneficiary, a payment and performance bond for the work; (ee) evidence of the continuation of all Leases unless consented to in writing by Beneficiary; (ff) evidence that, upon completion of the work, the size, capacity, value, and income coverage ratios for the Property will be at least as great as those which existed immediately before the damage or condemnation occurred; and (gg) evidence of the satisfaction of any additional conditions that Beneficiary may reasonably establish to protect Beneficiary's security. Trustor acknowledges that the specific conditions described above are reasonable.

c. Application of Proceeds; Default. If a Default has occurred and is continuing at the time of Beneficiary's receipt of the Proceeds or if a Default occurs at any time thereafter, Beneficiary may, at Beneficiary's absolute discretion and regardless of any impairment of security or lack of impairment of security, but subject to applicable law governing use of the Proceeds, if any, apply all or any of the Proceeds to Beneficiary's expenses in settling, prosecuting or defending the Claims and then apply the balance to the Secured Obligations in any order without suspending, extending or reducing any obligation of Trustor to make installment payments, and may release all or any part of the Proceeds to Trustor upon any conditions Beneficiary chooses.

6.12 IMPOUNDS.

a. Post-Default Impounds. If required by Beneficiary at any time after a Default occurs (and regardless of whether such Default is thereafter cured), Trustor shall deposit with Beneficiary such amounts ("Post-Default Impounds") on such dates (determined by Beneficiary as provided below) as will be sufficient to pay any or

all "Costs" (as defined below) specified by Beneficiary. Beneficiary in its sole discretion shall estimate the amount of such Costs that will be payable or required during any period selected by Beneficiary not exceeding 1 year and shall determine the fractional portion thereof that Trustor shall deposit with Beneficiary on each date specified by Beneficiary during such period. If the Post-Default Impounds paid by Trustor are not sufficient to pay the related Costs, Trustor shall deposit with Beneficiary upon demand an amount equal to the deficiency. All Post-Default Impounds shall be payable by Trustor in addition to (but without duplication of) any other Impounds (as defined below).

b. All Impounds. Post-Default Impounds and any other impounds that may be payable by Borrower under the Note are collectively called "Impounds". All Impounds shall be deposited into one or more segregated or commingled accounts maintained by Beneficiary or its servicing agent. Except as otherwise provided in the Note, such account(s) shall not bear interest. Beneficiary shall not be a trustee, special depository or other fiduciary for Trustor with respect to such account, and the existence of such account shall not limit Beneficiary's rights under this Deed of Trust, any other agreement or any provision of law. If no Default exists, Beneficiary shall apply all Impounds to the payment of the related Costs, or in Beneficiary's sole discretion may release any or all Impounds to Trustor for application to and payment of such Costs. If a Default exists, Beneficiary may apply any or all Impounds to any Secured Obligation and/or to cure such Default, whereupon Trustor shall restore all Impounds so applied and cure all Defaults not cured by such application. The obligations of Trustor hereunder shall not be diminished by deposits of Impounds made by Trustor, except to the extent that such obligations have actually been met by application of such Impounds. Upon any assignment of this Deed of Trust, Beneficiary may assign all Impounds in its possession to Beneficiary's assignee, whereupon Beneficiary and Trustee shall be released from all liability with respect to such Impounds. Within 60 days following full repayment of the Secured Obligations (other than as a consequence of foreclosure or conveyance in lieu of foreclosure) or at such earlier time as Beneficiary may elect, Beneficiary shall pay to Trustor all Impounds in its possession, and no other party shall have any right or claim thereto. "Costs" means (i) all taxes and other liabilities payable by Trustor under Section 6.9, (ii) all insurance premiums payable by Trustor under Section 6.10, (iii) all other costs and expenses for which Impounds are required under the Note, and/or (iv) all other amounts that will be required to preserve the value of the Property. Trustor shall deliver to Beneficiary, promptly upon receipt, all bills for Costs for which Beneficiary has required Post-Default Impounds.

6.13 DEFENSE AND NOTICE OF LOSSES, CLAIMS AND ACTIONS. Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee hereunder at Trustor's sole expense against all adverse claims, whether the claim: (a) is against a possessory or non-possessory interest; (b) arose prior or subsequent to the Effective Date; or (c) is senior or junior to Trustor's or Beneficiary's rights. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, of the occurrence of any damage to the Property and of any condemnation offer or action.

6.14 RIGHT OF INSPECTION. Beneficiary and its independent contractors, agents and employees may enter the Property from time to time at any reasonable time for the purpose of inspecting the Property and ascertaining Trustor's compliance with the terms of this Deed of Trust. Beneficiary shall use reasonable efforts to assure that Beneficiary's entry upon and inspection of the Property shall not materially and unreasonably interfere with the business or operations of Trustor or Trustor's tenants on the Property.

6.15 PROHIBITION OF TRANSFER OF PROPERTY OR INTERESTS IN TRUSTOR. Trustor acknowledges that Beneficiary has relied upon the principals of Trustor and Borrower and their experience in owning and operating properties similar to the Property in connection with the closing of the Loan. Accordingly, except with the prior written consent of Beneficiary or as otherwise expressly permitted in the Note, Trustor shall not cause or permit any sale, exchange, mortgage, pledge, hypothecation, assignment, encumbrance or other transfer, conveyance or disposition, whether voluntarily, involuntarily or by operation of law ("Transfer") of all or any part of, or all or any direct or indirect interest in, the Property or the Collateral (except for equipment and inventory in the ordinary course of its business), or cause or permit a Transfer of any direct or indirect interest (whether general or limited partnership interest, stock, limited

liability company interest, trust, or otherwise) in Trustor or Borrower. In the event of any Transfer that is not expressly permitted in the Note and is without the prior written consent of Beneficiary, Beneficiary shall have the absolute right at its option, without prior demand or notice, to declare all of the Secured Obligations immediately due and payable, except to the extent prohibited by law, and pursue its rights and remedies under Section 7.3 herein. Trustor agrees to pay any prepayment fee as set forth in the Note in the event the Secured Obligations are accelerated pursuant to the terms of this Section. Consent to one such Transfer shall not be deemed to be a waiver of the right to require the consent to future or successive Transfers.

6.16 ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUSTEE. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Beneficiary and presentation of this Deed of Trust, or a certified copy thereof, for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Secured Obligation, Trustee may, without liability therefor and without notice: (a) reconvey all or any part of the Property; (b) consent to the making of any map or plat of the Property; (c) join in granting any easement on the Property; (d) join in any declaration of covenants and restrictions; or (e) join in any extension agreement or any agreement subordinating the lien or charge of this Deed of Trust. Notwithstanding the foregoing, Beneficiary shall first obtain from Trustor, subject to no Default, their consent to subparagraphs (b), (c), and (d), and such consent shall not be unreasonably withheld. Nothing contained in the preceding sentences shall be construed to limit, impair or otherwise affect the rights of Trustor in any respect. Except as may otherwise be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming or approving acts in the execution of said trusts and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding (including, without limitation, actions in which Trustor, Beneficiary or Trustee shall be a party) unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee shall not be obligated to perform any act required of it hereunder unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against loss, cost, liability and expense.

6.17 COMPENSATION OF TRUSTEE. Trustor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of this trust, including, without limitation, reasonable attorneys' fees. Trustor shall pay all indebtedness arising under this Section immediately upon demand by Trustee or Beneficiary together with interest thereon from the date the indebtedness arises at the rate of interest then applicable to the principal balance of the Note as specified therein.

6.18 EXCULPATION. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (a) the lawful exercise of the rights, remedies or powers granted to Beneficiary in this Deed of Trust; (b) the failure or refusal of Beneficiary to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; or (c) any loss sustained by Trustor or any third party resulting from Beneficiary's failure to lease the Property after a Default (hereafter defined) or from any other act or omission of Beneficiary in managing the Property after a Default unless the loss is caused by the willful misconduct and bad faith of Beneficiary and no such liability shall be asserted or enforced against Beneficiary, all such liability being expressly waived and released by Trustor.

6.19 INDEMNITY. Without in any way limiting any other indemnity contained in this Deed of Trust, Trustor agrees to defend, indemnify and hold harmless Trustee and the Beneficiary Group from and against any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (a) the making of the Loan, except for violations of banking laws or regulations by the Beneficiary Group; (b) this Deed of Trust; (c) the execution of this trust or the performance of any act required or permitted hereunder or by law; (d) any failure of Trustor to perform Trustor's obligations under this Deed of Trust or the other Loan Documents; (e) any alleged obligation or undertaking on the Beneficiary Group's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Property; (f) any act or omission by Trustor or any contractor, agent, employee or representative of Trustor with respect to the Property; or (g) any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (i) the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or

presence of any Hazardous Materials which are found in, on, under or about the Property (including, without limitation, underground contamination); or (ii) the breach of any covenant, representation or warranty of Trustor under Section 6.2 above. The foregoing to the contrary notwithstanding, this indemnity shall not include any claim, loss, damage, cost, expense or liability directly or indirectly arising out of the gross negligence or willful misconduct of any member of the Beneficiary Group or Trustee, or any claim, loss, damage, cost, expense or liability incurred by the Beneficiary Group or Trustee arising from any act or incident on the Property occurring after the full reconveyance and release of the lien of this Deed of Trust on the Property, or with respect to the matters set forth in clause (g) above, any claim, loss, damage, cost, expense or liability incurred by the Beneficiary Group resulting from the introduction and initial release of Hazardous Materials on the Property occurring after the transfer of title to the Property at a foreclosure sale under this Deed of Trust, either pursuant to judicial decree or the power of sale, or by deed in lieu of such foreclosure. This indemnity shall include, without limitation: (aa) all consequential damages (including, without limitation, any third party tort claims or governmental claims, fines or penalties against Trustee or the Beneficiary Group); (bb) all court costs and reasonable attorneys' fees (including, without limitation, expert witness fees) paid or incurred by Trustee or the Beneficiary Group; and (cc) the costs, whether foreseeable or unforeseeable, of any investigation, repair, cleanup or detoxification of the Property which is required by any governmental entity or is otherwise necessary to render the Property in compliance with all laws and regulations pertaining to Hazardous Materials. "Beneficiary Group", as used herein, shall mean (1) Beneficiary (including, without limitation, any participant in the Loan), (2) any entity controlling, controlled by or under common control with Beneficiary, (3) the directors, officers, employees and agents of Beneficiary and such other entities, and (4) the successors, heirs and assigns of the entities and persons described in foregoing clauses (1) through (3). Trustor shall pay immediately upon Trustee's or Beneficiary's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of interest applicable to the principal balance of the Note as specified therein. Trustor agrees to use legal counsel reasonably acceptable to Trustee and the Beneficiary Group in any action or proceeding arising under this indemnity. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION AND RECONVEYANCE OF THIS DEED OF TRUST, BUT TRUSTOR'S LIABILITY UNDER THIS INDEMNITY SHALL BE SUBJECT TO THE PROVISIONS OF THE SECTION IN THE NOTE ENTITLED "BORROWER'S LIABILITY."

6.20 SUBSTITUTION OF TRUSTEE. From time to time, by a writing signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of the County in which the Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named trustee herein. A writing recorded pursuant to the provisions of this Section shall be conclusive proof of the proper substitution of such new trustee.

6.21 RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations ("Interested Parties"), Beneficiary may, from time to time: (a) fully or partially release any person or entity from liability for the payment or performance of any Secured Obligation; (b) extend the maturity of any Secured Obligation; (c) make any agreement with Borrower increasing the amount or otherwise altering the terms of any Secured Obligation; (d) accept additional security for any Secured Obligation; or (e) release all or any portion of the Property, Collateral and other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of this Deed of Trust upon the Property.

6.22 SALE OR PARTICIPATION OF LOAN. Trustor agrees that Beneficiary may at any time sell, assign, participate or securitize all or any portion of Beneficiary's rights and obligations under the Loan Documents, and that any such sale, assignment, participation or securitization may be to one or more financial institutions or other entities, to private investors, and/or into the public securities market, in Beneficiary's sole discretion. Trustor further agrees that Beneficiary may disseminate to any such actual or potential purchaser(s), assignee(s) or participant(s) all documents and financial and other information heretofore or hereafter provided to or known to Beneficiary with respect to: (a) the Property and its operation; and/or (b) any party connected with the Loan (including, without limitation, Trustor, any partner or member of Trustor, any

constituent partner or member of Trustor, any guarantor and any nonborrower trustor). In the event of any such sale, assignment, participation or securitization, Beneficiary and the other parties to the same shall share in the rights and obligations of Beneficiary set forth in the Loan Documents as and to the extent they shall agree among themselves. In connection with any such sale, assignment, participation or securitization, Trustor further agrees that the Loan Documents shall be sufficient evidence of the obligations of Trustor to each purchaser, assignee or participant, and Trustor shall, within 15 days after request by Beneficiary, deliver an estoppel certificate verifying for the benefit of Beneficiary and any other party designated by Beneficiary the status and the terms and provisions of the Loan in form and substance acceptable to Beneficiary, and enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to facilitate any such sale, assignment, participation or securitization without impairing Trustor's rights or increasing Trustor's obligations. The indemnity obligations of Trustor under the Loan Documents shall also apply with respect to any purchaser, assignee or participant.

6.23 RECONVEYANCE. Upon Beneficiary's written request, and upon surrender of this Deed of Trust or certified copy thereof and any note, instrument or instruments setting forth all obligations secured hereby to Trustee for cancellation, Trustee shall reconvey, without warranty, the Property or that portion thereof then held hereunder. The recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto". Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto.

6.24 SUBROGATION. Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

6.25 YEAR 2000 COMPLIANCE. Trustor shall timely ensure that all software, hardware, equipment, goods and systems used in the operation of Trustor or the Property will properly perform date-sensitive functions before, during and after the year 2000.

ARTICLE 7. DEFAULT

7.1 DEFAULT. For all purposes hereof, "Default" shall mean either an "Optional Default" (as defined below) or an "Automatic Default" (as defined below).

a. Optional Default. An "Optional Default" shall occur, at Beneficiary's option, upon the occurrence of any of the following events:

(i) Monetary. Borrower or Trustor shall fail to (aa) pay when due any sums which by their express terms require immediate payment without any grace period or sums which are payable on the Maturity Date, or (bb) pay within 5 days when due any other sums payable under the Note, this Deed of Trust or any of the other Loan Documents, including without limitation, any monthly payment due under the Note.

(ii) Failure to Perform. Borrower or Trustor shall fail to observe, perform or discharge any of Borrower's or Trustor's obligations, covenants, conditions or agreements, other than Borrower's or Trustor's payment obligations, under the Note, this Deed of Trust or any of the other Loan Documents, and (aa) such failure shall remain uncured for 30 days after written notice thereof shall have been given to Borrower or Trustor, as the case may be, by Beneficiary or (bb) if such failure is of such a nature that it cannot be cured within such 30 day period, Borrower or Trustor shall fail to commence to cure such failure within such 30 day period or shall fail to diligently prosecute such curative action thereafter.

(iii) Representations and Warranties. Any representation, warranty, certificate or other statement (financial or otherwise) made or furnished by or on behalf of Borrower, Trustor, or a guarantor, if any, to Beneficiary or in connection with any of the Loan Documents, or as an inducement to

Beneficiary to make the Loan, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished.

(iv) Condemnation; Attachment. The condemnation, seizure or appropriation of any material portion (as reasonably determined by Beneficiary) of the Property; or the sequestration or attachment of, or levy or execution upon any of the Property, the Collateral or any other collateral provided by Borrower or Trustor under any of the Loan Documents, or any material portion of the other assets of Borrower or Trustor, which sequestration, attachment, levy or execution is not released or dismissed within 45 days after its occurrence; or the sale of any assets affected by any of the foregoing.

(v) Uninsured Casualty. The occurrence of an uninsured casualty with respect to any material portion (as reasonably determined by Beneficiary) of the Property unless: (aa) no other Default has occurred and is continuing at the time of such casualty or occurs thereafter; (bb) Trustor promptly notifies Beneficiary of the occurrence of such casualty; and (cc) not more than 45 days after the occurrence of such casualty, Trustor delivers to Beneficiary immediately available funds ("Restoration Funds") in an amount sufficient, in Beneficiary's reasonable opinion, to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period). So long as no Default has occurred and is continuing at the time of Beneficiary's receipt of the Restoration Funds and no Default occurs thereafter, Beneficiary shall make the Restoration Funds available for the repair or restoration of the Property. Notwithstanding the foregoing, Beneficiary shall have no obligation to make any Restoration Funds available for repair or restoration of the Property unless and until all the conditions set forth in clauses (ii) and (iii) of the second sentence of Section 6.11(b) of this Deed of Trust have been satisfied. Trustor acknowledges that the specific conditions described above are reasonable.

(vi) Adverse Financial Change. Any material adverse change in the financial condition of Borrower or any general partner of Borrower, any guarantor, or any other person or entity from the condition shown on the financial statement(s) submitted to Beneficiary and relied upon by Beneficiary in making the Loan, and which change Beneficiary reasonably determines will have a material adverse effect on (aa) the business, operations or condition of the Property; or (bb) the ability of Borrower or Trustor to pay or perform Borrower's or Trustor's obligations in accordance with the terms of the Note, this Deed of Trust, and the other Loan Documents.

b. Automatic Default. An "Automatic Default" shall occur automatically upon the occurrence of any of the following events:

(i) Voluntary Bankruptcy, Insolvency, Dissolution. (aa) Borrower's filing a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified ("Bankruptcy Code"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "Debtor Relief Law"); or (bb) Borrower's filing any pleading in any involuntary proceeding under the Bankruptcy Code or other Debtor Relief Law which admits the jurisdiction of a court to regulate Borrower or the Property or the petition's material allegations regarding Borrower's insolvency; or (cc) Borrower's making a general assignment for the benefit of creditors; or (dd) Borrower's applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Borrower or any of its property; or (ee) the filing by or against Borrower of a petition seeking the liquidation or dissolution of Borrower or the commencement of any other procedure to liquidate or dissolve Borrower.

(ii) Involuntary Bankruptcy. Borrower's failure to effect a full dismissal of any involuntary petition under the Bankruptcy Code or other Debtor Relief Law that is filed against Borrower or in any way restrains or limits Borrower or Beneficiary regarding the Loan or the Property, prior to the earlier of the entry of any order granting relief sought in the involuntary petition or 45 days after the date of filing of the petition.

(iii) Partners, Guarantors. The occurrence of an event specified in Sections (i) or (ii) as to Trustor, any general partner of

Borrower or Trustor, or any guarantor or other person or entity in any manner obligated to Beneficiary under the Loan Documents.

7.2 ACCELERATION. Upon the occurrence of an Optional Default, Beneficiary may, at its option, declare all sums owing to Beneficiary under the Note and the other Loan Documents immediately due and payable. Upon the occurrence of an Automatic Default, all sums owing to Beneficiary under the Note and the other Loan Documents shall automatically become immediately due and payable.

7.3 RIGHTS AND REMEDIES. In addition to the rights and remedies in Section 7.2 above, at any time after a Default, Beneficiary shall have all of the following rights and remedies:

a. Entry on Property. With or without notice, and without releasing Trustor from any Secured Obligation, and without becoming a mortgagee in possession, to enter upon the Property from time to time and to do such acts and things as Beneficiary or Trustee deem necessary or desirable in order to inspect, investigate, assess and protect the security hereof or to cure any Default, including, without limitation: (i) to take and possess all documents, books, records, papers and accounts of Trustor, Borrower or the then owner of the Property which relate to the Property; (ii) to make, terminate, enforce or modify leases of the Property upon such terms and conditions as Beneficiary deems proper; (iii) to make repairs, alterations and improvements to the Property necessary, in Trustee's or Beneficiary's sole judgment, to protect or enhance the security hereof; (iv) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee hereunder; (v) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Beneficiary or Trustee, is or may be senior in priority hereto, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (vi) to obtain insurance; (vii) to pay any premiums or charges with respect to insurance required to be carried hereunder; (viii) to obtain a court order to enforce Beneficiary's right to enter and inspect the Property for Hazardous Materials, in which regard the decision of Beneficiary as to whether there exists a release or threatened release of Hazardous Materials onto the Property shall be deemed reasonable and conclusive as between the parties hereto; (ix) to have a receiver appointed pursuant to applicable law to enforce Beneficiary's rights to enter and inspect the Property for Hazardous Materials; and/or (x) to employ legal counsel, accountants, engineers, consultants, contractors and other appropriate persons to assist them;

b. Appointment of Receiver. With or without notice or hearing, to apply to a court of competent jurisdiction for and obtain appointment of a receiver, trustee, liquidator or conservator of the Property, for any purpose, including, without limitation, to enforce Beneficiary's right to collect Payments and to enter on and inspect the Property for Hazardous Materials, as a matter of strict right and without regard to: (i) the adequacy of the security for the repayment of the Secured Obligations; (ii) the existence of a declaration that the Secured Obligations are immediately due and payable; (iii) the filing of a notice of default; or (iv) the solvency of Trustor, Borrower or any guarantor or other person or entity in any manner obligated to Beneficiary under the Loan Documents;

c. Judicial Foreclosure; Injunction. To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations;

d. Nonjudicial Foreclosure. To execute a written notice of such Default and of the election to cause the Property to be sold to satisfy the Secured Obligations. Trustee shall give and record such notice as the law then requires as a condition precedent to a trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor except as required by law, shall sell the Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as Beneficiary in its sole discretion may determine, at public auction to the highest bidder for cash, in

lawful money of the United States, payable at time of sale. Neither Trustor nor any other person or entity other than Beneficiary shall have the right to direct the order in which the Property is sold. Subject to requirements and limits imposed by law, Trustee may, from time to time postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time may postpone the sale by public announcement at the time and place fixed by the preceding postponement. A sale of less than the whole of the Property or any defective or irregular sale made hereunder shall not exhaust the power of sale provided for herein. Trustee shall deliver to the purchaser at such sale a deed conveying the Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary may purchase at the sale;

Upon sale of the Property at any judicial or nonjudicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Beneficiary in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Property prior to resale, costs of resale (e.g. commissions, attorneys' fees, and taxes), costs of any Hazardous Materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Beneficiary; (iv) declining trends in real property values generally and with respect to properties similar to the Property; (v) anticipated discounts upon resale of the Property as a distressed or foreclosed property; (vi) the fact of additional collateral (if any), for the Secured Obligations; and (vii) such other factors or matters that Beneficiary (in its sole and absolute discretion) deems appropriate. In regard to the above, Trustor acknowledges and agrees that: (viii) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (ix) this paragraph does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (x) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Trustor and Beneficiary; and (xi) Beneficiary's credit bid may be (at Beneficiary's sole and absolute discretion) higher or lower than any appraised value of the Property;

e. Multiple Foreclosures. To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken nonjudicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Trustee and Beneficiary or either of them determine in their sole discretion;

f. Rights to Collateral. To exercise all rights Trustee or Beneficiary may have with respect to the Collateral under this Deed of Trust, the UCC or otherwise at law; and

g. Other Rights. To exercise such other rights as Trustee or Beneficiary may have at law or in equity or pursuant to the terms and conditions of this Deed of Trust or any of the other Loan Documents.

In connection with any sale or sales hereunder, Beneficiary may elect to treat any of the Property which consists of a right in action or which is property that can be severed from the Property (including, without limitation, any improvements forming a part thereof) without causing structural damage thereto as if the same were personal property or a fixture, as the case may be, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Property. Any sale of Collateral hereunder shall be conducted in any manner permitted by the UCC.

7.4 APPLICATION OF FORECLOSURE SALE PROCEEDS. If any foreclosure sale is effected, Trustee shall apply the proceeds of such sale in the following

order of priority: First, to the costs, fees and expenses of exercising the power of sale and of sale, including, without limitation, the payment of the Trustee's fees and attorneys' fees permitted pursuant to subdivision (b) of California Civil Code Section 2924d and subdivision (b) of Section 2924k; Second, to the payment of the Secured Obligations which are secured by this Deed of Trust, in such order as Beneficiary shall determine in its sole discretion; Third, to satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority; and Fourth, to the Trustor or the Trustor's successor in interest, or in the event the Property has been sold or transferred to another, to the vested owner of record at the time of the Trustee's sale.

7.5 WAIVER OF MARSHALING RIGHTS. Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Property, hereby waives all rights to have the Property and/or any other property, including, without limitation, the Collateral, which is now or later may be security for any Secured Obligation, marshaled upon any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Secured Obligations.

7.6 NO CURE OR WAIVER. Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid or performed and Trustor has cured all other Defaults hereunder), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, lease or option or a subordination of the lien of this Deed of Trust.

7.7 PAYMENT OF COSTS, EXPENSES AND ATTORNEYS' FEES. Trustor agrees to pay to Beneficiary immediately and upon demand all costs and expenses incurred by Trustee and Beneficiary in the enforcement of the terms and conditions of this Deed of Trust (including, without limitation, statutory trustee's fees, court costs and attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the rate of interest applicable to the principal balance of the Note as specified therein.

7.8 POWER TO FILE NOTICES AND CURE DEFAULTS. Trustor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, to perform any obligation of Trustor hereunder upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute a Default, provided, however, that: (i) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (ii) Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act under this Section.

7.9 REMEDIES CUMULATIVE. All rights and remedies of Beneficiary and Trustee provided hereunder are cumulative and are in addition to all rights and remedies provided by applicable law (including specifically that of foreclosure of this instrument as though it were a mortgage) or in any other agreements between Trustor and Beneficiary. Beneficiary may enforce any one or more remedies or rights hereunder successively or concurrently.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 ADDITIONAL PROVISIONS. The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and to the Property and such further rights and agreements are incorporated herein by this reference. THE OBLIGATIONS AND LIABILITIES OF TRUSTOR UNDER THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS ARE SUBJECT TO THE PROVISIONS OF THE SECTION IN THE NOTE ENTITLED "BORROWER'S LIABILITY."

8.2 NON-WAIVER. By accepting payment of any amount secured hereby after its due date or late performance of any other Secured Obligation, Beneficiary shall not waive its right against any person obligated directly or indirectly hereunder or on any Secured Obligation, either to require prompt payment or performance when due of all other sums and obligations

so secured or to declare default for failure to make such prompt payment or performance. No exercise of any right or remedy by Beneficiary or Trustee hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law. No failure by Beneficiary or Trustee to exercise any right or remedy hereunder arising upon any Default shall be construed to prejudice Beneficiary's or Trustee's rights or remedies upon the occurrence of any other or subsequent Default. No delay by Beneficiary or Trustee in exercising any such right or remedy shall be construed to preclude Beneficiary or Trustee from the exercise thereof at any time while that Default is continuing. No notice to nor demand on Trustor shall of itself entitle Trustor to any other or further notice or demand in similar or other circumstances.

8.3 CONSENTS AND APPROVALS. Wherever Beneficiary's consent, approval, acceptance or satisfaction is required under any provision of this Deed of Trust or any of the other Loan Documents, such consent, approval, acceptance or satisfaction shall not be unreasonably withheld, conditioned or delayed by Beneficiary unless such provision expressly so provides.

8.4 PERMITTED CONTESTS. After prior written notice to Beneficiary, Trustor may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, levy, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Trustor or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute a Default; provided that (a) Trustor pursues the contest diligently, in a manner which Beneficiary determines is not prejudicial to Beneficiary, and does not impair the lien of this Deed of Trust; (b) the Property, or any part hereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (c) in the case of the contest of any law or other legal requirement, Beneficiary shall not be in any danger of any civil or criminal liability; and (d) if required by Beneficiary, Trustor deposits with Beneficiary any funds or other forms of assurance (including a bond or letter of credit) satisfactory to Beneficiary to protect Beneficiary from the consequences of the contest being unsuccessful. Trustor's right to contest pursuant to the terms of this provision shall in no way relieve Trustor or Borrower of its obligations under the Loan or to make payments to Beneficiary as and when due.

8.5 FURTHER ASSURANCES. Trustor shall, upon demand by Beneficiary or Trustee, execute, acknowledge (if appropriate) and deliver any and all documents and instruments and do or cause to be done all further acts reasonably necessary or appropriate to effectuate the provisions hereof.

8.6 ATTORNEYS' FEES. If any legal action, suit or proceeding is commenced between Trustor and Beneficiary regarding their respective rights and obligations under this Deed of Trust or any of the other Loan Documents, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, reasonable attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein the term "prevailing party" shall mean the party which obtains the principal relief it has sought, whether by compromise settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

8.7 TRUSTOR AND BENEFICIARY DEFINED. The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property, and the term "Beneficiary" includes the original Beneficiary and any future owner or holder, including assignees, pledges and participants, of the Note or any interest therein.

8.8 DISCLAIMERS.

a. Relationship. The relationship of Trustor and Beneficiary under this Deed of Trust and the other Loan Documents is, and shall at all times remain, solely that of borrower and lender; and Beneficiary neither undertakes nor assumes any responsibility or duty to Trustor or to any third party with respect to the Property. Notwithstanding any other provisions of this Deed of Trust and the other Loan Documents: (i) Beneficiary is not, and shall not be construed to be, a partner, joint venturer, member, alter ego, manager, controlling person or other business associate or participant of any kind of Trustor, and Beneficiary does not intend to ever assume such status; (ii) Beneficiary's activities in connection with this Deed of Trust and the other Loan Documents shall not be "outside the scope of activities of a lender of money" within the meaning of California Civil Code Section 3434, as amended or recodified from time to time, and Beneficiary does not intend to ever assume any

responsibility to any person for the quality, suitability, safety or condition of the Property; and (iii) Beneficiary shall not be deemed responsible for or a participant in any acts, omissions or decisions of Trustor.

b. No Liability. Beneficiary shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any construction on, or occupancy or use of, the Property, whether caused by or arising from: (i) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any on-site or off-site improvement or other facility therein or thereon; (ii) any act or omission of Trustor or any of Trustor's agents, employees, independent contractors, licensees or invitees; (iii) any accident in or on the Property or any fire, flood or other casualty or hazard thereon; (iv) the failure of Trustor or any of Trustor's licensees, employees, invitees, agents, independent contractors or other representatives to maintain the Property in a safe condition; or (v) any nuisance made or suffered on any part of the Property.

8.9 SEVERABILITY. If any term of this Deed of Trust, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

8.10 RELATIONSHIP OF ARTICLES. The rights, remedies and interests of Beneficiary under the deed of trust established by Article I and the security agreement established by Article IV are independent and cumulative, and there shall be no merger of any lien created by the deed of trust with any security interest created by the security agreement. Beneficiary may elect to exercise or enforce any of its rights, remedies or interests under either or both the deed of trust or the security agreement as Beneficiary may from time to time deem appropriate. The absolute assignment of rents and leases established by Article III is similarly independent of and separate from the deed of trust and the security agreement.

8.11 MERGER. No merger shall occur as a result of Beneficiary's acquiring any other estate in, or any other lien on, the Property unless Beneficiary consents to a merger in writing.

8.12 OBLIGATIONS OF TRUSTOR, JOINT AND SEVERAL. If more than one person has executed this Deed of Trust as "Trustor", the obligations of all such persons hereunder shall be joint and several.

8.13 SEPARATE AND COMMUNITY PROPERTY. Any married person who executes this Deed of Trust as a Trustor agrees that any money judgment which Beneficiary or Trustee obtains pursuant to the terms of this Deed of Trust or any other obligation of that married person secured by this Deed of Trust may be collected by execution upon any separate property or community property of that person.

8.14 INTEGRATION; INTERPRETATION. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall not be modified except by written instrument executed by all parties. Any reference in any of the Loan Documents to the Property or Collateral shall include all or any part of the Property or Collateral. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Beneficiary in writing. When the identity of the parties or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

8.15 CAPITALIZED TERMS. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Note.

8.16 SUCCESSORS IN INTEREST. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. The foregoing sentence shall not be construed to permit Trustor to assign the Loan except as otherwise permitted under the Note or the other Loan Documents.

8.17 GOVERNING LAW. This Deed of Trust was accepted by Beneficiary in the state of California and the proceeds of the Note secured hereby were disbursed from the state of California, which state the parties agree has

a substantial relationship to the parties and to the underlying transaction embodied hereby. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Deed of Trust, the Note and the other Loan Documents and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the state of California applicable to contracts made and performed in such state and any applicable law of the United States of America, except that at all times the provisions for enforcement of Beneficiary's STATUTORY POWER OF SALE granted hereunder and the creation, perfection and enforcement of the security interests created pursuant thereto and pursuant to the other Loan Documents shall be governed by and construed according to the law of the state where the Property is located. Except as provided in the immediately preceding sentence, Trustor hereby unconditionally and irrevocably waives, to the fullest extent permitted by law, any claim to assert that the law of any jurisdiction other than California governs this Deed of Trust, the Note and other Loan Documents.

8.18 CONSENT TO JURISDICTION. Trustor irrevocably submits to the jurisdiction of: (a) any state or federal court sitting in the state of California over any suit, action, or proceeding, brought by Trustor against Beneficiary, arising out of or relating to this Deed of Trust, the Note or the Loan; (b) any state or federal court sitting in the state where the Property is located or the state in which Trustor's principal place of business is located over any suit, action or proceeding, brought by Beneficiary against Trustor, arising out of or relating to this Deed of Trust, the Note or the Loan; and (c) any state court sitting in the county of the state where the Property is located over any suit, action, or proceeding, brought by Beneficiary to exercise its STATUTORY POWER OF SALE under this Deed of Trust or any action brought by Beneficiary to enforce its rights with respect to the Collateral. Trustor irrevocably waives, to the fullest extent permitted by law, any objection that Trustor may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

8.19 EXHIBITS. Exhibit A is incorporated into this Deed of Trust by this reference.

8.20 ADDRESSES; REQUEST FOR NOTICE. All notices and other communications that are required or permitted to be given to a party under this Deed of Trust shall be in writing, refer to the Loan number, and shall be sent to such party, either by personal delivery, by overnight delivery service, by certified first class mail, return receipt requested, or by facsimile transmission to the addressee or facsimile number below. All such notices and communications shall be effective upon receipt of such delivery or facsimile transmission. The addresses of the parties are set forth on page 1 of this Deed of Trust and the facsimile numbers for the parties are as follows:

Beneficiary:

WELLS FARGO BANK, N.A.
FAX No.: (925) 691-5947
Trustee:

AMERICAN SECURITIES COMPANY
FAX No.: (925) 691-5947

Trustor:

FREMONT HOLDING L.L.C.
FAX No.: (510) 574-1500

Trustor's principal place of business is at the address set forth on page 1 of this Deed of Trust.

Any Trustor whose address is set forth on page 1 of this Deed of Trust hereby requests that a copy of notice of default and notice of sale be delivered to it at that address. Failure to insert an address shall constitute a designation of Trustor's last known address as the address for such notice. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving 30 days notice to the other parties in the manner set forth above.

8.21 COUNTERPARTS. This Deed of Trust may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed

an original and all of which taken together, will be deemed to be one and the same instrument.

8.22 WAIVER OF JURY TRIAL. BENEFICIARY AND TRUSTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF BENEFICIARY OR TRUSTOR. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BENEFICIARY TO ENTER INTO THIS DEED OF TRUST.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year set forth above.

FREMONT HOLDING L.L.C.,
a Delaware limited liability company

By: Fremont Management, Inc.,
a Delaware corporation,
Manager

By: _____

Its: _____

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

Loan No. 31-0900011A
EXHIBIT A
Description Of Land

Exhibit A to DEED OF TRUST AND ABSOLUTE ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT (AND FIXTURE FILING) ("Deed of Trust") among FREMONT HOLDING L.L.C., a Delaware limited liability company, as "Trustor", AMERICAN SECURITIES COMPANY, as "Trustee", and WELLS FARGO BANK, NATIONAL ASSOCIATION, as "Beneficiary".

Description of Land. The Land referred to in this Deed of Trust is situated in the county of Alameda, state of California and is described as follows:

PARCEL 16, PARCEL MAP 4483, FILED MARCH 28, 1985 IN BOOK 152, PAGES 78 THROUGH 82 OF MAPS, ALAMEDA COUNTY RECORDS.

APN: 543-0439-108
543-0439-109

Recording Requested by
and when recorded return to:

WELLS FARGO BANK, N.A.
Commercial Mortgage Servicing
417 Montgomery Street, 5th Floor
San Francisco, California 94104

Attention: Jean Hembree
Loan No. : 31-0900011A

D E E D O F T R U S T
and
A B S O L U T E A S S I G N M E N T O F R E N T S A N D L E A S E S
and
S E C U R I T Y A G R E E M E N T (A N D F I X T U R E F I L I N G)

The parties to this DEED OF TRUST AND ABSOLUTE ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT (AND FIXTURE FILING) ("Deed of Trust"), dated as of September 9, 1999 are FREMONT HOLDING L.L.C., a Delaware limited liability company ("Trustor"), with a mailing address at 34801 Campus Drive, Fremont, CA 94555, AMERICAN SECURITIES COMPANY, a California corporation ("Trustee"), with a mailing address at 1320 Willow Pass Road, Suite 205, Concord, California 94520, and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Beneficiary"), with a mailing address at 1320 Willow Pass Road, Suite 205, Concord, California 94520.

R E C I T A L S

A. FREMONT HOLDING L.L.C., a Delaware limited liability company ("Borrower") proposes to borrow from Beneficiary, and Beneficiary proposes to lend to Borrower the principal sum of TEN MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100THS DOLLARS ($10,150,000.00) ("Loan"). The Loan is evidenced by a promissory note ("Note") executed by Borrower, dated the date of this Deed of Trust, payable to the order of Beneficiary in the principal amount of the Loan.

B. The loan documents include this Deed of Trust, the Note and the other documents described in the Note as Loan Documents ("Loan Documents").

ARTICLE 1. DEED OF TRUST

1.1 GRANT. For the purposes of and upon the terms and conditions of this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may hereafter acquire in, to, under or derived from any or all of the following:

a. That real property ("Land") located in Fremont, county of Alameda, state of California, and more particularly described on Exhibit A attached hereto;

b. All appurtenances, easements, rights of way, water and water rights, pumps, pipes, flumes and ditches and ditch rights, water stock, ditch and/or reservoir stock or interests, royalties, development rights and credits, air rights, minerals, oil rights, and gas rights, now or later used or useful in connection with, appurtenant to or related to the Land;

c. All buildings, structures, facilities, other improvements and fixtures now or hereafter located on the Land;

d. All apparatus, equipment, machinery and appliances and all accessions thereto and renewals and replacements thereof and substitutions therefor used in the operation or occupancy of the Land, it being intended by the parties that all such items shall be conclusively considered to be a part of the Land, whether or not attached or affixed to the Land;

e. All land lying in the right-of-way of any street, road, avenue, alley or right-of-way opened, proposed or vacated, and all sidewalks,

strips and gores of land adjacent to or used in connection with the Land;

f. All additions and accretions to the property described above;

g. All licenses, authorizations, certificates, variances, consents, approvals and other permits now or hereafter pertaining to the Land and all estate, right, title and interest of Trustor in, to, under or derived from all tradenames or business names relating to the Land or the present or future development, construction, operation or use of the Land; and

h. All proceeds of any of the foregoing.

All of the property described above is hereinafter collectively defined as the "Property". The listing of specific rights or property shall not be interpreted as a limitation of general terms.

ARTICLE 2. OBLIGATIONS SECURED

2.1 OBLIGATIONS SECURED. Trustor makes the foregoing grant and assignment for the purpose of securing the following obligations ("Secured Obligations"):

a. Full and punctual payment to Beneficiary of all sums at any time owing under the Note;

b. Payment and performance of all covenants and obligations of Trustor under this Deed of Trust including, without limitation, indemnification obligations and advances made to protect the Property;

c. Payment and performance of all additional covenants and obligations of Borrower and Trustor under the Loan Documents;

d. Payment and performance of all covenants and obligations, if any, which any rider attached as an exhibit to this Deed of Trust recites are secured hereby;

e. Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when the obligation is evidenced by a writing which recites that it is secured by this Deed of Trust;

f. All interest and charges on all obligations secured hereby including, without limitation, prepayment charges, late charges and loan fees; and

g. All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; and (ii) modifications, extensions or renewals at a different rate of interest whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 OBLIGATIONS. The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges, late charges and loan fees at any time accruing or assessed on any of the Secured Obligations.

2.3 INCORPORATION. All terms and conditions of the documents which evidence any of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice that the rate of interest on one or more Secured Obligation may vary from time to time.

ARTICLE 3. ABSOLUTE ASSIGNMENT OF RENTS AND LEASES

3.1 ASSIGNMENT. Trustor irrevocably assigns to Beneficiary all of Trustor's right, title and interest in, to and under: (a) all present and future leases of the Property or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Property or any portion thereof, and all other agreements of any kind

relating to the use or occupancy of the Property or any portion thereof, whether such leases, licenses and agreements are now existing or entered into after the date hereof ("Leases"); and (b) the rents, issues, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases ("Payments"). The term "Leases" shall also include all guarantees of and security for the tenants' performance thereunder, and all amendments, extensions, renewals or modifications thereto which are permitted hereunder. This is a present and absolute assignment, not an assignment for security purposes only, and Beneficiary's right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Property.

3.2 GRANT OF LICENSE. Beneficiary confers upon Trustor a revocable license ("License") to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined). Upon a Default, the License shall be automatically revoked and Beneficiary may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All Payments thereafter collected by Trustor shall be held by Trustor as trustee under a constructive trust for the benefit of Beneficiary. Trustor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall have no right or duty to inquire as to whether any Default has actually occurred or is then existing. Trustor hereby relieves the tenants from any liability to Trustor by reason of relying upon and complying with any such notice or demand by Beneficiary. Beneficiary may apply, in its sole discretion, any Payments so collected by Beneficiary against any Secured Obligation or any other obligation of Borrower, Trustor or any other person or entity, under any document or instrument related to or executed in connection with the Loan Documents, whether existing on the date hereof or hereafter arising. Collection of any Payments by Beneficiary shall not cure or waive any Default or notice of Default or invalidate any acts done pursuant to such notice.

3.3 EFFECT OF ASSIGNMENT. The foregoing irrevocable assignment shall not cause Beneficiary to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; (c) responsible or liable for any waste committed on the Property by the tenants under any of the Leases or by any other parties; for any dangerous or defective condition of the Property; or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee, invitee or other person; or (d) responsible for or impose upon Beneficiary any duty to produce rents or profits. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (e) the exercise or failure to exercise any of the rights, remedies or powers granted to Beneficiary hereunder; or (f) the failure or refusal of Beneficiary to perform or discharge any obligation, duty or liability of Trustor arising under the Leases.

3.4 COVENANTS.

a. All Leases. Trustor shall, at Trustor's sole cost and expense:

(i) perform all obligations of the landlord under the Leases and use reasonable efforts to enforce performance by the tenants of all obligations of the tenants under the Leases;

(ii) use reasonable efforts to keep the Property leased at all times to tenants which Trustor reasonably and in good faith believes are creditworthy at rents not less than the fair market rental value (including, but not limited to, free or discounted rents to the extent the market so requires);

(iii) promptly upon Beneficiary's request, deliver to Beneficiary a copy of each requested Lease and all amendments thereto and waivers thereof; and

(iv) promptly upon Beneficiary's request, execute and record any additional assignments of landlord's interest under any Lease to Beneficiary and specific subordinations of any Lease to this Deed of Trust, in form and substance satisfactory to Beneficiary.

Unless consented to in writing by Beneficiary or otherwise permitted

under any other provision of the Loan Documents, Trustor shall not:

(v) grant any tenant under any Lease any option, right of first refusal or other right to purchase all or any portion of the Property under any circumstances;

(vi) grant any tenant under any Lease any right to prepay rent more than 1 month in advance;

(vii) except upon Beneficiary's request, execute any assignment of landlord's interest in any Lease; or

(viii) collect rent or other sums due under any Lease in advance, other than to collect rent 1 month in advance of the time when it becomes due.

Any such attempted action in violation of the provisions of this Section shall be null and void.

Beneficiary's failure to deny any written request by Trustor for consent under the foregoing provisions of this Section within 5 Business Days after Beneficiary's receipt of such request (and all documents and information reasonably related thereto) shall be deemed to constitute Beneficiary's consent to such request.

Trustor shall deposit with Beneficiary any sums received by Trustor in consideration of any termination, modification or amendment of any Lease or any release or discharge of any tenant under any Lease from any obligation thereunder and any such sums received by Trustor shall be held in trust by Trustor for such purpose. Notwithstanding the foregoing, so long as no Default exists, the portion of any such sum received by Trustor with respect to any Lease which is less than $50,000 shall be payable to Trustor. All such sums received by Beneficiary with respect to any Lease shall be deemed "Impounds" (as defined in Section 6.12b) and shall be deposited by Beneficiary into a pledged account in accordance with Section 6.12b. If no Default exists, Beneficiary shall release such Impounds to Trustor from time to time as necessary to pay or reimburse Trustor for such tenant improvements, brokerage commissions and other leasing costs as may be required to re-tenant the affected space; provided, however, Beneficiary shall have received and approved each of the following for each tenant for which such costs were incurred; (1) Trustor's written request for such release, including the name of the tenant, the location and net rentable area of the space and a description and cost breakdown of the tenant improvements or other leasing costs covered by the request; (2) Trustor's certification that any tenant improvements have been completed lien-free and in a workmanlike manner; (3) a fully executed Lease, or extension or renewal of the current Lease; (4) an estoppel certificate executed by the tenant including its acknowledgement that all tenant improvements have been satisfactorily completed; and (5) such other information with respect to such costs as Beneficiary may require. Following the re-tenanting of all affected space (including, without limitation, the completion of all tenant improvements), and provided no Default exists, Beneficiary shall release any remaining such Impounds relating to the affected space to Trustor. Trustor shall construct all tenant improvements in a workmanlike manner and in accordance with all applicable laws, ordinances, rules and regulations.

b. Major Leases. Trustor shall, at Trustor's sole cost and expense, give Beneficiary prompt written notice of any material default by landlord or tenant under any Major Lease (as defined below). Unless consented to in writing by Beneficiary or otherwise permitted under any other provision of the Loan Documents, Trustor shall not:

(i) enter into any Major Lease which (aa) is not on fair market terms (which terms may include free or discounted rent to the extent the market so requires); (bb) does not contain a provision requiring the tenant to execute and deliver to the landlord an estoppel certificate in form and substance satisfactory to the landlord promptly upon the landlord's request; or (cc) allows the tenant to assign or sublet the premises without the landlord's consent;

(ii) reduce any rent or other sums due from the tenant under any Major Lease;

(iii) terminate or materially modify or amend any Major Lease; or

(iv) release or discharge the tenant or any guarantor under any Major Lease from any material obligation thereunder.

Any such attempted action in violation of the provisions of this Section shall be null and void.

"Major Lease", as used herein, shall mean any Lease, which is, at any time: (1) a Lease of more than 20% of the total rentable area of the Property, as reasonably determined by Beneficiary; or (2) a Lease which generates a gross base monthly rent exceeding 20% of the total gross base monthly rent generated by all Leases (excluding all Leases under which the tenant is then in default), as reasonably determined by Beneficiary. Trustor's obligations with respect to Major Leases shall be governed by the provisions of Section 3.4a as well as by the provisions of this Section. Beneficiary's failure to deny any written request by Trustor for consent under this Section within 5 Business Days after Beneficiary's receipt of such request (and all documents and information reasonably related thereto) such be deemed to constitute Beneficiary's consent to such request.

3.5 ESTOPPEL CERTIFICATES. Within 30 days after request by Beneficiary, Trustor shall deliver to Beneficiary and to any party designated by Beneficiary, estoppel certificates relating to the Leases executed by Trustor and by each of the tenants, in form and substance acceptable to Beneficiary; provided, however, if any tenant shall fail or refuse to so execute and deliver any such estoppel certificate upon request, Trustor shall use reasonable efforts to cause such tenant to execute and deliver such estoppel certificate but such tenant's continued failure or refusal to do so, despite Trustor's reasonable efforts, shall not constitute a default by Trustor under this Section.

3.6 RIGHT OF SUBORDINATION. Beneficiary may at any time and from time to time by specific written instrument intended for the purpose unilaterally subordinate the lien of this Deed of Trust to any Lease, without joinder or consent of, or notice to, Trustor, any tenant or any other person. Notice is hereby given to each tenant under a Lease of such right to subordinate. No subordination referred to in this Section shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lienholder. Nothing herein shall be construed as subordinating this Deed of Trust to any Lease.

ARTICLE 4. SECURITY AGREEMENT AND FIXTURE FILING

4.1 SECURITY INTEREST. Trustor grants and assigns to Beneficiary a security interest to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Trustor now or at any time hereafter has any interest ("Collateral"):

All goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property, wherever situated, which are or are to be incorporated into, used in connection with or appropriated for use on the Property; all rents, issues, deposits and profits of the Property (to the extent, if any, they are not subject to the Absolute Assignment of Rents and Leases); all inventory, accounts, cash receipts, deposit accounts, impounds, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes, drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the Property or any business now or hereafter conducted thereon by Trustor; all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Property; all deposits or other security now or hereafter made with or given to utility companies by Trustor with respect to the Property; all advance payments of insurance premiums made by Trustor with respect to the Property; all plans, drawings and specifications relating to the Property; all loan funds held by Beneficiary, whether or not disbursed; all funds deposited with Beneficiary pursuant to any Loan Document, including, without limitation, all "Restoration Funds" as defined herein; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Property or any portion thereof, including, without limitation, all "Impounds" as defined herein; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing, and all books, records and files relating to any of the foregoing.

As to all of the above described personal property which is or which hereafter becomes a "fixture" under applicable law, this Deed of Trust constitutes a fixture filing under the California Uniform Commercial Code,

as amended or recodified from time to time ("UCC").

4.2 RIGHTS OF BENEFICIARY. In addition to Beneficiary's rights as a "Secured Party" under the UCC, Beneficiary may, but shall not be obligated to, at any time without notice and at the expense of Trustor: (a) give notice to any person of Beneficiary's rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Beneficiary therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Trustor under or from the Collateral. Notwithstanding the above, in no event shall Beneficiary be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Beneficiary shall make an express written election of said remedy under the UCC or other applicable law.

4.3 ADDITIONAL RIGHTS OF BENEFICIARY UPON DEFAULT. Upon the occurrence of a Default hereunder, then in addition to all of Beneficiary's rights as a "Secured Party" under the UCC or otherwise at law:

a. Sale of Collateral. Beneficiary may: (i) upon written notice, require Trustor to assemble any or all of the Collateral and make it available to Beneficiary at a place designated by Beneficiary; (ii) without prior notice, enter upon the Property or other place where any of the Collateral may be located and take possession of, collect, sell and dispose of any or all of the Collateral, and store the same at locations acceptable to Beneficiary at Trustor's expense; or (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become purchaser at any such sales; and

b. Other Rights. Beneficiary may, for the account of Trustor and at Trustor's expense: (i) operate, use, consume, sell or dispose of the Collateral as Beneficiary deems appropriate for the purpose of performing any or all of the Secured Obligations; (ii) enter into any agreement, compromise or settlement including insurance claims, which Beneficiary may deem desirable or proper with respect to any of the Collateral; and (iii) endorse and deliver evidences of title for, and receive, enforce and collect by legal action or otherwise, all indebtedness and obligations now or hereafter owing to Trustor in connection with or on account of any or all of the Collateral.

Trustor acknowledges and agrees that a disposition of the Collateral in accordance with Beneficiary's rights and remedies as heretofore provided is a disposition thereof in a commercially reasonable manner and that 5 days prior notice of such disposition is commercially reasonable notice. Trustor further agrees that any sale or other disposition of all or any portion of the Collateral may be applied by Beneficiary first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and disbursements, and then to the payment of the Secured Obligations.

4.4 POWER OF ATTORNEY. Trustor hereby irrevocably appoints Beneficiary as Trustor's attorney-in-fact (such agency being coupled with an interest), and as such attorney-in-fact, Beneficiary may, without the obligation to do so, in Beneficiary's name or in the name of Trustor, prepare, execute, file and record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve any of Beneficiary's security interests and rights in or to any of the Collateral, and upon a Default hereunder, take any other action required of Trustor; provided, however, that Beneficiary as such attorney-in-fact shall be accountable only for such funds as are actually received by Beneficiary.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES

5.1 REPRESENTATIONS AND WARRANTIES. Trustor represents and warrants to Beneficiary that, to Trustor's current actual knowledge after reasonable investigation and inquiry, the following statements are true and correct as of the Effective Date:

a. Legal Status. Trustor and Borrower are duly organized and existing and in good standing under the laws of the state(s) in which Trustor and Borrower are organized. Trustor and Borrower are qualified or licensed to do business in all jurisdictions in which such qualification or licensing is required.

b. Permits. Trustor and Borrower possess all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, necessary to enable Trustor and Borrower to

conduct the business(es) in which Trustor and Borrower are now engaged in compliance with applicable law.

c. Authorization and Validity. The execution and delivery of the Loan Documents have been duly authorized and the Loan Documents constitute valid and binding obligations of Trustor, Borrower or the party which executed the same, enforceable in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights, or by the application of rules of equity.

d. Violations. The execution, delivery and performance by Trustor and Borrower of each of the Loan Documents do not violate any provision of any law or regulation, or result in any breach or default under any contract, obligation, indenture or other instrument to which Trustor or Borrower is a party or by which Trustor or Borrower is bound.

e. Litigation. There are no pending or threatened actions, claims, investigations, suits or proceedings before any governmental authority, court or administrative agency which may adversely affect the financial condition or operations of Trustor or Borrower other than those previously disclosed in writing by Trustor or Borrower to Beneficiary.

f. Financial Statements. The financial statements of Trustor and Borrower, of each general partner (if Trustor or Borrower is a partnership), of each member (if Trustor or Borrower is a limited liability company) and of each guarantor, if any, previously delivered by Trustor or Borrower to Beneficiary: (i) are materially complete and correct; (ii) present fairly the financial condition of such party; and (iii) have been prepared in accordance with the same accounting standard used by Trustor or Borrower to prepare the financial statements delivered to and approved by Beneficiary in connection with the making of the Loan, or other accounting standards approved by Beneficiary. Since the date of such financial statements, there has been no material adverse change in such financial condition, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered except as previously disclosed in writing by Trustor or Borrower to Beneficiary and approved in writing by Beneficiary.

g. Reports. All reports, documents, instruments and information delivered to Beneficiary in connection with the Loan: (i) are correct and sufficiently complete to give Beneficiary accurate knowledge of their subject matter; and (ii) do not contain any misrepresentation of a material fact or omission of a material fact which omission makes the provided information misleading.

h. Income Taxes. There are no pending assessments or adjustments of Trustor's or Borrower's income tax payable with respect to any year.

i. Subordination. There is no agreement or instrument to which Borrower is a party or by which Borrower is bound that would require the subordination in right of payment of any of Borrower's obligations under the Note to an obligation owed to another party.

j. Title. Trustor lawfully holds and possesses fee simple title to the Property, without limitation on the right to encumber same. This Deed of Trust is a first lien on the Property prior and superior to all other liens and encumbrances on the Property except: (i) liens for real estate taxes and assessments not yet due and payable; (ii) senior exceptions previously approved by Beneficiary and shown in the title insurance policy insuring the lien of this Deed of Trust; and (iii) other matters, if any, previously disclosed to Beneficiary by Trustor in a writing specifically referring to this representation and warranty.

k. Mechanics' Liens. There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are outstanding that under law could give rise to any such liens) affecting the Property which are or may be prior to or equal to the lien of this Deed of Trust.

l. Encroachments. Except as shown in the survey, if any, previously delivered to Beneficiary, none of the buildings or other improvements which were included for the purpose of determining the appraised value of the Property lies outside of the boundaries or building restriction lines of the Property and no buildings or other improvements located on adjoining properties encroach upon the

Property.

m. Leases. All existing Leases are in full force and effect and are enforceable in accordance with their respective terms. No material breach or default by any party, or event which would constitute a material breach or default by any party after notice or the passage of time, or both, exists under any existing Lease. None of the landlord's interests under any of the Leases, including, but not limited to, rents, additional rents, charges, issues or profits, has been transferred or assigned. No rent or other payment under any existing Lease has been paid by any tenant for more than 1 month in advance.

n. Collateral. Trustor has good title to the existing Collateral, free and clear of all liens and encumbrances except those, if any, previously disclosed to Beneficiary by Trustor in writing specifically referring to this representation and warranty. Trustor's principal place of business is located at the address shown in this Deed of Trust.

o. Condition of Property. Except as shown in the property condition survey or other engineering reports, if any, previously delivered to or obtained by Beneficiary, the Property is in good condition and repair and is free from any damage that would materially and adversely affect the value of the Property as security for the Loan or the intended use of the Property.

p. Hazardous Materials. Except as shown in the environmental assessment report(s), if any, previously delivered to or obtained by Beneficiary, the Property is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of Hazardous Materials (as hereinafter defined) except as otherwise previously disclosed in writing by Trustor to Beneficiary.

q. Hazardous Materials Laws. The Property complies with all Hazardous Materials Laws (as hereinafter defined).

r. Hazardous Materials Claims. There are no pending or threatened Hazardous Materials Claims (as hereinafter defined).

s. Wetlands. No part of the Property consists of or is classified as wetlands, tidelands or swamp and overflow lands.

t. Compliance With Laws. All federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990, as amended from time to time (42 U. S. C. Section 12101 et seq.) have been satisfied or complied with. Trustor is in possession of all certificates of occupancy and all other licenses, permits and other authorizations required by applicable law for the existing use of the Property. All such certificates of occupancy and other licenses, permits and authorizations are valid and in full force and effect.

u. Property Taxes and Other Liabilities. All taxes, governmental assessments, insurance premiums, water, sewer and municipal charges, and ground rents, if any, which previously became due and owing in respect of the Property have been paid.

v. Condemnation. There is no proceeding pending or threatened for the total or partial condemnation of the Property.

w. Homestead. There is no homestead or other exemption available to Trustor which would materially interfere with the right to sell the Property at a trustee's sale or the right to foreclose this Deed of Trust.

x. Solvency. None of the transactions contemplated by the Loan will be or have been made with an actual intent to hinder, delay or defraud any present or future creditors of Trustor, and Trustor, on the Effective Date, will have received fair and reasonably equivalent value in good faith for the grant of the liens or security interests effected by the Loan Documents. On the Effective Date, Trustor will be solvent and will not be rendered insolvent by the transactions contemplated by the Loan Documents. Trustor is able to pay its debts as they become due.

y. Separate Tax Parcel(s). The Property is assessed for the real estate tax purposes as one or more wholly independent tax parcels, separate from any other real property, and no other real property is

assessed and taxed together with the Property or any portion thereof.

5.2 REPRESENTATIONS, WARRANTIES AND COVENANTS REGARDING STATUS. Trustor and FREMONT MANAGEMENT, INC., a Delaware corporation hereby represent, warrant and covenant to Beneficiary as follows:

a. each such entity was organized solely for the purpose of (i) owning the Property; (ii) acting as a general partner of a partnership which owns the Property; or (iii) acting as a managing member of a limited liability company which owns the Property;

b. each such entity has not and will not engage in any business unrelated to (i) the ownership of the Property; (ii) acting as general partner of a partnership which owns the Property; or (iii) acting as a managing member of a limited liability company which owns the Property;

c. each such entity has not and will not have any assets other than the Property (and personal property incidental to the ownership and operation of the Property) or its partnership or membership interest in the partnership or limited liability company which owns the Property;

d. each such entity has not and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, asset sale, transfer of partnership or membership interest, or amendment of its articles of incorporation, articles of organization, certificate of formation, partnership agreement or operating agreement, as applicable;

e. if such entity is a partnership, all of its general partners are corporations that satisfy the requirements set forth in this Section 5.2;

f. if such entity is a limited liability company, it has at least one managing member that is a corporation that satisfies the requirements set forth in this Section 5.2;

g. each such entity, without the unanimous consent of all of its general partners, directors or members, as applicable, shall not file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or any other entity in which it has a direct or indirect legal or beneficial ownership interest;

h. each such entity has no indebtedness (and will have no indebtedness) other than (i) the Loan (to the extent it is liable under the terms of the Loan Documents); and (ii) unsecured trade debt which is not evidenced by a note and is incurred in the ordinary course of its business in connection with owning, operating and maintaining the Property (or its interest in Trustor, as applicable) and is paid within 30 days from the date incurred;

i. each such entity has not and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

j. each such entity has maintained and will maintain its accounts, books and records separate from any other person or entity;

k. each such entity has maintained and will maintain its books, records, resolutions and agreements as official records;

l. each such entity (i) has not and will not commingle its funds or assets with those of any other entity; and (ii) has held and will hold its assets in its own name;

m. each such entity has conducted and will conduct its business in its own name;

n. each such entity has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other person or entity;

o. each such entity has paid and will pay its own liabilities out of its own funds and assets;

p. each such entity has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

q. each such entity has not and will not assume or guarantee or

become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of any other entity except for liabilities permitted to be guaranteed by the Loan Documents;

r. each such entity has not and will not acquire obligations or securities of its partners, members or shareholders;

s. each such entity has allocated and will allocate fairly and reasonably any overhead for shared office space and uses separate stationery, invoices and checks;

t. each such entity has not and will not pledge its assets for the benefit of any other person or entity;

u. each such entity has held and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity;

v. each such entity has not made and will not make loans to any person or entity;

w. each such entity has not and will not identify its partners, members or shareholders, as applicable, or any affiliates of any of the foregoing, as a division or part of it;

x. each such entity has not entered into and will not enter into or be a party to, any transaction with its partners, members, shareholders, or any affiliates of any of the foregoing, except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

y. if such entity is a corporation, the directors of the corporation shall consider the interests of the creditors of the corporation in connection with all corporate action;

z. each such entity has paid and will pay the salaries of its own employees and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

aa. each such entity has maintained and will maintain adequate capital in light of its contemplated business operations;

bb. if such entity is a limited liability company (i) its articles of organization, certificate of formation and/or operating agreement, as applicable, provide that the vote of a majority-in-interest of the remaining members is sufficient to continue the life of the limited liability company in the event of a termination event, such as a bankruptcy of the managing member; and (ii) if the vote of a majority-in-interest of the remaining members is not obtained to continue the life of the limited liability company upon a termination event, its articles of organization, certificate of formation and/or operating agreement, as applicable, provide that the limited liability company may not liquidate its assets without the consent of the Beneficiary;

cc. if such entity is a partnership with more than one general partner, its partnership agreement requires the remaining partners to continue the partnership as long as one solvent general partner exists; and

dd. if such entity is a limited liability company, its operating agreement, if such entity is a partnership, its partnership agreement, and if such entity is a corporation, to the full extent permitted by applicable law, its articles of incorporation, contain the provisions set forth in this Section 5.2 and such entity shall conduct its business and operations in strict compliance with the terms contained therein.

ARTICLE 6. RIGHTS AND DUTIES OF THE PARTIES

6.1 MAINTENANCE AND PRESERVATION OF THE PROPERTY. Trustor shall: (a) keep the Property in good condition and repair; (b) complete or restore promptly and in workmanlike manner the Property or any part thereof which may be damaged or destroyed (unless, if and to the extent permitted under Section 6.11, Beneficiary elects to require that insurance proceeds be used to reduce the Secured Obligations and after such repayment the ratio

of Secured Obligations to the value of the Property, as reasonably determined by Beneficiary is the same as or lower than it was immediately before the loss or taking occurred); (c) comply and cause the Property to comply with (i) all laws, ordinances, regulations and standards, (ii) all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character and (iii) all requirements of insurance companies and any bureau or agency which establishes standards of insurability, which laws, covenants or requirements affect the Property and pertain to acts committed or conditions existing thereon, including, without limitation, any work of alteration, improvement or demolition as such laws, covenants or requirements mandate; (d) operate and manage the Property at all times in a professional manner and do all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value; (e) promptly after execution, deliver to Beneficiary a copy of any management agreement concerning the Property and all amendments thereto and waivers thereof; and (f) execute and acknowledge all further documents, instruments and other papers as Beneficiary or Trustee deems necessary or appropriate to preserve, continue, perfect and enjoy the benefits of this Deed of Trust and perform Trustor's obligations, including, without limitation, statements of the amount secured hereby then owing and statements of no offset. Trustor shall not: (g) remove or demolish all or any material part of the Property; (h) alter either (i) the exterior of the Property in a manner which materially and adversely affects the value of the Property or (ii) the roof or other structural elements of the Property in a manner which requires a building permit except for tenant improvements required under the Leases; (i) initiate or acquiesce in any change in any zoning or other land classification which affects the Property; (j) materially alter the type of occupancy or use of all or any part of the Property; or (k) commit or permit waste of the Property.

6.2 HAZARDOUS MATERIALS. Without limiting any other provision of this Deed of Trust, Trustor agrees as follows:

a. Prohibited Activities. Trustor shall not cause or permit the Property to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any oil or other petroleum products, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under the Hazardous Materials Laws (defined below) and/or other applicable environmental laws, ordinances or regulations ("Hazardous Materials").

The foregoing to the contrary notwithstanding, (i) Trustor may store, maintain and use on the Property janitorial and maintenance supplies, paint and other Hazardous Materials of a type and in a quantity readily available for purchase by the general public and normally stored, maintained and used by owners and managers of properties of a type similar to the Property; and (ii) tenants of the Property may store, maintain and use on the Property (and, if any tenant is a retail business, hold in inventory and sell in the ordinary course of such tenant's business) Hazardous Materials of a type and quantity readily available for purchase by the general public and normally stored, maintained and used (and, if tenant is a retail business, sold) by tenants in similar lines of business on properties similar to the Property; and (iii) tenants of the Property may store, maintain and use on the Property Hazardous Materials of types and quantities necessary or appropriate for carrying out their biotechnology business operations so long as all such storage, maintenance and use of Hazardous Material is carried on in compliance with all applicable Hazards Materials Laws.

b. Hazardous Materials Laws. Trustor shall comply and cause the Property to comply with all federal, state and local laws, ordinances and regulations relating to Hazardous Materials ("Hazardous Materials Laws"), including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health

Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; and all comparable state and local laws, laws of other jurisdictions or orders and regulations.

c. Notices. Trustor shall immediately notify Beneficiary in writing of: (i) the discovery of any Hazardous Materials on, under or about the Property (other than Hazardous Materials permitted under Section 6.2(a)); (ii) any knowledge by Trustor that the Property does not comply with any Hazardous Materials Laws; (iii) any claims or actions ("Hazardous Materials Claims") pending or threatened against Trustor or the Property by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws; and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to become contaminated with Hazardous Materials.

d. Remedial Action. In response to the presence of any Hazardous Materials on, under or about the Property, Trustor shall immediately take, at Trustor's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise in respect to any Hazardous Materials Claims.

e. Inspection By Beneficiary. Upon reasonable prior notice to Trustor, Beneficiary, its employees and agents, may from time to time (whether before or after the commencement of a nonjudicial or judicial foreclosure proceeding), enter and inspect the Property for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property.

f. Legal Effect of Section. Trustor and Beneficiary agree that: (i) this Hazardous Materials Section is intended as Beneficiary's written request for information (and Trustor's response) concerning the environmental condition of the real property security as required by California Code of Civil Procedure Section 726.5; and (ii) each representation and warranty and covenant in this Section (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by Beneficiary and Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

6.3 COMPLIANCE WITH LAWS. Trustor shall comply with all federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as amended from time to time. Trustor shall possess and maintain or cause Borrower to possess and maintain in full force and effect at all times (a) all certificates of occupancy and other licenses, permits and authorizations required by applicable law for the existing use of the Property and (b) all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, required by applicable law for Trustor and Borrower to conduct the business(es) in which Trustor and Borrower are now engaged.

6.4 LITIGATION. Trustor shall promptly notify Beneficiary in writing of any litigation pending or threatened against Trustor or Borrower claiming damages in excess of $50,000 and of all pending or threatened litigation against Trustor or Borrower if the aggregate damage claims against Trustor or Borrower exceed $100,000.

6.5 MERGER, CONSOLIDATION, TRANSFER OF ASSETS. Trustor shall not: (a) merge or consolidate with any other entity or permit Borrower to merge or consolidate with any other entity; (b) make any substantial change in the nature of Trustor's business or structure or permit Borrower to make any substantial change in the nature of Borrower's business or structure; (c) acquire all or substantially all of the assets of any other entity or permit Borrower to acquire all or substantially all of the assets of any other entity; or (d) sell, lease, assign, transfer or otherwise dispose of a material part of Trustor's assets except in the ordinary course of Trustor's business or permit Borrower to sell, lease, assign, transfer or otherwise dispose of a material part of Borrower's assets except in the ordinary course of Borrower's business.

6.6 ACCOUNTING RECORDS. Trustor shall maintain and cause Borrower to maintain adequate books and records in accordance with the same accounting standard used by Trustor or Borrower to prepare the financial statements delivered to and approved by Beneficiary in connection with the making of the Loan or other accounting standards approved by Beneficiary. Trustor

shall permit and shall cause Borrower to permit any representative of Beneficiary, at any reasonable time and from time to time, to inspect, audit and examine such books and records and make copies of same.

6.7 COSTS, EXPENSES AND ATTORNEYS' FEES. Trustor shall pay to Beneficiary the full amount of all costs and expenses, including, without limitation, reasonable attorneys' fees and expenses of Beneficiary's in-house or outside counsel, incurred by Beneficiary in connection with: (a) appraisals and inspections of the Property or Collateral required by Beneficiary as a result of (i) a Transfer or proposed Transfer (as defined below), or (ii) a Default; (b) appraisals and inspections of the Property or Collateral required by applicable law, including, without limitation, federal or state regulatory reporting requirements; and (c) any acts performed by Beneficiary at Trustor's request or wholly or partially for the benefit of Trustor (including, without limitation, the preparation or review of amendments, assumptions, waivers, releases, reconveyances, estoppel certificates or statements of amounts owing under any Secured Obligation). In connection with appraisals and inspections, Trustor specifically (but not by way of limitation) acknowledges that: (aa) a formal written appraisal of the Property by a state certified or licensed appraiser may be required by federal regulatory reporting requirements on an annual or more frequent basis; and (bb) Beneficiary may require inspection of the Property by an independent supervising architect, a cost engineering specialist, or both. Trustor shall pay all indebtedness arising under this Section immediately upon demand by Beneficiary together with interest thereon following notice of such indebtedness at the rate of interest then applicable to the principal balance of the Note as specified therein.

6.8 LIENS, ENCUMBRANCES AND CHARGES. Trustor shall immediately discharge by bonding or otherwise any lien, charge or other encumbrance which attaches to the Property in violation of Section 6.15. Subject to Trustor's right to contest such matters under this Deed of Trust or as expressly permitted in the Loan Documents, Trustor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber or appear to encumber all or any part of the Property or any interest therein, whether senior or subordinate hereto, including, without limitation, all claims for work or labor performed, or materials or supplies furnished, in connection with any work of demolition, alteration, repair, improvement or construction of or upon the Property, except such as Trustor may in good faith contest or as to which a bona fide dispute may arise (provided provision is made to the satisfaction of Beneficiary for eventual payment thereof in the event that Trustor is obligated to make such payment and that any recorded claim of lien, charge or other encumbrance against the Property is immediately discharged by bonding or otherwise).

6.9 TAXES AND OTHER LIABILITIES. Trustor shall pay and discharge when due any and all indebtedness, obligations, assessments and taxes, both real and personal and including federal and state income taxes and state and local property taxes and assessments. Trustor shall promptly provide to Beneficiary copies of all tax and assessment notices pertaining to the Property. Trustor hereby authorizes Beneficiary to obtain, at Trustor's expense, a tax service contract which shall provide tax information on the Property to Beneficiary for the term of the Loan and any extensions or renewals of the Loan.

6.10 INSURANCE COVERAGE. Trustor shall insure the Property against loss or damage by fire and such other hazards as Beneficiary shall from time to time require; provided, however, (a) Beneficiary, at Beneficiary's election, may only require flood insurance if all or any portion of the improvements located on the Property is or becomes located in a special flood hazard area, and (b) Beneficiary, at Beneficiary's election, may only require earthquake insurance if all or any portion of the Property is or becomes located in an earthquake fault zone. Trustor shall also carry public liability insurance and such other insurance as Beneficiary may require, including, without limitation, business interruption insurance or loss of rents insurance. Such policies shall contain a standard mortgage clause naming Beneficiary and its successors in interest as a loss payee and requiring at least 30 days prior notice to the holder at termination or cancellation. Trustor shall maintain all required insurance throughout the term of the Loan and while any liabilities of Borrower or Trustor to Beneficiary under any of the Loan Documents remain outstanding at Trustor's expense, with companies, and in substance and form satisfactory to Beneficiary. Neither Beneficiary nor Trustee, by reason of accepting, rejecting, approving or obtaining insurance shall incur any liability for: (c) the existence, nonexistence, form or legal sufficiency of any insurance; (d) the solvency of any insurer; or (e) the payment of claims.

6.11 INSURANCE AND CONDEMNATION PROCEEDS.

a. Assignment of Claims. Trustor absolutely and irrevocably assigns to Beneficiary all of the following rights, claims and amounts (collectively, "Claims"), all of which shall be paid to Beneficiary: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Property; (ii) all other claims and awards for damages to or decrease in value of all or any part of, or any interest in, the Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Property; and (iv) all interest which may accrue on any of the foregoing. Trustor shall give Beneficiary prompt written notice of the occurrence of any casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Property or any portion thereof. So long as no Default has occurred and is continuing at the time, Trustor shall have the right to adjust, compromise and settle any Claim of $100,000 or less without the consent of Beneficiary, provided, however, all awards, proceeds and other sums described herein shall continue to be payable to Beneficiary. Beneficiary may commence, appear in, defend or prosecute any Claim exceeding $100,000, and may adjust, compromise and settle all Claims (except for Claims which Trustor may settle as provided herein), but shall not be responsible for any failure to commence, appear in, defend, prosecute or collect any such Claim regardless of the cause of the failure. All awards, proceeds and other sums described herein shall be payable to Beneficiary.

b. Application of Proceeds; No Default. So long as no Default has occurred and is continuing at the time of Beneficiary's receipt of the proceeds of the Claims ("Proceeds") and no Default occurs thereafter, Beneficiary shall apply the Proceeds in the following order of priority: First, to Beneficiary's expenses in settling, prosecuting or defending the Claims; Second, to the repair or restoration of the Property; and Third, to Trustor if the repair or restoration of the Property has been completed, but to the Secured Obligations in any order without suspending, extending or reducing any obligation of Trustor to make installment payments if the repair or restoration of the Property has not been completed. Notwithstanding the foregoing, Beneficiary shall have no obligation to make any Proceeds available for the repair or restoration of the Property unless and until all the following conditions have been satisfied: (i) delivery to Beneficiary of the Proceeds plus any additional amount which is needed to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) establishment of an arrangement for lien releases and disbursement of funds acceptable to Beneficiary; (iii) delivery to Beneficiary in form and content acceptable to Beneficiary of all of the following: (aa) plans and specifications for the work; (bb) a contract for the work, signed by a contractor acceptable to Beneficiary; (cc) a cost breakdown for the work; (dd) if required by Beneficiary, a payment and performance bond for the work; (ee) evidence of the continuation of all Leases unless consented to in writing by Beneficiary; (ff) evidence that, upon completion of the work, the size, capacity, value, and income coverage ratios for the Property will be at least as great as those which existed immediately before the damage or condemnation occurred; and (gg) evidence of the satisfaction of any additional conditions that Beneficiary may reasonably establish to protect Beneficiary's security. Trustor acknowledges that the specific conditions described above are reasonable.

c. Application of Proceeds; Default. If a Default has occurred and is continuing at the time of Beneficiary's receipt of the Proceeds or if a Default occurs at any time thereafter, Beneficiary may, at Beneficiary's absolute discretion and regardless of any impairment of security or lack of impairment of security, but subject to applicable law governing use of the Proceeds, if any, apply all or any of the Proceeds to Beneficiary's expenses in settling, prosecuting or defending the Claims and then apply the balance to the Secured Obligations in any order without suspending, extending or reducing any obligation of Trustor to make installment payments, and may release all or any part of the Proceeds to Trustor upon any conditions Beneficiary chooses.

6.12 IMPOUNDS.

a. Post-Default Impounds. If required by Beneficiary at any time after a Default occurs (and regardless of whether such Default is thereafter cured), Trustor shall deposit with Beneficiary such amounts ("Post-Default Impounds") on such dates (determined by Beneficiary as provided below) as will be sufficient to pay any or

all "Costs" (as defined below) specified by Beneficiary. Beneficiary in its sole discretion shall estimate the amount of such Costs that will be payable or required during any period selected by Beneficiary not exceeding 1 year and shall determine the fractional portion thereof that Trustor shall deposit with Beneficiary on each date specified by Beneficiary during such period. If the Post-Default Impounds paid by Trustor are not sufficient to pay the related Costs, Trustor shall deposit with Beneficiary upon demand an amount equal to the deficiency. All Post-Default Impounds shall be payable by Trustor in addition to (but without duplication of) any other Impounds (as defined below).

b. All Impounds. Post-Default Impounds and any other impounds that may be payable by Borrower under the Note are collectively called "Impounds". All Impounds shall be deposited into one or more segregated or commingled accounts maintained by Beneficiary or its servicing agent. Except as otherwise provided in the Note, such account(s) shall not bear interest. Beneficiary shall not be a trustee, special depository or other fiduciary for Trustor with respect to such account, and the existence of such account shall not limit Beneficiary's rights under this Deed of Trust, any other agreement or any provision of law. If no Default exists, Beneficiary shall apply all Impounds to the payment of the related Costs, or in Beneficiary's sole discretion may release any or all Impounds to Trustor for application to and payment of such Costs. If a Default exists, Beneficiary may apply any or all Impounds to any Secured Obligation and/or to cure such Default, whereupon Trustor shall restore all Impounds so applied and cure all Defaults not cured by such application. The obligations of Trustor hereunder shall not be diminished by deposits of Impounds made by Trustor, except to the extent that such obligations have actually been met by application of such Impounds. Upon any assignment of this Deed of Trust, Beneficiary may assign all Impounds in its possession to Beneficiary's assignee, whereupon Beneficiary and Trustee shall be released from all liability with respect to such Impounds. Within 60 days following full repayment of the Secured Obligations (other than as a consequence of foreclosure or conveyance in lieu of foreclosure) or at such earlier time as Beneficiary may elect, Beneficiary shall pay to Trustor all Impounds in its possession, and no other party shall have any right or claim thereto. "Costs" means (i) all taxes and other liabilities payable by Trustor under Section 6.9, (ii) all insurance premiums payable by Trustor under Section 6.10, (iii) all other costs and expenses for which Impounds are required under the Note, and/or (iv) all other amounts that will be required to preserve the value of the Property. Trustor shall deliver to Beneficiary, promptly upon receipt, all bills for Costs for which Beneficiary has required Post-Default Impounds.

6.13 DEFENSE AND NOTICE OF LOSSES, CLAIMS AND ACTIONS. Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee hereunder at Trustor's sole expense against all adverse claims, whether the claim: (a) is against a possessory or non-possessory interest; (b) arose prior or subsequent to the Effective Date; or (c) is senior or junior to Trustor's or Beneficiary's rights. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, of the occurrence of any damage to the Property and of any condemnation offer or action.

6.14 RIGHT OF INSPECTION. Beneficiary and its independent contractors, agents and employees may enter the Property from time to time at any reasonable time for the purpose of inspecting the Property and ascertaining Trustor's compliance with the terms of this Deed of Trust. Beneficiary shall use reasonable efforts to assure that Beneficiary's entry upon and inspection of the Property shall not materially and unreasonably interfere with the business or operations of Trustor or Trustor's tenants on the Property.

6.15 PROHIBITION OF TRANSFER OF PROPERTY OR INTERESTS IN TRUSTOR. Trustor acknowledges that Beneficiary has relied upon the principals of Trustor and Borrower and their experience in owning and operating properties similar to the Property in connection with the closing of the Loan. Accordingly, except with the prior written consent of Beneficiary or as otherwise expressly permitted in the Note, Trustor shall not cause or permit any sale, exchange, mortgage, pledge, hypothecation, assignment, encumbrance or other transfer, conveyance or disposition, whether voluntarily, involuntarily or by operation of law ("Transfer") of all or any part of, or all or any direct or indirect interest in, the Property or the Collateral (except for equipment and inventory in the ordinary course of its business), or cause or permit a Transfer of any direct or indirect interest (whether general or limited partnership interest, stock, limited

liability company interest, trust, or otherwise) in Trustor or Borrower. In the event of any Transfer that is not expressly permitted in the Note and is without the prior written consent of Beneficiary, Beneficiary shall have the absolute right at its option, without prior demand or notice, to declare all of the Secured Obligations immediately due and payable, except to the extent prohibited by law, and pursue its rights and remedies under Section 7.3 herein. Trustor agrees to pay any prepayment fee as set forth in the Note in the event the Secured Obligations are accelerated pursuant to the terms of this Section. Consent to one such Transfer shall not be deemed to be a waiver of the right to require the consent to future or successive Transfers.

6.16 ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUSTEE. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Beneficiary and presentation of this Deed of Trust, or a certified copy thereof, for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Secured Obligation, Trustee may, without liability therefor and without notice: (a) reconvey all or any part of the Property; (b) consent to the making of any map or plat of the Property; (c) join in granting any easement on the Property; (d) join in any declaration of covenants and restrictions; or (e) join in any extension agreement or any agreement subordinating the lien or charge of this Deed of Trust. Notwithstanding the foregoing, Beneficiary shall first obtain from Trustor, subject to no Default, their consent to subparagraphs (b), (c), and (d), and such consent shall not be unreasonably withheld. Nothing contained in the preceding sentences shall be construed to limit, impair or otherwise affect the rights of Trustor in any respect. Except as may otherwise be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming or approving acts in the execution of said trusts and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding (including, without limitation, actions in which Trustor, Beneficiary or Trustee shall be a party) unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee shall not be obligated to perform any act required of it hereunder unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against loss, cost, liability and expense.

6.17 COMPENSATION OF TRUSTEE. Trustor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of this trust, including, without limitation, reasonable attorneys' fees. Trustor shall pay all indebtedness arising under this Section immediately upon demand by Trustee or Beneficiary together with interest thereon from the date the indebtedness arises at the rate of interest then applicable to the principal balance of the Note as specified therein.

6.18 EXCULPATION. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (a) the lawful exercise of the rights, remedies or powers granted to Beneficiary in this Deed of Trust; (b) the failure or refusal of Beneficiary to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; or (c) any loss sustained by Trustor or any third party resulting from Beneficiary's failure to lease the Property after a Default (hereafter defined) or from any other act or omission of Beneficiary in managing the Property after a Default unless the loss is caused by the willful misconduct and bad faith of Beneficiary and no such liability shall be asserted or enforced against Beneficiary, all such liability being expressly waived and released by Trustor.

6.19 INDEMNITY. Without in any way limiting any other indemnity contained in this Deed of Trust, Trustor agrees to defend, indemnify and hold harmless Trustee and the Beneficiary Group from and against any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (a) the making of the Loan, except for violations of banking laws or regulations by the Beneficiary Group; (b) this Deed of Trust; (c) the execution of this trust or the performance of any act required or permitted hereunder or by law; (d) any failure of Trustor to perform Trustor's obligations under this Deed of Trust or the other Loan Documents; (e) any alleged obligation or undertaking on the Beneficiary Group's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Property; (f) any act or omission by Trustor or any contractor, agent, employee or representative of Trustor with respect to the Property; or (g) any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (i) the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or

presence of any Hazardous Materials which are found in, on, under or about the Property (including, without limitation, underground contamination); or (ii) the breach of any covenant, representation or warranty of Trustor under Section 6.2 above. The foregoing to the contrary notwithstanding, this indemnity shall not include any claim, loss, damage, cost, expense or liability directly or indirectly arising out of the gross negligence or willful misconduct of any member of the Beneficiary Group or Trustee, or any claim, loss, damage, cost, expense or liability incurred by the Beneficiary Group or Trustee arising from any act or incident on the Property occurring after the full reconveyance and release of the lien of this Deed of Trust on the Property, or with respect to the matters set forth in clause (g) above, any claim, loss, damage, cost, expense or liability incurred by the Beneficiary Group resulting from the introduction and initial release of Hazardous Materials on the Property occurring after the transfer of title to the Property at a foreclosure sale under this Deed of Trust, either pursuant to judicial decree or the power of sale, or by deed in lieu of such foreclosure. This indemnity shall include, without limitation: (aa) all consequential damages (including, without limitation, any third party tort claims or governmental claims, fines or penalties against Trustee or the Beneficiary Group); (bb) all court costs and reasonable attorneys' fees (including, without limitation, expert witness fees) paid or incurred by Trustee or the Beneficiary Group; and (cc) the costs, whether foreseeable or unforeseeable, of any investigation, repair, cleanup or detoxification of the Property which is required by any governmental entity or is otherwise necessary to render the Property in compliance with all laws and regulations pertaining to Hazardous Materials. "Beneficiary Group", as used herein, shall mean (1) Beneficiary (including, without limitation, any participant in the Loan), (2) any entity controlling, controlled by or under common control with Beneficiary, (3) the directors, officers, employees and agents of Beneficiary and such other entities, and (4) the successors, heirs and assigns of the entities and persons described in foregoing clauses (1) through (3). Trustor shall pay immediately upon Trustee's or Beneficiary's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of interest applicable to the principal balance of the Note as specified therein. Trustor agrees to use legal counsel reasonably acceptable to Trustee and the Beneficiary Group in any action or proceeding arising under this indemnity. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION AND RECONVEYANCE OF THIS DEED OF TRUST, BUT TRUSTOR'S LIABILITY UNDER THIS INDEMNITY SHALL BE SUBJECT TO THE PROVISIONS OF THE SECTION IN THE NOTE ENTITLED "BORROWER'S LIABILITY."

6.20 SUBSTITUTION OF TRUSTEE. From time to time, by a writing signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of the County in which the Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named trustee herein. A writing recorded pursuant to the provisions of this Section shall be conclusive proof of the proper substitution of such new trustee.

6.21 RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations ("Interested Parties"), Beneficiary may, from time to time: (a) fully or partially release any person or entity from liability for the payment or performance of any Secured Obligation; (b) extend the maturity of any Secured Obligation; (c) make any agreement with Borrower increasing the amount or otherwise altering the terms of any Secured Obligation; (d) accept additional security for any Secured Obligation; or (e) release all or any portion of the Property, Collateral and other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of this Deed of Trust upon the Property.

6.22 SALE OR PARTICIPATION OF LOAN. Trustor agrees that Beneficiary may at any time sell, assign, participate or securitize all or any portion of Beneficiary's rights and obligations under the Loan Documents, and that any such sale, assignment, participation or securitization may be to one or more financial institutions or other entities, to private investors, and/or into the public securities market, in Beneficiary's sole discretion. Trustor further agrees that Beneficiary may disseminate to any such actual or potential purchaser(s), assignee(s) or participant(s) all documents and financial and other information heretofore or hereafter provided to or known to Beneficiary with respect to: (a) the Property and its operation; and/or (b) any party connected with the Loan (including, without limitation, Trustor, any partner or member of Trustor, any

constituent partner or member of Trustor, any guarantor and any nonborrower trustor). In the event of any such sale, assignment, participation or securitization, Beneficiary and the other parties to the same shall share in the rights and obligations of Beneficiary set forth in the Loan Documents as and to the extent they shall agree among themselves. In connection with any such sale, assignment, participation or securitization, Trustor further agrees that the Loan Documents shall be sufficient evidence of the obligations of Trustor to each purchaser, assignee or participant, and Trustor shall, within 15 days after request by Beneficiary, deliver an estoppel certificate verifying for the benefit of Beneficiary and any other party designated by Beneficiary the status and the terms and provisions of the Loan in form and substance acceptable to Beneficiary, and enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to facilitate any such sale, assignment, participation or securitization without impairing Trustor's rights or increasing Trustor's obligations. The indemnity obligations of Trustor under the Loan Documents shall also apply with respect to any purchaser, assignee or participant.

6.23 RECONVEYANCE. Upon Beneficiary's written request, and upon surrender of this Deed of Trust or certified copy thereof and any note, instrument or instruments setting forth all obligations secured hereby to Trustee for cancellation, Trustee shall reconvey, without warranty, the Property or that portion thereof then held hereunder. The recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto". Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto.

6.24 SUBROGATION. Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

6.25 YEAR 2000 COMPLIANCE. Trustor shall timely ensure that all software, hardware, equipment, goods and systems used in the operation of Trustor or the Property will properly perform date-sensitive functions before, during and after the year 2000.

ARTICLE 7. DEFAULT

7.1 DEFAULT. For all purposes hereof, "Default" shall mean either an "Optional Default" (as defined below) or an "Automatic Default" (as defined below).

a. Optional Default. An "Optional Default" shall occur, at Beneficiary's option, upon the occurrence of any of the following events:

(i) Monetary. Borrower or Trustor shall fail to (aa) pay when due any sums which by their express terms require immediate payment without any grace period or sums which are payable on the Maturity Date, or (bb) pay within 5 days when due any other sums payable under the Note, this Deed of Trust or any of the other Loan Documents, including without limitation, any monthly payment due under the Note.

(ii) Failure to Perform. Borrower or Trustor shall fail to observe, perform or discharge any of Borrower's or Trustor's obligations, covenants, conditions or agreements, other than Borrower's or Trustor's payment obligations, under the Note, this Deed of Trust or any of the other Loan Documents, and (aa) such failure shall remain uncured for 30 days after written notice thereof shall have been given to Borrower or Trustor, as the case may be, by Beneficiary or (bb) if such failure is of such a nature that it cannot be cured within such 30 day period, Borrower or Trustor shall fail to commence to cure such failure within such 30 day period or shall fail to diligently prosecute such curative action thereafter.

(iii) Representations and Warranties. Any representation, warranty, certificate or other statement (financial or otherwise) made or furnished by or on behalf of Borrower, Trustor, or a guarantor, if any, to Beneficiary or in connection with any of the Loan Documents, or as an inducement to

Beneficiary to make the Loan, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished.

(iv) Condemnation; Attachment. The condemnation, seizure or appropriation of any material portion (as reasonably determined by Beneficiary) of the Property; or the sequestration or attachment of, or levy or execution upon any of the Property, the Collateral or any other collateral provided by Borrower or Trustor under any of the Loan Documents, or any material portion of the other assets of Borrower or Trustor, which sequestration, attachment, levy or execution is not released or dismissed within 45 days after its occurrence; or the sale of any assets affected by any of the foregoing.

(v) Uninsured Casualty. The occurrence of an uninsured casualty with respect to any material portion (as reasonably determined by Beneficiary) of the Property unless: (aa) no other Default has occurred and is continuing at the time of such casualty or occurs thereafter; (bb) Trustor promptly notifies Beneficiary of the occurrence of such casualty; and (cc) not more than 45 days after the occurrence of such casualty, Trustor delivers to Beneficiary immediately available funds ("Restoration Funds") in an amount sufficient, in Beneficiary's reasonable opinion, to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period). So long as no Default has occurred and is continuing at the time of Beneficiary's receipt of the Restoration Funds and no Default occurs thereafter, Beneficiary shall make the Restoration Funds available for the repair or restoration of the Property. Notwithstanding the foregoing, Beneficiary shall have no obligation to make any Restoration Funds available for repair or restoration of the Property unless and until all the conditions set forth in clauses (ii) and (iii) of the second sentence of Section 6.11(b) of this Deed of Trust have been satisfied. Trustor acknowledges that the specific conditions described above are reasonable.

(vi) Adverse Financial Change. Any material adverse change in the financial condition of Borrower or any general partner of Borrower, any guarantor, or any other person or entity from the condition shown on the financial statement(s) submitted to Beneficiary and relied upon by Beneficiary in making the Loan, and which change Beneficiary reasonably determines will have a material adverse effect on (aa) the business, operations or condition of the Property; or (bb) the ability of Borrower or Trustor to pay or perform Borrower's or Trustor's obligations in accordance with the terms of the Note, this Deed of Trust, and the other Loan Documents.

b. Automatic Default. An "Automatic Default" shall occur automatically upon the occurrence of any of the following events:

(i) Voluntary Bankruptcy, Insolvency, Dissolution. (aa) Borrower's filing a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified ("Bankruptcy Code"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "Debtor Relief Law"); or (bb) Borrower's filing any pleading in any involuntary proceeding under the Bankruptcy Code or other Debtor Relief Law which admits the jurisdiction of a court to regulate Borrower or the Property or the petition's material allegations regarding Borrower's insolvency; or (cc) Borrower's making a general assignment for the benefit of creditors; or (dd) Borrower's applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Borrower or any of its property; or (ee) the filing by or against Borrower of a petition seeking the liquidation or dissolution of Borrower or the commencement of any other procedure to liquidate or dissolve Borrower.

(ii) Involuntary Bankruptcy. Borrower's failure to effect a full dismissal of any involuntary petition under the Bankruptcy Code or other Debtor Relief Law that is filed against Borrower or in any way restrains or limits Borrower or Beneficiary regarding the Loan or the Property, prior to the earlier of the entry of any order granting relief sought in the involuntary petition or 45 days after the date of filing of the petition.

(iii) Partners, Guarantors. The occurrence of an event specified in Sections (i) or (ii) as to Trustor, any general partner of

Borrower or Trustor, or any guarantor or other person or entity in any manner obligated to Beneficiary under the Loan Documents.

7.2 ACCELERATION. Upon the occurrence of an Optional Default, Beneficiary may, at its option, declare all sums owing to Beneficiary under the Note and the other Loan Documents immediately due and payable. Upon the occurrence of an Automatic Default, all sums owing to Beneficiary under the Note and the other Loan Documents shall automatically become immediately due and payable.

7.3 RIGHTS AND REMEDIES. In addition to the rights and remedies in Section 7.2 above, at any time after a Default, Beneficiary shall have all of the following rights and remedies:

a. Entry on Property. With or without notice, and without releasing Trustor from any Secured Obligation, and without becoming a mortgagee in possession, to enter upon the Property from time to time and to do such acts and things as Beneficiary or Trustee deem necessary or desirable in order to inspect, investigate, assess and protect the security hereof or to cure any Default, including, without limitation: (i) to take and possess all documents, books, records, papers and accounts of Trustor, Borrower or the then owner of the Property which relate to the Property; (ii) to make, terminate, enforce or modify leases of the Property upon such terms and conditions as Beneficiary deems proper; (iii) to make repairs, alterations and improvements to the Property necessary, in Trustee's or Beneficiary's sole judgment, to protect or enhance the security hereof; (iv) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee hereunder; (v) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Beneficiary or Trustee, is or may be senior in priority hereto, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (vi) to obtain insurance; (vii) to pay any premiums or charges with respect to insurance required to be carried hereunder; (viii) to obtain a court order to enforce Beneficiary's right to enter and inspect the Property for Hazardous Materials, in which regard the decision of Beneficiary as to whether there exists a release or threatened release of Hazardous Materials onto the Property shall be deemed reasonable and conclusive as between the parties hereto; (ix) to have a receiver appointed pursuant to applicable law to enforce Beneficiary's rights to enter and inspect the Property for Hazardous Materials; and/or (x) to employ legal counsel, accountants, engineers, consultants, contractors and other appropriate persons to assist them;

b. Appointment of Receiver. With or without notice or hearing, to apply to a court of competent jurisdiction for and obtain appointment of a receiver, trustee, liquidator or conservator of the Property, for any purpose, including, without limitation, to enforce Beneficiary's right to collect Payments and to enter on and inspect the Property for Hazardous Materials, as a matter of strict right and without regard to: (i) the adequacy of the security for the repayment of the Secured Obligations; (ii) the existence of a declaration that the Secured Obligations are immediately due and payable; (iii) the filing of a notice of default; or (iv) the solvency of Trustor, Borrower or any guarantor or other person or entity in any manner obligated to Beneficiary under the Loan Documents;

c. Judicial Foreclosure; Injunction. To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations;

d. Nonjudicial Foreclosure. To execute a written notice of such Default and of the election to cause the Property to be sold to satisfy the Secured Obligations. Trustee shall give and record such notice as the law then requires as a condition precedent to a trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor except as required by law, shall sell the Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as Beneficiary in its sole discretion may determine, at public auction to the highest bidder for cash, in

lawful money of the United States, payable at time of sale. Neither Trustor nor any other person or entity other than Beneficiary shall have the right to direct the order in which the Property is sold. Subject to requirements and limits imposed by law, Trustee may, from time to time postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time may postpone the sale by public announcement at the time and place fixed by the preceding postponement. A sale of less than the whole of the Property or any defective or irregular sale made hereunder shall not exhaust the power of sale provided for herein. Trustee shall deliver to the purchaser at such sale a deed conveying the Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary may purchase at the sale;

Upon sale of the Property at any judicial or nonjudicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Beneficiary in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Property prior to resale, costs of resale (e.g. commissions, attorneys' fees, and taxes), costs of any Hazardous Materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Beneficiary; (iv) declining trends in real property values generally and with respect to properties similar to the Property; (v) anticipated discounts upon resale of the Property as a distressed or foreclosed property; (vi) the fact of additional collateral (if any), for the Secured Obligations; and (vii) such other factors or matters that Beneficiary (in its sole and absolute discretion) deems appropriate. In regard to the above, Trustor acknowledges and agrees that: (viii) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (ix) this paragraph does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (x) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Trustor and Beneficiary; and (xi) Beneficiary's credit bid may be (at Beneficiary's sole and absolute discretion) higher or lower than any appraised value of the Property;

e. Multiple Foreclosures. To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken nonjudicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Trustee and Beneficiary or either of them determine in their sole discretion;

f. Rights to Collateral. To exercise all rights Trustee or Beneficiary may have with respect to the Collateral under this Deed of Trust, the UCC or otherwise at law; and

g. Other Rights. To exercise such other rights as Trustee or Beneficiary may have at law or in equity or pursuant to the terms and conditions of this Deed of Trust or any of the other Loan Documents.

In connection with any sale or sales hereunder, Beneficiary may elect to treat any of the Property which consists of a right in action or which is property that can be severed from the Property (including, without limitation, any improvements forming a part thereof) without causing structural damage thereto as if the same were personal property or a fixture, as the case may be, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Property. Any sale of Collateral hereunder shall be conducted in any manner permitted by the UCC.

7.4 APPLICATION OF FORECLOSURE SALE PROCEEDS. If any foreclosure sale is effected, Trustee shall apply the proceeds of such sale in the following

order of priority: First, to the costs, fees and expenses of exercising the power of sale and of sale, including, without limitation, the payment of the Trustee's fees and attorneys' fees permitted pursuant to subdivision (b) of California Civil Code Section 2924d and subdivision (b) of Section 2924k; Second, to the payment of the Secured Obligations which are secured by this Deed of Trust, in such order as Beneficiary shall determine in its sole discretion; Third, to satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority; and Fourth, to the Trustor or the Trustor's successor in interest, or in the event the Property has been sold or transferred to another, to the vested owner of record at the time of the Trustee's sale.

7.5 WAIVER OF MARSHALING RIGHTS. Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Property, hereby waives all rights to have the Property and/or any other property, including, without limitation, the Collateral, which is now or later may be security for any Secured Obligation, marshaled upon any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Secured Obligations.

7.6 NO CURE OR WAIVER. Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid or performed and Trustor has cured all other Defaults hereunder), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, lease or option or a subordination of the lien of this Deed of Trust.

7.7 PAYMENT OF COSTS, EXPENSES AND ATTORNEYS' FEES. Trustor agrees to pay to Beneficiary immediately and upon demand all costs and expenses incurred by Trustee and Beneficiary in the enforcement of the terms and conditions of this Deed of Trust (including, without limitation, statutory trustee's fees, court costs and attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the rate of interest applicable to the principal balance of the Note as specified therein.

7.8 POWER TO FILE NOTICES AND CURE DEFAULTS. Trustor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, to perform any obligation of Trustor hereunder upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute a Default, provided, however, that: (i) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (ii) Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act under this Section.

7.9 REMEDIES CUMULATIVE. All rights and remedies of Beneficiary and Trustee provided hereunder are cumulative and are in addition to all rights and remedies provided by applicable law (including specifically that of foreclosure of this instrument as though it were a mortgage) or in any other agreements between Trustor and Beneficiary. Beneficiary may enforce any one or more remedies or rights hereunder successively or concurrently.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 ADDITIONAL PROVISIONS. The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and to the Property and such further rights and agreements are incorporated herein by this reference. THE OBLIGATIONS AND LIABILITIES OF TRUSTOR UNDER THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS ARE SUBJECT TO THE PROVISIONS OF THE SECTION IN THE NOTE ENTITLED "BORROWER'S LIABILITY."

8.2 NON-WAIVER. By accepting payment of any amount secured hereby after its due date or late performance of any other Secured Obligation, Beneficiary shall not waive its right against any person obligated directly or indirectly hereunder or on any Secured Obligation, either to require prompt payment or performance when due of all other sums and obligations

so secured or to declare default for failure to make such prompt payment or performance. No exercise of any right or remedy by Beneficiary or Trustee hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law. No failure by Beneficiary or Trustee to exercise any right or remedy hereunder arising upon any Default shall be construed to prejudice Beneficiary's or Trustee's rights or remedies upon the occurrence of any other or subsequent Default. No delay by Beneficiary or Trustee in exercising any such right or remedy shall be construed to preclude Beneficiary or Trustee from the exercise thereof at any time while that Default is continuing. No notice to nor demand on Trustor shall of itself entitle Trustor to any other or further notice or demand in similar or other circumstances.

8.3 CONSENTS AND APPROVALS. Wherever Beneficiary's consent, approval, acceptance or satisfaction is required under any provision of this Deed of Trust or any of the other Loan Documents, such consent, approval, acceptance or satisfaction shall not be unreasonably withheld, conditioned or delayed by Beneficiary unless such provision expressly so provides.

8.4 PERMITTED CONTESTS. After prior written notice to Beneficiary, Trustor may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, levy, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Trustor or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute a Default; provided that (a) Trustor pursues the contest diligently, in a manner which Beneficiary determines is not prejudicial to Beneficiary, and does not impair the lien of this Deed of Trust; (b) the Property, or any part hereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (c) in the case of the contest of any law or other legal requirement, Beneficiary shall not be in any danger of any civil or criminal liability; and (d) if required by Beneficiary, Trustor deposits with Beneficiary any funds or other forms of assurance (including a bond or letter of credit) satisfactory to Beneficiary to protect Beneficiary from the consequences of the contest being unsuccessful. Trustor's right to contest pursuant to the terms of this provision shall in no way relieve Trustor or Borrower of its obligations under the Loan or to make payments to Beneficiary as and when due.

8.5 FURTHER ASSURANCES. Trustor shall, upon demand by Beneficiary or Trustee, execute, acknowledge (if appropriate) and deliver any and all documents and instruments and do or cause to be done all further acts reasonably necessary or appropriate to effectuate the provisions hereof.

8.6 ATTORNEYS' FEES. If any legal action, suit or proceeding is commenced between Trustor and Beneficiary regarding their respective rights and obligations under this Deed of Trust or any of the other Loan Documents, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, reasonable attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein the term "prevailing party" shall mean the party which obtains the principal relief it has sought, whether by compromise settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

8.7 TRUSTOR AND BENEFICIARY DEFINED. The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property, and the term "Beneficiary" includes the original Beneficiary and any future owner or holder, including assignees, pledges and participants, of the Note or any interest therein.

8.8 DISCLAIMERS.

a. Relationship. The relationship of Trustor and Beneficiary under this Deed of Trust and the other Loan Documents is, and shall at all times remain, solely that of borrower and lender; and Beneficiary neither undertakes nor assumes any responsibility or duty to Trustor or to any third party with respect to the Property. Notwithstanding any other provisions of this Deed of Trust and the other Loan Documents: (i) Beneficiary is not, and shall not be construed to be, a partner, joint venturer, member, alter ego, manager, controlling person or other business associate or participant of any kind of Trustor, and Beneficiary does not intend to ever assume such status; (ii) Beneficiary's activities in connection with this Deed of Trust and the other Loan Documents shall not be "outside the scope of activities of a lender of money" within the meaning of California Civil Code Section 3434, as amended or recodified from time to time, and Beneficiary does not intend to ever assume any

responsibility to any person for the quality, suitability, safety or condition of the Property; and (iii) Beneficiary shall not be deemed responsible for or a participant in any acts, omissions or decisions of Trustor.

b. No Liability. Beneficiary shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any construction on, or occupancy or use of, the Property, whether caused by or arising from: (i) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any on-site or off-site improvement or other facility therein or thereon; (ii) any act or omission of Trustor or any of Trustor's agents, employees, independent contractors, licensees or invitees; (iii) any accident in or on the Property or any fire, flood or other casualty or hazard thereon; (iv) the failure of Trustor or any of Trustor's licensees, employees, invitees, agents, independent contractors or other representatives to maintain the Property in a safe condition; or (v) any nuisance made or suffered on any part of the Property.

8.9 SEVERABILITY. If any term of this Deed of Trust, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

8.10 RELATIONSHIP OF ARTICLES. The rights, remedies and interests of Beneficiary under the deed of trust established by Article I and the security agreement established by Article IV are independent and cumulative, and there shall be no merger of any lien created by the deed of trust with any security interest created by the security agreement. Beneficiary may elect to exercise or enforce any of its rights, remedies or interests under either or both the deed of trust or the security agreement as Beneficiary may from time to time deem appropriate. The absolute assignment of rents and leases established by Article III is similarly independent of and separate from the deed of trust and the security agreement.

8.11 MERGER. No merger shall occur as a result of Beneficiary's acquiring any other estate in, or any other lien on, the Property unless Beneficiary consents to a merger in writing.

8.12 OBLIGATIONS OF TRUSTOR, JOINT AND SEVERAL. If more than one person has executed this Deed of Trust as "Trustor", the obligations of all such persons hereunder shall be joint and several.

8.13 SEPARATE AND COMMUNITY PROPERTY. Any married person who executes this Deed of Trust as a Trustor agrees that any money judgment which Beneficiary or Trustee obtains pursuant to the terms of this Deed of Trust or any other obligation of that married person secured by this Deed of Trust may be collected by execution upon any separate property or community property of that person.

8.14 INTEGRATION; INTERPRETATION. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall not be modified except by written instrument executed by all parties. Any reference in any of the Loan Documents to the Property or Collateral shall include all or any part of the Property or Collateral. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Beneficiary in writing. When the identity of the parties or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

8.15 CAPITALIZED TERMS. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Note.

8.16 SUCCESSORS IN INTEREST. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. The foregoing sentence shall not be construed to permit Trustor to assign the Loan except as otherwise permitted under the Note or the other Loan Documents.

8.17 GOVERNING LAW. This Deed of Trust was accepted by Beneficiary in the state of California and the proceeds of the Note secured hereby were disbursed from the state of California, which state the parties agree has

a substantial relationship to the parties and to the underlying transaction embodied hereby. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Deed of Trust, the Note and the other Loan Documents and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the state of California applicable to contracts made and performed in such state and any applicable law of the United States of America, except that at all times the provisions for enforcement of Beneficiary's STATUTORY POWER OF SALE granted hereunder and the creation, perfection and enforcement of the security interests created pursuant thereto and pursuant to the other Loan Documents shall be governed by and construed according to the law of the state where the Property is located. Except as provided in the immediately preceding sentence, Trustor hereby unconditionally and irrevocably waives, to the fullest extent permitted by law, any claim to assert that the law of any jurisdiction other than California governs this Deed of Trust, the Note and other Loan Documents.

8.18 CONSENT TO JURISDICTION. Trustor irrevocably submits to the jurisdiction of: (a) any state or federal court sitting in the state of California over any suit, action, or proceeding, brought by Trustor against Beneficiary, arising out of or relating to this Deed of Trust, the Note or the Loan; (b) any state or federal court sitting in the state where the Property is located or the state in which Trustor's principal place of business is located over any suit, action or proceeding, brought by Beneficiary against Trustor, arising out of or relating to this Deed of Trust, the Note or the Loan; and (c) any state court sitting in the county of the state where the Property is located over any suit, action, or proceeding, brought by Beneficiary to exercise its STATUTORY POWER OF SALE under this Deed of Trust or any action brought by Beneficiary to enforce its rights with respect to the Collateral. Trustor irrevocably waives, to the fullest extent permitted by law, any objection that Trustor may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

8.19 EXHIBITS. Exhibit A is incorporated into this Deed of Trust by this reference.

8.20 ADDRESSES; REQUEST FOR NOTICE. All notices and other communications that are required or permitted to be given to a party under this Deed of Trust shall be in writing, refer to the Loan number, and shall be sent to such party, either by personal delivery, by overnight delivery service, by certified first class mail, return receipt requested, or by facsimile transmission to the addressee or facsimile number below. All such notices and communications shall be effective upon receipt of such delivery or facsimile transmission. The addresses of the parties are set forth on page 1 of this Deed of Trust and the facsimile numbers for the parties are as follows:

Beneficiary:

WELLS FARGO BANK, N.A.
FAX No.: (925) 691-5947
Trustee:

AMERICAN SECURITIES COMPANY
FAX No.: (925) 691-5947

Trustor:

FREMONT HOLDING L.L.C.
FAX No.: (510) 574-1500

Trustor's principal place of business is at the address set forth on page 1 of this Deed of Trust.

Any Trustor whose address is set forth on page 1 of this Deed of Trust hereby requests that a copy of notice of default and notice of sale be delivered to it at that address. Failure to insert an address shall constitute a designation of Trustor's last known address as the address for such notice. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving 30 days notice to the other parties in the manner set forth above.

8.21 COUNTERPARTS. This Deed of Trust may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed

an original and all of which taken together, will be deemed to be one and the same instrument.

8.22 WAIVER OF JURY TRIAL. BENEFICIARY AND TRUSTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF BENEFICIARY OR TRUSTOR. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BENEFICIARY TO ENTER INTO THIS DEED OF TRUST.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year set forth above.

FREMONT HOLDING L.L.C.,
a Delaware limited liability company

By: Fremont Management, Inc.,
a Delaware corporation,
Manager

By: _____

Its: _____

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

Loan No. 31-0900011A
EXHIBIT A
Description Of Land

Exhibit A to DEED OF TRUST AND ABSOLUTE ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT (AND FIXTURE FILING) ("Deed of Trust") among FREMONT HOLDING L.L.C., a Delaware limited liability company, as "Trustor", AMERICAN SECURITIES COMPANY, as "Trustee", and WELLS FARGO BANK, NATIONAL ASSOCIATION, as "Beneficiary".

Description of Land. The Land referred to in this Deed of Trust is situated in the county of Alameda, state of California and is described as follows:

PARCEL 16, PARCEL MAP 4483, FILED MARCH 28, 1985 IN BOOK 152, PAGES 78 THROUGH 82 OF MAPS, ALAMEDA COUNTY RECORDS.

APN: 543-0439-108
543-0439-109

(..continued)

PATENT RIGHTS AGREEMENT

This PATENT RIGHTS AGREEMENT (the "Agreement") is entered into as of September 28, 1999 (the "Effective Date") by and between PROTEIN DESIGN LABS, INC., a Delaware corporation having its principal office at 34801 Campus Drive, Fremont, California 94555 (hereinafter referred to as "PDL"), and SMITHKLINE BEECHAM CORPORATION, a Commonwealth of Pennsylvania corporation having its principal office at One Franklin Plaza, Philadelphia, PA 19101 (hereinafter referred to as "SB").

RECITALS

A. PDL owns or has rights to certain patents designated as the Queen et al. patents and identified on Exhibit A hereto (the "Queen et al. Patents");

B. PDL and SB are contemporaneously entering into an IL-5 Patent License Agreement for an antibody directed against the IL-5 antigen (the "IL-5 Patent License Agreement") and a Development and License Agreement for an antibody directed against the IL-4 antigen (the "Development and License Agreement"); and

C. SB desires to obtain certain nonexclusive license rights under the Queen et al. Patents for the development, manufacture and commercialization of antibody products directed against up to three (3) target antigens under the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

1. SB'S RIGHTS TO LICENSES

1.01 Election. Subject to the terms and conditions of this Agreement, PDL hereby grants to SB and SB accepts, for a period of [CONFIDENTIAL TREATMENT REQUESTED] years from the Effective Date, the right to obtain up to three (3) non-exclusive, royalty-bearing, worldwide licenses under the Queen et al. Patents pursuant to the form of PDL License Agreement attached hereto as Exhibit B (a "PDL License Agreement").

1.02 Excluded Antigens. SB's rights to elect a license under Section 1.01 shall not extend to the following target antigens and their receptors (or in the case of receptors, ligands): [CONFIDENTIAL TREATMENT REQUESTED]. Each license elected by SB hereunder shall be pursuant to a separate PDL License Agreement and shall be effective as of the date of execution of the PDL License Agreement by both parties.

1.03 Procedure for Exercise of License Rights. If SB desires to exercise a license right under this Agreement, SB shall provide PDL with written notice identifying the target antigen or receptor for which SB desires to enter into a PDL License Agreement pursuant to the provisions of Section 1.01. PDL shall promptly review and respond in writing to the request by SB for a license within ten (10) business days of receipt of the written request. [CONFIDENTIAL TREATMENT REQUESTED]. In the event that PDL denies SB's request for a PDL License Agreement, PDL shall provide SB with a written certificate signed by an officer of PDL specifying the reason for such denial, and SB's right under Section 1.01 shall not be considered exercised. If PDL does not deny SB's request or has not responded within ten (10) business days of receipt of SB's request under this Section 1.03, then SB and PDL shall promptly, but in no event more than ten (10) business days thereafter, enter into a PDL License Agreement (with a then-current Exhibit A to such PDL License Agreement) with respect to the target antigen.

2. CONDITION TO EFFECTIVENESS

This Agreement shall be effective upon the execution and delivery by both parties of the IL-5 Patent License Agreement and the Development and License Agreement of even date herewith.

3. REPRESENTATIONS; DISCLAIMERS

3.01 Valid Agreement. Each party represents and warrants to the other that it knows of no legal reason to prevent it from entering into this Agreement and that the signatory hereto is duly authorized to execute and deliver this Agreement.

3.02 No Warranty of Validity, Non-Infringement. Nothing in this Agreement shall be construed as (a) a warranty or representation by PDL as to the validity or scope of the Queen et al. Patents; or (b) a warranty or representation that anything made, used, sold or otherwise disposed of under

any PDL License Agreement is or will be free from infringement of patents, copyrights, trademarks, trade secrets or other rights of third parties.

3.03 Disclaimer of Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 3.01 ABOVE, PDL MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. FURTHER, PDL MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT PRACTICE UNDER ITS LICENSED PATENTS UNDER A PDL LICENSE AGREEMENT WILL NOT INFRINGE ANY THIRD PARTY RIGHTS.

4. CONFIDENTIALITY

4.01 Obligations. During the term of this Agreement and for five (5) years thereafter, PDL and SB shall not use or reveal or disclose to third parties any confidential information received from the other in the performance of activities in furtherance of this Agreement without first obtaining the written consent of the disclosing party, except (i) as may be otherwise provided herein, (ii) as may be required for purposes of licensing, developing, manufacturing or marketing a product subject to license grant under the rights of SB set forth this Agreement, (iii) as may be required for securing essential or desirable authorizations, approvals, privileges or rights from governmental agencies or as may be required by law, statute or regulation to be disclosed to a governmental agency, provided that the party disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained by such government regulatory agencies, (iv) as may be required or as necessary to file or prosecute patent applications concerning the Queen et al. Patents, (v) or as may be required to carry out any litigation concerning the subject matter of this Agreement provided that the party disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained. This confidentiality obligation shall not apply to confidential information which is or becomes a matter of public knowledge through no fault of the receiving party, or is already in the possession of the receiving party, or is disclosed to the receiving party by a third party having the right to do so, or is subsequently and independently developed by employees of the receiving party or affiliates thereof who had no knowledge of the confidential information disclosed. The parties shall take reasonable measures to assure that no unauthorized use or disclosure is made by others to whom access to confidential information is granted.

4.02 Exceptions. Nothing in this Article 4 shall be construed as preventing either party from disclosing any information received from the other party to:

(i) an affiliate or prospective sublicensee of the receiving party, provided such affiliate or sublicensee has undertaken a similar obligation of confidentiality with respect to the confidential information;

(ii) the FDA in connection with the approval to conduct clinical studies, manufacture, market or sell a product whose license rights are obtained hereunder; or

(iii) any securities exchange to which the receiving party may be subject if necessary to meet the requirements, rules and regulations of such securities exchange, but only to the extent such disclosure is reasonably required and subject to obligations of confidentiality wherever possible.

4.03 Ownership. All confidential information disclosed by one party to the other shall remain the intellectual property of the disclosing party. In the event that a court or other legal or administrative tribunal, directly or through an appointed master, trustee or receiver, assumes partial or complete control over the assets of a party to this Agreement based on the insolvency or bankruptcy of such party, the bankrupt or insolvent party shall promptly notify the court or other tribunal (i) that confidential information received from the other party under this Agreement remains the property of the other party and (ii) of the confidentiality obligations under this Agreement. In addition, the bankrupt or insolvent party shall, to the extent permitted by law, take all steps necessary or desirable to maintain the confidentiality of the other party's confidential information and to ensure that the court, other tribunal or appointee maintains such information in confidence in accordance with the terms of this Agreement.

5. TERM AND TERMINATION

5.01 Term. Unless earlier terminated in accordance with this Article 5, this Agreement shall remain in effect until [CONFIDENTIAL TREATMENT REQUESTED].

5.02 Default. This Agreement shall terminate upon the earlier of (i) thirty (30) days' written notice if SB defaults in the performance of, or

fails to be in compliance with, any material agreement, condition or covenant of this Agreement and such default or non-compliance is not cured within such thirty (30) day period, or [CONFIDENTIAL TREATMENT REQUESTED].

5.03 Rights and Obligations Upon Termination or Expiration. Upon expiration or termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination. In any event, termination or expiration of this Agreement shall not effect any valid PDL License Agreement in effect as of the date of such termination or expiration, the IL-5 Patent License Agreement or the Development and License Agreement. In addition, the obligations set forth in Articles 4 and 6 shall survive the expiration or termination of this Agreement. Upon termination of this Agreement, each party shall return to the other party any confidential information disclosed by the other party under this Agreement.

6. MISCELLANEOUS

6.01 Assignment.. This Agreement and the rights granted herein shall be binding upon and inure to the benefit of the successors in interest of the respective parties. Neither this Agreement nor any interest hereunder shall be assignable by either party without the prior written consent of the other; provided, however, that either party may assign this Agreement or any part of its rights and obligations hereunder to any affiliate of such party or to any corporation with which that party may merge or consolidate, or to which it may transfer all or substantially all of its assets, without obtaining the consent of the other party, provided that the party effecting such assignment shall notify the other promptly following such assignment.

6.02 Entire Agreement; Amendment This Agreement, including the Exhibits hereto, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all previous writings and understandings. No terms or provisions of this Agreement shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties, except that the parties may amend this Agreement by written instruments specifically referring to and executed in the same manner as this Agreement.

6.03 Severability

(a) In the event any portion of this Agreement shall be held illegal, void or ineffective, the remaining portions hereof shall remain in full force and effect.

(b) If any of the terms or provisions of this Agreement are in conflict with any applicable statute or rule of law, then such terms or provisions shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to conform with such statute or rule of law.

(c) In the event that the terms and conditions of this Agreement are materially altered as as provided in Sections 6.03(a) and (b), the parties will in good faith renegotiate the terms and conditions of this Agreement to carry out the intent of the parties.

6.04 Notices. Notices required or permitted under this Agreement shall be in writing in the English language and sent by overnight mail (e.g., FedEx), or by facsimile confirmed by overnight mail (e.g., FedEx), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the parties or to such address or addresses as may be specified from time to time in a written notice:

If to PDL: Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California 94555 USA
Attention: General Counsel
Facsimile number: (510) 574-1473

If to SB: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 1930)
P.O. Box 7929
Philadelphia, PA 19101
Attn: Senior Vice President, Business Development

Facsimile number: (215) 751-4253

Copy to: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 2360)
P.O. Box 7929
Philadelphia, PA 19101
Attn: Corporate Law - US

Fax: number: (215)751-3935

6.05 Choice of Law.. This Agreement shall be deemed to have been made in New York and its form, execution, validity, construction and effect shall be determined in accordance with the laws thereof.

6.06 Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including without limitation, a dispute concerning a termination of this Agreement (hereinafter collectively referred to as "Dispute") shall be attempted to be settled by the parties, in good faith, by submitting each such Dispute to appropriate senior management representatives of each party in an effort to effect a mutually acceptable resolution thereof within thirty (30) days of submission to such representatives. Within fifteen (15) days after submission of the Dispute to such senior representatives, each party shall submit a brief, written summary of the Dispute and their respective position with respect to the Dispute to such senior representatives. In the event no mutually acceptable resolution is achieved in such time frame, then each party shall be entitled to seek relief for such Dispute by using any appropriate judicial mechanism which may be available in the courts.

6.07 Waiver. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

6.08 Force Majeure. If the performance of any part of this Agreement by either party, or of any obligation under this Agreement, is prevented, restricted, interfered with or delayed by reason of any cause beyond the reasonable control of the party liable to perform, unless conclusive evidence to the contrary is provided, the party so affected shall, upon giving written notice to the other party, be excused from such performance to the extent of such prevention, restriction, interference or delay; provided that the affected party shall use its reasonable best efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. When such circumstances arise, the parties shall discuss what, if any, modification of the terms of this Agreement may be required in order to arrive at an equitable solution.

6.09 Publicity. It is contemplated that one or both of the parties may issue a press release announcing this Agreement, the Development and License Agreement and the IL-5 Patent License Agreement, the form and content of which shall be mutually agreed upon. No other public announcement or other disclosure to third parties concerning the terms, financial or otherwise, of this Agreement, the Development and License Agreement or the IL-5 Patent License Agreement shall be made, either directly or indirectly, by any party to this Agreement, except as may be legally required or as may be required for recording purposes, without first obtaining the approval of the other party, which approval shall not be unreasonably withheld, and agreement upon the nature and text of such announcement or disclosure. The party desiring to make any such public announcement or other disclosure shall inform the other party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other party with a written copy thereof, in order to allow such other party to comment upon such announcement or disclosure. The party reviewing the release shall use good faith efforts to promptly review and provide comments upon the proposed public release, which comments shall be provided as soon as practicable but in any event within seven (7) days of delivery of the initial draft of the proposed release. Each party agrees that it shall cooperate fully with the other with respect to all disclosures regarding this Agreement to the Securities Exchange Commission, the U.K. Stock Exchange and any other governmental or regulatory agencies, including requests for confidential treatment of proprietary information of either party included in any such disclosure. Notwithstanding the foregoing, it is understood and agreed that the parties may issue a press release in connection with the entering into of each PDL License Agreement in accordance with the terms and conditions set forth therein.

6.10 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

6.11 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument.

6.12 Independent Contractors. The parties are independent contractors under this Agreement and no other relationship is intended, including, without limitation, partnership, joint venture or agency relationship. Neither party shall act in a manner which expresses or implies a relationship other than of independent contractor, nor bind the other party, except as otherwise expressly provided in this Agreement. Nothing in this Agreement shall be deemed to infer any direct relationship between PDL and any affiliate of SB.

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

Protein Design Labs, Inc.	SmithKline Beecham Corporation
By _____	By
Title	Title

Exhibits

Exhibit A - Queen et al. Patents

Exhibit B - Form of PDL License Agreement

Exhibit A
PDL Licensed Patents

The following are patents and patent applications (also known as the "Queen et al. patents") issued and filed in certain countries in the world and licensed as part of the PDL Patent Rights under the Agreement (As of August 25, 1999).

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.	Country	Title*	
647383	Australia	"Novel Immunoglobulins, Their Production and Use"	Issued
671949	Australia	"	Issued
AT E133452	Austria	"	Issued
0451216	Belgium	"	Issued
61095	Bulgaria	"	Issued
970016	Brazil	"	Issued
0451 216B1	European	"	Issued
0682040 B1	European		Issued
FR0451216	France	"	Issued

DE
68925536
Germany
"
Issued
DD 296 964
East Germany
"
Issued
GB 0451216
Great Britain
"
Issued
1001050

Greece
"
Issued
211174

Hungary
"
Issued
IT O451216
Italy
"
Issued
2828340
Japan
"
Issued
LU O451216
Luxembourg
"
Issued
92.2146
Monaco
"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued
SG O451216
Singapore
"
Issued
89/9956
South Africa
"
Issued
178385
South Korea
"
Issued
2081974 T3
Spain

"
Issued
SE O451216
Sweden
"
Issued
CHO 451216
Switzerland
"
Issued
50034
Taiwan
"
Issued
13349
Uruguay
"
Issued
48700
Yugoslavia
"

Country
Title*
Pending
Argentina
"Novel Immunoglobulins, Their
Production and Use"
Pending
Canada
"
Pending
Chile
"
Pending
China
"
Pending
Croatia
"
Pending
Czech Republic
"
Pending
Ecuador
"
Pending
Europe
"
Pending
Hong Kong
"
Pending
Ireland
"
Pending
Israel
"
Pending
Japan
"
Pending
South Korea

Pending
Romania
"
Pending
Slovak Republic
"
Pending
Venezuela
"
Pending
Denmark

"
Pending
Finland
"
Pending
Norway
"

*Exact titles may differ in different countries.

EXHIBIT B

FORM OF
PATENT LICENSE AGREEMENT
between
PROTEIN DESIGN LABS, INC.
and
SMITHKLINE BEECHAM CORPORATION

This Patent License Agreement ("Agreement"), effective as of __, ____ ("Effective Date"), is made by and between PROTEIN DESIGN LABS, INC., a Delaware corporation having offices at 34801 Campus Drive, Fremont, CA 94555 (hereinafter "PDL") and SMITHKLINE BEECHAM CORPORATION, a Commonwealth of Pennsylvania corporation having offices at One Franklin Plaza, Philadelphia, PA 19101 (hereinafter "SB").

RECITALS

A. PDL and SB have entered into a Patent Rights Agreement effective as of September __, 1999, pursuant to which SB may enter into this Agreement for a license under the certain patents designated as the Queen et al. Patents for a humanized antibody directed against the _____ antigen.

B. PDL desires to grant and SB desires to accept a nonexclusive, worldwide, royalty-bearing license under the Licensed PDL Patents under the terms and conditions of this Agreement with respect to such humanized antibody.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS

Except as otherwise expressly provided herein, all references to Exhibits, Articles and Sections shall be references to Exhibits, Articles and Sections of this Agreement, and the following terms in this Agreement shall have the following meanings:

1.01 "Affiliate" shall mean any corporation, firm, partnership or other entity, whether de jure or de facto, which directly or indirectly owns, is owned by or is under common ownership with a party to this Agreement to the extent of at least fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affairs of the entity and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with a party to this Agreement; provided however any such person, corporation, firm, partnership or other entity shall be deemed an Affiliate only for so long as it meets the requirements of this definition.

1.02 "Antibody" shall mean any antibody, including without limitation, monospecific and bispecific antibodies; less than full-length antibody forms such as Fv, Fab, and F(ab')2; single-chain antibodies; and antibody conjugates bound to a toxin, label or other moiety.

1.03 "Combination Product(s)" shall mean any product containing both a pharmaceutically active agent or ingredient which constitutes a Licensed Product and one or more other pharmaceutically active agents or ingredients which do not constitute Licensed Products.

1.04 "Licensed PDL Patents" shall mean all United States and foreign patents and patent applications identified on Exhibit A (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof, all SPCs thereof and all patents issuing therefrom). Exhibit A will be updated by PDL on an annual basis.

1.05 "Licensed Product(s)" shall mean human prophylactic, therapeutic, and/or palliative products that include an Antibody [CONFIDENTIAL TREATMENT REQUESTED].

1.06 "Marketing Approval" shall mean the first approval or authorization in a country which is required for the marketing, promotion and sale of Licensed Product in such country.

1.07 "Net Sales" shall mean the gross invoice price or contract price

from sales of Licensed Products in a form for use by an end user and not intended for further genetic manipulation or transformation in the Territory by SB, its Affiliates and sublicensees ("the Selling Party") to Third Parties less

[CONFIDENTIAL TREATMENT REQUESTED]

Sales between SB, its Affiliates and its or their sublicensees shall be excluded from the computation of Net Sales and no payments will be payable on such sales except where such Affiliates or sublicensees are end users, but Net Sales shall include the subsequent final sales to Third Parties by SB or such Affiliates or sublicensees. [CONFIDENTIAL TREATMENT REQUESTED]

If SB or any of its Affiliates or sublicensees receive non-cash consideration for any Licensed Product sold or otherwise transferred to Third Party in a form other than bulk or intermediate, the fair market value of such non-cash consideration on the date of such transfer as known to SB, or as reasonably estimated by SB if unknown, shall be included in the definition of Net Sales.

1.08 "SPC" shall mean a right based upon a patent to exclude others from making, using or selling Licensed Product, such as a Supplementary Protection Certificate.

1.09 "Target Antigen" shall mean .

1.10 "Territory" shall mean worldwide [CONFIDENTIAL TREATMENT REQUESTED]

1.11 "Third Party" shall mean any party other than SB, PDL and their respective Affiliates.

1.12 "Valid Claim" shall mean [CONFIDENTIAL TREATMENT REQUESTED].

2. LICENSE

2.01 License Grant. Subject to the terms and conditions of this Agreement and in consideration of SB's fulfillment of its obligations to PDL under this Agreement, PDL hereby grants and SB hereby accepts a worldwide, nonexclusive royalty-bearing license under the Licensed PDL Patents, including the right to grant sublicenses with respect to Licensed Products in accordance with Section 2.02, to make, have made, import, use and sell Licensed Products in the Territory.

2.02 Limitation on Sublicenses; Notification. SB shall have the right to grant sublicenses of its rights under Section 2.01 with respect to Licensed Products, provided that (i) SB shall grant such sublicenses only in connection with the assignment or license by SB to such sublicensee of the right to use, make, have made, sell or otherwise transfer the Licensed Products in such country and (ii) SB shall pay to PDL [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding the assignment or grant of a sublicense by SB hereunder, SB shall remain obligated to pay all royalties due to PDL with respect to the sale of Licensed Products by its assignee or sublicensee. In addition, the grant of any sublicenses under Section 2.01 shall be on terms and conditions which are subject to and subordinate to the terms of this Agreement and SB shall remain fully responsible to PDL for the performance of any and all such terms by its sublicensees. Promptly following execution of any sublicense hereunder, SB shall notify PDL of the identity of the sublicensee and the scope of the sublicense and provide a copy of the sublicense agreement, which copy may be redacted to protect confidential technical or financial information.

2.03 Updates to List of Licensed PDL Patents. Not later than December 31 of each year during the term of this Agreement or earlier upon written request of SB (which request shall not be made more than twice per calendar year), PDL agrees to provide a written update listing the Licensed PDL Patents, and such update shall constitute an amendment to Exhibit A.

2.04 No Other License Rights. SB expressly acknowledges and agrees that, except for the license expressly granted under Section 2.01, no rights to any other PDL patents or patent applications, or to any know-how, trade secrets or licenses are included in this Agreement or granted by implication, estoppel or otherwise.

3. PAYMENTS, ROYALTIES, REPORTS

3.01 Payments. In consideration for the license granted by PDL under Article 2 of this Agreement, SB shall pay to PDL, within ten (10) business days of the Effective Date of this Agreement, a non-refundable, non-creditable signing and licensing fee in the sum of [CONFIDENTIAL TREATMENT REQUESTED].

3.02 Royalties to PDL. [CONFIDENTIAL TREATMENT REQUESTED]

3.03 Combination Products. Net Sales in a particular country, in the case of Combination Products for which the pharmaceutically active agent or ingredient constituting a Licensed Product and each of the other pharmaceutically active agents or ingredients not constituting Licensed Products have established market prices in that country when sold separately, shall be determined by multiplying the Net Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for the Licensed Product(s) contained in the Combination Product and the

denominator of which shall be the sum of the established market prices for the Licensed Product(s) plus the established market prices for the other pharmaceutically active agents or ingredients contained in the Combination Product. When such separate market prices are not established in that country, then the parties shall negotiate in good faith to determine a fair and equitable method of calculating Net Sales in that country for the Combination Product in question.

3.04 Annual Maintenance Fee. In further consideration of the license granted under Article 2, within fifteen (15) business days after the second anniversary of the Effective Date and for each anniversary thereafter, SB shall pay a nonrefundable annual maintenance fee in the amount of [CONFIDENTIAL TREATMENT REQUESTED]. Such annual maintenance fee shall be [CONFIDENTIAL TREATMENT REQUESTED] against royalties payable by SB for the year with respect to which such annual maintenance fee is paid; provided, however, that any quarterly payments due to PDL shall not be reduced by more than [CONFIDENTIAL TREATMENT REQUESTED] by such offset.

3.05 Currency Conversion. All amounts payable to PDL under this Agreement shall be payable in U.S. Dollars by wire transfer to a bank account designated by PDL. In the case of royalties on Net Sales, all amounts payable shall first be calculated in the currency of sale and then converted into U.S. Dollars using the actual average exchange rates for such currency as used by SB in producing its quarterly and annual accounts, as confirmed by SB's auditors.

3.06 Reports.

(a) Current Reports. SB agrees to make written reports and royalty payments to PDL within forty-five (45) days after the close of each calendar quarter during the term of this Agreement, beginning with the calendar quarter in which the date of first commercial sale or other transfer for value of a Licensed Product by SB, its Affiliates or sublicensees in the Territory occurs. These reports shall be certified by a duly authorized employee in the Finance Department of SB and shall state for the calendar quarter in question: (1) identification on a country-by-country basis of each Licensed Product upon which SB is paying royalties; (2) Net Sales by SB and its Affiliates of such Licensed Products; (3) Net Sales reported by sublicensees of such Licensed Products; (4) the place of manufacture of Licensed Products sold in such quarter; (5) applicable offsets or deductions; and (6) the net royalty due to PDL thereon pursuant to this Article 3. No later than at the time of the making of each such report, SB shall make any payment due to PDL of royalties for the period covered by such report.

(b) Termination Report. For each Licensed Product, SB also agrees to make a written report to PDL within ninety (90) days after the date on which SB, its Affiliates or sublicensees last sell or otherwise transfer for value the Licensed Product anywhere in the Territory stating in such report the same information required by quarterly reports for all such Licensed Products made, sold or otherwise disposed of which were not previously reported to PDL.

(c) Notification of Marketing Approval. SB agrees to notify PDL in writing within ten (10) days after the end of each month of the countries in the Territory in which SB, its Affiliates or sublicensees obtains Marketing Approval of a Licensed Product in the preceding month. Such notice shall specify the country and date of Marketing Approval. SB shall assist PDL and provide reasonable cooperation (including the execution and timely delivery of any documents, certifications and the like) in obtaining any extensions of the Licensed PDL Patents with respect to any Licensed Product in any country in which SB markets Licensed Products.

3.07 Inspection. SB agrees to keep, and to require any of its Affiliates or sublicensees to keep, clear, accurate and complete records for a period of at least three (3) years for each reporting period in which Net Sales occur showing the manufacture, sales, use and other dispositions for value of Licensed Products in sufficient detail to enable the royalties payable hereunder to be determined. SB further agrees to permit its books and records, and to require any of its Affiliates or sublicensees to permit their books and records, to be examined by an independent accounting firm selected by PDL and reasonably acceptable to SB from time-to-time during regular business hours, but not more than once a year. Such independent accounting firm shall report to PDL only with respect to the accuracy of Net Sales and deductions reported and payments made by SB to PDL under this Agreement. All information disclosed in any such inspection shall be deemed confidential under the terms of this Agreement. [CONFIDENTIAL TREATMENT REQUESTED] Any such discrepancies will be promptly corrected by a payment or refund by the appropriate party.

3.08 Withholding. SB may withhold from royalties due to PDL amounts for payment of any withholding tax that SB has paid to any taxing authority with respect to the royalty amounts due to PDL hereunder for which SB does not receive a refund or credit. SB agrees to reasonably cooperate with PDL in obtaining a foreign tax credit in the U.S. with respect to royalties due to PDL on the sale or manufacture of Licensed Products.

3.09 Interest on Overdue Royalties. SB shall be liable for interest on any overdue royalties, at the rate of [CONFIDENTIAL TREATMENT REQUESTED] per annum or the highest rate allowed by law, whichever is less, commencing on the

date such royalties are due until paid.

3.10 Royalties to Third Parties. SB acknowledges and agrees that other licenses may be required from third parties with respect to the development, manufacture, importation, use, and sale of any Licensed Product under this Agreement, and that SB shall be solely responsible for any royalties and other payments with respect to those license rights. In no event shall SB have a right to credit against, reduce or otherwise offset any royalty or payment obligations to such third parties against royalty amounts payable to PDL under this Agreement.

4. INFRINGEMENT OF LICENSED PDL PATENTS

4.01 Suits. PDL shall not have any obligation hereunder to institute any action, suit or other proceeding against third parties for infringement of any Licensed PDL Patents or to defend any action, suit or proceeding brought by a third party which challenges or concerns the validity or enforceability of any Licensed PDL Patents. Any moneys recovered from alleged infringers shall be retained by PDL.

5. REPRESENTATIONS AND WARRANTIES; DISCLAIMERS; INDEMNIFICATION

5.01 Valid Agreement.

(a) Each party represents and warrants to the other that it knows of no legal reason to prevent it from entering into this Agreement and that the signatory hereto is duly authorized to execute and deliver this Agreement.

(b) PDL represents and warrants to SB that it has the right to grant the licenses to SB provided under this Agreement.

5.02 [CONFIDENTIAL TREATMENT REQUESTED]

5.03 Disclaimers. Nothing in this Agreement shall be construed as (a) a warranty or representation by PDL as to the validity, enforceability or scope of any Licensed PDL Patents; (b) a requirement that PDL file any patent application, or secure any patent or patent rights, or maintain any patent in force, or provide copies of patent applications to SB or its Affiliates or sublicensees, or disclose any inventions described or claimed in such patent applications; or (c) a warranty or representation by PDL that any Licensed Product made, used, sold or otherwise disposed of under the license granted in this Agreement is or will be free from infringement of patents, copyrights, trademarks, trade secrets or other rights of third parties. SB acknowledges and agrees that any royalties or payments that may be due to third parties in order for SB to make, have made, use, sell or otherwise dispose of Licensed Products shall be the sole responsibility of SB.

5.04 No Other Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 5, PDL MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PDL PATENTS OR ANY CELL LINES, ANTIBODIES OR LICENSED PRODUCTS DEVELOPED BY SB UNDER THE LICENSE SET FORTH IN THIS AGREEMENT AND PDL FURTHER MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF LICENSED PDL PATENTS OR ANY CELL LINES, ANTIBODIES, LICENSED PRODUCTS OR OTHER MATERIALS DEVELOPED BY SB UNDER THE LICENSE SET FORTH IN THIS AGREEMENT WILL NOT INFRINGE ANY THIRD PARTY RIGHTS.

5.05 Indemnification. Except as otherwise set forth in Article 4, SB shall at all times, during the term of this Agreement and thereafter, indemnify, defend and hold harmless PDL and its Affiliates, sublicensees, directors, officers, agents and employees from any claim, proceeding, loss, expense, and liability of any kind whatsoever (including but not limited to those resulting from death, personal injury, illness or property damage and including legal expenses and reasonable attorneys' fees) ("PDL Losses") arising out of or resulting from third party claims based upon the development, manufacture, holding, use, testing, advertisement, sale or other disposition by SB, its Affiliates or sublicensees, or any distributor, customer or representative thereof or any one in privity therewith, of any Licensed Product; provided, however, that such indemnity shall not apply to the extent any such PDL Losses result from the negligence or willful misconduct of PDL or breach by PDL of any representation, warranty or other provision of this Agreement.

In the event PDL is seeking indemnification from SB under this Section 5.05, SB shall have no such obligation unless PDL:

(i) gives SB prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this Agreement;

(ii) cooperates fully with SB and its agents in defense of any such claim, complaint, lawsuit or other cause of action; and

(iii) SB is granted full authority and control over the defense, including settlement or other disposition thereof, against such claim or lawsuit or other action, provided that PDL shall have the right to retain counsel of its choice to participate in the defense of any such claim or lawsuit at PDL's own expense, provided that such counsel shall not interfere with SB's full authority and control.

Notwithstanding the foregoing, this Section 5.05 shall not be deemed to permit SB to have authority or control over, or otherwise enter into any settlement arrangement concerning the validity or scope of, the Licensed PDL Patents.

6. CONFIDENTIALITY

6.01 Obligations. During the term of this Agreement and for five (5)

years thereafter, PDL and SB shall not use or reveal or disclose to Third Parties any confidential information received from the other in the performance of activities in furtherance of this Agreement without first obtaining the written consent of the disclosing party, except (i) as may be otherwise provided herein, (ii) as may be required for purposes of developing, manufacturing or marketing Licensed Product, (iii) as may be required for securing essential or desirable authorizations, approvals, privileges or rights from governmental agencies or as may be required by law, statute or regulation to be disclosed to a governmental agency, provided that the party disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained by such government regulatory agencies, (iv) as may be required or as necessary to file or prosecute patent applications concerning Licensed Product, (v) or as may be required to carry out any litigation concerning Licensed Products provided that the party disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained. This confidentiality obligation shall not apply to confidential information which is or becomes a matter of public knowledge through no fault of the receiving party, or is already in the possession of the receiving party, or is disclosed to the receiving party by a Third Party having the right to do so, or is subsequently and independently developed by employees of the receiving party or Affiliates thereof who had no knowledge of the confidential information disclosed. The parties shall take reasonable measures to assure that no unauthorized use or disclosure is made by others to whom access to confidential information is granted.

6.02 Exceptions. Nothing in this Article 6 shall be construed as preventing either party from disclosing any information received from the other party to:

(i) an Affiliate, sublicensee or distributor of the receiving party, provided such Affiliate, sublicensee or distributor has undertaken a similar obligation of confidentiality with respect to the confidential information;

(ii) the FDA in connection with the approval to conduct clinical studies, manufacture, market or sell Licensed Product; or

(iii) any securities exchange to which the receiving party may be subject if necessary to meet the requirements, rules and regulations of such securities exchange, but only to the extent such disclosure is reasonably required and subject to obligations of confidentiality wherever possible.

6.03 Ownership. All confidential information disclosed by one party to the other shall remain the intellectual property of the disclosing party. In the event that a court or other legal or administrative tribunal, directly or through an appointed master, trustee or receiver, assumes partial or complete control over the assets of a party to this Agreement based on the insolvency or bankruptcy of such party, the bankrupt or insolvent party shall promptly notify the court or other tribunal (i) that confidential information received from the other party under this Agreement remains the property of the other party and (ii) of the confidentiality obligations under this Agreement. In addition, the bankrupt or insolvent party shall, to the extent permitted by law, take all steps necessary or desirable to maintain the confidentiality of the other party's confidential information and to ensure that the court, other tribunal or appointee maintains such information in confidence in accordance with the terms of this Agreement.

7. TERM AND TERMINATION

7.01 Term. Unless earlier terminated as provided in this Article 7, SB's obligations to pay royalties to PDL hereunder shall come into force on the Effective Date and shall continue, on a country by country basis, [CONFIDENTIAL TREATMENT REQUESTED]. Unless earlier terminated, this Agreement shall expire upon the expiration of all SB's royalty obligations to PDL hereunder. Expiration of this Agreement or expiration of SB's obligation to pay royalties to PDL in any country hereunder shall not preclude SB from continuing to market or have marketed Licensed Product in such country without further payment to PDL.

7.02 Termination.

(a) If either party shall at any time default in the payment of any royalty, or the making of any report hereunder, or shall commit any material breach of any covenant or agreement herein contained or shall make any false report, and shall fail to have initiated and actively pursued remedy of any such default or breach within (i) fifteen (15) days after receipt of written notice of failure to pay royalties hereunder, or (ii) forty-five (45) days after receipt of written notice of any default or breach (other than failure to pay royalties) by the other party, the non-breaching party may, at its option, cancel this Agreement and revoke any rights and licenses herein granted and directly affected by the default or breach by notice in writing to such effect, but such act shall not prejudice the right of the party giving notice to recover any royalty or other sums due at the time of such cancellation, it being understood, however, that if within forty-five (45) days after receipt of any such notice the receiving party shall have initiated and actively pursued remedy of its default (other than failure to pay royalties), then the rights and licenses herein granted shall remain in force as if no breach or default had occurred on the part of the receiving party, unless such breach or default is not in fact remedied within a reasonable

period of time.
(b) This Agreement may be terminated by either party upon the occurrence of any of the following which is not stayed or vacated within ninety (90) days of such occurrence: (i) petition in bankruptcy filed by or against the other party; (ii) adjudication of the other party as bankrupt or insolvent; (iii) appointment of a liquidator, receiver or trustee for all or a substantial part of the other party's property; or (iv) an assignment for the benefit of creditors of the other party. Notwithstanding the bankruptcy of PDL, or the impairment of performance by PDL of its obligations under this Agreement as a result of bankruptcy or insolvency of PDL, SB shall be entitled to retain the licenses granted herein, subject to PDL's rights to terminate this Agreement for reasons other than bankruptcy or insolvency as expressly provided in this Agreement. All rights granted under or pursuant to this Agreement by PDL to SB are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101(35A) of the U.S. Bankruptcy Code. The parties agree that SB, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code, subject to performance by SB of its preexisting obligations under this Agreement.
(c) [CONFIDENTIAL TREATMENT REQUESTED]
(d) SB may terminate the license granted under this Agreement as to the Licensed PDL Patents in any country of the Territory at any time upon sixty (60) days prior written notice.
7.03 No Waiver. The right of either party to terminate this Agreement as provided herein shall not be affected in any way by its waiver of any previous failure to perform hereunder or by its failure to take action with respect thereto.
7.04 Survival. Termination for any reason hereunder shall not affect any accrued rights or obligations of the parties arising in any manner under this Agreement as of the date of termination. In any event, the confidentiality and indemnity obligations and any accrued but unpaid payment obligations under Articles 3, 5 and 6, respectively, shall survive any termination of this Agreement.
8. MISCELLANEOUS
8.01 Assignment. This Agreement and the licenses herein granted shall be binding upon and inure to the benefit of the successors in interest of the respective parties. Neither this Agreement nor any interest hereunder shall be assignable by either party without the prior written consent of the other; provided, however, that either party may assign this Agreement or any part of its rights and obligations hereunder to any Affiliate of such party or to any corporation with which that party may merge or consolidate, or to which it may transfer all or substantially all of its assets, without obtaining the consent of the other party, provided that the party effecting such assignment shall notify the other promptly following such assignment.
8.02 Entire Agreement. This Agreement, entered into as of the date written above, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all previous writings and understandings. No terms or provisions of this Agreement shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties, except that the parties may amend this Agreement by written instruments specifically referring to and executed in the same manner as this Agreement.
8.03 Severability.
(a) In the event any portion of this Agreement shall be held illegal, void or ineffective, the remaining portions hereof shall remain in full force and effect.
(b) If any of the terms or provisions of this Agreement are in conflict with any applicable statute or rule of law, then such terms or provisions shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to conform with such statute or rule of law.
(c) In the event that the terms and conditions of this Agreement are materially altered as as provided in Sections 8.03(a) and (b), the parties will in good faith renegotiate the terms and conditions of this Agreement to carry out the intent of the parties.
8.04 Notices. Notices required or permitted under this Agreement shall be in writing in the English language and sent by by overnight mail (e.g., FedEx), or by facsimile confirmed by by overnight mail (e.g., FedEx), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the parties or to such address or addresses as may be specified from time to time in a written notice:
If to PDL: Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California 94555 USA
Attention: General Counsel
Facsimile number: (510) 574-1473
If to SB: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 1930)
P.O. Box 7929

Philadelphia, PA 19101
Attn: Senior Vice President, Business Development

Facsimile number: (215) 751-4253

Copy to: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 2360)
P.O. Box 7929
Philadelphia, PA 19101
Attn: Corporate Law - US

Fax: number: (215)751-3935

8.05 Choice of Law. This Agreement shall be deemed to have been made in New York and its form, execution, validity, construction and effect shall be determined in accordance with the laws thereof.

8.06 Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including without limitation, a dispute concerning a termination of this Agreement (hereinafter collectively referred to as "Dispute") shall be attempted to be settled by the parties, in good faith, by submitting each such Dispute to appropriate senior management representatives of each party in an effort to effect a mutually acceptable resolution thereof within thirty (30) days of submission to such representatives. Within fifteen (15) days after submission of the Dispute to such senior representatives, each party shall submit a brief, written summary of the Dispute and their respective positions with respect to the Dispute to such senior representatives. In the event no mutually acceptable resolution is achieved in such time frame, then each party shall be entitled to seek relief for such Dispute by using any appropriate judicial mechanism which may be available in the courts.

8.07 Waiver. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

8.08 Force Majeure. If the performance of any part of this Agreement by either party, or of any obligation under this Agreement, is prevented, restricted, interfered with or delayed by reason of any cause beyond the reasonable control of the party liable to perform, unless conclusive evidence to the contrary is provided, the party so affected shall, upon giving written notice to the other party, be excused from such performance to the extent of such prevention, restriction, interference or delay; provided that the affected party shall use its reasonable best efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. When such circumstances arise, the parties shall discuss what, if any, modification of the terms of this Agreement may be required in order to arrive at an equitable solution.

8.09 Publicity. It is contemplated that one or both of the parties may issue a press release announcing this Agreement, the form and content of which shall be mutually agreed upon. No other public announcement or other disclosure to Third Parties concerning the terms, financial or otherwise shall be made, either directly or indirectly, by any party to this Agreement, except as may be legally required or as may be required for recording purposes, without first obtaining the approval of the other Party, which approval shall not be unreasonably withheld, and agreement upon the nature and text of such announcement or disclosure. The party desiring to make any such public announcement or other disclosure shall inform the other party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other party with a written copy thereof, in order to allow such other party to comment upon such announcement or disclosure. The party reviewing the release shall use good faith efforts to promptly review and provide comments upon the proposed public release, which comments shall be provided as soon as practicable but in any event within seven (7) days of delivery of the initial draft of the proposed release. Each party agrees that it shall cooperate fully with the other with respect to all disclosures regarding this Agreement to the Securities Exchange Commission, the U.K. Stock Exchange and any other governmental or regulatory agencies, including requests for confidential treatment of proprietary information of either party included in any such disclosure.

8.10 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

8.11 Export. Each party acknowledges that the laws and regulations of the United States restrict the export and re-export of commodities and technical data of United States origin. Each party agrees that it will not export or re-export restricted commodities or the technical data of the other party in any form without the appropriate United States and foreign government licenses.

8.12 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument.

8.13 Independent Contractors. The parties are independent contractors under this Agreement and no other relationship is intended, including, without limitation, partnership, joint venture or agency relationship. Neither party

shall act in a manner which expresses or implies a relationship other than of independent contractor, nor bind the other party, except as otherwise expressly provided in this Agreement. Nothing in this Agreement shall be deemed to infer any direct relationship between PDL and any Affiliate of SB.
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

PROTEIN DESIGN LABS, INC.	SMITHKLINE BEECHAM CORPORATION
By: _____	By: _____
Title:	Title:

EXHIBIT A

Licensed PDL Patents

The following are patents and patent applications (also known as the "Queen et al. patents") issued and filed in certain countries in the world and licensed as part of the Licensed PDL Patents under the Agreement (As of August 25, 1999).

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.	Country	Title*	Issued
647383	Australia	"Novel Immunoglobulins, Their Production and Use"	Issued
671949	Australia	"	Issued
AT E133452	Austria	"	Issued
0451216	Belgium	"	Issued
61095	Bulgaria	"	Issued
970016	Brazil	"	Issued
0451 216B1	European	"	Issued
0682040 B1			

European

Issued
FR0451216
France
"
Issued
DE
68925536
Germany
"
Issued
DD 296 964
East Germany
"
Issued
GB 0451216
Great Britain
"
Issued
1001050

Greece
"
Issued
211174

Hungary
"
Issued
IT O451216
Italy
"
Issued
2828340
Japan
"
Issued
LU O451216
Luxembourg
"
Issued
92.2146
Monaco
"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued
SG O451216
Singapore
"
Issued
89/9956
South Africa
"

Issued
178385
South Korea
"
Issued
2081974 T3
Spain
"
Issued
SE O451216
Sweden
"
Issued
CHO 451216
Switzerland
"
Issued
50034
Taiwan
"
Issued
13349
Uruguay
"
Issued
48700
Yugoslavia
"

Country
Title*
Pending
Argentina
"Novel Immunoglobulins, Their
Production and Use"
Pending
Canada
"
Pending
Chile
"
Pending
China
"
Pending
Croatia
"
Pending
Czech Republic
"
Pending
Ecuador
"
Pending
Europe
"
Pending
Hong Kong
"
Pending
Ireland
"
Pending
Israel
"
Pending
Japan
"
Pending
South Korea

Pending
Romania
"
Pending

Slovak Republic
"
Pending
Venezuela
"
Pending
Denmark
"
Pending
Finland
"
Pending
Norway
"

*Exact titles may differ in different countries.

IL-5 PATENT LICENSE AGREEMENT
between
PROTEIN DESIGN LABS, INC.
and
SMITHKLINE BEECHAM CORPORATION

This IL-5 Patent License Agreement ("Agreement"), effective as of September 28, 1999 ("Effective Date"), is made by and between PROTEIN DESIGN LABS, INC., a Delaware corporation having offices at 34801 Campus Drive, Fremont, CA 94555 (hereinafter "PDL") and SMITHKLINE BEECHAM CORPORATION, a Commonwealth of Pennsylvania corporation having offices at One Franklin Plaza, Philadelphia, PA 19101 (hereinafter "SB").

RECITALS

A. SB desires to exclusively license certain patents owned or controlled by PDL related to humanized antibodies directed against the IL-5 antigen; and

B. PDL and SB are contemporaneously entering into an Patent Rights Agreement (the "Rights Agreement") that grants SB an option to obtain certain nonexclusive license rights under patents and patent applications owned or controlled by PDL and a Development and License Agreement for an antibody directed against the IL-4 antigen (the "Development and License Agreement"). In consideration of SB's obligations under this Agreement, PDL is willing to exclusively license to SB certain patents owned or controlled by PDL related to humanized antibodies directed against the IL-5 antigen under the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS

Except as otherwise expressly provided herein, all references to Exhibits, Articles and Sections shall be references to Exhibits, Articles and Sections of this Agreement, and the following terms in this Agreement shall have the following meanings:

1.01 "Affiliate" shall mean any corporation, firm, partnership or other entity, whether de jure or de facto, which directly or indirectly owns, is owned by or is under common ownership with a party to this Agreement to the extent of at least fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affairs of the entity and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with a party to this Agreement; provided however any such person, corporation, firm, partnership or other entity shall be deemed an Affiliate only for so long as it meets the requirements of this definition.

1.02 "Antibody" shall mean any antibody, including without limitation, monospecific and bispecific antibodies; less than full-length antibody forms such as Fv, Fab, and F(ab')2; single-chain antibodies; and antibody conjugates bound to a toxin, label or other moiety.

1.03 "Combination Product(s)" shall mean any product containing both a pharmaceutically active agent or ingredient which constitutes a Licensed Product and one or more other pharmaceutically active agents or ingredients which do not constitute Licensed Products.

1.04 "IL-5" shall mean the human cytokine Interleukin 5.

1.05 "Licensed PDL Patents" shall mean all United States and foreign patents and patent applications identified on Exhibit A (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof, all SPCs (as defined below) thereof and all patents issuing thereof. Exhibit A will be updated by PDL on a semi-annual basis.

1.06 "Licensed Product(s)" shall mean human prophylactic, therapeutic, and/or palliative products that include an Antibody [CONFIDENTIAL TREATMENT REQUESTED].

1.07 "Major Countries" shall mean the United States, Japan, the United Kingdom, France, Italy, Spain and Germany.

1.08 "Marketing Approval" shall mean the first approval or authorization in a country which is required for the marketing, promotion and sale of Licensed Product in such country.

1.09 "Net Sales" shall mean the gross invoice price or contract price from sales of Licensed Products in a form for use by an end user and not intended for further genetic manipulation or transformation in the Territory by SB, its Affiliates and sublicensees ("the Selling Party") to Third Parties less

[CONFIDENTIAL TREATMENT REQUESTED]

Sales between SB, its Affiliates and its or their sublicensees shall be excluded from the computation of Net Sales and no payments will be payable on such sales except where such Affiliates or sublicensees are end users, but Net

Sales shall include the subsequent final sales to Third Parties by SB or such Affiliates or sublicensees. [CONFIDENTIAL TREATMENT REQUESTED]

If SB or any of its Affiliates or sublicensees receive non-cash consideration for any Licensed Product sold or otherwise transferred to Third Party, the fair market value of such non-cash consideration on the date of such transfer as known to SB, or as reasonably estimated by SB if unknown, shall be included in the definition of Net Sales.

1.10 "SPC" shall mean a right based upon a patent to exclude others from making, using or selling Licensed Product, such as a Supplementary Protection Certificate.

1.11 [CONFIDENTIAL TREATMENT REQUESTED].

1.12 "Territory" shall mean worldwide, except in countries where SB's rights terminate hereunder pursuant to Section 7.02(b) and/or Section 7.02(e).

1.13 "Third Party" shall mean any party other than SB, PDL and their respective Affiliates.

1.14 "Valid Claim" shall mean [CONFIDENTIAL TREATMENT REQUESTED].

2. LICENSE

2.01 License Grant. Subject to the terms and conditions of this Agreement and in consideration of SB's fulfillment of its obligations to PDL under this Agreement, PDL hereby grants and SB hereby accepts a worldwide, exclusive (except as provided in Sections 2.05 and 5.03) license under the Licensed PDL Patents, including the right to grant sublicenses with respect to Licensed Products in accordance with Section 2.02, to make, have made, import, use and sell Licensed Products in the Territory.

2.02 Limitation on Sublicenses; Notification.

(a) Subject to Section 2.02(b), SB shall have the right to grant sublicenses of its rights under Section 2.01 with respect to Licensed Products, provided that (i) SB shall grant such sublicenses only in connection with the assignment or license by SB to such sublicensee of the right to use, make, have made, sell or otherwise transfer the Licensed Products in such country and (ii) [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding the assignment or grant of a sublicense by SB hereunder, SB shall remain obligated to pay all royalties due to PDL with respect to the sale of Licensed Products by its assignee or sublicensee. In addition, the grant of any sublicenses under Section 2.01 shall be on terms and conditions which are subject to and subordinate to the terms of this Agreement and SB shall remain fully responsible to PDL for the performance of any and all such terms by its sublicensees. Promptly following execution of any sublicense hereunder, SB shall notify PDL of the identity of the sublicensee and the scope of the sublicense and provide a copy of the sublicense agreement, which copy may be redacted to protect confidential technical or financial information.

(b) [CONFIDENTIAL TREATMENT REQUESTED]

2.03 Updates to List of Licensed PDL Patents. Not later than December 31 of each year during the term of this Agreement or earlier upon written request of SB (which request shall not be made more than twice per calendar year), PDL agrees to provide a written update listing the Licensed PDL Patents, and such update shall constitute an amendment to Exhibit A.

2.04 No Other License Rights. SB expressly acknowledges and agrees that, except for the license expressly granted under Section 2.01, no rights to any other PDL patents or patent applications, or to any know-how, trade secrets or licenses are included in this Agreement or granted by implication, estoppel or otherwise.

2.05 [CONFIDENTIAL TREATMENT REQUESTED]

3. PAYMENTS, ROYALTIES, REPORTS

3.01 Signing and Licensing Fee. In consideration for the license granted by PDL under Article 2 of this Agreement, SB shall pay to PDL a nonrefundable non-creditable signing and licensing fee within ten (10) business days of the Effective Date in the sum of [CONFIDENTIAL TREATMENT REQUESTED].

3.02 Annual Maintenance Fee. In consideration of the rights and licenses granted under Article 2 of this Agreement, not later than September 15, 2001 and continuing annually thereafter, SB shall pay PDL a nonrefundable annual maintenance fee in the amount of [CONFIDENTIAL TREATMENT REQUESTED] within thirty (30) days of each such anniversary. Such annual maintenance fees shall be [CONFIDENTIAL TREATMENT REQUESTED]against royalties due to PDL in the calendar year paid.

3.03 Royalties to PDL. In further consideration of the rights and licenses granted under Article 2 of this Agreement, subject to Section 2.05, SB shall pay to PDL the following royalties on Net Sales of Licensed Product sold by SB, its Affiliates or sublicensees, as applicable:
[CONFIDENTIAL TREATMENT REQUESTED]

3.04 Combination Products. Net Sales in a particular country, in the case of Combination Products for which the pharmaceutically active agent or ingredient constituting a Licensed Product and each of the other

pharmaceutically active agents or ingredients not constituting Licensed Products have established market prices in that country when sold separately, shall be determined by multiplying the Net Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for the Licensed Product(s) contained in the Combination Product and the denominator of which shall be the sum of the established market prices for the Licensed Product(s) plus the established market prices for the other pharmaceutically active agents or ingredients contained in the Combination Product. When such separate market prices are not established in that country, then the parties shall negotiate in good faith to determine a fair and equitable method of calculating Net Sales in that country for the Combination Product in question.

3.05 Currency Conversion. All amounts payable to PDL under this Agreement shall be payable in U.S. Dollars by wire transfer to a bank account designated by PDL. In the case of royalties on Net Sales, all amounts payable shall first be calculated in the currency of sale and then converted into U.S. Dollars using the actual average exchange rates for such currency as used by SB in producing its quarterly and annual accounts, as confirmed by SB's auditors.

3.06 Reports.

(a) Current Reports. SB agrees to make written reports and royalty payments to PDL within forty-five (45) days after the close of each calendar quarter during the term of this Agreement, beginning with the calendar quarter in which the date of first commercial sale or other transfer for value of a Licensed Product by SB, its Affiliates or sublicensees in the Territory occurs. These reports shall be certified by a duly authorized employee in the Finance Department of SB and shall state for the calendar quarter in question: (1) identification on a country-by-country basis of each Licensed Product upon which SB is paying royalties; (2) Net Sales by SB and its Affiliates of such Licensed Products; (3) Net Sales reported by sublicensees of such Licensed Products; (4) the place of manufacture of such Licensed Productssold in such quarter; (5) applicable offsets or deductions and (6) the net royalty due to PDL thereon pursuant to this Article 3. No later than at the time of the making of each such report, SB shall make any payment due to PDL of royalties for the period covered by such report.

(b) Termination Report. For each Licensed Product, SB also agrees to make a written report to PDL within ninety (90) days after the date on which SB, its Affiliates or sublicensees last sell or otherwise transfer for value the Licensed Product anywhere in the Territory stating in such report the same information required by quarterly reports for all such Licensed Products made, sold or otherwise disposed of which were not previously reported to PDL.

(c) Notification of Marketing Approval. SB agrees to notify PDL in writing within ten (10) days after the end of each month of the countries in the Territory in which SB, its Affiliates or sublicensees obtains Marketing Approval of a Licensed Product in the preceding month. Such notice shall specify the country and date of Marketing Approval. SB shall assist PDL and provide reasonable cooperation (including the execution and timely delivery of any documents, certifications and the like) in obtaining any extensions of the Licensed PDL Patents with respect to any Licensed Product in any country in which SB markets Licensed Products.

3.07 Inspection. SB agrees to keep, and to require any of its Affiliates or sublicensees to keep, clear, accurate and complete records for a period of at least three (3) years for each reporting period in which Net Sales occur showing the manufacture, sales, use and other dispositions for value of Licensed Products in sufficient detail to enable the royalties payable hereunder to be determined. SB further agrees to permit its books and records, and to require any of its Affiliates or sublicensees to permit their books and records, to be examined by an independent accounting firm selected by PDL and reasonably acceptable to SB from time-to-time during regular business hours, but not more than once a year. Such independent accounting firm shall report to PDL only with respect to the accuracy of Net Sales and deductions reported and payments made by SB to PDL under this Agreement. All information disclosed in any such inspection shall be deemed confidential under the terms of this Agreement. [CONFIDENTIAL TREATMENT REQUESTED]

3.08 Withholding. SB may withhold from royalties due to PDL amounts for payment of any withholding tax that SB has paid to any taxing authority with respect to the royalty amounts due to PDL hereunder for which SB does not receive a refund or credit. SB agrees to reasonably cooperate with PDL in obtaining a foreign tax credit in the U.S. with respect to royalties due to PDL on the sale or manufacture of Licensed Products.

3.09 Interest on Overdue Royalties. SB shall be liable for interest on any overdue royalties, at the rate of [CONFIDENTIAL TREATMENT REQUESTED]per annum, commencing on the date such royalties are due until paid.

4. LICENSED PDL PATENTS

4.01 Prosecution and Maintenance. PDL shall have the sole right to prepare, file, prosecute, maintain and extend, at its expense, all Licensed PDL Patents, provided that SB shall have the right to assume responsibility, at SB's expense, for preparing, filing, prosecuting, maintaining and extending any such patent or patent application, or any part thereof, which PDL intends to abandon or otherwise cause or allow to be forfeited.

4.02 Infringement of Licensed PDL Patents.

(a) Notice. In the event that PDL or SB becomes aware of actual or threatened infringement of a Licensed PDL Patent anywhere in the Territory, which infringement relates to an antibody that binds to the IL-5 antigen, that party shall promptly notify the other party in writing. The notice shall describe in reasonable detail the facts and circumstances forming the basis for the determination that there is actual or threatened infringement. In the event the notice specifies threatened, but not actual infringement, the parties agree to discuss in good faith the proper course of action; provided, however, that PDL shall have the final decision making authority with respect to such course of action. [CONFIDENTIAL TREATMENT REQUESTED]

(b) PDL First Right to Litigate For Actual Infringement. PDL shall have the first right but not the obligation to bring an infringement action or file any other appropriate judicial action or claim directly related to actual infringement of the Licensed PDL Patents against any Third Party that relates to an antibody that binds to the IL-5 antigen (an "Action") and, if necessary, to use SB's name in connection therewith and to include SB as a party thereto. In the event PDL brings an Action, SB shall reimburse PDL for [CONFIDENTIAL TREATMENT REQUESTED] in enforcing and/or defending the Licensed PDL Patents in such Action, including without limitation the expenses directly related to the preparation of such litigation; provided however that SB shall not be required to reimburse PDL for those expenses that arise from any claims or suits that are not related to the Licensed PDL Patents or are not related to an antibody that binds to the IL-5 antigen. Subject to Section 4.04, PDL shall have sole control over any Action, including without limitation the right to select counsel for such action; provided, however that PDL shall solicit, and seriously consider in good faith SB's input with respect to all material aspects of such Action, including without limitation the development of the litigation strategy and the execution thereof. In furtherance but not in limitation of the foregoing, PDL shall keep SB promptly and fully informed of the status of any such Action, and SB shall have the right to review and comment upon PDL's activities related thereto. SB shall consult with PDL concerning such action at no cost to PDL. To the extent PDL elects its first right to bring an Action in any country of the Territory, PDL shall use commercially reasonable good faith efforts, in each such country, to diligently pursue such Action and obtain results that are consistent with the respective objectives of the parties under this Agreement. In the event that PDL initiates an Action hereunder but subsequently determines not to proceed, PDL shall provide SB with prompt written notice of such determination and SB shall have the right to continue such Action as provided in Section 4.04(c).

(c) SB's Right to Litigate for Actual Infringement. [CONFIDENTIAL TREATMENT REQUESTED] Subject to Section 4.04, SB shall have sole control over any Action initiated pursuant to this Section 4.02(c), including without limitation the right to select counsel for such action; provided, however that SB shall solicit, and seriously consider in good faith PDL's input with respect to all material aspects of such Action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance but not in limitation of the foregoing, SB shall keep PDL promptly and fully informed of the status of any such Action, and PDL shall have the right to review and comment upon SB's activities related thereto. PDL shall consult with SB concerning such action at no cost to SB. To the extent SB elects its right to bring an Action, SB shall use commercially reasonable good faith efforts to diligently pursue such Action and obtain results in each country that are consistent with the respective objectives of the parties under this Agreement.

4.03 Litigation and Settlement Costs. Allocation of costs and expenses and recoveries shall be as follows: [CONFIDENTIAL TREATMENT REQUESTED]

4.04 Cooperation and Settlement. The parties shall keep one another informed of the status of and of their respective activities regarding any Action, including without limitation any discussion concerning the settlement thereof. No settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by one party pursuant to this Article 4 may be entered into without the consent of the non-settling party if, and only if, such settlement would require the non-settling party to be subject to an injunction, to make a monetary payment or would adversely affect the non-settling party's rights under this Agreement, including without limitation any settlement concerning the validity or scope of the Licensed PDL Patents or any settlement concerning SB's exclusive license to the Licensed PDL Patents set forth in this Agreement.

4.05 Infringement of Third Party Intellectual Property Rights.

(a) Notice. In the event of the institution of any suit by a Third Party against SB or its respective sublicensees or Affiliates for patent infringement involving the manufacture, use, importation, sale, distribution or marketing of Licensed Product anywhere in the Territory, SB shall promptly notify PDL in writing.

(b) Rights to Defend. SB shall have the right but not the obligation to defend such suit at its own expense, and to use PDL's name in connection therewith. Notwithstanding the foregoing, the responsibility for any claim relating to the invalidity or unenforceability of the Licensed PDL Patents shall be determined in accordance with Section 4.02.

(c) Cooperation and Settlement. SB shall keep PDL fully informed of

the status of its activities regarding any such action, including without limitation any discussion concerning the settlement thereof. No settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by SB pursuant to this Section 4.05 may be entered into without the prior written consent of PDL if such settlement would require PDL to be subject to an injunction, to make a monetary payment or would adversely affect the Licensed PDL Patents.

4.06 [CONFIDENTIAL TREATMENT REQUESTED]

5. REPRESENTATIONS AND WARRANTIES; DISCLAIMERS; INDEMNIFICATION

5.01 Valid Agreement.

(a) Each party represents and warrants to the other that it knows of no legal reason to prevent it from entering into this Agreement and that the signatory hereto is duly authorized to execute and deliver this Agreement.

(b) PDL represents and warrants to SB that it has the right to grant the licenses to SB provided under this Agreement.

5.02 [CONFIDENTIAL TREATMENT REQUESTED]

5.03 Disclaimers. Nothing in this Agreement shall be construed as (a) a warranty or representation by PDL as to the validity, enforceability or scope of any Licensed PDL Patents; (b) a requirement that PDL file any patent application, or secure any patent or patent rights, or maintain any patent in force, or provide copies of patent applications to SB or its Affiliates or sublicensees, or disclose any inventions described or claimed in such patent applications; or (c) a warranty or representation by PDL that any Licensed Product made, used, sold or otherwise disposed of under the license granted in this Agreement is or will be free from infringement of patents, copyrights, trademarks, trade secrets or other rights of third parties. SB acknowledges and agrees that any royalties or payments that may be due to third parties in order for SB to make, have made, use, sell or otherwise dispose of Licensed Products shall be the sole responsibility of SB.

5.04 Existing License. SB acknowledges that PDL has previously granted a non-exclusive license, with no ability to sublicense, to a Third Party under the Licensed PDL Patents, the relevant terms of which have been previously provided to SB.

5.05 No Other Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 5, PDL MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PDL PATENTS OR ANY CELL LINES, ANTIBODIES OR LICENSED PRODUCTS DEVELOPED BY SB UNDER THE LICENSE SET FORTH IN THIS AGREEMENT AND PDL FURTHER MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF LICENSED PDL PATENTS OR ANY CELL LINES, ANTIBODIES, LICENSED PRODUCTS OR OTHER MATERIALS DEVELOPED BY SB UNDER THE LICENSE SET FORTH IN THIS AGREEMENT WILL NOT INFRINGE ANY THIRD PARTY RIGHTS.

5.06 Indemnification. Except as otherwise set forth in Article 4 (which Article governs indemnification regarding Licensed PDL Patents), SB shall at all times, during the term of this Agreement and thereafter, indemnify and hold harmless PDL and its Affiliates, sublicensees, directors, officers, agents and employees from any claim, proceeding, loss, expense, and liability of any kind whatsoever (including but not limited to those resulting from death, personal injury, illness or property damage and including legal expenses and reasonable attorneys' fees) ("PDL Losses") arising out of or resulting from third party claims based upon the development, manufacture, holding, use, testing, advertisement, sale or other disposition by SB, its Affiliates or sublicensees, or any distributor, customer or representative thereof or any one in privity therewith, of any Licensed Product; provided, however, that such indemnity shall not apply to the extent any such PDL Losses result from the negligence or willful misconduct of PDL or breach by PDL of any representation, warranty or other provision of this Agreement.

In the event PDL is seeking indemnification from SB under this Section 5.06, SB shall have no such obligation unless PDL:

(i) gives SB prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this Agreement;

(ii) cooperates fully with SB and its agents in defense of any such claim, complaint, lawsuit or other cause of action; and

(iii) SB is granted full authority and control over the defense, including settlement or other disposition thereof, against such claim or lawsuit or other action, provided that PDL shall have the right to retain counsel of its choice to participate in the defense of any such claim or lawsuit at PDL's own expense, provided that such counsel shall not interfere with SB's full authority and control.

6. CONFIDENTIALITY

(a) During the term of this Agreement and for five (5) years thereafter, PDL and SB shall not use or reveal or disclose to Third Parties any confidential information received from the other in the performance of activities in furtherance of this Agreement without first obtaining the written consent of the disclosing party, except (i) as may be otherwise provided herein, (ii) as may be required for purposes of developing, manufacturing or marketing Licensed Product, (iii) as may be required for securing essential or desirable authorizations, approvals, privileges or rights from governmental agencies or as may be required by law, statute or regulation to be disclosed to a governmental agency, provided that the party

disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained by such government regulatory agencies, (iv) as may be required or as necessary to file or prosecute patent applications concerning Licensed Product, (v) or as may be required to carry out any litigation concerning Licensed Product provided that the party disclosing such information will use reasonable efforts to ensure that the confidentiality of such confidential information is maintained. This confidentiality obligation shall not apply to confidential information which is or becomes a matter of public knowledge through no fault of the receiving party, or is already in the possession of the receiving party, or is disclosed to the receiving party by a Third Party having the right to do so, or is subsequently and independently developed by employees of the receiving party or Affiliates thereof who had no knowledge of the confidential information disclosed. The parties shall take reasonable measures to assure that no unauthorized use or disclosure is made by others to whom access to confidential information is granted.

(b) Nothing herein shall be construed as preventing either party from disclosing any information received from the other party to:

(i) an Affiliate, sublicensee or distributor of the receiving party, provided such Affiliate, sublicensee or distributor has undertaken a similar obligation of confidentiality with respect to the confidential information;

(ii) the FDA in connection with the approval to conduct clinical studies, manufacture, market or sell Licensed Product; or

(iii) any securities exchange to which the receiving party may be subject if necessary to meet the requirements, rules and regulations of such securities exchange, but only to the extent such disclosure is reasonably required and subject to obligations of confidentiality wherever possible.

(c) All confidential information disclosed by one party to the other shall remain the intellectual property of the disclosing party. In the event that a court or other legal or administrative tribunal, directly or through an appointed master, trustee or receiver, assumes partial or complete control over the assets of a party to this Agreement based on the insolvency or bankruptcy of such party, the bankrupt or insolvent party shall promptly notify the court or other tribunal (i) that confidential information received from the other party under this Agreement remains the property of the other party and (ii) of the confidentiality obligations under this Agreement. In addition, the bankrupt or insolvent party shall, to the extent permitted by law, take all steps necessary or desirable to maintain the confidentiality of the other party's confidential information and to ensure that the court, other tribunal or appointee maintains such information in confidence in accordance with the terms of this Agreement.

7. TERM AND TERMINATION

7.01 Term. Unless earlier terminated as provided in this Article 7, SB's obligations to pay royalties to PDL hereunder shall come into force on the Effective Date and shall continue, on a country by country basis, [CONFIDENTIAL TREATMENT REQUESTED]. Unless earlier terminated, this Agreement shall expire upon the expiration of all SB's royalty obligations to PDL hereunder. Expiration of this Agreement or expiration of SB's obligation to pay royalties to PDL in any country hereunder shall not preclude SB from continuing to market or have marketed Licensed Product in such country without further payment to PDL.

7.02 Termination.

(a) If either party shall at any time default in the payment of any royalty, or the making of any report hereunder, or shall commit any material breach of any covenant or agreement herein contained or shall make any false report, and shall fail to have initiated and actively pursued remedy of any such default or breach within (i) fifteen (15) days after receipt of written notice of failure to pay royalties hereunder, or (ii) forty-five (45) days after receipt of written notice of any default or breach (other than failure to pay royalties) by the other party, the non-breaching party may, at its option, cancel this Agreement and revoke any rights and licenses herein granted and directly affected by the default or breach by notice in writing to such effect, but such act shall not prejudice the right of the party giving notice to recover any royalty or other sums due at the time of such cancellation, it being understood, however, that if within forty-five (45) days after receipt of any such notice the receiving party shall have initiated and actively pursued remedy of its default (other than failure to pay royalties), then the rights and licenses herein granted shall remain in force as if no breach or default had occurred on the part of the receiving party, unless such breach or default is not in fact remedied within a reasonable period of time.

(b) [CONFIDENTIAL TREATMENT REQUESTED]

(c) This Agreement may be terminated by either party upon the occurrence of any of the following which is not stayed or vacated within ninety (90) days of such occurrence: (i) petition in bankruptcy filed by or against the other party; (ii) adjudication of the other party as bankrupt or insolvent; (iii) appointment of a liquidator, receiver or trustee for all or a substantial part of the other party's property; or (iv) an assignment for the benefit of creditors of the other party. Notwithstanding the bankruptcy of PDL, or the impairment of performance by PDL of its obligations under this

Agreement as a result of bankruptcy or insolvency of PDL, SB shall be entitled to retain the licenses granted herein, subject to PDL's rights to terminate this Agreement for reasons other than bankruptcy or insolvency as expressly provided in this Agreement. All rights granted under or pursuant to this Agreement by PDL to SB are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101(35A) of the U.S. Bankruptcy Code. The parties agree that SB, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code, subject to performance by SB of its preexisting obligations under this Agreement.

(d) [CONFIDENTIAL TREATMENT REQUESTED]

(e) SB may terminate the license granted under this Agreement as to the Licensed PDL Patents in any country of the Territory at any time upon sixty (60) days prior written notice.

7.03 No Waiver. The right of either party to terminate this Agreement as provided herein shall not be affected in any way by its waiver of any previous failure to perform hereunder or by its failure to take action with respect thereto.

7.04 Survival. Termination for any reason hereunder shall not affect any accrued rights or obligations of the parties arising in any manner under this Agreement as of the date of termination. In any event, the confidentiality and indemnity obligations and any accrued but unpaid payment obligations under Articles 3, 5 and 6, respectively, shall survive any termination of this Agreement.

8. MISCELLANEOUS

8.01 Assignment. This Agreement and the licenses herein granted shall be binding upon and inure to the benefit of the successors in interest of the respective parties. Neither this Agreement nor any interest hereunder shall be assignable by either party without the prior written consent of the other; provided, however, that either party may assign this Agreement or any part of its rights and obligations hereunder to any Affiliate of such party or to any corporation with which that party may merge or consolidate, or to which it may transfer all or substantially all of its assets, without obtaining the consent of the other party, provided that the party effecting such assignment shall notify the other promptly following such assignment.

8.02 Entire Agreement. This Agreement, entered into as of the date written above, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all previous writings and understandings. No terms or provisions of this Agreement shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties, except that the parties may amend this Agreement by written instruments specifically referring to and executed in the same manner as this Agreement.

8.03 Severability.

(a) In the event any portion of this Agreement shall be held illegal, void or ineffective, the remaining portions hereof shall remain in full force and effect.

(b) If any of the terms or provisions of this Agreement are in conflict with any applicable statute or rule of law, then such terms or provisions shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to conform with such statute or rule of law.

(c) In the event that the terms and conditions of this Agreement are materially altered as as provided in Sections 8.03(a) and (b), the parties will in good faith renegotiate the terms and conditions of this Agreement to carry out the intent of the parties.

8.04 Notices. Notices required or permitted under this Agreement shall be in writing in the English language and sent by overnight mail (e.g., FedEx), or by facsimile confirmed by overnight mail (e.g., FedEx), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the parties or to such address or addresses as may be specified from time to time in a written notice:

If to PDL: Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California 94555 USA
Attention: General Counsel
Facsimile number: (510) 574-1473

If to SB: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 1930)
P.O. Box 7929
Philadelphia, PA 19101
Attn: Senior Vice President, Business Development

Facsimile number: (215) 751-4253

Copy to: SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP 2360)
P.O. Box 7929
Philadelphia, PA 19101

Attn: Corporate Law - US

Fax: number: (215)751-3935

8.05 Choice of Law. This Agreement shall be deemed to have been made in New York and its form, execution, validity, construction and effect shall be determined in accordance with the laws thereof.

8.06 Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including without limitation, a dispute concerning a termination of this Agreement (hereinafter collectively referred to as "Dispute") shall be attempted to be settled by the parties, in good faith, by submitting each such Dispute to appropriate senior management representatives of each party in an effort to effect a mutually acceptable resolution thereof within thirty (30) days of submission to such representatives. Within fifteen (15) days after submission of the Dispute to such senior representatives, each party shall submit a brief, written summary of the Dispute and their respective position with respect to the Dispute to such senior representatives. In the event no mutually acceptable resolution is achieved in such time frame, then each party shall be entitled to seek relief for such Dispute by using any appropriate judicial mechanism which may be available in the courts.

8.07 Waiver. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

8.08 Force Majeure. If the performance of any part of this Agreement by either party, or of any obligation under this Agreement, is prevented, restricted, interfered with or delayed by reason of any cause beyond the reasonable control of the party liable to perform, unless conclusive evidence to the contrary is provided, the party so affected shall, upon giving written notice to the other party, be excused from such performance to the extent of such prevention, restriction, interference or delay; provided that the affected party shall use its reasonable best efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. When such circumstances arise, the parties shall discuss what, if any, modification of the terms of this Agreement may be required in order to arrive at an equitable solution.

8.09 Publicity. It is contemplated that one or both of the parties may issue a press release announcing this Agreement, the Development and License Agreement and the Option Agreement, the form and content of which shall be mutually agreed upon. No other public announcement or other disclosure to Third Parties concerning the terms, financial or otherwise, of this Agreement, the Development and License Agreement or the Option Agreement shall be made, either directly or indirectly, by any party to this Agreement, except as may be legally required or as may be required for recording purposes, without first obtaining the approval of the other Party, which approval shall not be unreasonably withheld, and agreement upon the nature and text of such announcement or disclosure. The party desiring to make any such public announcement or other disclosure shall inform the other party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other party with a written copy thereof, in order to allow such other party to comment upon such announcement or disclosure. The party reviewing the release shall use good faith efforts to promptly review and provide comments upon the proposed public release, which comments shall be provided as soon as practicable but in any event within seven (7) days of delivery of the initial draft of the proposed release. Each party agrees that it shall cooperate fully with the other with respect to all disclosures regarding this Agreement to the Securities Exchange Commission, the U.K. Stock Exchange and any other governmental or regulatory agencies, including requests for confidential treatment of proprietary information of either party included in any such disclosure.

8.10 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

8.11 Export. Each party acknowledges that the laws and regulations of the United States restrict the export and re-export of commodities and technical data of United States origin. Each party agrees that it will not export or re-export restricted commodities or the technical data of the other party in any form without the appropriate United States and foreign government licenses.

8.12 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument.

8.13 Independent Contractors. The parties are independent contractors under this Agreement and no other relationship is intended, including, without limitation, partnership, joint venture or agency relationship. Neither party shall act in a manner which expresses or implies a relationship other than of independent contractor, nor bind the other party, except as otherwise expressly provided in this Agreement. Nothing in this Agreement shall be deemed to infer any direct relationship between PDL and any Affiliate of SB.

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

PROTEIN DESIGN LABS, INC. SMITHKLINE BEECHAM CORPORATION

By: _____ By: _____

Title: Title:

EXHIBIT A

Licensed PDL Patents

The following are patents and patent applications (also known as the "Queen et al. patents") issued and filed in certain countries in the world and licensed as part of the Licensed PDL Patents under the Agreement (As of August 25, 1999)

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.	Country	Title*	Issued
647383	Australia	"Novel Immunoglobulins, Their Production and Use"	Issued
671949	Australia	"	Issued
AT E133452	Austria	"	Issued
0451216	Belgium	"	Issued
61095	Bulgaria	"	Issued
970016	Brazil	"	Issued
0451 216B1	European	"	Issued
0682040 B1	European		Issued
FR0451216	France	"	Issued
DE			

68925536
Germany
"
Issued
DD 296 964
East Germany
"
Issued
GB 0451216
Great Britain
"
Issued
1001050

Greece
"
Issued
211174

Hungary
"
Issued
IT O451216
Italy
"
Issued
2828340
Japan
"
Issued
LU O451216
Luxembourg
"
Issued
92.2146
Monaco
"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued
SG O451216
Singapore
"
Issued
89/9956
South Africa
"
Issued
178385
South Korea
"
Issued
2081974 T3
Spain
"

Issued	SE O451216	Sweden
"		
Issued	CHO 451216	Switzerland
"		
Issued	50034	Taiwan
"		
Issued	13349	Uruguay
"		
Issued	48700	Yugoslavia
"		

Country	Title*
Pending	
Argentina	"Novel Immunoglobulins, Their Production and Use"
Pending	
Canada	"
Pending	
Chile	"
Pending	
China	"
Pending	
Croatia	"
Pending	
Czech Republic	"
Pending	
Ecuador	"
Pending	
Europe	"
Pending	
Hong Kong	"
Pending	
Ireland	"
Pending	
Israel	"
Pending	
Japan	"
Pending	
South Korea	
Pending	
Romania	"
Pending	
Slovak Republic	"
Pending	
Venezuela	"
Pending	
Denmark	"

Pending	Finland	"
Pending	Norway	"

*Exact titles may differ in different countries.

CONFIDENTIAL TREATMENT REQUESTED WITH RESPECT TO
DESIGNATED PORTIONS OF THIS DOCUMENT

DEVELOPMENT AND LICENSE AGREEMENT

between

SMITHKLINE BEECHAM CORPORATION

and

PROTEIN DESIGN LABS, INC.

DEVELOPMENT AND LICENSE AGREEMENT

THIS DEVELOPMENT AND LICENSE AGREEMENT (hereinafter "AGREEMENT"), is made as of the 28th day of September 1999, between Protein Design Labs, Inc., a company organized under the laws of the state of Delaware and having its principal place of business at 34801 Campus Drive, Fremont, California 94555 U.S.A. (hereinafter "PDL") and SmithKline Beecham Corporation, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and having its principal office at One Franklin Plaza, Philadelphia, Pennsylvania 19101 U.S.A. (hereinafter "SB").

WITNESSETH THAT:

WHEREAS, SB is the owner of all right, title and interest in, or otherwise controls, certain SB PATENTS, identified in Appendix A hereto, and know-how relating to an antibody that binds to IL-4, known as SB 240683;

WHEREAS, PDL desires to obtain certain worldwide licenses from SB under the aforesaid PATENTS and know-how in order to undertake certain development and marketing efforts related to SB 240683, and SB is willing to grant to PDL such licenses; and

WHEREAS, PDL and SB are contemporaneously entering into a Patent Rights Agreement (the "Rights Agreement") that grants SB rights to obtain certain nonexclusive license rights under patents and patent applications owned or controlled by PDL and a Patent License Agreement for an antibody directed against the IL-5 antigen (the "IL-5 License Agreement").

NOW, THEREFORE, in consideration of the covenants and obligations expressed herein, and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS

Except as expressly provided herein, capitalized terms in this AGREEMENT (including appendices hereto) shall have the following meanings:

1.01 "ADMINISTRATION COSTS" shall mean those non-direct costs associated with supporting the commercialization of PRODUCT incurred after the commercial launch of the PRODUCT. "SB ADMINISTRATION COSTS" shall equal [CONFIDENTIAL TREATMENT REQUESTED] of SB NET SALES on an annual basis. If PDL co-promotes or otherwise markets or sells PRODUCT as set forth in Article 6, "PDL ADMINISTRATION COSTS" shall mean those non-direct costs incurred by PDL after the commercial launch of PRODUCT associated with supporting the commercialization of PRODUCT and shall be in an amount (expressed as a percentage of NET SALES) as agreed upon by the parties pursuant to Article 6; provided however, that in no event shall the amount exceed [CONFIDENTIAL TREATMENT REQUESTED]of NET SALES.

1.02 "AFFILIATE(S)" shall mean any corporation, firm, partnership or other entity, whether de jure or de facto, which directly or indirectly owns, is owned by or is under common ownership with a party to this AGREEMENT to the extent of at least fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affairs of the entity and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with a party to this AGREEMENT; provided however any such person, corporation, firm, partnership or other entity shall be deemed an AFFILIATE only for so long as it meets the requirements of this definition.

1.03 "AGGREGATE PROJECTED DETAILS" shall mean the aggregate number of DETAILS projected to be performed by SB sales representatives and, if applicable, PDL sales representatives in the U.S.A., as determined in accordance with Paragraph 7.03((b).

1.04 "COST OF GOODS" as applied to the cost of manufacturing PRODUCT for DEVELOPMENT and commercial purposes shall mean one or more of the following:

[CONFIDENTIAL TREATMENT REQUESTED]

For purposes of calculating PRE-TAX PROFITS, COST OF GOODS shall mean the COST OF GOODS for the PRODUCT sold and reported in NET SALES during the relevant reporting period.

1.05 "DETAIL(S)" shall mean a face-to-face meeting, in an individual or group practice setting, between a health care professional with prescribing authority and a professional representative of the applicable party during which a Major Presentation of PRODUCT is made to such health care professional. When used as a verb, "DETAIL" shall mean to engage in a DETAIL. The term "Major Presentation" as used in this Paragraph 1.05 shall mean a full PRODUCT presentation during which key PRODUCT attributes are verbally presented; provided that there shall be no more than [CONFIDENTIAL TREATMENT REQUESTED]Major Presentations in any DETAIL.

1.06 "DEVELOPMENT" shall mean:

(a) all activities related to the development of PRODUCT through to NDA APPROVAL, including all requisite preclinical and clinical trials required to confirm the profile of PRODUCT, such as, but not limited to, trials required to confirm the clinical efficacy, tolerability and dosing regimen of PRODUCT; and all activities associated with seeking NDA APPROVALS of PRODUCT; provided that all such activities are undertaken in accordance with the then-existing DEVELOPMENT PLAN; and

(b) all activities related to:

(i) PRODUCT manufacture and PRODUCT improvement activities, such as formulation or reformulation, whether occurring before or after NDA APPROVAL including, without limitation, the activities set forth on Appendix E;

(ii) the development of manufacturing processes for PRODUCT, including without limitation, process development and optimization, manufacturing scale-up, validation, qualification, and certification;

(iii) the establishment, improvement or expansion of manufacturing plants and other facilities or equipment used solely for the manufacture of PRODUCT or, if used for other applications in addition to the manufacture of PRODUCT, solely to the extent used for the manufacture of PRODUCT and in any event amortized in accordance with the accounting for such expenditures in accordance with the then standard practices of the party incurring the expenditure for such activities; and

(iv) any capital investment solely for PRODUCT associated with (i), (ii), and (iii) above, provided that all such activities are approved in advance by the JDC and undertaken in accordance with the then existing DEVELOPMENT PLAN and in any event amortized in accordance with the accounting for capital expenditures in accordance with the then standard practices of the party incurring the expenditure for such activities.

1.07 "DEVELOPMENT COSTS" shall mean the following costs to the extent incurred by a party after the EFFECTIVE DATE: (i) all costs incurred in accordance with the then-current DEVELOPMENT PLAN, and (ii) all costs incurred in excess of the budget in the then-current DEVELOPMENT PLAN provided that any such excess costs have been approved in advance by each of the co-chairpersons of the JDC or by the JDC, as appropriate. DEVELOPMENT COSTS shall consist of the following:

[CONFIDENTIAL TREATMENT REQUESTED]

The term "FTE" shall mean a full-time equivalent employee (other than clerical, administrative assistant or secretarial employees) of a party for whom a reasonable reimbursement allowance shall be determined by the JDC. The initial reimbursement rates for each party's FTE are set forth in the DEVELOPMENT PLAN. Such reimbursement allowance shall be prorated according to the amount of time spent by the employee on activities for which reimbursement is to be paid under this AGREEMENT. By way of example, (i) if an employee is a full-time employee and spends one hundred percent (100%) of his or her time on activities for which reimbursement is to be paid under this AGREEMENT, such employee shall count as one (1) FTE, and (ii) if an employee is a full-time employee and spends forty percent (40%) of his or her time on activities for which reimbursement is to be paid under this AGREEMENT, such employee shall count as four-tenths (0.4) of an FTE.

1.08 "DEVELOPMENT PLAN" shall mean the detailed plan for the DEVELOPMENT of PRODUCT, which DEVELOPMENT PLAN shall include, without limitation, the activities described in Paragraph 1.06 and a reasonably detailed budget for the projected expenses to be incurred for the items described in Paragraph 1.07. The DEVELOPMENT PLAN, as of the EFFECTIVE DATE, is summarized and attached to this AGREEMENT as Appendix D and is fully incorporated into this AGREEMENT. Such initial DEVELOPMENT PLAN may be amended from time to time as provided in Article 3.

1.09 "EFFECTIVE DATE" shall mean the date as of which this AGREEMENT is effective and shall be the date of this AGREEMENT first written above.

1.10 "FDA" shall mean, depending on context, the United States Food and Drug Administration, or the corresponding REGULATORY AUTHORITY in the relevant country of the TERRITORY, or any successor entities thereto.

1.11 "IL-4" shall mean the human cytokine known as Interleukin 4.

1.12 "INTEREST CHARGE ON WORKING CAPITAL" shall mean the quarterly interest, calculated at the PRIME RATE, on the average Working Capital in the TERRITORY from the beginning to the end of the relevant calendar quarter. For purposes of this Paragraph 1.12, "Working Capital" shall mean the sum of PRODUCT inventories held for sale in the TERRITORY and outstanding THIRD PARTY trade receivables due from the NET SALES of PRODUCT in the TERRITORY, minus outstanding THIRD PARTY trade credits due from the acquisition of PRODUCT from a THIRD PARTY or materials for manufacture of PRODUCT from THIRD PARTIES in

the TERRITORY.

1.13 "JDC" shall mean the joint development committee consisting of PDL and SB representatives and other appropriate personnel assembled in accordance with Paragraph 3.03.

1.14 "JMC" shall mean the joint marketing committee consisting of PDL and SB representatives and other appropriate personnel assembled in accordance with Paragraph 7.01.

1.15 "NDA" shall mean, depending on context, a New Drug Application or Biologics License Application filed by or on behalf of SB or PDL with the FDA requesting approval for commercialization of PRODUCT in the U.S.A. for an indication, or the corresponding equivalent application in a given country or regulatory jurisdiction of the TERRITORY.

1.16 "NDA APPROVAL" shall mean, depending on context, the FDA's approval of an NDA filed by or on behalf of SB or PDL for marketing PRODUCT for an indication in any country or regulatory jurisdiction in the TERRITORY and the approval of all authorizations by governmental authorities which are required for the marketing, promotion, pricing and sale of PRODUCT in a given country or regulatory jurisdiction of the TERRITORY, including all manufacturing, pricing and reimbursement approvals.

1.17 "OUT OF POCKET COSTS" shall mean any out-of-pocket payment made by a party to a THIRD PARTY in accordance with the terms and conditions of this AGREEMENT, but only to the extent such payment relates to costs which are incurred by a party after the EFFECTIVE DATE.

1.18 "PATENT COSTS" shall mean the OUT OF POCKET COSTS incurred by a party in connection with the filing, prosecution and maintenance of SB PATENTS or PDL PATENTS, as well as the OUT OF POCKET COSTS of any patent interference, reexamination, reissue, opposition and revocation proceedings in connection with such SB PATENTS or PDL PATENTS, as the case may be. [CONFIDENTIAL TREATMENT REQUESTED]

1.19 "PDL" shall mean Protein Design Labs, Inc., a company organized under Delaware law and as of the EFFECTIVE DATE having its principal place of business at 34801 Campus Drive, Fremont, California, 94555 U.S.A.

1.20 "PDL KNOW-HOW" shall mean all present and future technical information and know-how which relates to PRODUCT and shall include, without limitation, all biological, chemical, pharmacological, toxicological, clinical, assay, and control data and any other information relating to PRODUCT and useful for the DEVELOPMENT and commercialization of PRODUCT. Notwithstanding the above, it is understood that the term PDL KNOW-HOW shall not include any information or know-how related to the manufacture (e.g., cell culture, fermentation) or purification of any monoclonal antibody including, without limitation, PRODUCT, except to the extent such information or know-how shall be reasonably required with respect to a claim of product liability related to PRODUCT.

1.21 "PDL NET SALES" shall mean the gross receipts from sales of PRODUCT in each country in the TERRITORY by PDL, its AFFILIATES and sublicensees ("the Selling Party") to THIRD PARTIES less

[CONFIDENTIAL TREATMENT REQUESTED]

Sales between PDL, its AFFILIATES and its or their sublicensees shall be excluded from the computation of PDL NET SALES and no payments will be payable on such sales except where such AFFILIATES or sublicensees are end users, but PDL NET SALES shall include the subsequent final sales to THIRD PARTIES by such AFFILIATES or sublicensees. [CONFIDENTIAL TREATMENT REQUESTED] If a Selling Party receives non-cash consideration for any PRODUCT sold or otherwise transferred to a THIRD PARTY, the fair market value of such non-cash consideration on the date of such transfer as known to PDL, or as reasonably estimated by PDL if unknown, shall be included in the definition of Net Sales.

1.22 "PDL PATENTS" shall mean either:

(a) Unless and until PDL's rights are terminated pursuant to Paragraph 3.06 or Article 12, all U.S.A. and other patents and patent applications (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof and all SPCs (as defined below)) during the term of this AGREEMENT which are or become owned by PDL, or to which PDL otherwise has, now or in the future, the right to grant licenses, which generically or specifically claim PRODUCT, a process for manufacturing PRODUCT, an intermediate used in such process or a use of PRODUCT. Also included within the definition of PDL PATENTS under this Paragraph 1.22(a) are any patents or patent applications which generically or specifically claim any improvements on PRODUCT or intermediates or manufacturing processes required or useful for production of PRODUCT which are developed by PDL, or which PDL otherwise has the right to grant licenses, now or in the future, during the term of this AGREEMENT. The current list of PDL PATENTS is set forth in Appendix A attached hereto.

(b) If PDL's rights to PRODUCT are terminated under Paragraph 3.06 or Article 12, all U.S.A. and other patents and patent applications (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof and all SPCs) which are or, at any time during the term of this AGREEMENT through the effective date of termination of PDL's rights under Paragraph 3.06 or Article 12 become owned by PDL, or to which PDL otherwise has, now or at any time during the term of this AGREEMENT through the effective date of termination of PDL's rights under

Paragraph 3.06 or Article 12, the right to grant licenses, which generically or specifically claim PRODUCT, a process for manufacturing PRODUCT, an intermediate used in such process or a use of PRODUCT. Also included within the definition of PDL PATENTS under this Paragraph 1.22 are any patents or patent applications which generically or specifically claim any improvements on PRODUCT or intermediates or manufacturing processes required or useful for production of PRODUCT which are developed by PDL during the term of this AGREEMENT through the effective date of termination of PDL's rights under Paragraph 3.06 or Article 12.

1.23 "PHASE II REVIEW POINT" shall mean the date of notification from PDL that it has delivered to SB all of the clinical safety and efficacy data due [CONFIDENTIAL TREATMENT REQUESTED].

1.24 "PHASE II REVIEW POINT PAYMENT" shall mean the payment indicated in Paragraph 3.04(a).

1.25 "PRE-LAUNCH COMMERCIAL EXPENSES" shall mean the sum of the following expenses: [CONFIDENTIAL TREATMENT REQUESTED].

1.26 " PRE-TAX PROFITS" shall mean the following calculation: [CONFIDENTIAL TREATMENT REQUESTED].

1.27 "PRIME RATE" shall mean the U.S.A. prime rate quoted by Citibank, N.A. for the applicable period.

1.28 "PRODUCT" shall mean a pharmaceutical product comprising [CONFIDENTIAL TREATMENT REQUESTED].

1.29 "PROMOTION EXPENSES" shall mean all direct and/or allocated selling, promotional, marketing and medical expenses for PRODUCT in the TERRITORY incurred by SB or PDL after the PHASE II REVIEW POINT PAYMENT which are directly related to:

[CONFIDENTIAL TREATMENT REQUESTED]

provided that the scope of the term PROMOTION EXPENSES as it applies to expenses incurred by PDL shall be limited to those which are incurred for the promotion of PRODUCT in the U.S.A. in accordance with the procedures set forth in Article 7.

1.30 "REGULATORY AUTHORITY(IES)" shall mean, depending on context, the FDA in the U.S.A. and/or the corresponding authorities in a given country or regulatory jurisdiction of the TERRITORY with responsibility for granting regulatory approval and pricing/reimbursement approval where appropriate for the manufacture, marketing, import, sale or use of PRODUCT in such country or regulatory jurisdiction.

1.31 [CONFIDENTIAL TREATMENT REQUESTED]

1.32 "SB 240683" shall mean that humanized antibody which binds to the human cytokine Interleukin 4 (IL-4) designated by SB as of the EFFECTIVE DATE as SB 240683.

1.33 "SB" shall mean SmithKline Beecham Corporation, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and as of the EFFECTIVE DATE having its principal office at One Franklin Plaza, Philadelphia, Pennsylvania 19101 U.S.A.

1.34 "SB KNOW-HOW" shall mean all present and future technical information and know-how which relates to PRODUCT and shall include, without limitation, all biological, chemical, pharmacological, toxicological, clinical, assay, and control data and any other information relating to PRODUCT and useful for the DEVELOPMENT and commercialization of PRODUCT. Notwithstanding the above, it is understood that the term SB KNOW-HOW shall not include any information or know-how related to the manufacture (e.g., cell culture, fermentation) or purification of any monoclonal antibody including, without limitation, PRODUCT, except to the extent such information or know-how shall be reasonably required with respect to a claim of product liability related to PRODUCT.

1.35 "SB NET SALES" shall mean the gross receipts from sales of PRODUCT in the TERRITORY by SB, its AFFILIATES and sublicensees ("the Selling Party") to THIRD PARTIES less [CONFIDENTIAL TREATMENT REQUESTED]Sales between SB, its AFFILIATES and its or their sublicensees shall be excluded from the computation of SB NET SALES and no payments will be payable on such sales except where such AFFILIATES or sublicensees are end users, but SB NET SALES shall include the subsequent final sales to THIRD PARTIES by such AFFILIATES or sublicensees. [CONFIDENTIAL TREATMENT REQUESTED] If a Selling Party receives non-cash consideration for any PRODUCT sold or otherwise transferred to a THIRD PARTY, the fair market value of such non-cash consideration on the date of such transfer as known to SB, or as reasonably estimated by SB if unknown, shall be included in the definition of Net Sales.

1.36 "SB PATENTS" shall mean either:

(a) Unless and until SB's rights are terminated pursuant to Paragraph 3.06 or Article 12, all U.S.A. and other patents and patent applications (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof and all SPCs) during the term of this AGREEMENT which are or become owned by SB, or to which SB otherwise has, now or in the future, the right to grant licenses, which generically or specifically claim PRODUCT, a process for manufacturing PRODUCT, an intermediate used in such process or a use of PRODUCT. Also included within the definition of SB PATENTS under this Paragraph 1.36(a) are any patents or patent applications which generically or specifically claim any improvements on PRODUCT or intermediates or manufacturing processes required or useful for production of PRODUCT which are developed by SB, or which SB

otherwise has the right to grant licenses, now or in the future, during the term of this AGREEMENT. The current list of SB PATENTS is set forth in Appendix A attached hereto.

(b) If SB's rights to PRODUCT are terminated under Paragraph 3.06 or Article 12, all U.S.A. and other patents and patent applications (including any and all continuations, continuations-in-part, divisions, patents of addition, reissues, renewals or extensions thereof and all SPCs) which are or, at any time during the term of this AGREEMENT through the effective date of termination of SB's rights under Paragraph 3.06 or Article 12 become owned by SB, or to which SB otherwise has, now or at any time during the term of this AGREEMENT through the effective date of termination of SB's rights under Paragraph 3.06 or Article 12, the right to grant licenses, which generically or specifically claim PRODUCT, a process for manufacturing PRODUCT, an intermediate used in such process or a use of PRODUCT. Also included within the definition of SB PATENTS under this Paragraph 1.36(b) are any patents or patent applications which generically or specifically claim any improvements on PRODUCT or intermediates or manufacturing processes required or useful for production of PRODUCT which are developed by SB during the term of this AGREEMENT through the effective date of termination of SB's rights under Articles 3 or Article 12.

1.37 "SPC(s)" shall mean a right based upon a patent to exclude others from making, using or selling PRODUCT, such as a Supplementary Protection Certificate.

1.38 "TERRITORY" shall mean all of the countries of the world.

1.39 "THIRD PARTY(IES)" shall mean any party other than SB, PDL and their respective AFFILIATES.

1.40 "THIRD PARTY ROYALTIES" shall mean one hundred percent (100%) of those payments set forth in Paragraph 5.06.

1.41 "TRADEMARK COSTS" shall mean the OUT OF POCKET COSTS incurred by SB after the EFFECTIVE DATE, including without limitation, the fees and expenses paid to outside legal counsel and experts, related to creation, search, trademark marketing research, prosecution, registration and maintenance of trademarks which may be employed by SB specifically in conjunction with the commercialization of PRODUCT in the TERRITORY and which are directly related to PRODUCT ("Trademark"). TRADEMARK COSTS shall also include the OUT OF POCKET COSTS incurred by SB, including without limitation, the fees and expenses paid to outside legal counsel and experts and other THIRD PARTIES which were incurred in bringing, maintaining and prosecuting any action related to any actual, alleged or threatened infringement of any Trademark or of any unfair trade practices, trade dress imitation, passing off of counterfeit goods, or like offenses, or defending any such claims brought by a THIRD PARTY against a Trademark used on a PRODUCT. TRADEMARK COSTS shall in no event include costs or expenses related to a "house name" or trade name which is not used exclusively in connection with PRODUCT.

1.42 "U.S.A." shall mean the United States of America and all of its territories, trusteeships and possessions including, without limitation, the Commonwealth of Puerto Rico.

1.43 "VALID CLAIM" shall mean [CONFIDENTIAL TREATMENT REQUESTED] 2. LICENSE GRANTS

2.01 SB Grant.

(a) Subject to the terms and conditions of this AGREEMENT, SB hereby grants to PDL, under SB PATENTS and SB KNOW-HOW, a co-exclusive license to make, have made, use, sell, import, and offer for sale PRODUCT in the TERRITORY in accordance with the terms and conditions of this AGREEMENT, with the right to sublicense as set forth in Paragraph 2.03 below.

(b) Subject to the terms and conditions of this AGREEMENT, SB shall not grant to any THIRD PARTY, under SB PATENTS and SB KNOW-HOW, any license to make, have made, use, sell, import, and offer for sale PRODUCT in the TERRITORY, except as set forth in Paragraph 2.03 below.

(c) In the event SB's rights to PRODUCT are terminated in accordance with Paragraph 3.06 or Article 12, the license granted in Paragraph 2.01(a) shall terminate and the license from SB to PDL, under SB PATENTS and SB KNOW-HOW, shall become as of the effective date of such termination a royalty-bearing, exclusive license to make, have made, use, sell, import, and offer for sale PRODUCT in the TERRITORY in accordance with the terms and conditions of this AGREEMENT, with the right to sublicense as set forth in Paragraph 2.03 below.

2.02 PDL Grant.

(a) Subject to the terms and conditions of this AGREEMENT, PDL hereby grants to SB, under PDL PATENTS and PDL KNOW-HOW, a co-exclusive license to make, have made, use, sell, import and offer for sale PRODUCT in the TERRITORY in accordance with the terms and conditions of this AGREEMENT, with the right to sublicense as set forth in Paragraph 2.03 below.

(b) Subject to the terms and conditions of this AGREEMENT, PDL shall not grant to any THIRD PARTY, under PDL PATENTS and PDL KNOW-HOW, any license to make, have made, use, sell, import and offer for sale PRODUCT in the TERRITORY, except as set forth in Paragraph 2.03 below.

(c) In the event PDL's rights to PRODUCT are terminated in accordance with Paragraph 3.06 or Article 12, the license granted in Paragraph 2.02(a) shall terminate and the license from PDL to SB, under PDL PATENTS and PDL KNOW-HOW, shall become as of the effective date of

such termination a royalty-bearing, exclusive license to make, have made, use, sell, import, and offer for sale PRODUCT in the TERRITORY in accordance with the terms and conditions of this AGREEMENT, with the right to sublicense as set forth in Paragraph 2.03 below.

2.03 Sublicensing.

(a) Prior to the PHASE II REVIEW POINT, neither party shall have the right to license its rights to PRODUCT, including both its own rights and those rights it receives from the other party under this AGREEMENT, to a THIRD PARTY without the approval of the other party.

(b) Subject to Paragraph 7.03(f), in the event SB makes the PHASE II REVIEW POINT PAYMENT and neither party's rights to PRODUCT have been terminated hereunder, neither party shall have the right to license its rights to PRODUCT, including both its own rights and those rights it receives from the other party under this AGREEMENT, to a THIRD PARTY without the approval of the other party, such approval not to be unreasonably withheld.

(c) In the event SB's rights to PRODUCT are terminated in accordance with Paragraph 3.06 or Article 12, PDL shall have the right to license its rights to PRODUCT, including both its own rights and those rights it receives from SB under this AGREEMENT, to a THIRD PARTY; provided, however, that PDL's right to grant sublicenses pursuant to this Paragraph 2.03(c) shall be subject to [CONFIDENTIAL TREATMENT REQUESTED].

(d) In the event PDL's rights to PRODUCT are terminated in accordance with Paragraph 3.06 or Article 12, SB shall have the right to license its rights to PRODUCT, including both its own rights and those rights it receives from PDL under this AGREEMENT, to a THIRD PARTY.

2.04 Each license and right granted pursuant to this AGREEMENT is subject to all of the terms and conditions of this AGREEMENT in addition to such terms and conditions as may be explicitly referenced in the provision granting such license or right.

2.05 Subject to Paragraphs 2.03, 5.03, 5.04 and 5.05, each party shall have the right to grant sublicenses of its rights under this Article 2 with respect to PRODUCT, provided that each party shall grant such sublicenses only in connection with the assignment or license by that party to such sublicensee of the right to use, make, have made, sell or otherwise transfer the PRODUCT in such country. Notwithstanding the assignment or grant of a sublicense by a party hereunder, the sublicensing party shall remain obligated to pay all royalties due to the other party with respect to the sale of PRODUCT by its assignee or sublicensee. In addition, the grant of any sublicenses under this AGREEMENT shall be on terms and conditions which are subject to and subordinate to the terms of this AGREEMENT and the sublicensing party shall remain fully responsible to the other party for the performance of any and all such terms by its sublicensees. Promptly following execution of any sublicense hereunder, the sublicensing party shall notify the other party of the identity of the sublicensee and the scope of the sublicense and provide a copy of the sublicense agreement, which copy may be redacted to protect confidential technical or financial information.

3. DEVELOPMENT

3.01 DEVELOPMENT Responsibility.

(a) Through PHASE II REVIEW POINT Decision. After the EFFECTIVE DATE and up through the PHASE II REVIEW POINT, PDL shall be responsible for undertaking the DEVELOPMENT of PRODUCT in accordance with the DEVELOPMENT PLAN, except as set forth in Paragraph 4.01. PDL and SB (to the extent applicable) shall use commercially reasonable efforts and diligence to complete the activities set forth in the DEVELOPMENT PLAN in accordance with the time frames set forth therein. The parties expressly acknowledge that PDL shall be solely responsible for the DEVELOPMENT COSTS through the PHASE II REVIEW POINT pursuant to Paragraph 3.04, except as expressly provided herein and in Paragraph 4.01; provided that each party shall be responsible for their own PATENT COSTS incurred prior to the PHASE II REVIEW POINT. The DEVELOPMENT PLAN will be revised or amended as determined by the JDC but in any event at least annually to reflect new data or information, including without limitation information or data from clinical trials with PRODUCT and [CONFIDENTIAL TREATMENT REQUESTED]. If, during the term of the AGREEMENT up through the PHASE II REVIEW POINT, SB requests that additional DEVELOPMENT activities which are not included in the DEVELOPMENT PLAN be carried out by PDL (or by SB, in the case of DEVELOPMENT activities related to Paragraph 1.06(b)), and the JDC determines that such work is:

(i) not critical to the timely registration of PRODUCT, then PDL (or by SB, in the case of DEVELOPMENT activities related to Paragraph 1.06(b)) shall undertake such work at SB's expense, subject to SB's approval that such activities should be performed and that the associated expense is acceptable, or

(ii) critical to the timely registration of PRODUCT, then the DEVELOPMENT PLAN shall be amended and PDL (or SB, in the case of DEVELOPMENT activities related to Paragraph 1.06(b)) shall undertake such work at PDL's expense.

(b) After PHASE II REVIEW POINT Payment. If SB has made the PHASE II REVIEW POINT PAYMENT, the JDC shall allocate the various activities to be performed under the DEVELOPMENT PLAN between the parties in accordance with the terms and conditions of this AGREEMENT. The DEVELOPMENT COSTS incurred by either party subsequent to the PHASE II REVIEW POINT shall be

allocated between the parties as provided in Paragraph 3.04(a)(iii). If SB does not make the PHASE II REVIEW POINT PAYMENT, then the provisions of Paragraph 3.04(b) shall be applicable, and all DEVELOPMENT COSTS for the continuation of the DEVELOPMENT shall be borne solely by PDL.

3.02 Development Coordinators. Promptly after the EFFECTIVE DATE, each party shall designate a Development Coordinator who will be responsible for scheduling meetings and identifying appropriate contact individuals at SB and PDL involved in the DEVELOPMENT of PRODUCT, promoting the progress of the DEVELOPMENT PLAN, facilitating the exchange of data and information, preparing and distributing minutes of the meetings of the JDC and other meetings substantially focused on the DEVELOPMENT of PRODUCT and coordinating the respective DEVELOPMENT efforts of the parties from time to time during the term of this AGREEMENT. Each party shall bear its own expenses, including travel, accommodations, and living expenses, incurred in connection with their respective efforts described in this Paragraph 3.02. The role of each party's Development Coordinator shall be subject to the direction of the respective party's representatives on the JDC. The role of the Development Coordinators shall terminate in the event that either party loses their rights to PRODUCT in accordance with this AGREEMENT.

3.03 JDC.

(a) Appointment. Within thirty (30) days after the EFFECTIVE DATE, the parties will establish a JDC composed of three (3) representatives from each party with appropriate background, experience and qualifications to oversee the progress of DEVELOPMENT. The initial PDL representatives shall be [CONFIDENTIAL TREATMENT REQUESTED]. Either party may change its representatives on the JDC at any time by written notice to the other party.

(b) Responsibilities. The JDC shall be responsible for:

(i) overseeing the implementation of and monitoring of the DEVELOPMENT PLAN, including a coordination of the timelines, goals and implementation of manufacturing and clinical efforts for DEVELOPMENT;

(ii) coordinating the timely commitment of identified resources to implement the DEVELOPMENT PLAN, including the timely manufacture and release of PRODUCT supplies for use in clinical trials contemplated under the DEVELOPMENT PLAN and timely preparation and filing of associated regulatory filings;

(iii) regularly reviewing and providing written updates on the progress of the DEVELOPMENT efforts under the DEVELOPMENT PLAN to appropriate management of PDL and SB;

(iv) subject to Paragraph 3.03(d), attempting to settle any issues or disputes that may arise between the functional departments of the parties related to the DEVELOPMENT of PRODUCT;

(v) overseeing the activities carried out by the Development Coordinators (as defined in Paragraph 3.02);

(vi) carrying out any other responsibilities not outlined in this Paragraph which are specified for the JDC in this AGREEMENT; and

(vii) following the date on which SB has made the PHASE II REVIEW POINT PAYMENT, in addition to the responsibilities outlined above, the JDC shall have the following additional responsibilities:

(A) preparing a comprehensive budget and related annual budgets to be mutually agreed upon in advance of the relevant period for which they apply for all subsequent DEVELOPMENT efforts, such comprehensive budget to then become part of the DEVELOPMENT PLAN, provided it is understood that an updated DEVELOPMENT PLAN will be drafted and presented to the JDC at such times as the JDC deems appropriate, but no less frequently than annually, and the JDC will review each update thereto and will amend such plan as required to achieve approval by the JDC no later than thirty (30) days after submission of the drafts prepared by the parties pursuant this Paragraph;

(B) administration of the annual budget, provided that the JDC's authority is limited to such DEVELOPMENT PLAN and budget except as otherwise provided in Paragraph 3.03(b)(vii)(C) below; and

(C) except as expressly contemplated in a mutually agreed upon budget and/or the DEVELOPMENT PLAN, each party agrees that decisions of the JDC regarding the commitment of expenditures of amounts in excess of [CONFIDENTIAL TREATMENT REQUESTED] of an approved annual budget, or additional internal resources of a party beyond those specified in the DEVELOPMENT PLAN, shall be subject to prior approval pursuant to that party's then-current internal review and approval processes.

(c) Meetings, Reporting and Decisions. The JDC will meet at least once per calendar quarter at mutually agreed upon times and locations using mutually agreed upon meeting formats, including videoconferencing and teleconferencing, unless otherwise mutually agreed by the parties. After the EFFECTIVE DATE, it is envisioned that meetings of the JDC will be held at facilities alternately selected by PDL and by SB. Each party shall promptly report to the JDC on all material issues relating to DEVELOPMENT of PRODUCT including, but not limited to the status of formulation efforts, the status of patient enrollment in the ongoing clinical trials, the status of clinical supplies, target dates for data analysis and report preparation, and target dates for the PHASE II REVIEW POINT and IND and NDA filings. Each party shall cause its representatives to attend the meetings of the JDC provided, however, that meetings of the JDC shall be effective for decision-making if at least

one representative of each party is present or participating. If a representative of a party is unable to attend a meeting, such party may designate an alternate to attend such meeting in place of the missing representative. In addition, each party may, at its discretion, invite non-voting employees, consultants or advisors whose presence is considered of importance or value to the DEVELOPMENT to attend and participate in the meetings of the JDC, provided that any such consultant or advisor shall have undertaken confidentiality obligations to PDL or SB, as the case may be, at least comparable to the confidentiality provisions undertaken by the parties under this AGREEMENT, with respect to the subject matter of any such meeting. Minutes shall be kept of all JDC meetings, shall be promptly reviewed by both parties within twenty (20) business days of delivery, and shall be deemed approved when mutually accepted by the parties as evidenced in writing or if one party has not responded to the draft and/or comments delivered by the other party by the later of the 20-day period or five (5) business days after receipt of comments from the other party, if any. The parties shall use good faith efforts to finalize the minutes within five (5) business days after receipt of comments, if any. Decisions of the JDC shall be by unanimous vote, with each party having one (1) vote.

(d) Deadlock - In the event of a deadlock by the JDC, in lieu of invoking the dispute resolution process set forth in Article 17, the deadlock shall be resolved as follows:
[CONFIDENTIAL TREATMENT REQUESTED]

(e) Expenses - Each party shall bear its own expenses, including travel, accommodations, and living expense, incurred in connection with their respective efforts described in Paragraph 3.03, except as otherwise provided in Paragraph 3.03(d)(ii).

3.04 PHASE II REVIEW POINT Decision. Promptly after the PHASE II REVIEW POINT, but, in any event, no later than sixty (60) days thereafter, based, in part, on a review of the final, quality-assured data tables (in a form to be mutually agreed upon) for all pre-specified safety and efficacy data on PRODUCT described in the approved protocols from the studies outlined in the DEVELOPMENT PLAN, SB, at its sole discretion, shall have the option to elect to participate in the further DEVELOPMENT and commercialization of PRODUCT in all countries in the TERRITORY in accordance with the terms and conditions of this AGREEMENT by providing written notice to PDL.

(a) SB Exercises Right. In the event SB makes such election, the following provisions shall apply:

(i) In consideration for the licenses under PDL PATENTS and PDL KNOW-HOW granted to SB under this AGREEMENT, SB shall pay to PDL a non-refundable, non-creditable payment of [CONFIDENTIAL TREATMENT REQUESTED]within fifteen (15) days after SB notifies PDL of its election.

(ii) The JDC shall promptly meet to decide which party can most effectively and expeditiously complete the remaining DEVELOPMENT of PRODUCT, which party shall be named on each regulatory filing in the TERRITORY, and how to appropriately amend the DEVELOPMENT PLAN to reflect such decisions; and

(iii) The DEVELOPMENT COSTS and PRE-LAUNCH COMMERCIAL EXPENSES incurred by either party subsequent to the PHASE II REVIEW POINT shall be shared by the parties, with SB bearing [CONFIDENTIAL TREATMENT REQUESTED]and PDL bearing [CONFIDENTIAL TREATMENT REQUESTED]. Accounting and sharing of these costs shall be as provided in Article 11.

(b) SB Does Not Exercise Right. In the event that SB elects not to or fails to make the PHASE II REVIEW POINT PAYMENT, the JDC and Development Coordinators shall be terminated and the provisions of Paragraph 5.03 shall apply effective as of the date of expiration or termination of SB's rights. Thereafter, subject to SB's rights and obligations pursuant to Article 4, SB shall have no further rights or obligations with respect to the DEVELOPMENT or commercialization of the PRODUCT. PDL shall thereafter use commercially reasonable efforts and diligence, consistent with the effort that is used by PDL in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize the PRODUCT in the TERRITORY and shall provide bi-annual updates to SB on the progress of the DEVELOPMENT of PRODUCT. All such bi-annual updates shall be considered the confidential information of PDL and subject to the provisions of Paragraph 8.03.

3.05 Information Exchange. In order to facilitate DEVELOPMENT and PDL's accomplishment of the responsibilities outlined in Paragraphs 3.01, 3.02, and 3.03, SB shall supply PDL, promptly after the EFFECTIVE DATE, with the information and access to information set forth in Appendix E as well as all relevant clinical, preclinical and other relevant data related to PRODUCT in its possession. [CONFIDENTIAL TREATMENT REQUESTED]

3.06 Termination of DEVELOPMENT.

(a) Termination of PDL DEVELOPMENT.

(i) PDL Funding Difficulties. In the event that PDL becomes aware that it will have significant problems providing the funding it requires in order to carry out its DEVELOPMENT obligations under this AGREEMENT (including by reason of a decision by PDL not to provide such funding), it shall promptly notify SB, in writing. In this event, SB shall

have the option, at its sole discretion, within thirty (30) days of receipt of such notice from PDL, to solely assume DEVELOPMENT responsibility. If SB elects to assume this responsibility, it shall so notify PDL in writing, in which case the JDC and the Development Coordinators shall terminate and SB shall be solely responsible for the continued DEVELOPMENT and commercialization of PRODUCT, all rights to PRODUCT granted to PDL shall terminate and revert to SB, PDL's license under SB PATENTS and SB KNOW-HOW shall terminate, and PDL shall transfer all clinical, preclinical and other relevant information and data related to PRODUCT in its possession to SB (including the assignment of any filings with REGULATORY AUTHORITIES held by PDL) at no cost to SB, and SB shall immediately have an exclusive license to make, have made, import, use, sell and offer to sell PRODUCT in the TERRITORY under all relevant PDL PATENTS and PDL KNOW-HOW. In such case, SB shall use commercially reasonable efforts and diligence, consistent with the effort that is used by SB in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize PRODUCT in the TERRITORY and any subsequent SB NET SALES of PRODUCT shall be subject to the royalty obligations as set forth in Paragraph 5.05. If SB elects not to assume this responsibility, [CONFIDENTIAL TREATMENT REQUESTED].

(ii) PDL Failure to meet Material DEVELOPMENT Obligations. In the event that either (A) the PHASE II REVIEW POINT is delayed more than [CONFIDENTIAL TREATMENT REQUESTED] beyond the date set forth in the DEVELOPMENT PLAN, and such delay is not agreed upon by both parties or is not due to circumstances which are beyond PDL's reasonable control, or (B) PDL fails to meet a material DEVELOPMENT obligation set forth in the DEVELOPMENT PLAN due to action or failure to act in circumstances within PDL's reasonable control and such failure is not corrected within thirty (30) days after receipt of written notification from SB of such failure or PDL has not provided a written plan setting forth its corrective efforts within such time period, which plan shall be subject to the reasonable approval of SB, then SB shall have the option, at its sole discretion, to solely assume DEVELOPMENT responsibility. If SB elects to assume this responsibility, it shall so notify PDL, in writing within thirty (30) days of either (1) the projected date of the PHASE II REVIEW POINT in the case of failure pursuant to Paragraph 3.06(a)(ii)(A)or (2) PDL's failure to correct within the 30-day corrective period or SB's rejection of a corrective plan submitted by PDL in the case of failure pursuant to Paragraph 3.06(a)(ii)(B). If SB does not provide written notice to PDL within such time limit, then SB shall irrevocably lose its option to assume DEVELOPMENT responsibility hereunder with respect to that particular delay or that particular failure to perform a material DEVELOPMENT obligation. If SB provides timely written notice to PDL of its election to assume this responsibility, the JDC and the Development Coordinators shall terminate and SB shall be solely responsible for the continued DEVELOPMENT and commercialization of PRODUCT, all rights to PRODUCT granted to PDL shall terminate and revert to SB, PDL's license under SB PATENTS and SB KNOW-HOW shall terminate, and PDL shall transfer all clinical, preclinical and other relevant information and data related to PRODUCT in its possession to SB (including the assignment of any filings with REGULATORY AUTHORITIES held by PDL) at no cost to SB, and SB shall immediately have an exclusive license to make, have made, import, use and sell PRODUCT in the TERRITORY under all relevant PDL PATENTS and PDL KNOW-HOW. In such case, SB shall use commercially reasonable efforts and diligence, consistent with the effort that is used by SB in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize PRODUCT in the TERRITORY and any subsequent SB NET SALES of PRODUCT shall be subject to the royalty obligations set forth in Paragraph 5.05. If SB elects not to assume this responsibility, it shall so notify PDL in writing, in which case this AGREEMENT shall, at SB's option, [CONFIDENTIAL TREATMENT REQUESTED].

(b) Termination of SB DEVELOPMENT.

(i) SB Funding Difficulties. In the event that SB becomes aware that it will have significant problems providing the funding it requires in order to carry out its DEVELOPMENT obligations under this AGREEMENT (including by reason of a decision by SB not to provide such funding), it shall promptly notify PDL, in writing. In this event, PDL shall have the option, at its sole discretion, within thirty (30) days of receipt of such notice from SB, to solely assume DEVELOPMENT responsibility. If PDL elects to assume this responsibility, it shall so notify SB, in writing, in which case the JDC and the Development Coordinators shall terminate and PDL shall have sole responsibility for the DEVELOPMENT and commercialization of PRODUCT, all rights to PRODUCT granted to SB shall terminate and revert to PDL, SB's license under PDL PATENTS and PDL KNOW-HOW shall terminate, and SB shall transfer all clinical, preclinical and other relevant information and data related to PRODUCT in its possession to PDL (including the assignment of any filings with REGULATORY AUTHORITIES held by SB) at no cost to PDL, and PDL shall immediately have an exclusive license to make, have made, import, use, sell and offer to sell PRODUCT in the TERRITORY under all relevant SB PATENTS and SB KNOW-HOW. In such case, PDL shall use commercially reasonable efforts

and diligence, consistent with the effort that is used by PDL in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize PRODUCT in the TERRITORY and any subsequent PDL NET SALES of PRODUCT shall be subject to the royalty obligation set forth in Paragraph 5.04. If PDL elects not to assume this responsibility, [CONFIDENTIAL TREATMENT REQUESTED].

(ii) SB Failure to meet Material DEVELOPMENT Obligations. In the event that SB fails to meet any material DEVELOPMENT obligation set forth in the DEVELOPMENT PLAN due to action or failure to act in circumstances within SB's reasonable control and such failure is not corrected within thirty (30) days after receipt of written notification from PDL of such failure or, if not corrected within such 30-day period and SB has not provided a written plan setting forth its corrective efforts, which plan shall be subject to the reasonable approval of PDL, then PDL shall have the option, at its sole discretion, to solely assume DEVELOPMENT responsibility. If PDL elects to assume this responsibility, it shall so notify SB in writing within thirty (30) days after SB's failure to correct within the 30-day corrective period or PDL's rejection of a corrective plan submitted by SB, as the case may be. If PDL does not provide written notice to SB within such time limit, then PDL shall irrevocably lose its option to assume DEVELOPMENT responsibility hereunder with respect to that particular failure to perform a material DEVELOPMENT obligation. If PDL provides timely written notice to SB of its election to assume this responsibility, the JDC and the Development Coordinators shall terminate and PDL shall be solely responsible for the continued DEVELOPMENT and commercialization of PRODUCT, all rights to PRODUCT granted to SB shall terminate and revert to PDL, SB's license under PDL PATENTS and PDL KNOW-HOW shall terminate, and SB shall transfer all clinical, preclinical and other relevant information and data related to PRODUCT in its possession to PDL (including the assignment of any filings with REGULATORY AUTHORITIES held by SB) at no cost to PDL, and PDL shall immediately have an exclusive license to make, have made, use and sell PRODUCT in the TERRITORY under all relevant SB PATENTS and SB KNOW-HOW. In such case, PDL shall use commercially reasonable efforts and diligence, consistent with the effort that is used by PDL in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize PRODUCT in the TERRITORY and any subsequent PDL NET SALES of PRODUCT shall be subject to the royalty obligation set forth in Paragraph 5.04. If PDL elects not to assume this responsibility, it shall so notify SB in writing, in which case this AGREEMENT shall, at PDL's option, either [CONFIDENTIAL TREATMENT REQUESTED].

4. MANUFACTURE AND SUPPLY

4.01 Pre-PHASE II REVIEW POINT. Prior to the PHASE II REVIEW POINT, SB will use commercially reasonable efforts to manufacture all clinical and preclinical supplies of PRODUCT required for DEVELOPMENT in accordance with the DEVELOPMENT PLAN and conduct certain additional activities and provide materials, data and information as set forth in Appendix E. PDL shall have certain audit, data and information rights with respect to the efforts of SB hereunder as provided in Appendix E. PDL will pay to SB one hundred percent (100%) of the COST OF GOODS incurred by SB for such clinical supplies from the EFFECTIVE DATE through to the PHASE II REVIEW POINT and the costs incurred by SB in performing the activities conducted in accordance with Appendix E. SB will provide reasonable detail of the activities performed and services provided together with an invoice on a quarterly basis and PDL shall pay SB for all such costs within thirty (30) days after receiving each of SB's invoices therefor. In any event, PDL's responsibility for the total COST OF GOODS through the PHASE II REVIEW POINT plus the costs incurred by SB under Appendix E shall not exceed [CONFIDENTIAL TREATMENT REQUESTED]unless (a) the DEVELOPMENT PLAN is amended to increase the amount of PRODUCT required or increase the activities required under Appendix E in order to complete the DEVELOPMENT PLAN through to the PHASE II REVIEW POINT or (b) as otherwise agreed by the JDC.

4.02 Post-PHASE II REVIEW POINT. If SB has made the PHASE II REVIEW POINT PAYMENT all COST OF GOODS for further DEVELOPMENT and commercial manufacture, if applicable, incurred by either party after the date of such payment will be shared by the parties, with [CONFIDENTIAL TREATMENT REQUESTED]. If SB elects not to make the PHASE II REVIEW POINT PAYMENT, all COSTS OF GOODS incurred by PDL after the PHASE II REVIEW POINT, whether manufactured by SB, PDL or a THIRD PARTY, shall be at PDL's sole responsibility and expense. Reconciliation of amounts incurred hereunder shall be as provided in Paragraph 11.02.

4.03 Commercial Manufacturing Rights.

(a) SB makes PHASE II REVIEW POINT PAYMENT. In the event SB makes the PHASE II REVIEW POINT PAYMENT, SB shall have the first right to be the primary and secondary manufacturer of commercial supplies of PRODUCT (including, for the avoidance of doubt, supplies of PRODUCT for Phase III clinical trials), [CONFIDENTIAL TREATMENT REQUESTED]. The term "primary manufacture" shall mean

the preparation of bulk biological substance. The term "secondary manufacture" shall mean the preparation of lyophile vials, labeling, finishing and packaging. If SB is not selected by the parties as the primary and secondary manufacturer of PRODUCT, PDL shall have the second right to become the primary and secondary manufacturer, [CONFIDENTIAL TREATMENT REQUESTED].

(b) SB Does Not Make PHASE II REVIEW POINT PAYMENT. In the event SB does not make the PHASE II REVIEW POINT PAYMENT, SB shall have the first right to be the primary and secondary manufacturer of commercial supplies of PRODUCT (including, for the avoidance of doubt, supplies of PRODUCT for Phase III clinical trials), [CONFIDENTIAL TREATMENT REQUESTED]. The terms "primary manufacture" and "secondary manufacture" shall have the meanings set forth in Paragraph 4.03(a) above. If SB is not selected by the PDL as the primary and secondary manufacturer of PRODUCT, PDL shall select the manufacturer of PRODUCT, which may be PDL itself.

(c) Transitional Manufacturing Services. [CONFIDENTIAL TREATMENT REQUESTED]

(d) SB Involvement in CMC and DMF Questions If SB Does Not Manufacture. [CONFIDENTIAL TREATMENT REQUESTED]

5. PAYMENTS AND ROYALTIES

5.01 Payments. In consideration for the licenses under PDL PATENTS and PDL KNOW-HOW granted to SB under this AGREEMENT, SB will make the following payments to PDL within thirty (30) days of the first occurrence of the following milestones:

(a) [CONFIDENTIAL TREATMENT REQUESTED]

(b) [CONFIDENTIAL TREATMENT REQUESTED],

provided that:

(i) each such payment shall be made only one time regardless of how many times any PRODUCT achieves each of the indicated milestones, and no payment shall be owed for a milestone which is not reached;

(ii) each such payment by SB shall be non-refundable and non-creditable;

(iii) in the event that PDL's rights to PRODUCT are terminated under Paragraph 3.06 or Article 12, no payments shall be due under this Paragraph 5.01 for milestones achieved after the notice date of termination; and

(iv) in the event that PDL has an overdue negative balance with respect to any undisputed amount invoiced by SB under Paragraph 4.01, SB shall have the right to offset any payments due under this Paragraph 5.01 against the total of such amounts outstanding as part of the quarterly reconciliation for the period in which the milestone is payable.

As used in this Paragraph 5.01, the term [CONFIDENTIAL TREATMENT REQUESTED] means [CONFIDENTIAL TREATMENT REQUESTED];
[CONFIDENTIAL TREATMENT REQUESTED].

5.02 SB Makes PHASE II REVIEW POINT PAYMENT: Profit-Sharing Scenario. In the event SB makes the PHASE II REVIEW POINT PAYMENT, and neither party's rights under this AGREEMENT have been terminated, the following provisions shall apply:

[CONFIDENTIAL TREATMENT REQUESTED]

5.03 SB Does Not Make PHASE II REVIEW POINT PAYMENT: Royalties. In the event SB does not make the PHASE II REVIEW POINT PAYMENT, in consideration of the licenses granted by SB to PDL hereunder, as the sole compensation to SB, PDL shall pay SB a royalty of:

[CONFIDENTIAL TREATMENT REQUESTED]

5.04 SB Rights Terminated.

In the event SB's rights to PRODUCT are terminated in accordance with Paragraph 3.06 or Article 12 of this AGREEMENT, in consideration for the license rights granted by SB to PDL hereunder, as the sole compensation to SB, PDL shall pay to SB royalties as follows:

(i) in those countries in the TERRITORY in which PDL NET SALES are covered by a VALID CLAIM of an SB PATENT:

[CONFIDENTIAL TREATMENT REQUESTED]

5.05 PDL Rights Terminated. In the event of termination of PDL's rights to PRODUCT as provided under Paragraph 3.06 or Article 12, SB will provide, as the sole compensation to PDL, the following royalties to PDL, such royalties to be based upon the phase of development that PRODUCT reached at time of termination of PDL's rights:

5.06 THIRD PARTY Payments.

(a) Pre-PHASE II REVIEW POINT. Subject to Paragraph 5.06(b), during the term of this AGREEMENT through the PHASE II REVIEW POINT, if neither party's rights to PRODUCT have terminated hereunder, the parties shall mutually determine in good faith if it is necessary to (i) seek a license from a THIRD PARTY and if so, whether one or both parties should approach such THIRD PARTY with respect to obtaining such a license, or (ii) otherwise exercise an existing THIRD PARTY license between SB or PDL, on the one hand, and a THIRD PARTY, on the other hand, as of the EFFECTIVE DATE, and, in each case, make royalty or other fee payments to any THIRD PARTY in order to avoid infringement with respect to the making, use, import or sale of PRODUCT

anywhere in the TERRITORY; provided that if the parties cannot agree on the need for any such license or the commercial provisions relating to such license or the need to exercise an existing THIRD PARTY license, the parties shall endeavor to find a mutually acceptable resolution of this matter. If the parties cannot determine such a mutually acceptable resolution, the parties shall submit the matter to a mutually acceptable THIRD PARTY expert for a final and binding resolution, the cost of such expert to be equally shared by the parties. Prior to the PHASE II REVIEW POINT, all payments made to THIRD PARTIES [CONFIDENTIAL TREATMENT REQUESTED]in accordance with Paragraphs 5.06(a) and 5.06(b) throughout the TERRITORY will be the responsibility of PDL; provided, however, that SB shall reimburse or credit [CONFIDENTIAL TREATMENT REQUESTED] of all such payments when and if SB makes the PHASE II REVIEW POINT PAYMENT.

(b) [CONFIDENTIAL TREATMENT REQUESTED]

(c) Post-PHASE II REVIEW POINT. If SB makes the PHASE II REVIEW POINT PAYMENT, then all of the payments to THIRD PARTIES outlined in Paragraphs 5.06(a) and 5.06(b) throughout the TERRITORY subsequent to the PHASE II REVIEW POINT will be considered a THIRD PARTY ROYALTY. If SB does not make the PHASE II REVIEW POINT PAYMENT, then all of the payments to THIRD PARTIES outlined in Paragraphs 5.06(a) and 5.06(b) throughout the TERRITORY subsequent to the PHASE II REVIEW POINT will be borne solely by PDL.

6. PDL CO-PROMOTION OPTION

If, at the time of filing of an NDA in the U.S.A. by PDL or SB, SB has made the PHASE II REVIEW POINT PAYMENT and PDL is current in its payment of its share of DEVELOPMENT COSTS in accordance with this AGREEMENT, and the rights of both parties with respect to PRODUCT remain in effect, PDL shall have the option to co-promote PRODUCT with SB (using the same Trademark) in the U.S.A. in accordance with the terms and conditions of this AGREEMENT. SB shall provide to PDL a copy of its sales and marketing plan for PRODUCT as soon as practicable following the completion of the last pivotal Phase III clinical study set forth in the DEVELOPMENT PLAN. PDL shall have sixty (60) days from the later of (a) the filing of the first NDA for PRODUCT in the U.S.A. or (b) delivery to PDL of a written sales and marketing plan for PRODUCT in the U.S.A. prepared by SB in accordance with SB's then current internal sales and marketing plans for other similar products in the U.S.A., to notify SB in writing of its exercise of the co-promotion option under this Article 6. Following receipt of such written notification from PDL, SB shall grant to PDL a license to co-promote PRODUCT in the U.S.A. in accordance with both the terms and conditions contained in this AGREEMENT as well as the terms and conditions set forth in a separate written co-promotion agreement to be entered into in accordance with Article 7. If PDL does not send any written notification to SB within the specified time limit set forth in this Article 6, then PDL shall irrevocably lose its rights to co-promote PRODUCT with SB in the U.S.A.

7. MARKETING AND CO-PROMOTION

7.01 Joint Marketing Committee.

(a) Appointment. Within thirty (30) days after the filing of the NDA for a PRODUCT in the [CONFIDENTIAL TREATMENT REQUESTED], the parties will establish a Joint Marketing Committee ("JMC") composed of three (3) representatives from SB and two (2) representatives from PDL, each with appropriate background, experience and qualifications to productively discuss the commercialization of PRODUCT in the TERRITORY. Each party shall appoint its own representatives and may change its representatives on the JMC at any time by written notice to the other party.

(b) Purpose and Responsibilities.

(i) PDL Does Not Co-Promote. For any year in which PDL is not co-promoting PRODUCT in accordance with this Article 7, the primary purpose of the JMC shall be to provide a forum in which the parties can share and discuss information concerning the commercialization of PRODUCT in the TERRITORY, including the strategic direction of the commercialization. During these periods, the JMC shall meet on a semi-annual basis. The parties shall discuss the annual marketing plan and budget for the TERRITORY, as prepared by SB in accordance with Paragraph 7.02, and SB's performance against such plan and budget. During this period, SB shall have final decision making responsibility with respect to the commercialization of PRODUCT in the TERRITORY; provided that SB shall seriously consider, in good faith, all reasonable suggestions of PDL.

(ii) PDL Co-Promotes. For any year in which PDL is co-promoting PRODUCT in the U.S.A. in accordance with this Article 7, in addition to the purposes and responsibilities set forth in Paragraph 7.01(b)(i) above, the JMC shall also oversee, monitor and coordinate the activities of the parties in marketing, selling and distributing PRODUCT in the U.S.A.; provided, however, it is understood and agreed that, except as set forth in Paragraph 7.03 below, SB shall have final decision-making responsibility with respect to the commercialization of PRODUCT in the U.S.A and the rest of the TERRITORY. During these periods, the JMC shall meet on a quarterly basis.

(c) Meetings, Reporting and Decisions. The JMC will meet at least as often as set forth in Paragraph 7.01(b)(i) and (b)(ii) above at mutually agreed upon times and locations using mutually agreed upon meeting

formats, including videoconferencing and teleconferencing, unless otherwise mutually agreed by the parties. It is envisioned that meetings of the JMC will be held at facilities alternately selected by PDL and by SB. Each party shall promptly report to the JMC on all material issues relating to commercialization of PRODUCT in the TERRITORY. Each party shall cause its representatives to attend the meetings of the JMC; provided, however, that meetings of the JMC shall be effective for decision-making if at least one (1) representative of each party is present or participating. If a representative of a party is unable to attend a meeting, such party may designate an alternate to attend such meeting in place of the missing representative. In addition, each party may, at its discretion, invite employees, consultants or advisors whose presence is considered of importance or value to the commercialization of PRODUCT in the TERRITORY to attend and participate in the meetings of the JMC, provided that any such consultant or advisor shall have undertaken confidentiality obligations to PDL or SB, as the case may be, at least comparable to the confidentiality provisions undertaken by the parties under this AGREEMENT, with respect to the subject matter of any such meeting. Minutes shall be kept of all JMC meetings.. At the first JMC meeting, additional administrative details, including the review periods for minutes from meetings, shall be determined.

(d) Expenses - Each party shall bear its own expenses, including travel, accommodations, and living expense, incurred in connection with their respective efforts described in this Paragraph 7.01 and such costs and expenses shall not be included in PROMOTION EXPENSES.

7.02 Annual Sales and Marketing Plan and Budget. SB shall prepare and deliver to PDL an annual sales and marketing plan for PRODUCT for the TERRITORY in accordance with SB's standard internal procedures. Such plan and budget shall be reviewed and approved by SB management. In addition, SB shall provide PDL with a draft of SB's annual sales and marketing plan for PRODUCT for the TERRITORY at least thirty (30) days prior to its approval by SB management in order to give PDL the opportunity to review and comment. PDL shall have twenty (20) calendar days after receipt of the draft plan to provide comments and/or suggestions to SB. SB shall consider in good faith all comments and suggestions received from PDL, but SB shall have the final decision making responsibility with respect to such plan. The plan will detail the proposed sales and marketing efforts, including, without limitation, the AGGREGATE PROJECTED DETAILS in the U.S.A., to be undertaken with respect to PRODUCT in the year, as well as marketing/promotional budget, any local Phase IV medical support studies, selling investment required for PRODUCT, in each country in the TERRITORY during such year, and estimated total PROMOTION EXPENSES related thereto. For the avoidance of doubt, it is understood and agreed that, for so long as SB retains its rights to market and sell PRODUCT under this AGREEMENT, SB shall be responsible for the booking of sales throughout the TERRITORY.

7.03 PDL Co-promotes. In the event PDL elects the co-promotion option in accordance with Article 6 above, the parties shall use reasonable good faith efforts to negotiate and enter into a separate co-promotion agreement (the "Co-Promotion Agreement") within ninety (90) days of PDL's election to co-promote in accordance with Article 6. The parties agree that the following principles, as well as the relevant provisions of Paragraphs 7.01 and 7.02, shall, unless otherwise mutually agreed by the parties, apply to any co-promotion activities and shall be included in the Co-Promotion Agreement: (a) Target Audiences. SB shall determine the target audiences for PRODUCT in the U.S.A.

(b) Projection of AGGREGATE PROJECTED DETAILS. As part of SB's annual sales and marketing planning process described in Paragraph 7.02, SB shall reasonably determine the aggregate number of DETAILS to be performed for PRODUCT in the U.S.A. ("AGGREGATE PROJECTED DETAILS") to all target audiences. PDL shall have the opportunity to validate the reasonableness of the AGGREGATE PROJECTED DETAILS determined by SB against the practices engaged by other large pharmaceutical companies based upon widely available sales/market research data.

(c) PDL Proposal. On an annual basis, within sixty (60) days after receipt by PDL of SB's annual sales and marketing plan for PRODUCT for the year, PDL shall submit to SB a proposal (the "PDL Proposal") specifying (i) the sales and marketing activities proposed to be performed by PDL as part of its co-promotion activities in the U.S.A., which activities may include without limitation, DETAILING PRODUCT, or, in lieu thereof, engaging in other marketing, sales and distribution efforts such as conducting symposia, educational sessions and other activities to promote PRODUCT, and conducting post-regulatory approval clinical trials for PRODUCT, provided however, that any non-DETAIL sales and marketing activities proposed by PDL must be supplemental to the activities set forth in the Annual Sales and Marketing Plan provided by SB, (ii) PDL's estimated PROMOTION EXPENSES related to such activities and (iii) PDL's proposed profit split adjustment for such activities; provided, however, that in no event shall the profit split adjustment for the U.S.A. be more than [CONFIDENTIAL TREATMENT REQUESTED] of PRE-TAX PROFITS derived from the U.S.A.

(d) SB Determination. SB shall review and consider PDL's proposal in good faith and determine, within thirty (30) days of receipt of the PDL Proposal, the co-promotion activities to be performed by PDL, the

allowable PROMOTION EXPENSES related thereto, and the profit split adjustment to be paid to PDL for such activities (the "SB Determination"). In making such a determination, the following shall apply:

(i) DETAILS. SB shall accept any PDL Proposal that specifies that PDL will perform [CONFIDENTIAL TREATMENT REQUESTED] of the AGGREGATE PROJECTED DETAILS in the U.S.A. The profit-split adjustment for PRE-TAX PROFITS derived from the U.S.A. for the performance of DETAILS is set forth on Exhibit B.

(ii) [CONFIDENTIAL TREATMENT REQUESTED]

(e) PDL Guaranteed DETAILS. To the extent PDL agrees to provide DETAILS during a given year, PDL shall be required to perform a guaranteed number of DETAILS ("PDL'S Guaranteed DETAILS"); such number shall be determined by SB in accordance with Paragraph 7.03(b) above. During any co-promotion year, if PDL shall fail to perform at least [CONFIDENTIAL TREATMENT REQUESTED] of PDL's Guaranteed DETAILS and SB has performed its share of the AGGREGATE PROJECTED DETAILS, PDL's right to co-promote PRODUCT under this AGREEMENT shall irrevocably be terminated.

(f) No Sublicense Rights. In no event, shall PDL be permitted to sublicense its right to co-promote PRODUCT with SB in the U.S.A. to any THIRD PARTY without SB's prior written consent.

(g) In any event, any co-promotion arrangement shall provide for (a) the marketing of PRODUCT under one brand name selected by SB, and (b) the booking of all sales by SB.

8. EXCHANGE OF INFORMATION AND CONFIDENTIALITY

8.01 Transfer of Information. Promptly after the EFFECTIVE DATE and during the term of the AGREEMENT, SB shall disclose and supply to PDL all SB KNOW-HOW. Promptly after receipt of the PHASE II REVIEW POINT PAYMENT and thereafter through the term of the AGREEMENT, PDL shall disclose and supply to SB all PDL KNOW-HOW. Notwithstanding the foregoing, the obligation of a party to provide any further SB KNOW-HOW or PDL KNOW-HOW which may become known to them during the term of the AGREEMENT, as the case may be, shall continue so long as the other party has a continuing right to PRODUCT beyond the right to receive royalties under this AGREEMENT.

8.02 Adverse Experience Reporting. The responsibilities of the parties for the reporting of adverse experiences related to PRODUCT to regulatory authorities throughout the TERRITORY shall be performed in accordance with the Pharmacovigilance Agreement attached to this AGREEMENT as Appendix C.

8.03 Confidentiality.

(a) The Confidentiality Agreement between the parties dated December 22, 1998, as amended ("Confidentiality Agreement"), shall terminate as of the EFFECTIVE DATE.

(b) During the term of this AGREEMENT and for five (5) years thereafter, irrespective of any termination earlier than the expiration of the term of this AGREEMENT, PDL and SB shall not use or reveal or disclose to THIRD PARTIES any confidential information either:
(i) disclosed under the Confidentiality Agreement, or
(ii) received from the other party or otherwise developed by either party in the performance of activities in furtherance of this AGREEMENT
without first obtaining the written consent of the disclosing party, except as may be otherwise provided herein, or as may be required for purposes of investigating, developing, manufacturing or marketing PRODUCT or for securing essential or desirable authorizations, privileges or rights from governmental agencies, or as required to be disclosed to a governmental agency or as necessary to file or prosecute patent applications concerning PRODUCT or to carry out any litigation concerning PRODUCT. This confidentiality obligation shall not apply to such information which is or becomes a matter of public knowledge, or is already in the possession of the receiving party, or is disclosed to the receiving party by a THIRD PARTY having the right to do so, or is subsequently and independently developed by employees of the receiving party or AFFILIATES thereof who had no knowledge of the confidential information disclosed. The parties shall take reasonable measures to assure that no unauthorized use or disclosure is made by others to whom access to such information is granted.

(c) Nothing herein shall be construed as preventing either party from disclosing any information received from the other party to:

(i) an AFFILIATE, sublicensee or distributor of the receiving party, provided such AFFILIATE, sublicensee or distributor has undertaken a similar obligation of confidentiality with respect to the confidential information; or

(ii) the FDA in connection with the approval to conduct clinical studies, manufacture, market or sell PRODUCT.

(d) All confidential information disclosed by one party to the other shall remain the intellectual property of the disclosing party. In the event that a court or other legal or administrative tribunal, directly or through an appointed master, trustee or receiver, assumes partial or complete control over the assets of a party to this AGREEMENT based on the insolvency or bankruptcy of such party, the bankrupt or insolvent party shall promptly notify the court or other tribunal (i) that confidential information

received from the other party under this AGREEMENT remains the property of the other party and (ii) of the confidentiality obligations under this AGREEMENT. In addition, the bankrupt or insolvent party shall, to the extent permitted by law, take all steps necessary or desirable to maintain the confidentiality of the other party's confidential information and to ensure that the court, other tribunal or appointee maintains such information in confidence in accordance with the terms of this AGREEMENT.

8.04 Public Announcements. It is contemplated that one or both of the parties will issue a press release announcing this AGREEMENT, the Rights Agreement and the IL-5 License Agreement, the form and content of which shall be mutually agreed upon. No other public announcement or other disclosure to THIRD PARTIES concerning the terms, financial or otherwise, of this AGREEMENT shall be made, either directly or indirectly, by any party to this AGREEMENT, except as may be legally required or as may be required for recording purposes, without first obtaining the approval of the other party, which approval shall not be unreasonably withheld, and agreement upon the nature and text of such announcement or disclosure. The party desiring to make any such public announcement or other disclosure (whether such disclosure is legally required or otherwise) shall inform the other party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other party with a written copy thereof, in order to allow such other party to comment upon such announcement or disclosure. The party reviewing the release shall use good faith efforts to promptly review and provide comments upon the proposed public release, which comments shall be provided as soon as practicable but in any event within seven (7) days of delivery of the initial draft of the proposed release. Each party agrees that it shall cooperate fully with the other with respect to all disclosures regarding this AGREEMENT to the Securities Exchange Commission, the U.K. Stock Exchange and any other governmental or regulatory agencies, including requests for confidential treatment of proprietary information of either party included in any such disclosure.

8.05 Publications. Neither SB nor PDL shall submit for written or oral publication any manuscript, abstract or the like which includes data or other information generated under this AGREEMENT and/or provided by the other party under this AGREEMENT without first obtaining the prior written consent of the other party in accordance with the procedure set forth in this Paragraph 8.05, which consent shall not be unreasonably withheld. Any proposed publication which includes data or other information generated under this AGREEMENT and/or provided by the other party under this AGREEMENT shall be subject to the prior review and approval of the other party. The party proposing publication ("Publishing Party") shall provide a draft or summary of the proposed publication for review by the other party ("Reviewing Party") not less than thirty (30) calendar days prior to the proposed date of submission for publication. The Reviewing Party shall review and provide comments upon the proposed publication, which comments shall be provided as soon as practicable but in any event within twenty (20) calendar days of delivery of the initial draft of the proposed publication. The Reviewing Party shall have the right to require that any confidential information of the Reviewing Party be removed from the proposed publication or presentation, or that any information to be used as the basis of a proposed patent application be removed from the proposed publication or presentation until the proposed patent application is prepared and filed by either the Reviewing or Publishing Party. In any event, the contribution of each party (as determined in accordance with then current practices for scientific or clinical publications) shall be noted in all publications or presentations by acknowledgment or co-authorship, whichever is appropriate.

8.06 Statutory and Regulatory Requirements. Nothing in this AGREEMENT shall be construed as preventing or in any way inhibiting either party from complying with statutory and regulatory requirements governing the development, manufacture, use, importation, marketing, sale or other distribution of PRODUCT in any manner which it reasonably deems appropriate, including, for example, by disclosing to regulatory authorities confidential or other information received from the other party or THIRD PARTIES.

9. PATENT PROSECUTION AND LITIGATION

9.01 Ownership of Intellectual Property. Each party shall have and retain sole and exclusive title to all inventions, discoveries, and know-how which are made (as determined in accordance with the patent laws of the U.S.A.) solely by its employees or agents in the course of or as a result of activities performed in furtherance of the AGREEMENT. Each party shall own a fifty percent (50%) undivided interest in all joint inventions, discoveries, and know-how made (as determined in accordance with the patent laws of the U.S.A.) by employees or agents of both parties as a result of activities performed in furtherance of the AGREEMENT. Subject to the terms of this AGREEMENT, each party shall own, and may fully exploit, all of its rights and interests in such joint inventions, discoveries, and know-how, without any encumbrances to each other. Subject to the terms of this AGREEMENT, each party shall promptly notify the other upon the determination to file, and in any event prior to filing, a patent application with respect to any invention or discovery referred to in this Paragraph 9.01, except that, notwithstanding the above, neither party shall have the obligation to disclose to the other

party any invention made by its employees and agents related to the manufacture (e.g., cell culture, fermentation) or purification of monoclonal antibodies.

9.02 Prosecution and Maintenance.

(a) SB PATENTS. SB shall have the first right, using in-house or outside legal counsel selected at SB's sole discretion, to prepare, file, prosecute, maintain and extend, at its expense, all SB PATENTS, as well as any other patent applications which arise under Paragraph 9.01 which are owned in whole or in part by SB, provided that PDL shall have the right to assume responsibility, at PDL's expense, for preparing, filing, prosecuting, maintaining and extending any such SB PATENT, or any part thereof, to which SB intends to abandon or otherwise cause or allow to be forfeited to the extent such is related to PRODUCT.

(b) PDL PATENTS. PDL shall have the first right, using in-house or outside legal counsel selected at PDL's sole discretion, to prepare, file, prosecute, maintain and extend, at its expense, all PDL PATENTS, as well as any other patent applications which are owned solely by PDL and arise under Paragraph 9.01, provided that SB shall have the right to assume responsibility, at SB's expense, for preparing, filing, prosecuting, maintaining and extending any such patent or patent application, or any part thereof, which PDL intends to abandon or otherwise cause or allow to be forfeited to the extent such is related to PRODUCT.

9.03 Reasonable Assistance. Notwithstanding the provisions of Paragraph 9.02, each party shall, at its own expense, provide reasonable assistance to the other party to facilitate filing, prosecution and issuance of all patent applications covering inventions related to PRODUCT which are referred to in Paragraph 9.01, or which are necessary for fulfillment of the obligations set out in this AGREEMENT, and shall execute all documents deemed necessary or desirable therefor.

9.04 Infringement of PDL PATENTs.

(a) Notice. In the event that PDL or SB becomes aware of actual or threatened infringement of a PDL PATENT anywhere in the TERRITORY, wherein such infringement relates to an antibody that binds to the IL-4 antigen, that party shall promptly notify the other party in writing. The notice shall describe in reasonable detail the facts and circumstances forming the basis for the determination that there is actual or threatened infringement. In the event the notice specifies threatened, but not actual infringement, the parties agree to discuss in good faith the proper course of action; provided, that PDL shall have the final decision making authority with respect to such course of action. [CONFIDENTIAL TREATMENT REQUESTED] (b) PDL First Right to Litigate For Actual Infringement. PDL shall have the first right but not the obligation to bring an infringement action or file any other appropriate action or claim directly related to actual infringement of the PDL PATENTS related to an antibody that binds to the IL-4 antigen against any THIRD PARTY (an "Action") and to use SB's name in connection therewith and to include SB's name as a party thereto. If PDL elects to bring an Action in accordance with this Paragraph 9.04(b), PDL shall have sole control over any Action, including the right to select counsel for such Action; provided however that PDL shall solicit, and seriously consider in good faith SB's input with respect to all material aspects of such Action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, PDL shall keep SB promptly and fully informed of the status of any such Action, and SB shall have the right to review and comment upon PDL's activities related thereto. SB shall consult with PDL concerning such Action at no cost to PDL. To the extent PDL elects its first right to bring an Action in any country of the TERRITORY, PDL shall use commercially reasonable efforts, in each such country, to diligently pursue such Action and obtain results that are consistent with the respective objectives of the parties under this Agreement. All cost and expenses related to any such Action shall be paid by PDL; provided however that, in the event SB makes the PHASE II REVIEW POINT PAYMENT, all such OUT OF POCKET COSTS, whether incurred prior to or after the PHASE II REVIEW POINT, shall be considered PATENT COSTS for the determination of PRE-LAUNCH COMMERCIAL EXPENSES and PRE-TAX PROFITS.

(c) SB's Right to Litigate for Actual Infringement. At any time prior to the PHASE II REVIEW POINT or at any time after SB makes the PHASE II REVIEW POINT PAYMENT, SB shall have the following rights to file an Action with respect to actual infringement of PDL PATENTs related to an antibody that binds to the IL-4 Antigen. [CONFIDENTIAL TREATMENT REQUESTED] SB shall have sole control over any Action, including the right to select counsel for such Action; provided however that SB shall solicit, and seriously consider in good faith PDL's input with respect to all material aspects of such Action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance but not in limitation of the foregoing, SB shall keep PDL promptly and fully informed of the status of any such Action, and PDL shall have the right to review and comment upon SB's activities related thereto. All cost and expenses related to any such Action shall be paid by SB; provided however that, in the event SB makes the PHASE II REVIEW POINT PAYMENT, all such OUT OF POCKET COSTS, whether incurred prior to or after the PHASE II REVIEW POINT PAYMENT, shall be considered PATENT COSTS for the determination of PRE-LAUNCH COMMERCIAL EXPENSES and PRE-TAX PROFITS.

PDL and its counsel shall consult with SB concerning such Action at no cost to SB. To the extent SB elects to bring an Action in accordance with this Paragraph 9.04(c), SB shall use commercially reasonable efforts to diligently pursue such Action and to obtain results that are consistent with the respective objectives of the parties under this Agreement. In the event SB commences an Action prior to the PHASE II REVIEW POINT and later elects not to make the PHASE II REVIEW POINT PAYMENT, the parties shall meet and negotiate in good faith to determine an equitable and fair way to proceed or discontinue with any such Action.

(d) Litigation and Settlement Costs. In the event SB does not make the PHASE II REVIEW POINT PAYMENT and PDL has paid for all costs and expenses related to an Action, PDL shall retain the entire recovery made with respect to any such Action. In the event SB makes the PHASE II REVIEW POINT PAYMENT, any recovery made by either party with respect to any such Action shall be considered a positive PATENT COST for the calculation of PRE-LAUNCH COMMERCIAL EXPENSES and PRE-TAX PROFITS.

(e) Cooperation and Settlement. The parties shall keep one another informed of the status of and of their respective activities regarding any Action, including without limitation any discussion concerning the settlement thereof. No settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by one party pursuant to this Paragraph 9.04 may be entered into without the consent of the non-settling party if such settlement would require the non-settling party to be subject to an injunction, to make a monetary payment or would adversely affect the non-settling party's rights under this AGREEMENT, including the PDL's rights in PDL PATENTS and the licenses granted to SB hereunder.

9.05 Infringement of SB PATENTs.

(a) Notice. In the event that PDL or SB becomes aware of actual or threatened infringement of a SB PATENT anywhere in the TERRITORY, wherein such infringement relates to an antibody that binds to the IL-4 antigen, that party shall promptly notify the other party in writing. The notice shall describe in reasonable detail the facts and circumstances forming the basis for the determination that there is actual or threatened infringement. In the event the notice specifies threatened, but not actual infringement, the parties agree to discuss in good faith the proper course of action; provided that, unless SB has elected not to make the PHASE II REVIEW POINT PAYMENT, SB shall have the final decision making authority with respect to such course of action. [CONFIDENTIAL TREATMENT REQUESTED] (b) SB's First Right to Litigate For Actual Infringement. SB shall have the first right but not the obligation to bring an infringement action or file any other appropriate action or claim directly related to actual infringement of the SB PATENTS related to an antibody that binds to the IL-4 antigen against any THIRD PARTY (an "Action") and to use PDL's name in connection therewith and to include PDL's name as a party thereto. If SB elects to bring an Action in accordance with this Paragraph 9.05(b), SB shall have sole control over the Action, including without limitation, the right to select counsel for such Action; provided however that SB shall solicit, and seriously consider in good faith, PDL's input with respect to all material aspects of such Action, including without limitation the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, SB shall keep PDL promptly and fully informed of the status of any such Action, and PDL shall have the right to review and comment upon SB's activities related thereto. PDL shall consult with SB concerning such Action at no cost to SB. To the extent SB elects its first right to bring an Action in any country of the TERRITORY, SB shall use commercially reasonable efforts, in each such country, to diligently pursue such Action and to obtain results that are consistent with the respective objectives of the parties under this AGREEMENT. All costs and expenses related to any such Action shall be paid by SB; provided however that, in the event SB makes the PHASE II REVIEW POINT PAYMENT, all such OUT OF POCKET COSTS, whether incurred prior to or after the PHASE II REVIEW POINT PAYMENT, shall be considered PATENT COSTS for the calculation of PRE-LAUNCH COMMERCIAL EXPENSES and PRE-TAX PROFITS.

(c) PDL's Right to Litigate for Actual Infringement. If SB does not commence a particular Action [CONFIDENTIAL TREATMENT REQUESTED] PDL shall have sole control over any Action, including the right to select counsel for such Action; provided however that PDL shall solicit, and seriously consider in good faith SB's input with respect to all material aspects of such Action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance but not in limitation of the foregoing, PDL shall keep SB promptly and fully informed of the status of any such Action, and SB shall have the right to review and comment upon PDL's activities related thereto. All costs and expenses related to any such Action shall be paid by PDL; provided however that, in the event SB makes the PHASE II REVIEW POINT PAYMENT, all such OUT OF POCKET COSTS, whether incurred prior to or after the PHASE II REVIEW POINT, shall be considered PATENT COSTS for the calculation of PRE-LAUNCH COMMERCIAL EXPENSES and PRE-TAX PROFITS. SB and its counsel shall consult with PDL concerning such Action at no cost to PDL. To the extent PDL elects to bring an Action in accordance with this Paragraph 9.05(c), PDL shall use commercially reasonable efforts to obtain results that are consistent with the respective objectives of the parties under this Agreement.

(d) Litigation and Settlement Costs. In the event SB does not make the PHASE II REVIEW POINT PAYMENT and PDL has paid for all costs and expenses related to an Action, PDL shall retain the entire recovery made with respect to any such Action. In the event SB makes the PHASE II REVIEW POINT PAYMENT, any recovery made by either party with respect to any such Action shall be deemed a positive PATENT COST for the calculation of PRE-TAX PROFITS.

(e) Cooperation and Settlement. The parties shall keep one another informed of the status of and of their respective activities regarding any Action, including without limitation any discussion concerning the settlement thereof. No settlement or consent judgment or other voluntary final disposition of any suit defended or Action brought by one party pursuant to this Paragraph 9.05 may be entered into without the consent of the non-settling party if such settlement would require the non-settling party to be subject to an injunction, to make a monetary payment or would adversely affect the non-settling party's rights under this AGREEMENT, including the SB's rights in SB PATENTS and the licenses granted to PDL hereunder.

9.06 Infringement of THIRD PARTY Intellectual Property Rights.

(a) Notice. In the event of the institution of any suit by a THIRD PARTY against PDL or SB or their respective sublicensees or AFFILIATES for patent infringement involving the manufacture, use, sale, distribution or marketing of PRODUCT anywhere in the TERRITORY, the party sued shall promptly notify the other party in writing.

(b) Rights to Defend. In the event SB has made the PHASE II REVIEW POINT PAYMENT, SB shall have the right but not the obligation to defend such suit and to use PDL's name in connection therewith; provided however that if SB does not defend such suit in a timely manner, PDL shall have the right but not the obligation to defend such suit and to use SB's name in connection therewith. If SB elects not to make the PHASE II REVIEW POINT PAYMENT, PDL shall have the sole right but not the obligation to defend such suit at its own expense. If SB has made the PHASE II REVIEW POINT PAYMENT, all costs and expenses incurred by either party with respect to such suit, whether incurred before or after the date of the PHASE II REVIEW POINT, shall be considered PATENT COSTS for the calculation of PRE-LAUNCH COMMERCIAL EXPENSES and PRETAX PROFITS.

(c) Cooperation and Settlement. The parties shall keep one another informed of the status of and of their respective activities regarding any Action, including without limitation any discussion concerning the settlement thereof. No settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by one party pursuant to this Paragraph may be entered into without the consent of the non-settling party if such settlement would require the non-settling party to be subject to an injunction, to make a monetary payment or would adversely affect the non-settling party's rights under this Agreement

9.07 Extensions of PDL AND SB PATENTS.

(a) In the event that SB has made the PHASE II REVIEW POINT PAYMENT and SB's and PDL's rights have not been otherwise terminated, each party shall have the obligation to seek extensions of the terms of their respective PDL PATENTS and SB PATENTS and to seek and obtain SPCs directly related to the PRODUCT.

(b) In the event SB does not make the PHASE II REVIEW POINT PAYMENT or SB's rights to PRODUCT (other than to receive royalties) have otherwise been terminated, PDL shall have the right but not the obligation to seek extensions of the terms of SB PATENTS and to seek and obtain SPCs directly related to the PRODUCT. At PDL's request, SB shall provide reasonable assistance therefor to PDL, at PDL's expense for all OUT OF POCKET COSTS incurred by SB. At PDL's request, SB shall authorize PDL to act as SB's agent for the purpose of making any application for any extensions of the term of SB PATENTS or for obtaining SPCs in such countries.

(c) In the event PDL's rights to PRODUCT (other than to receive royalties) are terminated, SB shall have the right but not the obligation to seek extensions of the terms of PDL PATENTS and to seek and obtain SPCs directly related to the PRODUCT. At SB's request, PDL shall provide reasonable assistance therefor to SB, at SB's expense for all OUT OF POCKET COSTS incurred by PDL. At SB's request, PDL shall authorize SB to act as PDL's agent for the purpose of making any application for any extensions of the term of PDL PATENTS or for obtaining SPCs in such countries.

10. TRADEMARKS AND NON-PROPRIETARY NAMES

10.01 Pre-PHASE II REVIEW POINT. Prior to the PHASE II REVIEW POINT, SB shall be responsible, at its expense, for the trademark development process, which may include the selection, registration, and maintenance of all Trademarks for proposed use in connection with PRODUCT throughout the TERRITORY. SB shall also be responsible for the development of a non-proprietary name for the PRODUCT, at its expense, which may include obtaining a USAN and INN. SB shall keep PDL reasonably informed with respect to any such activites.

10.02 SB Makes PHASE II REVIEW POINT PAYMENT.

(a) Trademarks. In the event SB makes the PHASE II REVIEW POINT PAYMENT and SB's rights have not been otherwise terminated, SB shall be responsible for the selection, registration and maintenance of all Trademarks which it uses in connection with PRODUCT throughout the TERRITORY and SB shall

own and control such Trademarks. In the event that SB makes the PHASE II REVIEW POINT PAYMENT but SB's rights to PRODUCT are terminated prior to the completion of the first Phase III clinical trial, SB shall exclusively assign to PDL all right, title and interest to all Trademarks used by SB in connection with PRODUCT throughout the TERRITORY (or the relevant countries within the TERRITORY); provided that PDL shall pay for all TRADEMARK COSTS associated with the Trademarks to be assigned and all OUT OF POCKET COSTS associated with the assignment thereof. To the extent such assignment is prohibited by the law of a country where a Trademark has been selected, registered or maintained by SB, the parties shall take all necessary steps to ensure that all rights in such Trademark is promptly transferred to PDL, and SB shall cooperate with and reasonably assist PDL in protecting such Trademark. Subsequently, PDL, at its expense, shall be responsible for the selection, registration and maintenance of all Trademarks employed in connection with PRODUCT throughout the TERRITORY (or the relevant countries in the TERRITORY) and PDL shall own and control such Trademarks. Except as expressly provided herein, nothing in this AGREEMENT shall be construed as a grant of rights, by license or otherwise, by SB to PDL to use such Trademarks for any purpose, except as may be agreed upon to enable PDL to co-promote PRODUCT in accordance with Article 6.

(b) Non-proprietary Names. If SB has made the PHASE II REVIEW POINT PAYMENT and SB's rights have not been otherwise terminated, SB shall be responsible for the selection and registration of non-proprietary names for PRODUCT in the TERRITORY, including obtaining a USAN and INN. In the event that SB makes the PHASE II REVIEW POINT PAYMENT but SB's rights to PRODUCT are terminated prior to the completion of the first Phase III clinical trial, PDL, at its expense, shall be responsible for the selection and registration of non-proprietary names for PRODUCT in the TERRITORY (or the relevant countries of the TERRITORY), and, if necessary and appropriate, SB will cooperate with and reasonably assist PDL in obtaining these non-proprietary names.

10.03 SB Does Not Make PHASE II REVIEW POINT Payment. If SB has not made the PHASE II REVIEW POINT PAYMENT, or in the event that SB otherwise loses or terminates its rights to PRODUCT under this AGREEMENT after the completion of the first Phase III clinical study of PRODUCT in the TERRITORY or in a given country of the TERRITORY, the following will apply:

(a) Trademarks. If SB and PDL have not used a trademark in connection with PRODUCT, PDL shall have no right to request an assignment hereunder. If SB or PDL has used a trademark designated by SB with respect to the PRODUCT, then at PDL's request, that Trademark shall be assigned to PDL in the TERRITORY if SB terminates or otherwise loses its rights to the PRODUCT in the whole TERRITORY, or, in the event that SB terminates or otherwise loses its rights to the PRODUCT in only certain specified countries, then SB shall assign that Trademark in such specified countries. To the extent such assignment is prohibited by the law of a country where a Trademark has been selected, registered or maintained by SB, the parties shall take all necessary steps to ensure that all rights in such Trademark is promptly transferred to PDL, and SB shall cooperate with and reasonably assist PDL in protecting such Trademark. PDL shall reimburse SB for all TRADEMARK COSTS associated with the assigned Trademark and all OUT OF POCKET COSTS related to the assignment thereof within thirty (30) days after receipt of SB's invoice therefor. Subsequently, PDL, at its expense, shall be responsible for the selection, registration and maintenance of all Trademarks employed in connection with PRODUCT throughout the TERRITORY (or the relevant countries in the TERRITORY) and PDL shall own and control such trademarks.

(b) Non-proprietary Names. PDL, at its expense, shall be responsible for the selection and registration of non-proprietary names for PRODUCT in the TERRITORY (or the relevant countries of the TERRITORY), and, if necessary and appropriate, SB will cooperate with and reasonably assist PDL in obtaining these non-proprietary names.

10.04 Infringement of Trademarks. In the event that PDL or SB becomes aware of actual or threatened infringement of a Trademark selected for a PRODUCT anywhere in the TERRITORY, that party shall promptly notify the other party in writing. The notice shall describe in reasonable detail the facts and circumstances forming the basis for the determination that there is actual or threatened infringement. The party responsible for the prosecution and maintenance of Trademarks in accordance with this Article 10 shall have sole control over any infringement action related to the Trademarks, including without limitation, the right to select counsel; provided however that the party controlling such action shall solicit, and seriously consider in good faith, the other party's input with respect to all material aspects of such action, including without limitation the development of the litigation strategy and the execution thereof.

10.05 Defense of Trademarks. In the event of the institution of any opposition or cancellation action or suit by a THIRD PARTY against PDL or SB or their respective sublicensees or AFFILIATES for trademark infringement involving publication of the Trademark for opposition or cancellation, or the manufacture, use, sale, distribution or marketing of PRODUCT anywhere in the TERRITORY, the party sued shall promptly notify the other party in writing. The party responsible for the prosecution and maintenance of Trademarks in accordance with this Article 10 shall have sole control over the defense of any such action, including without limitation, the right to select counsel;

provided however that the party controlling such action shall solicit, and seriously consider in good faith, the other party's input with respect to all material aspects of such action, including without limitation the development of the litigation strategy and the execution thereof.

11. STATEMENTS AND REMITTANCES

11.01 Records and Audits.

(a) Records and Audits at SB. SB shall keep and require its AFFILIATES and sublicensees to keep complete and accurate records, including details of the calculation, of all DEVELOPMENT COSTS, COSTS OF GOODS (for both DEVELOPMENT and commercialization), SB NET SALES, THIRD PARTY ROYALTIES, PATENT COSTS, TRADEMARKS COSTS, INTEREST CHARGE ON WORKING CAPITAL, PROMOTION EXPENSES, PRE-TAX PROFITS and royalties and any other amounts due to PDL (if applicable). PDL shall have the right, at PDL's expense, through a certified public accountant or like person reasonably acceptable to SB, to examine such records during regular business hours during the life of this AGREEMENT and [CONFIDENTIAL TREATMENT REQUESTED] after its termination; provided, however, that such examination shall not take place more often than once a calendar year and shall not cover such records for more [CONFIDENTIAL TREATMENT REQUESTED] years and provided further that such accountant shall report to PDL only as to the accuracy of the reports from SB and amounts owed by or to PDL hereunder.

(b) Records and Audits at PDL. PDL shall keep and require its AFFILIATES and sublicensees to keep complete and accurate records of all DEVELOPMENT COSTS, COST OF GOODS (for commercial manufacture, if applicable), PDL NET SALES, THIRD PARTY ROYALTIES, PATENT COSTS, INTEREST CHARGE ON WORKING CAPITAL, PROMOTION EXPENSES and the royalty and any other amounts due to SB hereunder (if applicable). SB shall have the right, at SB's expense, through a certified public accountant or like person reasonably acceptable to PDL, to examine such records during regular business hours during the life of this AGREEMENT and for [CONFIDENTIAL TREATMENT REQUESTED] after its termination; provided, however, that such examination shall not take place more often than once a calendar year and shall not cover such records for more than the [CONFIDENTIAL TREATMENT REQUESTED] years and provided further that such accountant shall report to SB only as to the accuracy of the reports provided by PDL to SB and amounts owed by or to SB hereunder.

11.02 Quarter-Year Accounting.

(a) Prior to First Commercial Launch. If SB has made the PHASE II REVIEW POINT PAYMENT and neither SB's nor PDL's rights under this AGREEMENT have otherwise been terminated, then (i) within thirty (30) days after the end of each calendar quarter until such time as Paragraph 11.02(b) applies, PDL shall provide SB with a statement setting forth in reasonable detail the DEVELOPMENT COSTS, COST OF GOODS for DEVELOPMENT (if applicable) and PRE-LAUNCH COMMERCIAL EXPENSES incurred by PDL during the preceding calendar quarter, and (ii) SB shall use commercially reasonable efforts to provide as soon as practicable consistent with the timing of SB's internal financial reporting practices, a statement setting forth in reasonable detail its estimated DEVELOPMENT COSTS, COST OF GOODS for DEVELOPMENT (if applicable) and PRE-LAUNCH COMMERCIAL EXPENSES incurred by SB during the preceding calendar quarter. In any event, within sixty (60) days after each such calendar quarter, SB shall deliver to PDL a true accounting for the applicable quarter of: all DEVELOPMENT COSTS, COST OF GOODS for DEVELOPMENT and PRE-LAUNCH COMMERCIAL EXPENSES incurred by PDL and SB, and a reconciliation of any amounts owed by one party to the other. Any amount payable by a party shall be paid within ten (10) days following receipt of such reconciliation delivered by SB hereunder.

(b) After Commercial Launch.

(i) PDL Sells. Within sixty (60) days after the end of each calendar quarter during which there are PDL NET SALES, PDL shall deliver to SB a true accounting of all PRODUCT sold by PDL and its AFFILIATES during such quarter and reports delivered by its sublicensees during such quarter, including a reasonably detailed calculation of PDL NET SALES. PDL shall pay all royalties due SB under Paragraph 5.05 with the report for the applicable quarter. Such accounting shall show PDL NET SALES on a country-by-country basis.

(ii) SB Sells. Within thirty (30) days after the end of each calendar quarter during which there are SB NET SALES, (A) PDL shall deliver to SB a true accounting of all DEVELOPMENT COSTS, COST OF GOODS (if applicable), THIRD PARTY ROYALTIES, PATENT COSTS and PROMOTION EXPENSES incurred by PDL during the applicable quarter, and (B) SB shall use commercially reasonable efforts to provide as soon as practicable consistent with the timing of SB's internal financial reporting practices, a statement setting forth in reasonable detail its estimated DEVELOPMENT COSTS, COST OF GOODS for DEVELOPMENT (if applicable) and PRE-LAUNCH COMMERCIAL EXPENSES incurred by SB during the preceding calendar quarter. In any event, w ithin sixty (60) days after the end of each calendar quarter during which there are SB NET SALES, SB shall deliver to PDL a true accounting of all DEVELOPMENT COSTS, PRE-TAX PROFITS, whether positive or negative, and royalty calculations, where applicable, showing on a country-by-country basis SB NET SALES, COST OF GOODS, DEVELOPMENT COSTS, THIRD PARTY ROYALTIES, TRADEMARK COSTS, PATENT COSTS, INTEREST CHARGE ON WORKING CAPITAL, and PROMOTION EXPENSES incurred by both

parties, and SB shall, at the same time, pay, as a single payment, the relevant share of PRE-TAX PROFITS, if any, due to PDL in accordance with Paragraph 5.02, or, if applicable, all royalties, if any, due under Article 5. and any amounts due to PDL for DEVELOPMENT COSTS in accordance with Paragraph 3.04(a)(iii). To the extent PRE-TAX PROFITS are negative for any given quarter, such negative amount shall be carried forward and applied to reduce PRE-TAX PROFITS in succeeding quarters. To the extent PDL owes SB for DEVELOPMENT COSTS in accordance with Paragraph 3.04(a)(iii), SB shall deduct such amounts from any payments due to PDL hereunder or, if no such payment is due, PDL shall pay such amounts to SB within thirty (30) days. It is understood and agreed that pre-commercial launch PROMOTION EXPENSES incurred by either party are not included in PRE-LAUNCH COMMERCIAL EXPENSES and shall be applied to the calculation of PRE-TAX PROFITS until fully reimbursed as provided in Paragraph 5.02(e).

11.03 Withholding. Any taxes, levies or other duties paid or required to be withheld by one party on account of payments made to the other party under this AGREEMENT shall be identified and deducted from the payments otherwise due. The paying party shall secure and send to the other party proof of any such taxes, levies or other duties withheld and paid by the paying party or its sublicensees for the benefit of the other party.

11.04 Payments. All royalties and other payments due under this AGREEMENT shall be payable in U.S. dollars and shall be paid by bank wire transfer or by automated clearinghouse (electronic funds transfer) in immediately available funds to such bank account designated in writing by SB and PDL from time to time. Interest shall accrue on delinquent payments from the date such payments are due at the [CONFIDENTIAL TREATMENT REQUESTED]. If governmental regulations prevent remittances from a foreign country with respect to sales made in that country, the obligation of the paying party to pay royalties or other payments on sales in that country shall be suspended until such remittances are possible. The other party shall have the right, upon giving written notice to the paying party, to receive payment in that country in local currency.

11.05 Currency Exchange. Monetary conversions from the currency of a foreign country in which PRODUCT is sold, into U.S. dollars shall be calculated as follows:

(a) if by SB, at the actual average rates of exchange for the year to date as used by SB in producing its quarterly and annual accounts, as confirmed by SB's auditors, or

(b) if by PDL, at the average of the daily exchange rates for such currency quoted by Citibank, N.A., for each of the last five (5) banking days of each calendar quarter.

11.06 No Double Counting of Costs. For the purpose of determining any cost or expense which is shared by the parties or otherwise invoiced by one party to another under this AGREEMENT, any cost or expense allocated by either party to a particular cost category shall be consistent with the terms of this AGREEMENT and shall not also be allocated to another category. In the event a cost or expense might arguably fall into more than one category, the party shall determine in good faith which category such cost or expense most appropriately falls into.

12. TERM AND TERMINATION

12.01 Termination Rights.

(a) Termination by SB. SB may terminate its rights to DEVELOPMENT and commercialization of PRODUCT [CONFIDENTIAL TREATMENT REQUESTED] SB, using the same standards SB would use in assessing whether or not to continue development or commercialization of a product of its own making, that the patent, medical/scientific, technical, regulatory or commercial profile of PRODUCT does not justify continued SB involvement in the development or commercialization of PRODUCT in such [CONFIDENTIAL TREATMENT REQUESTED]. In such event, the provisions of Paragraph 12.01(c) and Paragraph 5.03 or 5.04, as the case may be, shall apply.

(b) Termination by PDL. PDL may terminate its rights to DEVELOPMENT and commercialization of PRODUCT [CONFIDENTIAL TREATMENT REQUESTED] PDL, using the same standards PDL would use in assessing whether or not to continue development or commercialization of a product of its own making, that the patent, medical/scientific, technical, regulatory or commercial profile of PRODUCT does not justify continued PDL involvement in the development or commercialization of PRODUCT in such [CONFIDENTIAL TREATMENT REQUESTED]. In such event, the provisions of Paragraph 12.01(c) and Paragraph 5.05 shall apply.

(c) Effect of Termination. In the event that a party ("Terminating Party") elects to terminate its DEVELOPMENT and/or commercialization of PRODUCT in any [CONFIDENTIAL TREATMENT REQUESTED] at any time under this AGREEMENT in accordance with Paragraph 12.01, then all rights to PRODUCT granted to the Terminating Party in the [CONFIDENTIAL TREATMENT REQUESTED] shall terminate and revert to the other party ("Surviving Party"), the JDC, the Development Coordinators and/or the JMC shall terminate with respect to such [CONFIDENTIAL TREATMENT REQUESTED] and the Surviving Party shall have sole responsibility for DEVELOPMENT and commercialization in the [CONFIDENTIAL TREATMENT REQUESTED], the licenses to the Terminating Party under SB PATENTS and SB KNOW-HOW or PDL PATENTS and PDL KNOW-HOW, as the case

may be, shall terminate in the [CONFIDENTIAL TREATMENT REQUESTED], and the Terminating Party shall promptly transfer all clinical, preclinical and other relevant data and information related to PRODUCT in the [CONFIDENTIAL TREATMENT REQUESTED] in its possession (including the assignment of any filings with REGULATORY AUTHORITIES held by the Terminating Party) to the Surviving Party at no cost to the Surviving Party, and the Surviving Party shall immediately have an exclusive license to make, have made, import, use and sell PRODUCT in the [CONFIDENTIAL TREATMENT REQUESTED] under all relevant SB PATENTS, SB KNOW-HOW or PDL PATENTS and PDL KNOW-HOW, as the case may be. In either case, the Surviving Party shall be fully responsible for the costs and expenses of further DEVELOPMENT and commercialization in the [CONFIDENTIAL TREATMENT REQUESTED] and use commercially reasonable efforts and diligence, consistent with the effort that is used by the Surviving Party in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory review, to develop and commercialize PRODUCT in the [CONFIDENTIAL TREATMENT REQUESTED] and any subsequent sales of PRODUCT by the Surviving Party in the [CONFIDENTIAL TREATMENT REQUESTED] shall be subject to the royalty obligation set forth in Paragraphs 5.03 or 5.04 (if SB elects to terminate) or 5.05 (if PDL elects to terminate), as the case may be.

12.02 Royalty Obligations.

(a) PDL Royalty Obligations. PDL's royalty obligations under Paragraph 5.03(a) or 5.04(i), as applicable, in each country of the TERRITORY shall expire on a country-by-country basis upon the [CONFIDENTIAL TREATMENT REQUESTED]. PDL's royalty obligations under Paragraph 5.03(b) or 5.04(ii), as applicable, in each country of the TERRITORY shall expire upon [CONFIDENTIAL TREATMENT REQUESTED] of the date of first marketing of PRODUCT in such country by or on behalf of PDL.

(b) SB Royalty Obligations. SB's royalty obligations under Paragraph 5.05(a) in each country of the world shall expire on a country-by-country basis upon the [CONFIDENTIAL TREATMENT REQUESTED]. SB's royalty obligations under Paragraphs 5.04(b) in each country of the TERRITORY shall expire upon the [CONFIDENTIAL TREATMENT REQUESTED] date of first marketing in such country by or on behalf of SB.

(c) Profit-Sharing Scenario. SB's obligation to make the payments to PDL under Paragraph 5.02 shall expire on a country-by-country basis upon the date that [CONFIDENTIAL TREATMENT REQUESTED].

12.03 Term of Agreement in its Entirety. Unless otherwise terminated in accordance with the terms of this AGREEMENT, this AGREEMENT shall expire, on a country-by-country basis upon the later of the expiration of SB's obligation to make payments to PDL under Paragraph 5.02 or the expiration of all royalty obligations owed by one party to the other party in such country of the TERRITORY as set forth in this AGREEMENT. Expiration of this AGREEMENT in a particular country under this provision shall not preclude either party from continuing to market or have marketed PRODUCT and to use SB KNOW-HOW and PDL KNOW-HOW, as the case may be, in such country without further payments to the other party.

12.04 Termination Due to Default.

(a) If either party fails or neglects to perform covenants or provisions of this AGREEMENT (other than pursuant to Paragraph 3.06) and if such default is (a) for failure to pay undisputed amounts due hereunder and such default is not cured within ten (10) business days, or (b) for any default other than non-payment and such default is not corrected within sixty (60) days after receiving written notice from the other party with respect to such default, such other party shall have the right to terminate rights to PRODUCT of the defaulting party under this AGREEMENT by giving written notice to the party in default provided the notice of termination is given within six (6) months of the default and prior to correction of the default.

(b) In the event that a party's ("Terminating Party") rights to the DEVELOPMENT and/or commercialization of PRODUCT in the TERRITORY are terminated at any time under this AGREEMENT in accordance with Paragraph 12.04, then all rights to PRODUCT granted to the Terminating Party in the TERRITORY shall terminate and revert to the other party ("Surviving Party"), the JDC, the Development Coordinators and/or the JMC shall terminate and the Surviving Party shall have sole responsibility for DEVELOPMENT and commercialization in the TERRITORY, the licenses to the Terminating Party under SB PATENTS and SB KNOW-HOW or PDL PATENTS and PDL KNOW-HOW, as the case may be, shall terminate in the TERRITORY, and the Terminating Party shall promptly transfer all clinical, preclinical and other relevant data and information related to PRODUCT in the TERRITORY in its possession (including the assignment of any filings with REGULATORY AUTHORITIES held by the Terminating Party) to the Surviving Party at no cost to the Surviving Party, and the Surviving Party shall immediately have an exclusive license to make, have made, import, use and sell PRODUCT in the TERRITORY under all relevant SB PATENTS, SB KNOW-HOW or PDL PATENTS and PDL KNOW-HOW, as the case may be. In either case, the Surviving Party shall use commercially reasonable efforts and diligence, consistent with the effort that is used by the Surviving Party in the development, testing, manufacture, registration, marketing and sale of pharmaceutical products at a similar stage of development, having a comparable level of market potential, and being subject to a comparable regulatory

review, to develop and commercialize PRODUCT in the TERRITORY and any subsequent sales of PRODUCT by the Surviving Party in the [CONFIDENTIAL TREATMENT REQUESTED] shall be subject to the royalty obligation set forth in Paragraphs 5.03 or 5.04 (if SB elects to terminate) or 5.05 (if PDL elects to terminate), as the case may be.

12.05 Termination Due to Bankruptcy.

(a) Either party may terminate this AGREEMENT if, at any time, the other party shall file in any court or agency pursuant to any statute or regulation of any state or country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of the party or of its assets, or if the other party proposes a written agreement of composition or extension of its debts, or if the other party shall be served with an involuntary petition against it, filed in any insolvency proceeding, and such petition shall not be dismissed within sixty (60) days after the filing thereof, or if the other party shall propose or be a party to any dissolution or liquidation, or if the other party shall make an assignment for the benefit of creditors.

(b) Notwithstanding the bankruptcy of either party hereunder, or the impairment of performance by that party of its obligations under this AGREEMENT as a result of bankruptcy or insolvency of a party, the non-bankrupt party shall be entitled to retain the licenses granted herein, subject to the bankrupt party's rights to terminate this AGREEMENT for reasons other than bankruptcy or insolvency as expressly provided in this AGREEMENT.

(c) All rights and distribution rights granted under or pursuant to this AGREEMENT by one party to the other under this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101(35A) of the U.S. Bankruptcy Code. The parties agree that the licensee of such rights under this AGREEMENT shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code, subject to performance by the licensee of its preexisting obligations under this AGREEMENT. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against the licensor under the U.S. Bankruptcy Code, the licensee shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, and same, if not already in its possession, shall be promptly delivered to the licensee (i) upon any such commencement of a bankruptcy proceeding upon written request therefor by the licensee, unless the licensor elects to continue to perform all of its obligations under this AGREEMENT, or (ii) if not delivered under (i) above, upon the rejection of this AGREEMENT by or on behalf of the licensor upon written request therefor by the licensee, provided, however, that upon the licensor's (or its successor's) written notification to the licensee that it is again willing and able to perform all of its obligations under this AGREEMENT, the licensee shall promptly return all such tangible materials to the licensor, but only to the extent that the licensee does not require continued access to such materials to enable the licensee to perform its obligations under this AGREEMENT.

13. RIGHTS AND DUTIES UPON TERMINATION

13.01 Payments. Upon termination of this AGREEMENT, PDL shall have the right to retain any sums already paid by SB hereunder, and SB shall pay all sums accrued hereunder which are then due, and SB shall have the right to retain any sums already paid by PDL hereunder, and PDL shall pay all sums accrued hereunder which are then due.

13.02 Product Inventory. Upon termination of this AGREEMENT following NDA APPROVAL of PRODUCT anywhere in the TERRITORY but earlier than its expiration in accordance with Paragraph 12.03, either party holding inventory of PRODUCT shall notify the other of the amount of PRODUCT such party, its AFFILIATES, sublicensees and distributors then have on hand, the sale of which would, but for the termination, be subject to payment in accordance with Paragraph 5.02, 5.03, 5.04 or 5.05, as the case may be, and each party and its AFFILIATES, sublicensees and distributors shall thereupon be permitted to sell that amount of PRODUCT, provided that the selling party shall pay the payment thereon at the time herein provided for and provided further that the other party shall have the first option to purchase such PRODUCT at a reasonable cost to be negotiated by the parties. If the parties fail to enter into an agreement for purchase of such PRODUCT, the party holding the inventory of PRODUCT will be free to sell such PRODUCT to THIRD PARTIES for a period not to exceed ninety (90) days from the termination of negotiations for the purchase of such PRODUCT; provided, however, that the party selling the inventory of PRODUCT may only offer such PRODUCT on terms no more favorable to the THIRD PARTY than those offered to the other party.

13.03 Survival. Subject to Paragraph 13.01, termination of this AGREEMENT shall terminate all outstanding obligations and liabilities between the parties arising from this AGREEMENT except those described in Paragraphs 8.03, 8.04, 9.01, 11.01, 14.03, 14.04, and 14.05 and Articles 12, 13, 16, 17 and 20, as well as any other provision, such as Paragraph 8.03 which, by its terms, is stated to survive the termination or expiration of this AGREEMENT. In addition, any other provision required to interpret and enforce the parties' respective rights and obligations under this AGREEMENT shall also

survive, but only to the extent that such survival is required for the full observation and performance of this AGREEMENT by the parties hereto.

13.04 Remedies. Termination of the AGREEMENT in accordance with the provisions hereof shall not limit remedies which may be otherwise available in law or equity.

14. WARRANTIES, REPRESENTATIONS, INDEMNIFICATIONS AND INSURANCE

14.01 Warranty by SB. SB represents and warrants that, to the best of its belief and knowledge, it owns the entire right and title to the extent of its ownership interest in SB PATENTS, and that it has given to PDL all information requested by PDL prior to the EFFECTIVE DATE, relating to SB PATENTS, SB KNOW-HOW or PRODUCT, in SB's possession to the extent directly related to PRODUCT. Nothing in this AGREEMENT shall be construed as a warranty that SB PATENTS are valid or enforceable or that their exercise does not infringe any patent rights of THIRD PARTIES. A holding of invalidity or unenforceability of any SB PATENT, from which no further appeal is or can be taken, shall not affect any obligation already accrued hereunder, but shall only eliminate royalties otherwise due under such patent from the date such holding becomes final in accordance with this AGREEMENT.

14.02 Warranty by PDL. PDL represents and warrants that, to the best of its belief and knowledge, it owns the entire right and title to the extent of its ownership interest in PDL PATENTS, and that is has given to SB all information requested by SB prior to the EFFECTIVE DATE, relating to PDL PATENTS, PDL KNOW-HOW or PRODUCT, in PDL's possession to the extent directly related to PRODUCT. Nothing in this AGREEMENT shall be construed as a warranty that PDL PATENTS are valid or enforceable or that their exercise does not infringe any patent rights of THIRD PARTIES. A holding of invalidity or unenforceability of any PDL PATENT, from which no further appeal is or can be taken, shall not affect any obligation already accrued hereunder, but shall only eliminate royalties otherwise due under such patent from the date such holding becomes final in accordance with this AGREEMENT.

14.03 Indemnification by SB. SB hereby agrees to save, defend and hold PDL, its AFFILIATES and their respective officers, directors, stockholders, representatives, agents, employees, successors and assigns harmless from and against any and all suits, claims, actions, demands, liabilities, expenses and/or losses, including reasonable legal expense and attorneys' fees, brought by a THIRD PARTY or that arise in connection with any claim brought by a THIRD PARTY with respect to PRODUCT related to (a) death or other physical injury to any person to the extent caused by the use or administration of PRODUCT provided or sold by SB and its AFFILIATES hereunder; or which injury is due to the negligence or willful misconduct of SB, (b) property damage to the extent such damage is due to the negligence or willful misconduct of SB or (c) breach of any representation or warranty of SB under this AGREEMENT provided that SB shall not be required to provide indemnification hereunder to the extent that any losses, claims, damages or liability result from (i) the negligence or willful misconduct of PDL or breach by PDL of any provision of this AGREEMENT, or (ii) PDL's manufacture (including its manufacture through THIRD PARTY suppliers) of PRODUCT, or (iii) PDL's failure to perform its obligations with respect to the marketing of PRODUCT in accordance with Article 7.

14.04 Indemnification by PDL. PDL hereby agrees to save, defend and hold SB, its AFFILIATES and their respective officers, directors, shareholders, representatives, agents, employees, successors and assigns harmless from and against any and all suits, claims, actions, demands, liabilities, expenses and/or losses, including reasonable legal expense and attorneys' fees, brought by a THIRD PARTY or that arise in connection with any claim brought by a THIRD PARTY with respect to PRODUCT related to (a) death or other physical injury to any person to the extent caused by the use or administration of PRODUCT provided or sold by PDL and its AFFILIATES hereunder; or which injury is due to the negligence or willful misconduct of PDL, (b) property damage to the extent such damage is due to the negligence or willful misconduct of PDL or (c) breach of any representation or warranty of PDL under this AGREEMENT provided that PDL shall not be required to provide indemnification hereunder to the extent that any losses, claims, damages or liability result from (i) the negligence or willful misconduct of SB or breach by SB of any provision of this AGREEMENT, or (ii) SB's manufacture (including its manufacture through THIRD PARTY suppliers) of PRODUCT, or (iii) SB's failure to perform its obligations with respect to the marketing of PRODUCT in accordance with Article 7.

14.05 Indemnification Procedure.

(a) PDL Seeks Indemnification from SB. In the event PDL is seeking indemnification from SB under Paragraph 14.03, SB shall have no such obligation unless PDL:

(i) gives SB prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this AGREEMENT;

(ii) cooperates fully with SB and its agents in defense of any such claim, complaint, lawsuit or other cause of action; and

(iii) SB is granted full authority and control over the defense, including settlement or other disposition thereof, against such claim or lawsuit or other action, provided that PDL shall have the right to retain counsel of its choice to participate in the defense of any such claim or

lawsuit at PDL's own expense, provided that such counsel shall not interfere with SB's full authority and control.

(b) SB Seeks Indemnification from PDL. In the event SB is seeking indemnification under Paragraph 14.04, PDL shall have no such obligation unless SB:

(i) gives PDL prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this AGREEMENT;

(ii) cooperates fully with PDL and its agents in defense of any such claim, complaint, lawsuit or other cause of action; and

(iii) PDL is granted full authority and control over the defense, including settlement or other disposition thereof, against such claim or lawsuit or other action, provided that SB shall have the right to retain counsel of its choice to participate in the defense of any such claim or lawsuit at SB's own expense, provided that such counsel shall not interfere with PDL's full authority and control.

14.06 Insurance. During the term of the AGREEMENT, and for a period of five (5) years after the expiration or termination of this AGREEMENT or the earlier termination thereof, each party shall maintain, respectively, at its sole cost and expense insurance coverage from insurance companies having a rating of at least "A-VIII" as published in the most recent edition of A.M. Best's Insurance Reports, product liability and general liability coverage, in amounts, respectively, which are reasonable and customary in the U.S. pharmaceutical industry for companies of comparable size and activities at the respective place of business of each party, or, solely in the case of SB, self insure with the substantially the same protections. Such product liability insurance shall insure against all liability, including personal injury, physical injury, or property damage arising out of the manufacture, sale, distribution, or marketing of PRODUCT in the countries of the world in which the party is permitted to undertake such activities in accordance with this AGREEMENT. Each party shall provide written proof of the existence of such insurance to the other party upon request. Notwithstanding the foregoing, (a) during the conduct of Phase I and II clinical trials, each party shall always maintain product liability insurance (or, in the case of SB, self-insure) with a minimum of [CONFIDENTIAL TREATMENT REQUESTED] per occurrence (or claim) and annual aggregate limit of liability of [CONFIDENTIAL TREATMENT REQUESTED], (b) during the conduct of Phase III clinical trials, each party shall maintain product liability insurance (or, in the case of SB, self-insure) with a minimum of [CONFIDENTIAL TREATMENT REQUESTED]per occurence (or claim) and annual aggregate limit of liability of [CONFIDENTIAL TREATMENT REQUESTED]and (c) and after first commercial sale each party shall always maintain product liability insurance (or, in the case of SB, self-insure) with a minimum of [CONFIDENTIAL TREATMENT REQUESTED] per occurrence (or claim) and annual aggregate limit of liability.

15. FORCE MAJEURE

If the performance of any part of this AGREEMENT by either party, or of any obligation under this AGREEMENT, is prevented, restricted, interfered with or delayed by reason of any cause beyond the reasonable control of the party liable to perform, unless conclusive evidence to the contrary is provided, the party so affected shall, upon giving written notice to the other party, be excused from such performance to the extent of such prevention, restriction, interference or delay, provided that the affected party shall use its reasonable best efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. When such circumstances arise, the parties shall discuss what, if any, modification of the terms of this AGREEMENT may be required in order to arrive at an equitable solution.

16. GOVERNING LAW

This AGREEMENT shall be deemed to have been made in New York and its form, execution, validity, construction and effect shall be determined in accordance with the laws thereof.

17. DISPUTE RESOLUTION

Except as otherwise described in Paragraphs 3.03(d), 5.06(a) and 7.03(d)(iii), any dispute, controversy or claim arising out of or relating to this AGREEMENT (hereinafter collectively referred to as "Dispute") shall be attempted to be settled by the parties, in good faith, by submitting each such Dispute to appropriate senior management representatives of each party in an effort to effect a mutually acceptable resolution thereof within thirty (30) days. Within fifteen (15) days after submission of the Dispute to such senior representatives, each party shall submit a brief, written summary of the Dispute and their respective position with respect to the Dispute to such senior representatives. In the event no mutually acceptable resolution is achieved, then each party shall be entitled to seek relief for such Dispute by using any appropriate judicial mechanism which may be available in the courts.

18. SEPARABILITY

18.01 In the event any portion of this AGREEMENT shall be held illegal, void or ineffective, the remaining portions hereof shall remain in full force and effect.

18.02 If any of the terms or provisions of this AGREEMENT are in conflict with any applicable statute or rule of law, then such terms or provisions shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to conform with such statute or rule of law.

18.03 In the event that the terms and conditions of this AGREEMENT are materially altered as a result of Paragraph 18.01 or 18.02, the parties will in good faith renegotiate the terms and conditions of this AGREEMENT to carry out the original intent of the parties.

19. ENTIRE AGREEMENT

This AGREEMENT (including Appendices hereto), entered into as of the date written above, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all previous writings and understandings. No terms or provisions of this AGREEMENT shall be varied or modified by any prior or subsequent statement, conduct or act of either of the parties, except that the parties may amend this AGREEMENT by written instruments specifically referring to and executed in the same manner as this AGREEMENT.

20. NOTICES

20.01 Notices required or permitted under this AGREEMENT shall be in writing in the English Language and sent by overnight express mail (e.g., FedEx), or by facsimile confirmed by overnight express mail (e.g., FedEx), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the parties or to such address or addresses as may be specified from time to time in a written notice:

PDL
Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California 94555 U.S.A.
Attention: General Counsel
Fax: (510) 574-1473

SB
SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP1930)
P.O. Box 7929
Philadelphia, Pennsylvania 19101
U.S.A.
Attention: Senior Vice President, Business Development
Fax: (215) 751-4253

copy to:

SmithKline Beecham Corporation
One Franklin Plaza (Mail Code FP2360)
P.O. Box 7929
Philadelphia, Pennsylvania 19101, U.S.A.
Attention: Corporate Law-U.S.
Fax: (215) 751-3935

20.02 Any notice required or permitted to be given concerning this AGREEMENT shall be effective upon receipt by the party to whom it is addressed.

21. ASSIGNMENT

This AGREEMENT and the licenses herein granted shall be binding upon and inure to the benefit of the successors in interest of the respective parties. Neither this AGREEMENT nor any interest hereunder shall be assignable by either party without the written consent of the other provided, however, that either party may assign this AGREEMENT or any part of its rights and obligations hereunder to any AFFILIATE of such party or to any corporation with which that party may merge or consolidate, or to which it may transfer all or substantially all of its assets to which this AGREEMENT relates, without obtaining the consent of the other party, provided that the party effecting such assignment shall notify the other promptly following such assignment.

22. RECORDING

SB and PDL, as appropriate, shall have the right, at any time, to record, register, or otherwise notify this AGREEMENT in appropriate governmental or regulatory offices anywhere in the TERRITORY, and PDL and SB, as appropriate, shall provide reasonable assistance to the other in effecting such recording, registering or notifying.

23. INDEPENDENT CONTRACTORS

The parties are independent contractors under this AGREEMENT and no other relationship is intended, including, without limitation, partnership, joint venture or agency relationship. Neither party shall act in a manner

which expresses or implies a relationship other than of independent contractor, nor bind the other party, except as otherwise expressly provided in this AGREEMENT. Nothing in this AGREEMENT shall be deemed to infer any direct relationship between PDL and any AFFILIATE of SB.

24. EXECUTION IN COUNTERPARTS

This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties, through their authorized officers, have executed this AGREEMENT as of the date first written above.

SMITHKLINE BEECHAM CORPORATION

BY:

TITLE:

PROTEIN DESIGN LABS, INC.

BY:

TITLE:

DEVELOPMENT AND LICENSE AGREEMENT
SMITHKLINE BEECHAM CORPORATION-PROTEIN DESIGN LABS, INC.
APPENDIX A

The following are patents and patent applications (also known as the "Queen et al. patents") issued and filed in certain countries in the world and licensed as part of the PDL PATENTS under the Agreement (As of August 25, 1999)

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.

Country
Title*
Issued
647383
Australia
"Novel Immunoglobulins, Their Production
and Use"
Issued
671949
Australia
"
Issued
AT E133452
Austria
"
Issued
0451216
Belgium
"
Issued
61095
Bulgaria
"
Issued
970016

Brazil
"
Issued

0451 216B1
European
"
Issued
0682040 B1
European

Issued
FR0451216
France
"
Issued
DE
68925536
Germany
"
Issued
DD 296 964
East Germany
"
Issued
GB 0451216
Great Britain
"
Issued
1001050

Greece
"
Issued
211174

Hungary
"
Issued
IT O451216
Italy
"
Issued
2828340
Japan
"
Issued
LU O451216
Luxembourg
"
Issued
92.2146
Monaco
"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued
SG O451216
Singapore

"
Issued
89/9956
South Africa
"
Issued
178385
South Korea
"
Issued
2081974 T3
Spain
"
Issued
SE O451216
Sweden
"
Issued
CHO 451216
Switzerland
"
Issued
50034
Taiwan
"
Issued
13349
Uruguay
"
Issued
48700
Yugoslavia
"

Country
Title*
Pending
Argentina
"Novel Immunoglobulins, Their
Production and Use"
Pending
Canada
"
Pending
Chile
"
Pending
China
"
Pending
Croatia
"
Pending
Czech Republic
"
Pending
Ecuador
"
Pending
Europe
"
Pending
Hong Kong
"
Pending
Ireland
"
Pending
Israel
"
Pending
Japan
"
Pending
South Korea

Pending
Romania
"
Pending
Slovak Republic
"
Pending
Venezuela
"
Pending
Denmark
"
Pending
Finland
"
Pending
Norway
"

*Exact titles may differ in different countries.

SB PATENTS

[CONFIDENTIAL TREATMENT REQUESTED]

DEVELOPMENT AND LICENSE AGREEMENT
SMITHKLINE BEECHAM CORPORATION-PROTEIN DESIGN LABS, INC.
APPENDIX B
CO-PROMOTION TERMS: PROFIT SPLIT FOR DETAILING
[CONFIDENTIAL TREATMENT REQUESTED]

DEVELOPMENTAND LICENSE AGREEMENT
SMITHKLINE BEECHAM CORPORATION-PROTEIN DESIGN LABS, INC.
APPENDIX C
PHARMACOVIGILANCE AGREEMENT
Procedure for Exchange of Adverse Event data between
SB Worldwide Clinical Safety and PDL for PRODUCT (e.g., SB 240683)
1.0 Background:
This Pharmacovigilance procedure shall be effective for the term of the AGREEMENT. In the event SB makes the PHASE II REVIEW POINT PAYMENT, the parties will review this Appendix C to assess whether amendments are required.

2.0 Definitions:

A. Serious Adverse Event. A serious adverse event includes any experience/event that results in any of the following outcomes:
death
life-threatening (at immediate risk of death from the event as it occurs)
requires inpatient hospitalization or prolongation of existing hospitalization
a persistent or significant disability/incapacity
a congenital anomaly/birth defect
is an important medical event that may not result in any of the above outcomes, but based upon appropriate medical judgment, may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in the definition.

B. Unexpected adverse drug experience. An unexpected adverse drug experience is any adverse drug experience that is not listed in the current labeling for the Product. "Unexpected" refers to an adverse drug experience that has not been previously observed (i.e. is not included in the investigator brochure) rather than an experience that is not anticipated based on the pharmacological properties of the pharmaceutical product.

3.0 Policy Statements:

A. Each Party will follow its existing procedures for intake, review and reporting of adverse events.
B. Each Party will maintain the original source documents in accordance with current regulatory requirements.
C. PDL and SB will exchange safety information as appropriate.

D. SB and PDL Central Safety Departments(or equivalents) will review this Appendix periodically and revise same as necessary.
E. PDL will maintain the central international adverse event database of adverse event reports associated with PRODUCT.

4.0 Processing Adverse Events Associated With PRODUCT:

A. PDL Responsibilities:

1. PDL will acknowledge all reports submitted by SB under 4.B.1 below.

2. PDL will generate and submit all serious and unexpected adverse event (SAE) reports associated with PRODUCT to the FDA within 7 or 15 calendar days of the initial report of information by PDL in accordance with local regulations. PDL will cross reference SB's IND on all such reports and will provide SB Worldwide Clinical Safety (SB WWCS) Department with a copy of any report at the time of submission to the FDA as well as a copy of the final report.

3. Prior to initiating the first clinical trial with PRODUCT, PDL will provide SB with a copy of PDL's standard operating procedure "SOP" related to safety reporting, including a technical description of the information to be captured in the safety database. SB will review this SOP to ensure that regulatory reporting requirements will be met and, and to ensure that the data captured is of sufficient detail to allow the data to be integrated after the PHASE II REVIEW POINT PAYMENT, if the parties decide that safety reporting shall be managed by SB in accordance with Paragraph 3.04(a)(ii) of the AGREEMENT.

PDL will generate and submit a line listing of all SAEs to SB WWCS. Such line-listing will be produced on a quarterly basis and will indicate the patient number, SAE(s) reported for each patient, and causality assigned by the clinical investigator for each SAE.

4. PDL will generate and submit all necessary documents associated with the IND Annual Report to the FDA in accordance with regulations and will cross reference SB's IND in doing so. PDL will simultaneously submit a copy of each IND Annual Report to SB WWCS.

5. PDL will generate and submit any necessary Investigator Letters regarding serious and unexpected adverse reactions to the FDA in accordance with regulations and will cross reference SB's IND in doing so. PDL will simultaneously submit a copy of each Investigator Letter to SB WWCS.

B. SB Responsibilities:

1. Within 30 days following execution of this AGREEMENT, SB WWCS will submit via CIOMS I forms all SAEs associated with PRODUCT entered into SB's Safety Database as of the EFFECTIVE DATE.

2. In the event that SB is inadvertently contacted by a clinical investigator to report a PRODUCT-related SAE, SB will attempt to (i) forward the clinical investigator to PDL for follow-up and (ii) if this is not immediately possible, record the SAE and send to PDL by facsimile within 24 hours of receipt by SB WWCS.

3. SB will no longer enter any SAE reports associated with PRODUCT on its Safety Database, as these reports will be maintained in PDL's Safety Database as described in 4.A.3 above.

5.0 Pharmacovigilance Contacts In Each Party:
A. For SB: Contact
Address and Numbers
Primary: [CONFIDENTIAL TREATMENT REQUESTED]

B. For PDL: Contact
Address and Numbers
[CONFIDENTIAL TREATMENT REQUESTED]

copy to:
[CONFIDENTIAL TREATMENT REQUESTED]

APPENDIX E
THE MANUFACTURING PLAN
[CONFIDENTIAL TREATMENT REQUESTED]

CONFIDENTIAL TREATMENT REQUESTED WITH RESPECT TO
DESIGNATED PORTIONS OF THIS DOCUMENT

DEVELOPMENT AND LICENSE AGREEMENT

CONFIDENTIAL TREATMENT REQUESTED WITH RESPECT TO
DESIGNATED PORTIONS OF THIS DOCUMENT

AMENDED AND RESTATED AGREEMENT

This Amended and Restated Agreement is entered into as of October 20, 1999 ("Signing Date"), by and among, on the one hand, HOFFMANN-LA ROCHE INC., a New Jersey corporation having offices at 340 Kingsland Street, Nutley, New Jersey 07110 ("Roche-Nutley") and F. HOFFMANN-LA ROCHE LTD of Basel, Switzerland ("F. Roche") (Roche-Nutley and F.Roche are hereinafter individually and collectively referred to as "Roche") and PROTEIN DESIGN LABS, INC., a Delaware corporation having offices at 34801 Campus Drive, Fremont, California 94555 ("PDL").

RECITALS

A. Roche and PDL are parties to Agreements dated January 31, 1989, as amended (the "1989 Agreements") pertaining to humanized and chimeric antibodies against the interleukin-2 receptor ("IL-2R").

B. Under the 1989 Agreements, PDL exclusively licensed to Roche rights to a humanized antibody now known as Daclizumab (as defined below).

C. Roche is currently marketing Daclizumab under the trademark Zenapaxr for the prevention of acute organ rejection in patients receiving kidney transplants.

D. Roche and PDL now desire to replace the 1989 Agreements with new agreements to provide PDL with rights to develop and, if successful, promote Daclizumab in autoimmune indications for increased compensation from the 1989 Agreements.

E. Concurrently with the entering into of this Amended and Restated Agreement, PDL and F. Roche are replacing the 1989 Agreements with respect to rights outside of the U.S. and Canada with a new agreement ("F. Roche Agreement").

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, PDL and Roche mutually agree to replace the 1989 Agreements with respect to the U.S. and Canada as follows:

I. DEFINITIONS

For the purposes of this Amended and Restated Agreement, the following terms, when written with an initial capital letter (except as set forth in Sections 1.24 and 1.25), shall have the meaning ascribed to them below. All references to particular Appendices, Articles and Sections shall mean the Appendices to, and Articles and Sections of, this Amended and Restated Agreement, unless otherwise specified.

1.1 "Affiliates" means any corporation or other business entity controlled by, controlling, or under common control with another entity, with "control" meaning direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock of, or more than a fifty percent (50%) interest in the income of, such corporation or other business entity.

1.2 "Combination Product" means any product containing both an ingredient which causes it to be considered a Licensed Product and one or more other therapeutically active ingredients.

1.3 "FDA" shall mean the United States Food and Drug Administration.

1.4 "Field" means any humanized or chimeric antibody which binds to the IL-2R, where "humanized" means a genetically engineered combination of a substantially human framework region and constant region, and complementarity determining regions from non-human antibodies, and where "chimeric" means a genetically engineered combination of human constant region and non-human variable region. "Antibodies in the Field" means humanized and chimeric antibodies which bind to the IL-2R. It is believed that these Antibodies in the Field may be useful for therapeutic, diagnostic, imaging and similar purposes. It is understood that the Field includes, but is not limited to, that certain humanized murine monoclonal antibody prepared against the p55 component of the IL-2R ("humanized anti-Tac"). Furthermore, the Field includes, but is not limited to, all improvements relating to humanized anti-Tac, including without limitation modifications in structure introduced by genetic engineering, or by chemical or enzymatic cleavage. Also included within the Field shall be alternate hosts for producing humanized anti-Tac, methods for purification, formulations incorporating humanized anti-Tac, and uses and methods of use for humanized anti-Tac in human medicine. Humanized anti-Tac is also known as "Daclizumab". "Daclizumab" as used in this Amended and Restated Agreement means any product that contains Daclizumab.

1.5 "Initial Commercialization" means either of the following, depending on context:

(a) For the United States, the end of the calendar month containing the date following FDA approval of the Biologics License Application filed for a Licensed Product for human therapeutic use for prevention of kidney transplant rejection or a major disease (within the meaning of Milestone #2 in Section 3.2 of the 1989 Agreement) on which Roche, its Affiliates or sublicensees first sell such a product to an independent third party not an Affiliate of the seller in the Territory. With respect to Daclizumab, "Initial Commercialization" occurred in the United States on December 31, 1997.

(b) For Canada, the end of the calendar month containing the date following Regulatory Approval (as defined in the F.Roche Agreement) for a Licensed Product for human therapeutic use for prevention of kidney transplant rejection or a major disease (within the meaning of Milestone #2 in

Section 3.2 of the 1989 Agreement) on which Roche, its Affiliates or sublicensees first sell such a product to an independent third party not an Affiliate of the seller in a major market outside the Territory, where "major market" means either Japan or two of the following three countries: France, Italy or the United Kingdom. .

1.6 "Joint Inventions" means any inventions in the Field, whether patented or not, which are jointly made during the period beginning on January 31, 1989 and ending upon expiration or termination of this Amended and Restated Agreement by at least one PDL employee or person contractually required to assign or license patent rights covering such inventions to PDL and at least one Roche or F. Roche employee or person contractually required to assign or license patent rights covering such inventions to Roche or F. Roche.

1.7 "Licensed Product" means any product in the Field, including any Combination Product, the making, use or sale of which utilizes PDL Know-How, PDL Patents or Joint Inventions or would, in the absence of this Amended and Restated Agreement, infringe a Valid Claim. Daclizumab shall be deemed to be a Licensed Product.

1.8 "Adjusted Gross Sales" means the gross invoice price of all Licensed Products sold or otherwise disposed of for consideration by Roche, its Affiliates or sublicensees (other than PDL and its Affiliates hereunder) to independent third parties not an Affiliate of the seller, after deducting, if not already deducted, from the amount invoiced:

(a) the amounts actually allowed as volume or quantity discounts, rebates, price reductions, returns (including withdrawals and recalls); and

(b) sales, excise and turnover taxes imposed directly upon and actually paid by Roche, its Affiliates or sublicencees.

When calculating the Adjusted Gross Sales, the amount of such sales in foreign currencies shall be converted into U.S. dollars at the average rate of exchange at the time for the applicable calendar quarter in accordance with Roche's then current standard practices.

In the case of Combination Products for which the Licensed Product and each of the other therapeutically active ingredients contained in the Combination Product have established market prices when sold separately, Adjusted Gross Sales shall be determined by multiplying the Adjusted Gross Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for the Licensed Product(s) contained in the Combination Product, and the denominator of which shall be the sum of the established market prices for the Licensed Product(s) plus the other active ingredients contained in the Combination Product. When such separate market prices are not established, then the parties shall negotiate in good faith to determine the method of calculating Adjusted Gross Sales for Combination Products.

If Roche or its Affiliates or sublicensees receive non-cash consideration for any Licensed Product sold or otherwise transferred to an independent third party not an Affiliate of the seller or transferor, the fair market value of such non-cash consideration on the date of the transfer as known to Roche, or as reasonably estimated by Roche if unknown, shall be included in the definition of Adjusted Gross Sales.

1.9 "PDL Know-How" means, except as otherwise set forth in this Section 1.9,

(a) all inventions, discoveries, trade secrets, information, experience, data, formulas, procedures and results in the Field, and improvements thereon, (collectively, "Know-How in the Field") including any information regarding the structure, sequence and characterization of Antibodies in the Field, methods of making and the characterization of cell lines producing Antibodies in the Field, and methods of achieving high levels of expression of Antibodies in the Field, which was rightfully held by PDL as of January 31, 1989, or which was developed or acquired by PDL during the period beginning on January 31, 1989 and ending January 31, 1996 (such date being one year after termination of the Research Program, as defined in the 1989 Agreements), and which Know-How in the Field is reasonably required or useful for registration, manufacturing, using or selling products in the Field, and

(b) all Know-How in the Field, including any information regarding the physical, chemical, biological, toxicological, pharmacological, clinical, and veterinary data, dosage regimens, control assays and specifications of Daclizumab, which is rightfully held by PDL or its Affiliates as of the Signing Date, or which is developed or acquired by PDL or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Know-How in the Field is reasonably required or useful for registration, using or selling Daclizumab;

provided, however, that PDL Know-How excludes any Know-How in the Field of any kind concerning generic methods of manufacturing (except as set forth in the following paragraph), designing, developing or preparing antibodies including, but not limited to, methods of humanizing antibodies, methods of reducing the immunogenicity of antibodies, and methods of increasing the affinity of antibodies.

In the event Roche manufactures a form or formulation of Daclizumab for Autoimmune Indications under this Amended and Restated Agreement that Roche is not otherwise manufacturing for the Transplant Indications, PDL Know-How shall

also include all Know-How in the Field which is rightfully held by PDL or its Affiliates as of the Signing Date, or which is developed or acquired by PDL or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Know-How in the Field is reasonably required or useful for manufacturing such form or formulation of Daclizumab for Autoimmune Indications.

1.10 "PDL Patents" means all patent applications owned or controlled by PDL ("Sole PDL Patents") and all patent applications resulting from Joint Inventions ("Joint Roche-PDL Patents") containing claims in the Field, which are filed prior to or during the term of this Amended and Restated Agreement in the United States or any foreign jurisdiction, including any addition, continuation, continuation-in-part or division thereof or any substitute application therefor; any patent issued with respect to such patent application, any reissue, extension or patent term extension of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent; and any other United States or foreign patent or inventor's certificate covering claims in the Field. "Queen et al. Patents" mean those Sole PDL Patents in the Territory claiming priority under 35 USC 120 to U.S. Patent Application Serial No. 290,975, filed December 28, 1988.

1.11 "Roche Inventions" means any inventions in the Field which are made prior to or during the term of this Amended and Restated Agreement by employees of Roche or persons contractually required to assign or license patent rights covering such inventions to Roche.

1.12 "Territory" means, collectively, (1) the United States of America ("U.S." or "U.S.A." or "United States") and its territories and possessions where the patent laws of the United States are in force, and (2) Canada and its territories and possessions. It is understood that PDL and F. Roche are contemporaneously entering into the F. Roche Agreement for all other countries of the world outside the Territory.

1.13 "Valid Claim" means a claim in any issued patent within the PDL Patents which has not been disclaimed or held unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction by a decision beyond right of review.

1.14 "Roche Know-How" means all inventions, discoveries, trade secrets, information, experience, data, formulas, procedures and results specifically related to Daclizumab, and improvements thereon (collectively, "Daclizumab Know-How"), including any information regarding the physical, chemical, biological, toxicological, pharmacological, clinical, and veterinary data, dosage regimens, control assays and specifications of Daclizumab, which is rightfully held by Roche or its Affiliates as of the Signing Date, or which is developed or acquired by Roche or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Daclizumab Know-How is reasonably required or useful for development of a subcutaneous formulation for Daclizumab, or for using or promoting Daclizumab for Autoimmune Indications.

In the event that pursuant to Section 3C.2, PDL obtains a right to manufacture Daclizumab for Autoimmune Indications, Roche Know-How shall also include all Daclizumab Know-How which is rightfully held by Roche or its Affiliates as of the Signing Date, or which is developed or acquired by Roche or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Daclizumab Know-How is reasonably required or useful for manufacturing Daclizumab.

1.15 "Roche Patents" means all patent applications owned or controlled by Roche or its Affiliates ("Sole Roche Patents") and all patent applications resulting from Joint Inventions ("Joint Roche-PDL Patents") containing claims in the Field, which are filed prior to or during the term of this Amended and Restated Agreement in the United States or any foreign jurisdiction, including any addition, continuation, continuation-in-part or division thereof or any substitute application therefor; any patent issued with respect to such patent application, any reissue, extension or patent term extension of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent; and any other United States or foreign patent or inventor's certificate covering claims in the Field.

1.16 "Autoimmune Indications" means all indications that involve pathogenic consequences, including tissue injury, produced by autoantibodies or autoreactive T lymphocytes interacting with self epitopes, i.e., autoantigens. Autoimmune Indications shall include without limitation, psoriasis, rheumatoid arthritis, systemic lupus erythematosus, scleroderma, juvenile rheumatoid arthritis, polymytosis, Type I diabetes, sarcoidosis, Sjogrens syndrome, chronic active non-pathogenic hepatitis, non-infectous uveitis (Behcets), aplastic anemia, regional non-pathogenic enteritis (including ulcerative colitis, Crohn's Disease and inflammatory bowel disease), Kawasaki's disease, post-infectious encephalitis, multiple sclerosis, and tropic spastic paraparesis..

1.17 "Transplant Indications" means all indications that are not Autoimmune Indications, including, without limitation, solid organ transplantation (including tolerance induction and xenotransplantation), bone marrow transplantation, graft versus host disease and cell transplantation. In any event, should a given indication have applicability in both Autoimmune Indications and transplantation, such indication shall be deemed a Transplant

Indication and not an Autoimmune Indication, provided that an Autoimmune Indication shall not be deemed a Transplant Indication merely because it may cause the need for a transplant (e.g., Type I diabetes, even if it causes the need for an organ transplant).

1.18 "Adjusted Gross Transplant Sales" means the sum of Adjusted Gross Sales of (i) Daclizumab in all Transplant Indications and (ii) all Licensed Products other than Daclizumab. "Net Transplant Sales" means the amount determined by deducting [CONFIDENTIAL TREATMENT REQUESTED] from Adjusted Gross Transplant Sales to cover all other expenses or discounts, including but not limited to cash discounts, custom duties, transportation and insurance charges and other direct expenses, to the extent not already deducted from the amount invoiced.

1.19 "Adjusted Gross Autoimmune Sales" means the amount determined by subtracting Adjusted Gross Transplant Sales from Adjusted Gross Sales. "Net Autoimmune Sales" means the amount determined by deducting [CONFIDENTIAL TREATMENT REQUESTED] from Adjusted Gross Autoimmune Sales to cover all other expenses or discounts, including but not limited to cash discounts, custom duties, transportation and insurance charges and other direct expenses, to the extent not already deducted from the amount invoiced.

1.20 "Total Net Sales" means the sum of Net Transplant Sales and Net Autoimmune Sales.

1.21 "Cost of Goods Sold" means the manufacturing cost of unformulated bulk Daclizumab, calculated in accordance with reasonable cost accounting methods consistently applied by a party for its other pharmaceutical products, provided that such methods comply with generally accepted accounting principles. Cost of Goods Sold shall include direct labor (including fringe benefits), direct materials (including taxes and duties), and a reasonable allocation of indirect labor and materials, facilities expense (including occupancy costs and depreciation of property, plant and equipment), administration costs and other costs allocable to the manufacturing process.

1.22 "Reimbursable Promotion Cost" means, for a given Autoimmune Indication, the costs actually incurred by Roche and specifically attributable to the marketing, promoting and detailing of Daclizumab, in accordance with annual promotional plans and operational budgets pursuant to Section 3B.3, for the given Autoimmune Indication.

1.23 "Contract Sales Organization" means an entity having a primary purpose to detail pharmaceutical products of unrelated third parties.

1.24 "documents" used as a verb, for example in Section 3A.4 and similar uses, means provides factual or substantial support, which support may include, among other things, expert opinion.

1.25 "cover" (including variations thereof such as "covering" or "covered") as used for example in Article IV and Article IV-A, means that the manufacture, use, sale or importation of a particular Licensed Product would infringe a Valid Claim in the absence of rights under such patent. The determination of whether a particular Licensed Product is covered by particular Valid Claims shall be made on a country-by-country basis.

1.26 "Application" means a new application, or a supplement or an amendment to an existing application, for marketing approval for an Autoimmune Indication in the Territory.

II. LICENSE GRANTS

2.1 License Grant to Roche. Subject to Section 2.3, Article III-A, Article III-B, Article III-C, Section 8.1 and Section 8.2, PDL grants to Roche and to Roche's Affiliates, the exclusive rights to the PDL Know-How and the PDL Patents, but only to the extent reasonably required or useful to make, have made, use and sell Licensed Products in the Field within the Territory. For so long as Roche is in compliance with its obligations under Section 7.1, Roche may sublicense the right to make, have made, use and sell Licensed Products in the Field within the Territory, but no other rights may be sublicensed, provided that no such sublicense shall be granted as to any Autoimmune Indication without first obtaining PDL's written consent, which consent may be withheld in PDL's sole discretion. Any such sublicense shall be subject to Section 4.5 hereof, and shall terminate automatically if Roche or F. Roche shall not have remedied or initiated steps to remedy a breach of Section 7.1 hereof or Section 5.1 of the F. Roche Agreement, respectively, in a manner reasonably satisfactory to PDL within sixty (60) days after receipt by Roche of notice of such breach from PDL.

2.2 Identification of Patents. Set forth on Appendix A is a list identifying patents or patent applications which comprise Sole PDL Patents. If there are any changes, PDL shall update this list by delivering a supplement to Roche no less frequently than once per year during the term of this Amended and Restated Agreement.

2.3 License Grant to PDL. Roche grants to PDL and to PDL's Affiliates the exclusive rights to the Roche Know-How, Roche Patents, PDL Know-How, and PDL Patents, but only to the extent reasonably required or useful (a) to import and use Daclizumab within the Territory for the sole purpose of conducting development and seeking registration of Daclizumab in Autoimmune Indications as contemplated by this Amended and Restated Agreement and (b), subject to Section 3B.3, to market, promote and detail Daclizumab within the Territory in Autoimmune Indications as contemplated by this Amended and Restated Agreement and (c) in the event that pursuant to Section 3C.1(d) or

3C.2, PDL exercises or obtains its right to manufacture Daclizumab for Autoimmune Indications, to make and have made Daclizumab in the Territory as contemplated by this Amended and Restated Agreement. PDL may not sublicense its rights hereunder to import and use or to make or have made Daclizumab within the Territory without first obtaining Roche's written consent, which consent may be withheld in Roche's sole discretion. PDL may not sublicense its rights hereunder to market, promote and detail Daclizumab within the Territory without first obtaining Roche's written consent, which consent may be withheld in Roche's sole discretion, except that PDL may without first obtaining Roche's written consent sublicense its rights hereunder to market, promote and detail Daclizumab within the Territory to a Contract Sales Organization, provided such Contract Sales Organization is not owned or controlled by a pharmaceutical organization. PDL may sublicense its rights hereunder to market, promote and detail Daclizumab within the Territory to a Contract Sales Organization that is owned or controlled by a pharmaceutical organization only after first obtaining Roche's written consent, which consent may not be unreasonably withheld or delayed. In the event that pursuant to Section 3C.1(d) or 3C.2, PDL makes a different form or formulation of Daclizumab or manufactures Daclizumab for Autoimmune Indications, as the case may be, PDL may sublicense its rights hereunder to make and have made Daclizumab in the Territory as contemplated by this Amended and Restated Agreement without the prior consent of Roche.

III-A. DEVELOPMENT OF DACLIZUMAB IN AUTOIMMUNE INDICATIONS

3A.1 Development Responsibility. On and after the Signing Date, PDL shall be solely responsible at its sole cost and expense to develop Daclizumab for Autoimmune Indications ("AI Development"), including, without limitation, any further preclinical studies or formulation development (such as the development of a subcutaneous formulation) reasonably required or useful by PDL for such AI Development. All data and information generated by such activities shall be PDL Know-How and PDL shall have the right to publish such data and information in accordance with Section 12.3(b).

3A.2 Transfer of Know-How

(a) Transfer of PDL Know-How. During the term of this Amended and Restated Agreement, PDL shall transfer within sixty (60) days of each June 30 and December 31, PDL Know-How which is reasonably required or useful for Roche to carry out its obligations under this Amended and Restated Agreement. PDL will permit access by Roche during the AI Development at reasonable times and with reasonable frequency to the relevant scientific personnel of PDL, but in any event not more than once per calendar quarter. PDL agrees to inform Roche on a timely basis of all results in the Field obtained by PDL during the AI Development to the extent such results are reasonably required or useful for Roche to carry out its obligations under this Amended and Restated Agreement.

(b) Transfer of Roche Know-How.

(i) PDL and Roche shall each immediately identify a person to coordinate communications related to review of Roche Know-How by PDL ("Coordinators"). The Coordinators shall agree upon a period of time, including the starting date of such period and duration of such period, during which Roche shall make Roche Know-How available for PDL's review. Such period shall occur within ninety (90) days after the Signing Date.

PDL's review of Roche Know-How in accordance with this Section 3A.2(b) shall occur during Roche's normal business hours and at an agreed upon site(s) of Roche. During such review, PDL shall have the right to (i) copy such available Roche Know-How as it deems reasonably required or useful and (ii) discuss the available Roche Know-How with the relevant Roche personnel. Roche shall use its best efforts to answer PDL's questions related to the available Roche Know-How, but Roche shall have no liability to PDL if despite Roche's best efforts, it is unable to answer any such questions to PDL's satisfaction; provided that Roche will not intentionally withhold from PDL any material or pertinent information.

It is understood that Roche Know-How may be embraced within documents that contain information not specifically related to Daclizumab, including information related to products of Roche other than Daclizumab. Accordingly, to the extent any given document within the scope of Roche Know-How contains information not specifically related to Daclizumab, Roche may redact such document prior to PDL review thereof, provided that Roche will not intentionally withhold from PDL any Roche Know-How. To the extent any given document within the scope of Roche Know-How contains unredacted information not specifically related to Daclizumab, PDL shall maintain such information as Confidential Information.

(ii) After the transfer of Roche Know-How pursuant to Section 3A.2(b)(i), upon written request by PDL, Roche shall, within a reasonable time, provide PDL with Roche Know-How as is required for AI Development by any regulatory or governmental authority in the Territory if and when such Roche Know-How is located, but Roche shall have no liability to PDL if despite Roche's commercially reasonable efforts, it is unable to locate any such Roche Know-How.

(iii) Subject to Section 7.1, in no event shall there be any obligation

on the part of Roche to generate any new data or information related to Licensed Products.

3A.3 Development Plan. Within sixty (60) days after the Signing Date, PDL shall prepare and deliver to Roche an AI Development plan, including intended AI Development activities and budgets for each intended AI Development activity. Beginning December 31, 2000, PDL shall update this plan by delivering a supplement to Roche within sixty (60) days of each December 31 during the term of this Amended and Restated Agreement.

3A.4 Joint Development Committee.

Within thirty (30) days after the Signing Date, PDL and Roche shall form a Joint Development Committee ("JDC") consisting of two (2) representatives from PDL and two (2) representatives from Roche. The JDC shall meet at least semi-annually and shall generally review and update PDL's AI Development plan, as it may be supplemented, including intended AI Development activities and budgets. The JDC shall also review the activities of PDL to coordinate both the AI Development and sales of Daclizumab for Transplant Indications. PDL will make the final decision with respect to all AI Development activities, except that Roche will have the right to veto any AI Development activity for which Roche documents that such activity is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the Territory. Unless otherwise agreed or initiated by Roche, PDL will not undertake any AI Development activity which (i) is outside the scope of PDL's AI Development plan or (ii) Roche documents that such activity is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the Territory.

3A.5 Reports. PDL will provide Roche within forty-five (45) days of each June 30 and December 31 during the term of this Amended and Restated Agreement, a written report summarizing for the preceding semi-annual period all PDL AI Development activities, including publications.

3A.6 Certain Regulatory Matters.

(a) Clinical Trials. PDL shall have the right to file in PDL's name Investigational New Drug Applications, joint regulatory filings based on such applications and foreign equivalents of the foregoing ("INDs") for AI Development in the Territory. Roche shall, at no cost to PDL, provide assistance reasonably required or useful to allow PDL to cross-reference Roche filings to allow PDL to carry out without delay any related clinical trial in the Territory. PDL shall advise and consult with Roche with respect to any significant issues or questions raised by any regulatory authorities with respect to any such IND or related clinical trial. PDL shall provide copies to Roche of any such IND and any other records of interactions with regulatory authorities (e.g., correspondence, minutes or notes of telephone conferences or meetings, etc.) with respect to any such IND or related clinical trials. To the extent Roche is required under applicable law, rule or regulation, at PDL's cost, Roche shall make all filings reasonably required or useful to permit the use of the clinical materials supplied pursuant to Section 3C.1. PDL and Roche, including its Affiliates, shall each supply the other copies of all regulatory filings related to the use of the clinical materials for AI Development promptly after the time of such filings.

(b) Adverse Event Reporting. Each party shall notify the other of all information coming into its possession concerning any and all side effects, injury, toxicity, pregnancy or sensitivity event associated with commercial or clinical uses, studies, investigations or tests with Daclizumab, throughout the world, whether or not determined to be attributable to Daclizumab ("Adverse Event Reports"). The parties shall each identify a person to coordinate the exchange of Adverse Event Reports ("Report Coordinators") so as to enable timely reporting of such Reports to appropriate government and regulatory authorities consistent with all laws, rules and regulations. The Report Coordinators shall agree in writing upon formal procedures for such exchange.

3A.7 Registration.

(a) PDL shall notify Roche in writing ("Filing Notice") should PDL in good faith determine, in its sole discretion, that clinical trial results for Daclizumab justify filing an Application. Such Filing Notice shall be accompanied by a report of all clinical trial results for the particular Autoimmune Indication, if not previously delivered. Promptly following receipt by Roche of a Filing Notice, the parties shall discuss in good faith the relevant clinical trial results and underlying data in an attempt to reach mutual agreement relating to whether to file such Application. Should the parties disagree as to whether to file such Application or not reach agreement within thirty (30) days of delivery of the Filing Notice, then within twenty (20) business days thereafter, Roche shall provide PDL with a written list of specifically identified activities that in Roche's good faith opinion PDL should conduct in order to achieve clinical trial results that would justify filing such Application. PDL shall seriously consider in good faith Roche's opinion, but thereafter the final decision as to whether to file such Application shall remain with PDL. PDL shall notify Roche of its final decision in writing ("Final Decision Notice").

(b) For a given Autoimmune Indication, if (i) the parties agree that

clinical trial results for Daclizumab justify filing an Application , or (ii) PDL provides a Final Decision Notice of PDL's final decision that clinical trial results for Daclizumab justify filing an Application, then Roche shall cooperate with and authorize PDL to compile and submit such Application. Ownership of any such Application shall be as determined under applicable law. If Roche owns such Application, PDL shall compile and submit any such Application on Roche's behalf at PDL's cost.If PDL owns any such Applications, PDL shall be solely responsible to compile and submit any such Application at its cost.

Roche shall provide cross reference letters reasonably required or useful to allow PDL to make any such filing and to allow PDL to carry out without delay any related clinical trial in the Territory. PDL shall be responsible for preparing annual reports required by the FDA related to any such Applications and Roche shall be responsible for timely filing such annual reports with the FDA.

Prior to PDL submitting an Application, PDL shall send Roche by express air mail a copy of the Application to be submitted and shall allow Roche a reasonable time period (not to exceed thirty (30) days from the date of mailing) to review the Application for the purpose of determining whether the Application contains information which is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications in the Territory. Should, prior to the expiration of thirty (30) days from the date of mailing of such application to Roche by PDL, Roche document that the Application contains information which is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the Territory, then PDL shall withhold submission of the Application. Otherwise, PDL shall be free to submit such Application to the FDA.

Each party shall promptly provide copies to the other of such Application and any other records of interactions with regulatory authorities (e.g., correspondence, minutes or notes of telephone conferences or meetings, etc.) with respect to such Application.

Each party shall advise and consult with the other with respect to any significant issues or questions raised by any regulatory authorities with respect to Daclizumab.

The parties shall discuss in good faith the labeling to be requested for marketing approval for any Autoimmune Indication. If the parties are unable to agree upon the labeling to be requested for an Autoimmune Indication, PDL shall have the final say, except with respect to safety matters, for which Roche shall have final say. Notwithstanding the above, the label shall not include, without Roche's prior written consent, any information for which Roche documents such information is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the Territory. Roche shall have sole responsibility for preparing and filing with regulatory authorities in the Territory safety updates for Daclizumab and shall, in its sole discretion, effect label changes based upon such safety updates.

III-B. COMMERCIALIZATION

3B.1 Transplant Indications. Within the Territory, Roche shall be solely responsible for all aspects of commercialization of (i) Licensed Products other than Daclizumab and (ii) Daclizumab for Transplant Indications, and shall pay royalties on Net Transplant Sales as provided in Articles IV and IV-B.

3B.2 Booking of Sales. Within the Territory, Roche shall be solely responsible at its sole cost to book all sales of Licensed Products, distribute all Licensed Products and, subject to Section 3C.2, manufacture all Licensed Products. If PDL promotes or co-promotes Daclizumab in the Territory for any Autoimmune Indication, PDL shall submit all resulting orders for Daclizumab in the Territory to Roche. Roche shall accept and fill such orders on a non-discriminatory basis relative to accepting and filling orders from its own sales force.

3B.3 Joint Commercialization Committee. Within ninety (90) days after the Signing Date, Roche and PDL shall form a joint commercialization committee (the "JCC") consisting of two representatives from PDL and two representatives from Roche with the appropriate background and experience in marketing and commercialization of products in transplantation and Autoimmune Indications. The JCC shall meet at least semi-annually and shall generally review the promotional efforts relating to Daclizumab for Autoimmune Indications, with one of its goals being ensuring that Roche's intended activities in transplantation are not materially adversely impacted. In particular, the JCC shall decide upon annual promotional plans and operational budgets for Autoimmune Indications (collectively, "Promotional Plans"). A Promotional Plan shall, for at least each upcoming year, set the percent of the total promotional effort for each party, and address such issues as training materials, training, sampling, promotional materials, product presentations, incentive programs, professional educational efforts and detailing with respect to each Autoimmune Indication.

PDL will make the final decision with respect to all JCC decisions not otherwise agreed upon, except that Roche (1) will have the final say on all decisions for which Roche documents that carrying out such decision is

reasonably likely to have a material adverse impact on sales of Daclizumab in Transplant Indications within the Territory and (2) may veto any decision which requires a financial commitment or allocation of personnel on behalf of Roche. PDL will not undertake any promotional activity (including providing any medical professional written information) which (i) is outside the scope of the Promotional Plan or (ii) Roche documents that such activity is reasonably likely to have a material adverse impact on Daclizumab in Transplant Indications within the Territory.

3B.4 Non-Assignment of Right to Promote and Detail. PDL may not assign its rights hereunder to market, promote and detail Daclizumab within the Territory to a successor of PDL without first obtaining Roche's written consent, which consent may be withheld in Roche's sole discretion. However, PDL may assign its rights hereunder to market, promote and detail Daclizumab within the Territory to an assignee of all the good will and entire business assets of PDL or an Affiliate of PDL, only after first obtaining Roche's written consent, which consent may not be unreasonably withheld or delayed.

III-C. MANUFACTURING FOR AUTOIMMUNE INDICATIONS

3C.1 Clinical Supplies. References to Roche in Sections 3C.1 and 3C.2 shall include Roche, its Affiliates and any sublicensees manufacturing Daclizumab for Roche and its Affiliates.

(a) Supply. Subject to Section 3C.1(b), Roche has agreed and shall use commercially reasonable efforts to exclusively supply to PDL, all Daclizumab and placebo requested by PDL for the AI Development in the form (e.g., unformulated bulk, bulk, vialed, labeled) and formulation (e.g., intravenous, subcutaneous) specified by PDL. Notwithstanding the above, Roche shall not be obligated to supply (i) any amount of Daclizumab or placebo not in accordance with the AI Development plan, (ii) a number of units of placebo in excess of the units of Daclizumab supplied by Roche, or (ii) any form or formulation of Daclizumab that Roche is not otherwise manufacturing for the Transplant Indications. In the event PDL requests Daclizumab in a form or formulation that Roche is not otherwise manufacturing for the Transplant Indications, Roche shall be obligated to supply to PDL only unformulated bulk Daclizumab. All Daclizumab for the AI Development in the Territory, regardless of form or formulation, shall be manufactured in accordance with cGMPs and any other applicable regulatory or legal requirements. Promptly after the Signing Date, the parties shall meet and discuss the availability and timing of delivery of Daclizumab hereunder.

(b) Limitations. Roche shall supply to PDL free of charge: [CONFIDENTIAL TREATMENT REQUESTED]

(c) Procedures. Promptly after the Signing Date, Roche and PDL shall agree on (i) the amount of Daclizumab and placebo to be supplied by Roche to PDL for the first year after the Signing Date, which amounts shall be delivered as soon as practicable but in any event not later than a mutually agreed upon period after the Signing Date, and (ii) procedures for PDL submitting its requirements and Roche supplying Daclizumab and placebo thereafter. Such procedures shall include PDL providing (a) annual non-binding two (2) year forecasts of its requirements and (b) firm purchase commitments no less than six (6) months prior to the time the order must be delivered to PDL by Roche.

(d) Formulations. In the event PDL requests Daclizumab in a form or formulation that Roche is not otherwise manufacturing for the Transplant Indications, and Roche supplies such form or formulation (rather than only unformulated bulk Daclizumab), PDL shall pay to Roche for such supplies an amount equal to Roche's Cost of Goods Sold (which shall be zero (0) to the extent provided without charge under Section 3C.1(a)) plus [CONFIDENTIAL TREATMENT REQUESTED] of Roche's costs of such form or formulation. If Roche does not perform such form or formulation work for PDL, PDL shall have the limited right to make or have made such form or formulation solely for clinical use in Autoimmune Indications. In any event, PDL shall not be obligated to have Roche perform such form or formulation work.

3C.2 Commercial Manufacturing.

(a) Supply. Subject to Section 3C.2(b), Roche shall use commercially reasonable efforts to ensure supply of requirements for Daclizumab in one of the following forms for use or commercial sale in the Territory: (a) finished product form or formulated bulk form, if Roche then manufactures in the form or formulation desired by PDL, or (b) unformulated bulk form.

(b) PDL Right to Manufacture. [CONFIDENTIAL TREATMENT REQUESTED]

(c) Transfer Pricing. In the event that PDL has the exclusive right to make and have made Daclizumab for Autoimmune Indications, PDL shall use commercially reasonable efforts to supply Roche's requirements of Daclizumab for Autoimmune Indications in the Territory. In such event, PDL shall transfer such Daclizumab to Roche at a price calculated as follows:

[CONFIDENTIAL TREATMENT REQUESTED]

In any event, if PDL provides Roche with its supply of Daclizumab for

any indications pursuant to this Section 3C.2(c), the parties shall negotiate in good faith to enter into a separate supply agreement which shall provide for procedures for Roche submitting its requirements for Autoimmune Indications in the Territory and PDL supplying Daclizumab thereafter as well as rights of PDL to dispose of Inventory (as defined below) then held by PDL in the event of termination of this Amended and Restated Agreement. Such procedures shall include Roche providing (a) annual non-binding forecasts of its requirements and (b) firm purchase commitments at least six (6) months prior to the time the order must be delivered to Roche by PDL.

IV. ROYALTIES ON NET TRANSPLANT SALES

4.1 Royalties on Transplant Sales. Roche agrees to pay PDL royalties on Net Transplant Sales in the United States and Canada according to the schedule and terms set forth below.

(a) Years 1 through 3. For the first three (3) years following Initial Commercialization of a particular Licensed Product, Roche shall pay PDL royalties on sales of that product at a rate determined [CONFIDENTIAL TREATMENT REQUESTED] (such sum, the "Royalty Setting Sales"), with the applicable royalty based on such Royalty Setting Sales determined as follows:

Royalty Setting Sales ($ in millions)	Royalty Rate
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Over [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

For purposes of computing aggregate annual worldwide Royalty Setting Sales, the relevant portion of Roche's Net Sales in the Territory will be combined with the relevant portion of the Net Sales of Roche's Affiliates and sublicensees for all countries outside of the Territory.. This same understanding is being incorporated into the F. Roche Agreement concerning the sale of Licensed Products outside the Territory.

(b) Years 4 and Succeeding.

(i) For the United States, if a Valid Claim covering any Licensed Product has been issued in the United States prior to or during the three (3) year period following Initial Commercialization in the United States, Roche shall pay PDL royalties in accordance with the provisions of Section 4.1(a). Subject to Section 4.2 below, if no such Valid Claim has been issued in the United States then Roche shall pay PDL a royalty rate of [CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales in the United States. In such case, Roche's obligation to pay PDL royalties with respect to Net Transplant Sales of any particular Licensed Product in the United States shall [CONFIDENTIAL TREATMENT REQUESTED], at which time Roche shall resume paying PDL royalties at the rates specified in Section 4.1(a) above.

(ii) For Canada, for the fourth (4th) and each succeeding year following Initial Commercialization in Canada, Roche shall pay PDL royalties in accordance with the provisions of Section 4.1(a) for Net Transplant Sales in the Canada, provided either (A) the use or sale of Licensed Product in Transplant Indications or its method of manufacture (wherever actually manufactured) is covered by a Valid Claim in Canada, or (B) the Licensed Product is manufactured in a country where the method of manufacture is covered by a Valid Claim

(together, (A) and (B) are referred to as the "Patentability Criteria").
Subject to Section 4.2 below, if neither of the Patentability Criteria have been satisfied, then Roche shall pay PDL a royalty rate of [CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales in Canada for the duration of the royalty obligations in Canada in accordance with this Section 4.1 or until such time as one of the Patentability Criteria is satisfied, at which time Roche shall resume paying PDL royalties at the rates specified in Section 4.1 above.
(c) [CONFIDENTIAL TREATMENT REQUESTED]
(d) Antibodies in the Field Not Provided or Developed by PDL.
In consideration of the disclosure to Roche of PDL Know-How and cell lines, Roche agrees that products incorporating or using Antibodies in the Field which are not provided or developed by PDL shall nevertheless be conclusively presumed to utilize PDL Know-How. Accordingly, Roche shall pay PDL royalties on sales of each such product in a given country of the Territory for a period of [CONFIDENTIAL TREATMENT REQUESTED] from Initial Commercialization of such product in the given country in accordance with the terms of this Section 4.1, and such sales shall constitute "Net Transplant Sales" for purposes hereof.
4.2 De Facto Exclusivity.
(a) For the United States, for purposes of this Article IV, the term "de facto exclusivity" means that Roche, together with its Affiliates and sublicensees, controls at least [CONFIDENTIAL TREATMENT REQUESTED] of the market for a particular Licensed Product in the United States as measured by unit sales. If no Valid Claim covering Licensed Product in Transplant Indications has been issued in the United States and Roche does not enjoy de facto exclusivity in Transplant Indications for a Licensed Product at any time after [CONFIDENTIAL TREATMENT REQUESTED] following Initial Commercialization, then Roche shall pay PDL a royalty rate of [CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales in the United States of that product [CONFIDENTIAL TREATMENT REQUESTED] Initial Commercialization in the United States, or until Roche shall acquire de facto exclusivity in Transplant Indications for that product or until such time as a Valid Claim covering Licensed Product in Transplant Indications issues in the United States (at which time Roche shall resume paying PDL royalties at the rates specified in Sections 4.1(a) or (b) above, whichever is applicable).
(b) For Canada, for purposes of this Article IV, the term "de facto exclusivity" means that Roche, together with its Affiliates and sublicensees, controls at least [CONFIDENTIAL TREATMENT REQUESTED] of the market for a particular Licensed Product in Canada as measured by unit sales. If neither of the Patentability Criteria have been satisfied and Roche does not enjoy de facto exclusivity for a particular Licensed Product in Canada at any time after [CONFIDENTIAL TREATMENT REQUESTED] following Initial Commercialization in Canada of such Licensed Product, then Roche shall pay PDL a royalty rate of[CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales of such Licensed Product in Canada until [CONFIDENTIAL TREATMENT REQUESTED] Initial Commercialization in Canada, or until Roche shall acquire de facto exclusivity for that product or until such time as either of the Patentability Criteria is satisfied (at which time Roche shall resume paying PDL royalties at the rates specified in Sections 4.1(a) or 4.1(b) above, whichever is applicable).
4.3 Milestone Payments Credited Against Royalties. Roche shall have the right to credit [CONFIDENTIAL TREATMENT REQUESTED] of all Milestone Payments (as defined in the 1989 Agreement with Roche-Nutley), exclusive of bonus payments, actually made to PDL under the 1989 Agreement with Roche-Nutley in excess of [CONFIDENTIAL TREATMENT REQUESTED], less credits already taken under the 1989 Agreements, against future royalties due to PDL on Net Transplant Sales in the United States pursuant to this Article IV provided that such credits, when added to the offset provided for in Section 4B.1 below, may not reduce the royalties to be paid to PDL on account of Net Transplant Sales in the United States to less than fifty percent (50%) of the amount which would otherwise be due pursuant to Section 4.1 hereof.
IV-A. COMPENSATION TO PDL FOR NET AUTOIMMUNE SALES

4A.1 Forecasted Baseline Transplant Sales.

Beginning with calendar year 2000 and for each calendar year thereafter (a "Forecast Period"), Roche shall on a country-by-country basis for the Territory provide to PDL a yearly forecast that Roche then uses for its own internal marketing purposes of Adjusted Gross Transplant Sales ("Forecasted Baseline") which shall include a forecast for each reporting period of the upcoming Forecast Period for each country of the Territory. Forecasted Baselines shall be provided not less than sixty (60) days prior to the beginning of each upcoming Forecast Period. Roche's obligation to provide Forecasted Baselines shall expire, on a country-by-country basis, on the last date that Roche enjoys de facto exclusivity for Daclizumab in the particular country.

For a given reporting period, to the extent Adjusted Gross Sales in a particular country of the Territory are equal to or below the Forecasted Baseline, for such country such Adjusted Gross Sales shall be deemed Adjusted

Gross Transplant Sales.

For a given reporting period, to the extent Adjusted Gross Sales in a particular country of the Territory are above the Forecasted Baseline, for such country such Adjusted Gross Sales shall be deemed Adjusted Gross Autoimmune Sales.

4A.2 Determination of Adjusted Gross Autoimmune Sales After Roche No Longer Enjoys De Facto Exclusivity.

For a given country in the Territory, commencing with the reporting period containing the last date on which Roche enjoys de facto exclusivity for Daclizumab in the particular country and until expiration, in accordance with Section 4A.4, of Roche's obligation to pay PDL consideration in such country in accordance with this Article IV-A, the percent of Adjusted Gross Sales that shall be deemed Adjusted Gross Autoimmune Sales for such country shall, on an ongoing basis, be the percent of Adjusted Gross Sales that was Adjusted Gross Autoimmune Sales over[CONFIDENTIAL TREATMENT REQUESTED] before such date.

[CONFIDENTIAL TREATMENT REQUESTED]

4A.3 Compensation to PDL for Net Autoimmune Sales.

(a) For a given reporting period, Roche shall pay PDL consideration on a country-by-country basis of sixty percent (60%) of Net Autoimmune Sales in the United States and Canada, respectively, for the particular reporting period.

(b) Notwithstanding Section 4A.3(a), Roche shall be entitled to reimbursement of its Reimbursable Promotion Costs by deducting such Reimbursable Promotion Costs from the amount due to PDL under Section 4A.3(a) up to fifty percent (50%) of the amount which would otherwise be due pursuant to Section 4A.3(a) hereof.

(c) In the event any Reimbursable Promotion Costs remain unreimbursed after a given reporting period, such Reimbursable Promotion Costs shall be deducted from the amount due under Section 4A.3(a) in subsequent reporting periods up to fifty percent (50%) of the amount due to PDL in such reporting period, and if no such subsequent reporting periods exist, then by PDL to Roche within thirty (30) days after receipt by PDL of an invoice for such amount.

4A.4 Expiration of Obligation. Notwithstanding anything to the contrary herein, in view of the parties' understanding of the unique nature of the cross-licenses granted by each party to the other under this Amended and Restated Agreement, Roche's obligation to pay PDL consideration in accordance with this Article IV-A shall expire, on a country-by-country basis, [CONFIDENTIAL TREATMENT REQUESTED] is a Valid Claim of a Queen et al. Patent in the country covering Daclizumab.

4A.5 Annual Reconciliation and Adjustment.

(a) Actual Baseline. Within ninety (90) days following the end of each calendar year for which Roche provided a Forecasted Baseline,Roche shall provide PDL with a written summary which details Adjusted Gross Transplant Sales in each country for which Roche provided a Forecasted Baseline, for the calendar year ("Actual Baseline") as well as Roche's basis for such determination. PDL shall have a period of sixty (60) days after receipt to object in writing to the Actual Baseline provided by Roche, including detailed reasons of a factual nature as to why PDL so objects to the Actual Baseline provided by Roche. If PDL timely objects in writing to the Actual Baseline provided by Roche, then either party shall have the right to notify the other in writing that it elects to have the matter submitted to determination by an independent third party who is knowledgeable about marketing and sales of pharmaceutical products in transplantation and Autoimmune Indications ("Arbiter"). The Arbiter shall be appointed by agreement between the parties within thirty (30) days or, if the parties are unable to agree, the Arbiter shall be designated by AAA. The Arbiter shall (1) make a binding determination of the Actual Baseline within thirty (30) business days of receipt of the final submissions by the parties and (2) provide the margin of error of the Arbiters' determination. Roche shall provide and/or make available to the Arbiter its relevant books and records regarding sales of Daclizumab. PDL shall bear the full cost of any such determination unless the Actual Baseline determined by Arbiter differs from the Actual Baseline provided by Roche by an amount exceeding the greater of (i) the margin of error of the determination of the Arbiter or (ii) [CONFIDENTIAL TREATMENT REQUESTED], in which case Roche shall bear the full cost. If PDL does not timely object in writing to the Actual Baseline provided by Roche, then PDL shall be deemed to have approved the Actual Baseline provided by Roche.

In the event the Actual Baseline for a given country exceeds the Forecasted Baseline for the given country for the given calendar year ("Underestimate"), Roche shall be entitled to deduct the amount reflecting the Underestimate from the next payment(s) due PDL under Article IV or Article IV-A of this Amended and Restated Agreement, provided that such deductions shall not exceed fifty percent (50%) of the amounts otherwise payable to PDL with respect to such payment period. If there is no next payment due PDL under Article IV or Article IV-A of this Amended and Restated Agreement, PDL shall promptly pay Roche the amount reflecting the Underestimate. In the event the Forecasted Baseline for a given country exceeds the Actual Baseline for the given country for the given calendar year ("Overestimate"), Roche shall promptly pay PDL the amount reflecting the Overestimate.

IV-B. GENERAL CONSIDERATION TERMS

4B.1 Offset for Third Party Licenses.

(a) Subject to Appendix B, if PDL and Roche agree in writing that either party must obtain a license from an independent third party in order for Roche or PDL to manufacture, use or sell a Licensed Product and if PDL and Roche agree upon the terms of such license ("Third Party License"), then the parties shall share the cost [CONFIDENTIAL TREATMENT REQUESTED]. Such cost includes license fees and any other fixed costs associated with the Third Party License as well as any royalties. The parties then shall, within thirty (30) days, reimburse each other in the manner necessary to effect a [CONFIDENTIAL TREATMENT REQUESTED] sharing of such license fees and other fixed costs. [CONFIDENTIAL TREATMENT REQUESTED]

(b) Notwithstanding anything to the contrary herein, PDL's share of the royalties portion of the cost of any Third Party License, including [CONFIDENTIAL TREATMENT REQUESTED], shall be (i) accrued against and deducted from any amounts due to PDL from Roche pursuant to Article IV and Article IV-A if Roche pays the royalties due under the Third Party License to such third party, and (ii) accrued in favor of and added to any amounts due to PDL from Roche pursuant to Article IV and Article IV-A if PDL pays the royalties due under the Third Party License to such third party; provided, however, that this addition or offset shall not cause the amount paid by Roche to PDL:

[CONFIDENTIAL TREATMENT REQUESTED]

4B.2 Sublicenses. Any Net Transplant Sales or Net Autoimmune Sales by a Roche sublicensee shall be treated as Net Transplant Sales or Net Autoimmune Sales of Roche, as the case may be, for purposes of payments under Article IV and IV-A. If Roche shall grant any sublicenses under this Amended and Restated Agreement, then Roche shall obtain the written commitment of such sublicensees to abide by all applicable terms and conditions of this Amended and Restated Agreement and Roche shall remain responsible to PDL for the performance of any and all terms by such sublicensee. All such sublicenses shall terminate on termination of this Amended and Restated Agreement.

4B.3 Royalties upon Termination. If this Amended and Restated Agreement is terminated pursuant to Sections 11.2, 11.3, or 11.4 below, Roche shall continue to pay PDL any royalties and compensation earned pursuant to Article IV and Article IV-A prior to the date of termination and any royalties and compensation earned thereafter as a result of sales under Section 11.5.

V. ACCOUNTING AND PAYMENTS

5.1 Quarterly Royalty Payments and Reports.

(a) Roche agrees to make payments and written reports to PDL within forty-five (45) days after the end of each calendar quarter covering all sales of Licensed Products in the Territory by Roche, its Affiliates or sublicensees for which invoices were sent during such calendar quarter. Each report shall state for the period in question:

(i) Forecasted Baselines (if applicable),

(ii) for Licensed Products disposed of by sale, the quantity and description of Licensed Products, Adjusted Gross Sales, Adjusted Gross Transplant Sales, Net Transplant Sales, Adjusted Gross Autoimmune Sales, and Net Autoimmune Sales,

(iii) for Licensed Products disposed of other than by sale, the quantity, description, and nature of the disposition, and

(iv) the calculation of the amount due to PDL for such quarter pursuant to Articles IV, IV-A and IV-B.

(b) Subject to Section 15.9, the information contained in each report under this Section 5.1 shall be considered confidential and PDL agrees not to disclose such information to any third party except as may be required by law, rule or regulation. Concurrent with the making of each quarterly report, Roche shall include payment due PDL hereunder for the calendar quarter covered by such report.

(c) It is understood that pursuant to this provision, only one payment hereunder shall be payable on a given unit of Licensed Product disposed of under this Amended and Restated Agreement. In the case of transfers or sales of any Licensed Product between Roche or an Affiliate or sublicensee of Roche, only one payment hereunder shall be due, and such royalty shall be payable with respect to the sale of such Licensed Product to an independent third party not an Affiliate of the seller.

5.2 Termination Report. Roche also agrees to make a written report to

PDL within ninety (90) days after the date on which Roche, or its Affiliates or sublicensees last sell a Licensed Product, stating in such report the same information called for in each quarterly report by Section 5.1 for all Licensed Products made, sold or otherwise disposed of and upon which were not previously reported to PDL.

5.3 Accounting. Roche agrees to keep full, clear and accurate records for a period of at least [CONFIDENTIAL TREATMENT REQUESTED], or such longer period as may coincide with Roche's internal records retention policy, setting forth the manufacturing, sales and other disposition of Licensed Products and Combination Products sold or otherwise disposed of under the license herein granted in sufficient detail to enable royalties and compensation payable to PDL hereunder to be determined. Roche further agrees to permit its books and records to be examined by an independent accounting firm selected by PDL from time to time to the extent necessary to verify reports provided for in Sections 5.1 and 5.2 above. Unless PDL obtains the prior written consent of Roche, such accounting firms must be selected from among the five largest U.S. accounting firms. Such examination is to be made at the expense of PDL, except in the event that the results of the audit reveal a discrepancy in favor of Roche of [CONFIDENTIAL TREATMENT REQUESTED] or more over the period being audited, in which case reasonable audit fees for such examination shall be paid by Roche.

5.4 Methods of Payments. All payments due to PDL under this Amended and Restated Agreement shall be paid in United States dollars by wire transfer to a bank in the United States designated in writing by PDL.

VI. CELL LINES

6.1 Cell Lines

(a) The parties acknowledge that PDL has delivered all cell lines required under the 1989 Agreement. Roche agrees to deliver back to PDL viable samples of such cell lines as may be requested by PDL.

(b) Ownership of any cell lines developed under Article VI of the 1989 Agreement or delivered to Roche under Milestone #1 of Section 3.1 of the 1989 Agreement, together with their progeny and derivatives, shall remain vested at all times in PDL.

(c) Roche may only use the cell lines delivered to it under the 1989 Agreement, or their progeny or derivatives or the plasmids contained therein, to make, have made, use and sell Licensed Products in the Field within the Territory. Furthermore, the plasmids or parts thereof may only be used with the genes encoding antibodies developed or provided by PDL.

(d) PDL MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY CELL LINES DELIVERED HEREUNDER. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE CELL LINES DELIVERED TO ROCHE WILL NOT INFRINGE ANY PATENT OR OTHER RIGHTS.

VII. DILIGENCE

7.1 Diligence. Upon execution of this Amended and Restated Agreement, Roche shall use reasonable diligence in proceeding with the manufacturing, marketing and sale of Licensed Products in Transplant Indications within the Territory. Reasonable diligence as used in this Amended and Restated Agreement shall mean the same standard of effort used by Roche in the manufacturing, marketing and sale of its own protein-based products which must be approved by the FDA before they can be sold in the Territory. If Roche fails to exercise such diligence, PDL may terminate this Amended and Restated Agreement and Roche's rights hereunder pursuant to Section 11.4 below.

7.2 Reimbursement for Costs of Patent Application.

(a) Roche agrees to reimburse PDL for all ex parte out-of-pocket expenses incurred by PDL after January 31, 1989 in connection with the prosecution and maintenance in Canada of patent applications and patents included within the Sole PDL Patents or Joint Roche-PDL Patents for which PDL makes filings pursuant to Article IX of this Amended and Restated Agreement ("Canada Transplant Foreign Filing Expenses"). Roche shall make such payment to PDL no less frequently than semi-annually, within thirty (30) days after submission by PDL of a reasonably itemized statement of such expenses incurred by PDL during the relevant six-month period. Notwithstanding the foregoing, Roche shall not be obligated to reimburse PDL for such expenses to the extent such expenses, when added to Transplant Foreign Filing Expenses (as defined in the F.Roche Agreement), exceeds an aggregate of [CONFIDENTIAL TREATMENT REQUESTED] in any calendar year.

(b) Prior to the filing of a patent application in Canada for Transplant Indications, PDL shall inform Roche concerning such proposed filing and shall consult with Roche concerning the proposed filing procedures, including specifically the determination of scope of any such patent. PDL shall regularly advise Roche of any substantial action or development in the prosecution of its patent applications and patents in Canada related to the Transplant Indications, in particular of the question of scope of, the issuance of, the rejection of, or an opposition to any respective patent application or patent.

(c) Canada Transplant Foreign Filing Expenses shall be treated as part of Transplant Foreign Filing Expenses under the F.Roche Agreement for purposes

of calculating F. Roche's credit against royalties payable in the ROW Territory for Foreign Transplant Expenses as provided in the F.Roche Agreement.

VIII. OWNERSHIP OF TECHNOLOGY

8.1 PDL Technology. Ownership of the PDL Know-How and PDL Patents shall remain vested at all times in PDL. PDL expressly reserves under this Amended and Restated Agreement (i) all rights to use the PDL Know-How, PDL's rights under any Joint Roche-PDL Patents and PDL Patents to make, have made, use and sell anywhere in the world all products not within the Field, and (ii) the right to use the PDL Know-How, PDL's rights under any Joint Roche-PDL Patents and PDL Patents for PDL's internal research and development purposes in the Field.

8.2 Joint Inventions and Joint Roche-PDL Patents. Subject to Article IX, ownership of Joint Inventions and Joint Roche-PDL Patents shall be vested jointly in PDL and Roche. Except as expressly provided herein, Roche shall have the exclusive right within the Territory during the term of this Amended and Restated Agreement to make, have made, use or sell any Joint Invention in the Field under any Joint Roche-PDL Patent. In any event, both parties shall have the non-exclusive right within the Territory during the term of this Amended and Restated Agreement to make, have made, use or sell any Joint Invention outside the Field under any Joint Roche-PDL Patent, and neither party shall be obligated to account to the other. Upon the expiration or termination of this Amended and Restated Agreement, both parties shall have the non-exclusive right to make, have made, use or sell any Joint Invention under any Joint Roche-PDL Patent without restriction and without any obligation to account to the other party. PDL expressly reserves the right to use any Joint Invention under any Joint Roche-PDL Patent for PDL's internal research and development purposes in the Field.

8.3 Roche Inventions. PDL hereby acknowledges that, except as expressly provided herein, this Amended and Restated Agreement does not grant PDL any ownership rights in the Roche Inventions, Roche Patents and Roche Know-How. Roche hereby confirms the rights of PDL to certain contingent license grants to Roche Patents, Roche's rights under Joint Roche-PDL Patents and Roche Know-How as provided in this Amended and Restated Agreement.

IX. INVENTIONS

9.1 Sole Patents. PDL agrees to prosecute and reasonably maintain all of the patents and applications included within the Sole PDL Patents and Roche agrees to prosecute and reasonably maintain all of the patents and applications included within the Sole Roche Patents containing claims specifically related to Daclizumab ("Sole Daclizumab Roche Patents"). The party responsible for such patent ("responsible party") shall bear all costs and expenses for such prosecution and maintenance except for the costs and expenses of foreign filings for such patents which are to be borne by Roche in accordance with Section 7.2 of this Amended and Restated Agreement and the terms of the F. Roche Agreement. Upon the reasonable request of the responsible party, the other party shall cooperate, in all reasonable ways, in connection with the prosecution of all patent applications included within the Sole PDL Patents or Sole Daclizumab Roche Patents, as the case may be. Should the responsible party decide that it is no longer interested in maintaining or prosecuting a Sole PDL Patent or Sole Daclizumab Roche Patent, as the case may be, it shall promptly advise the other party thereof and, at the request of such other party, PDL and Roche shall negotiate in good faith to determine an appropriate course of action in the interests of both parties. If any Sole PDL Patents are assigned to Roche, Roche will thereafter prosecute and reasonably maintain such Sole PDL Patents at Roche's own cost to the extent that Roche desires to do so, provided that to the extent such Sole PDL Patent contains claims outside the Field, PDL and its Affiliates shall have a worldwide immunity from suit thereunder. If any Sole Daclizumab Roche Patents are assigned to PDL, PDL will thereafter prosecute and reasonably maintain such Sole Daclizumab Roche Patent at PDL's own cost to the extent that PDL desires to do so, provided that to the extent such Sole Daclizumab Roche Patent contains claims outside the Field, Roche and its Affiliates shall have a worldwide immunity from suit thereunder.

9.2 Joint Inventions.

(a) PDL will have the first right of election to file priority patent applications for Joint Inventions in any country in the world. If PDL declines to file such applications then Roche may do so. Regardless of which party files a priority patent application, however, any claims covered by such applications shall be considered as part of the PDL Patents for the purpose of defining a Valid Claim under this Amended and Restated Agreement.

(b) The party not performing the priority patent filings for Joint Inventions pursuant to this Section 9.2 undertakes without cost to the filing party to obtain all necessary assignment documents for the filing party, to render all signatures which shall be necessary for such patent filings and to assist the filing party in all other reasonable ways which are necessary for the issuance of the patents involved as well as for the maintenance and prosecution of such patents. The party not performing the patent filings shall upon request be authorized by the other party to have

access to the files concerning such patents in any patent offices in the world.

(c) The party performing the priority patent filings for Joint Inventions pursuant to this Section 9.2 undertakes to perform the corresponding convention filings from case to case, after having discussed the countries for foreign filings with the other party at its cost and expense; except for the costs and expenses of foreign filings for such patents which are to be borne by Roche in accordance with Section 7.2 of this Amended and Restated Agreement and the terms of the F. Roche Agreement.

(d) Should the responsible party decide that it is no longer interested in maintaining or prosecuting a Joint Roche-PDL Patent, it shall promptly advise the other party thereof. Upon the written request of such other party, such Joint Roche-PDL Patent shall be assigned to the other party at no cost to the assignee. If any such patents or patent applications are assigned to Roche, they shall then be deemed to be a Sole Roche Patent and, to the extent such Joint Roche-PDL Patent contains claims outside the Field, PDL and its Affiliates shall have a worldwide immunity from suit thereunder. If any such patents or patent applications are assigned to PDL, they shall then be deemed to be a Sole PDL Patent and, to the extent such Joint Roche-PDL Patents contain claims outside the Field, Roche and its Affiliates shall have a worldwide immunity from suit thereunder.

9.3 General Procedures. The parties shall observe the following procedures for patent applications for inventions arising from this Amended and Restated Agreement:

(a) As soon as one of the parties concludes that it wishes to file a patent application covering an invention in the Field, it shall immediately inform the other party thereof and consult about the filing procedures concerning such patent application. For this purpose, such party will provide the other party with the determination of inventors and scope of claims as early as possible. Should a party be faced with possible loss of rights, such communications may take place promptly after filing a convention application.

(b) Except as set forth in Sections 9.1 and 9.2 with respect to the costs of foreign filings, the party performing any priority patent filings as described above shall be obliged to prosecute and reasonably maintain such applications and any patents resulting therefrom and will have to bear the costs associated therewith. On request of the party performing the filing, the other party will cooperate, in all reasonable ways, in connection with the prosecution of all such patent applications relating to inventions. The party performing the filing shall advise the other party of any substantial action or development in the prosecution of its patent applications and patents, in particular of the question of scope, the issuance of, or the rejection of, an interference involving or an opposition to any respective patent application or patent.

(c) Inventions and other intellectual property made by either party outside the Field shall be excluded from the provisions of this Amended and Restated Agreement and shall belong solely to the party having made the invention or other intellectual property.

X. ENFORCEMENT OF PATENTS

10.1 Sole Patents.

(a) In the event of any action against a third party for infringement of any claim in any issued patent within the Sole PDL Patents or Sole Daclizumab Roche Patents, as the case may be, or the institution by a third party of any proceedings for the revocation of any such claim, each party will notify the other promptly and, following such notification, the parties shall confer. PDL shall have the right, but shall not be obligated, to prosecute such actions or to defend such proceedings involving the Sole PDL Patents at its own expense, in its own name and entirely under its own direction and control. Roche shall have the right, but shall not be obligated, to prosecute such actions or to defend such proceedings involving the Sole Daclizumab Roche Patents, at its own expense, in its own name and entirely under its own direction and control.

(b) If a party with the first right hereunder elects not to prosecute any action for infringement or to defend any proceeding for revocation of any claims in any issued patent within the Sole PDL Patents or Sole Daclizumab Roche Patents, as the case may be, within ninety (90) days of being requested by the other party to do so, the other party may prosecute such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control.

(c) In any event, the party bringing an action ("acting party") pursuant to this Section 10.1 shall solicit, and seriously consider in good faith the non-acting party's input with respect to all material aspects of such action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, the acting party shall keep the other party promptly and fully informed of the status of any such action, and the non-acting party shall have the right to review and comment upon the acting party's activities related thereto.

(d) Each party will reasonably assist the acting party in any such action or proceeding being prosecuted or defended by the acting party, if so requested by the acting party or required by law. The acting party will pay

or reimburse the assisting party for all costs, expenses and liabilities which the assisting party may incur or suffer in affording assistance to such actions or proceedings. No settlement of any such action or defense which restricts the scope or affects the enforceability of PDL Know-How or Sole PDL Patents may be entered into by either PDL or Roche without the prior consent of the other party hereto, which consent, in the case of Roche shall not be unreasonably withheld and in the case of PDL may be withheld in PDL's sole and absolute discretion. No settlement of any such action or defense which restricts the scope or affects the enforceability of Roche Know-How or Sole Daclizumab Roche Patents may be entered into by either PDL or Roche without the prior consent of the other party hereto, which consent, in the case of PDL shall not be unreasonably withheld and in the case of Roche may be withheld in Roche's sole and absolute discretion.

(e) If either party elects to prosecute an action for infringement or to defend any proceedings for revocation of any claims pursuant to this Section 10.1 and subsequently ceases to continue or withdraws from such action or defense, it shall forthwith so notify the other party in writing and the other party may substitute itself for the withdrawing party and the parties' respective rights and obligations under this Section 10.1 shall be reversed.

10.2 Joint Roche-PDL Patents. In the event of any action against a third party for infringement of any claim in any issued patent within the Joint Roche-PDL Patents, or the institution by a third party of any proceedings for the revocation of any such claim, each party will notify the other promptly and, following such notification, the parties shall confer to determine whether either or both parties shall control the prosecution or defense of such action or proceeding and who shall bear the costs thereof. If the parties are unable to reach agreement within ninety (90) days of the notification referred to above, then each party shall have the right to bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; provided, however, that if both parties elect to prosecute or defend, each party shall bear its own expenses but both parties shall have equal control over such prosecution or defense. No settlement of any action or defense which restricts the scope or affects the enforceability of Joint Roche-PDL Patents may be entered into by either PDL or Roche without the prior consent of the other party hereto, which consent shall not be unreasonably withheld. In any event, the party bringing an action ("acting party") pursuant to this Section 10.2 shall solicit, and seriously consider in good faith the other party's input with respect to all material aspects of such action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, the acting party shall keep the other party promptly and fully informed of the status of any such action, and the other party shall have the right to review and comment upon the acting party's activities related thereto.

10.3 Distribution of Proceeds. In the event either party exercises the rights conferred in Section 10.1 or 10.2 hereof, 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 costs and expenses connected therewith including reasonable attorneys' fees, necessarily involved in the prosecution and/or defense of any suit or proceeding, and if after such reimbursement any funds shall remain from such damages or other sums recovered, said recovery shall belong to the party exercising its rights; provided, however, that [CONFIDENTIAL TREATMENT REQUESTED].

10.4 Defense of Infringement Actions.

(a) Roche shall defend at its own cost any infringement suit that may be brought against PDL or Roche on account of the development, manufacture, production, use or sale of any Licensed Product by Roche, and shall indemnify and save PDL harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, which may be incurred by PDL therein or in settlement thereof. Any and all settlements which restrict the scope or enforceability of PDL Know-How or PDL Patents must be approved by PDL in its sole and absolute discretion before execution by Roche. Any and all settlements which restrict the scope or enforceability of Joint Roche-PDL Patents must be approved by PDL before execution by Roche, such approval not to be unreasonably withheld. PDL shall not be required to approve any settlement which does not include as a condition thereof the granting to PDL of a full and unconditional release of claims.

(b) PDL shall defend at its own cost any infringement suit that may be brought against Roche or PDL on account of the development, manufacture, production, use or sale of Daclizumab by PDL, and shall indemnify and save Roche harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, which may be incurred by Roche therein or in settlement thereof. Any and all settlements which restrict the scope or enforceability of Roche Know-How or Roche Patents must be approved by Roche in its sole and absolute discretion before execution by PDL. Any and all settlements which restrict the scope or enforceability of Joint Roche-PDL Patents must be approved by Roche before execution by PDL, such approval not to be unreasonably withheld. Roche shall not be required to approve any

settlement which does not include as a condition thereof the granting to Roche of a full and unconditional release of claims. Roche will use its best efforts to avoid knowingly infringing any patents of third parties in Roche's design of the cell lines that may be delivered to PDL hereunder, and Roche will inform PDL of any such potential infringement promptly upon Roche's becoming aware of such potential infringement.

10.5 Right to Counsel. Each party to this Amended and Restated Agreement shall always have the right to be represented by counsel of its own selection and its own expense in any suit or other action instituted by the other for infringement, under the terms of this Amended and Restated Agreement.

10.6 Coordination. Each party acknowledges and agrees that the efforts of the parties under this Article X shall take into consideration the efforts and responsibilities of PDL and Roche under the F.Roche Agreement.

XI. TERM AND TERMINATION

11.1 Term. Unless earlier terminated pursuant to the terms of this Article XI, this Amended and Restated Agreement shall remain in effect until the end of the date of expiration of all payment obligations, including royalties and consideration, under Article IV and Article IV-A, at which time all the rights and licences granted under this Amended and Restated Agreement shall become irrevocable and fully-paid.

11.2 Termination by Mutual Agreement. This Amended and Restated Agreement may be terminated by the written agreement of the parties.

11.3 Termination by Roche. On a country by country basis, Roche may terminate its rights and obligations under this Amended and Restated Agreement upon one hundred eighty (180) days written notice to PDL.

11.4 Termination by Default. If either party defaults in the performance of, or fails to be in compliance with, any material agreement, condition or covenant of this Amended and Restated Agreement, the party not in default may terminate this Amended and Restated Agreement at its option; provided, however, that if such event of default or non-compliance is the first occurrence of an event giving rise to the right of termination pursuant to this Section 11.4, the non-defaulting party may, on a country-by-country basis, terminate this Amended and Restated Agreement only if such default or noncompliance shall not have been remedied, or steps initiated to remedy the same to the other party's reasonable satisfaction within sixty (60) days after receipt by the defaulting party of a written notice thereof from the other party. If either party terminates the F. Roche Agreement pursuant to Section 11.4 thereof, the terminating party may, on a country-by-country basis, elect to simultaneously terminate this Amended and Restated Agreement upon written notice to the other party hereto. Notwithstanding the foregoing, a determination by PDL to terminate development of Daclizumab for Autoimmune Indications hereunder shall not be deemed a default by PDL.

11.5 Inventory. Subject to Section 11.7(b), upon termination of this Amended and Restated Agreement for default by Roche, Roche shall notify PDL of the amount of Daclizumab Roche, its Affiliates, sublicensees and distributors then have on hand ("Inventory"), the sale of which would, but for the termination, be subject to payment of royalties or other consideration under this Amended and Restated Agreement. Roche and its Affiliates, sublicensees and distributors shall thereupon be permitted to sell the Inventory, provided that PDL shall have the first option for a period not to exceed sixty (60) days to purchase all or part of the Inventory at [CONFIDENTIAL TREATMENT REQUESTED]. If PDL fails to exercise its option to purchase all of the Inventory or for that part of the Inventory with respect to which the option is not exercised, Roche will be free to sell such Inventory to third parties for a period not to exceed one hundred eighty (180) days from the termination of PDL's option. In any event, Roche shall pay the royalties or other consideration due on the sale of such Inventory in the amounts and manner provided for in Articles IV and IVA. Upon termination of this Amended and Restated Agreement for any reason other than default by Roche, Roche shall have a right to sell Inventory for a period of one (1) year from the date of such termination, subject to the obligation to pay the royalty or other consideration due to PDL with respect to the sale of such Inventory. Any sales of Inventory by Roche pursuant to this Section 11.5 for Autoimmune Indications shall be done in compliance with the then applicable Promotional Plan.

11.6 Return of Materials. Subject to Section 11.8 hereof concerning archival copies, upon termination of this Amended and Restated Agreement in whole by Roche pursuant to Section 11.3 or by either or both parties pursuant to Sections 11.2 or 11.4: (a) Roche forthwith shall return to PDL all cell lines and their progeny, antibodies and other biological materials provided by PDL under the 1989 Agreement; and (b), subject to Section 11.5, at PDL's own cost Roche shall deliver to PDL then available supplies of Daclizumab.

11.7 Rights and Obligations on Termination or Expiration.

(a) Unless expressly provided to the contrary, the provisions of Sections 3A.2, 3A.7, 3A.8(e), 4B.3, 5.2, 5.3 and 7.2 and Articles V, VIII, X, XII, XIII and XV shall survive the termination of this Amended and Restated Agreement.

(b) In the event that termination by either party results in the termination of rights to Daclizumab or Licensed Products and the reversion or transfer of such rights to the other party, then upon written request of the

other party, the party whose rights are terminated shall act in good faith using commercially reasonable efforts to (1) at no cost to the transferee promptly transfer and assign to the other party all related regulatory filings, regulatory approvals and clinical data and (2) at [CONFIDENTIAL TREATMENT REQUESTED], provide sufficient supply of Daclizumab or Licensed Products, as the case may be, for a period of time reasonably required to prevent disruption of clinical development and market disruption.

(c) In the event that in a given country of the Territory Roche terminates this Agreement pursuant to Section 11.3 or PDL terminates this Agreement due to default by Roche pursuant to Section 11.4, then effective as of the date of termination, for the given country PDL shall have a fully-paid, sole and exclusive license under the Roche Know-How and Roche Patents to make, have made, use and sell Licensed Products in the Field in the Territory.

(d) In the event that in a given country of the Territory Roche terminates this Agreement pursuant to Section 11.4 due to default by PDL pursuant to Section 11.4, then effective as of the date of termination, for the given country Roche shall have a fully-paid, sole and exclusive license under the PDL Know-How and PDL Patents to make, have made, use and sell Licensed Products in the Field in the Territory.

11.8 Archival Copies. Section 11.6 notwithstanding, each party shall be entitled to keep for archival purposes one copy of all written materials returned to the other party pursuant to Section 11.6.

XII. CONFIDENTIALITY, DISCLOSURE AND PUBLICATIONS

12.1 Confidentiality. During the term of this Amended and Restated Agreement and for a period of five (5) years following expiration or termination of this Amended and Restated Agreement, each party shall maintain in confidence all information and materials including, but not limited to, cell lines, their progeny, and antibodies, disclosed by the other party hereto which such party knows or has reason to know are or contain trade secrets or other proprietary information of the other, including, without limitation, information relating to the PDL Know-How, PDL Patents, Roche Know-How, Roche Patents, Joint Roche-PDL Patents, Joint Inventions and inventions of the other party, and the business plans of the other party, including, without limitation, information provided by either party to the other party hereto prior to the Signing Date, and shall not use such trade secrets or proprietary information for any purpose, including, without limitation, for the purpose of developing products in the Field except as permitted by this Amended and Restated Agreement or disclose the same to anyone other than those of its Affiliates, sublicensees, prospective sublicensees, employees, consultants, agents or subcontractors as are necessary in connection with such party's activities as contemplated in this Amended and Restated Agreement. Each party shall be responsible for ensuring compliance with these obligations by such party's Affiliates, sublicensees, prospective sublicensees, employees, consultants, agents and subcontractors. Each party shall use a similar effort to that which it uses to protect its own most valuable trade secrets or proprietary information to ensure that its Affiliates, sublicensees, employees, consultants, agents and subcontractors do not disclose or make any unauthorized use of trade secrets or proprietary information of the other party hereto. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other's trade secrets or proprietary information.

12.2 Exceptions. The obligation of confidentiality contained in this Amended and Restated Agreement shall not apply to the extent that (a) either party (the "Recipient") is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction or (b) the Recipient can demonstrate that (i) the disclosed information was at the time of such disclosure by the Recipient already in the public domain other than as a result of actions of the Recipient, its Affiliates, employees, licensees, agents or subcontractors, in violation hereof; (ii) the disclosed information was rightfully known by the Recipient or its Affiliates (as shown by its written records) prior to the date of disclosure to the Recipient in connection with the negotiation, execution or performance of this Amended and Restated Agreement; or (iii) the disclosed information was received by the Recipient or its Affiliates on an unrestricted basis from a source unrelated to any party to this Amended and Restated Agreement and not under a duty of confidentiality to the other party, or (c) the Recipient can demonstrate that disclosure to a regulatory authority is required by its product license approval process.

12.3 Publications.

(a) Scientific Publications. Prior to public disclosure or submission for publication of a manuscript describing the results of any scientific activity or collaboration between PDL and Roche in the Field, the party disclosing or submitting such a manuscript ("Disclosing Party") shall send the other party ("Responding Party") by expedited delivery a copy of the manuscript to be submitted and shall allow the Responding Party a reasonable time period (not to exceed forty-five (45) days from the date of confirmed receipt) in which to determine whether the manuscript contains subject matter of which patent protection should be sought (prior to publication of such manuscript) for the purpose of protecting an invention conceived or developed in connection with the PDL/Roche scientific collaboration, or whether the manuscript contains confidential information belonging to the Responding

Party. After the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript, the Disclosing Party shall be free to submit such manuscript for publication and publish or otherwise disclose to the public such research results. Should the Responding Party believe the subject matter of the manuscript contains confidential information or a patentable invention of substantial commercial value to the Responding Party, then prior to the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript by the Responding Party, the Responding Party shall notify the Disclosing Party in writing of its determination that such manuscript contains such information or subject matter for which patent protection should be sought. Upon receipt of such written notice from the Responding Party, the Disclosing Party shall delay public disclosure of such information or submission of the manuscript for an additional period of sixty (60) days to permit preparation and filing of a patent application on the disclosed subject matter. The Disclosing Party shall thereafter be free to publish or disclose such information, except that the Disclosing Party may not disclose any confidential information of the Responding Party in violation of Sections 12.1 and 12.2 hereof. Each party agrees to give the other party reasonable opportunity to review and comment on any proposed publication arising from the research collaboration between the parties. Determination of authorship for any paper or patent shall be in accordance with accepted scientific practice. Should any questions on authorship arise, this will be determined by good faith consultation between the respective heads of research for each of the parties.

(b) Clinical Studies. Prior to public disclosure or submission for publication of a manuscript by PDL describing the results of any scientific, preclinical or clinical study conducted by or on behalf of PDL in Autoimmune Indications, PDL shall send Roche by expedited delivery a copy of the manuscript to be submitted and shall allow Roche a reasonable time period (not to exceed forty-five (45) days from the date of confirmed receipt by Roche) to review the manuscript, including for the purpose of determining whether the manuscript contains information which is reasonably likely to have a material adverse impact on Daclizumab for Transplant Indications in the Territory or confidential information belonging to Roche. After the expiration of forty-five (45) days from the date of confirmed receipt by Roche of such manuscript, PDL shall be free to submit such manuscript for publication and publish or otherwise disclose to the public such research results. Should Roche believe the manuscript contains information which is reasonably likely have a material adverse impact on Daclizumab for Transplant Indications in the Territory or which is confidential information of Roche, then prior to the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript by Roche, Roche shall notify the PDL in writing of its determination and the reasons therefor. Upon receipt of such written notice from Roche that the manuscript contains confidential information of Roche, PDL shall delay public disclosure of such information or submission of the manuscript for an additional period not to exceed sixty (60) days to permit the parties to agree as to how to revise the manuscript so that PDL will not disclose any confidential information of Roche in violation of Sections 12.1 and 12.2 hereof.

XIII. DISPUTE RESOLUTION

13.1 Arbitration. Except as expressly provided herein, any claim, dispute or controversy arising out of or in connection with or relating to this Amended and Restated Agreement or the breach or alleged breach thereof shall be submitted by the parties to arbitration by the AAA in Santa Clara County, California under the commercial rules then in effect for that AAA except as provided herein. All proceedings shall be held in English and a transcribed record prepared in English. The parties shall choose, by mutual agreement, one arbitrator within thirty (30) days of receipt of notice of the intent to arbitrate. If no arbitrator is appointed within the times herein provided or any extension of time which is mutually agreed upon, the AAA shall make such appointment within thirty (30) days of such failure. The award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses, and judgment on such award may be entered in any court having jurisdiction thereof. The parties shall be entitled to discovery as provided in Sections 1283.05 and 1283.1 of the Code of Civil Procedure of the State of California, whether or not the California Arbitration Act is deemed to apply to said arbitration. Nothing in this Amended and Restated Agreement shall be deemed as preventing either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute as necessary to protect either party's name, proprietary information, trade secrets, know-how or any other proprietary right. If the issues in dispute involve scientific or technical matters, any arbitrator chosen hereunder shall have educational training and/or experience sufficient to demonstrate a reasonable level of knowledge in the field of biotechnology. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

XIV. FORCE MAJEURE

14.1 No Control. If either party shall be delayed, interrupted in or prevented from the performance of any obligation hereunder by reason of force majeure including an act of God, fire, flood, earthquake, war (declared or

undeclared), public disaster, strike or labor differences, governmental enactment, rule or regulation, or any other cause beyond such party's control, such party shall not be liable to the other therefor; and the time for performance of such obligation shall be extended for a period equal to the duration of the contingency which occasioned the delay, interruption or prevention. The party invoking such force majeure rights of this subparagraph must notify the other party by courier or overnight dispatch (e.g., Fedex) within a period of fifteen (15) days, from the first and last day of the force majeure unless the force majeure renders such notification impossible in which case notification will be made as soon as possible. If the delay resulting from the force majeure exceeds six (6) months, both parties shall consult together to find an appropriate solution.

XV. MISCELLANEOUS

15.1 Representations. Each party represents and warrants to the other party hereto that, except as may otherwise be disclosed in writing to such party:

(a) each party has the full right and authority to enter into this Amended and Restated Agreement; and

(b) to the best knowledge of the party after reasonable investigation, no third party has any right, title or interest in the PDL Patents or PDL Know-How, Roche Know-How or Roche Patents, as the case may be, as the result of such third party's former employment of any employee of that party.

15.2 Assignment. Subject to Section 3B.4, this Amended and Restated Agreement and the licenses herein granted other than the aforementioned agreements between PDL and F. Roche relating to the same Field but outside the Territory shall be binding upon and shall inure to the benefit of, successors of the parties hereto, or to an assignee of all of the good will and entire business and assets of a party hereto relating to pharmaceutical and veterinary products but shall not otherwise be assignable without the prior written consent of the other party, which consent will not be unreasonably withheld.

15.3 Entire Agreement. This Amended and Restated Agreement and the aforementioned agreements between PDL and F. Roche relating to the same Field but outside the Territory constitute the entire agreement between the parties hereto with respect to the within subject matter and supersede all previous agreements (including the 1989 Agreement), whether written or oral. This Amended and Restated Agreement shall not be changed or modified orally, but only by an instrument in writing signed by both parties.

15.4 Releases.

(a) The parties agree that as of the Signing Date, PDL hereby releases and forever discharges Roche and its Affiliates (including Genentech, Inc., a Delaware corporation) from any and all claims, liabilities and demands whatsoever on account of or arising from the 1989 Agreements that PDL may have, otherwise continue to have or have had, past, present or future, including with respect to milestone payments and diligence under each of the 1989 Agreements and including without limitation any and all claims liabilities and demands on account of or arising from the respective sections of 1989 Roche Agreements entitled "Antibodies in the Field Not Provided or Developed by PDL", including any remedies which PDL may have on, prior to or after the Signing Date thereunder both in equity and at law; provided that nothing herein shall be deemed to release any claims, liabilities or demands that PDL may have as a result of first arising after the Signing Date under this Amended and Restated Agreement.

(b) The parties agree that as of the Signing Date, F. Roche and its Affiliates hereby release and forever discharge PDL from any and all claims, liabilities and demands whatsoever on account of or arising from that certain Joint Development, Marketing and License Agreement between PDL and Boehringer Mannheim GmbH ("Boehringer") dated October 28, 1993, as amended, and all related agreements entered into between PDL and Boehringer as of that same date that F. Roche and its Affiliates may have or have had, past, present or future, including any remedies which Roche may have on, prior to or after the Signing Date thereunder both in equity and at law; provided that nothing herein shall be deemed to release any claims, liabilities or demands that F. Roche or its Affiliates may have after the Signing Date under this Amended and Restated Agreement.

15.5 Severability. If any provision of this Amended and Restated Agreement is declared invalid by an arbitrator pursuant to Section 13.1 or by a court of last resort or by any court or other governmental body from the decision of which an appeal is not taken within the time provided by law, then and in such event, this Amended and Restated Agreement will be deemed to have been terminated only as to the portion thereof which relates to the provision invalidated by that decision and only in the relevant jurisdiction, but this Amended and Restated Agreement, in all other respects and all other jurisdictions, will remain in force; provided, however, that if the provision so invalidated is essential to the Amended and Restated Agreement as a whole, then the parties shall negotiate in good faith to amend the terms hereof as nearly as practical to carry out the original intent of the parties, and, failing such amendment, either party may submit the matter to arbitration for resolution pursuant to Section 13.1.

15.6 Indemnification.

(a) Roche shall defend, indemnify and hold harmless PDL, its trustees, officers, agents and employees harmless from any and all liability, demands, damages, expenses, and losses of any kind, including those resulting from death, personal injury, illness or property damage arising (i) out of the manufacture, distribution, use, testing, sale or other disposition, by Roche, an Affiliate of Roche, or any distributor, customer, sublicensee or representative of Roche or anyone in privity therewith, of any Licensed Product, or any cell lines, their progeny, or other biological materials, method, process, device or apparatus licensed or provided by PDL pursuant to the 1989 Agreement or this Amended and Restated Agreement, or (ii) as a result of practicing a Joint Invention, or using PDL Know-How or PDL Patents licensed to Roche under this Amended and Restated Agreement, except where such claim is based on the negligent acts of commission or omission of PDL.

(b) PDL shall defend, indemnify and hold harmless Roche, its trustees, officers, agents and employees harmless from any and all liability, demands, damages, expenses, and losses of any kind, including those resulting from death, personal injury, illness or property damage arising (i) out of the manufacture, distribution, use, testing, sale or other disposition, by PDL, an Affiliate of PDL, or any distributor, customer, sublicensee or representative of PDL or anyone in privity therewith, of Daclizumab, or any biological materials, method, process, device or apparatus licensed or provided by Roche pursuant to this Amended and Restated Agreement, or (ii) as a result of practicing a Joint Invention, or using Roche Know-How or Roche Patents licensed to PDL under this Amended and Restated Agreement, except where such claim is based on the negligent acts of commission or omission of Roche.

15.7 Notices. Any notice or report required or permitted to be given under this Amended and Restated Agreement shall be in writing and shall be mailed by certified or registered mail, or telexed or telecopied and confirmed by mailing, as follows and shall be effective five (5) days after such mailing:

If to PDL: Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California U.S.A. 94555
Attention: General Counsel

If to Roche: Hoffmann-La Roche Inc.
340 Kingsland Street
Nutley, New Jersey 07110
Attention: Corporate Secretary

and

F. Hoffmann-La Roche Ltd
Grenzacherstrasse 124
CH-4002 Basel, Switzerland
Attention: Law Department

15.8 Choice of Law. The validity, performance, construction, and effect of this Amended and Restated Agreement shall be governed by the laws of the State of California, U.S.A.

15.9 Publicity. The parties agree to issue press releases in an agreed-upon form and format concerning their entry into this Amended and Restated Agreement, with the content of such releases to be approved in advance by the parties. In all other respects, no party to this Amended and Restated Agreement shall use the name of the other parties in any publicity release without the prior written permission of such other party, which shall not be unreasonably withheld. In any event, a party shall have a reasonable opportunity to review and comment on any proposed publicity release. Except as required by law, no party hereto shall publicly disclose the terms of this Amended and Restated Agreement, the 1989 Agreement, or their terms and conditions unless expressly authorized to do so by the other parties which authorization shall not be unreasonably withheld. In the event that disclosure shall be agreed upon then the parties will work together to develop a mutually acceptable disclosure. Notwithstanding anything to the contrary herein, if not otherwise disclosed by Roche, PDL shall not disclose to any third party the amount of sales of or royalties or consideration paid with respect to Licensed Product without the prior written consent of Roche, which consent shall not be unreasonably withheld.

15.10 Agency. Neither party is, nor will be deemed to be an employee, agent or representative of the other party for any purpose. Each party is an independent contractor, not an employee or partner of the other party. Neither party shall have the authority to speak for, represent or obligate the other party in any way without prior written authority from the other party.

15.11 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

[The remainder of this page intentionally left blank.]

15.12 Counterparts. This Amended and Restated Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Agreement through their duly authorized representatives to be effective as of the Signing Date.

PROTEIN DESIGN LABS, INC.

By:

Title:

Date:

HOFFMANN-LA ROCHE INC.

By:

Title:

Date:

F.HOFFMANN-LA ROCHE LTD

By: _____

Title: _____

Date: _____

Appendix A
PDL Patents

A. The following are patents and patent applications (also known as the "Queen et al. Patents") issued and filed in certain countries in the world.

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.

Country
Title*
Issued
647383
Australia
"Novel Immunoglobulins, Their Production
and Use"
Issued
671949
Australia
"
Issued
AT E133452
Austria
"
Issued
0451216
Belgium
"
Issued
61095
Bulgaria
"
Issued
970016

Brazil

"
Issued
0451 216B1
European
"
Issued
0682040 B1
European

Issued
FR0451216
France
"
Issued
DE
68925536
Germany
"
Issued
DD 296 964
East Germany
"
Issued
GB 0451216
Great Britain
"
Issued
1001050

Greece
"
Issued
211174

Hungary
"
Issued
IT O451216
Italy
"
Issued
2828340
Japan
"
Issued
LU O451216
Luxembourg
"
Issued
92.2146
Monaco
"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued

SG O451216
Singapore
"
Issued
89/9956
South Africa
"
Issued
178385
South Korea
"
Issued
2081974 T3
Spain
"
Issued
SE O451216
Sweden
"
Issued
CHO 451216
Switzerland
"
Issued
50034
Taiwan
"
Issued
13349
Uruguay
"
Issued
48700
Yugoslavia
"

Country
Title*
Pending
Argentina
"Novel Immunoglobulins, Their
Production and Use"
Pending
Canada
"
Pending
Chile
"
Pending
China
"
Pending
Croatia
"
Pending
Czech Republic
"
Pending
Ecuador
"
Pending
Europe
"
Pending
Hong Kong
"
Pending
Ireland
"
Pending
Israel
"
Pending
Japan
"
Pending
South Korea

Pending
Romania
"
Pending
Slovak Republic
"
Pending
Venezuela
"
Pending
Denmark
"
Pending
Finland
"
Pending
Norway
"

*Exact titles may differ in different countries.

B. The following patent applications relate to the use of anti-IL2 receptor antibodies in treatment of acute transplant rejection.

Title: Method of preventing acute rejection following solid organ transplantation.

Inventors: Susan Light and Cary Queen

PCT Publication No.: WO 98/13067 claiming priority to U.S. provisional patent application serial no. 60/026,643 filed September 24, 1996.

Appendix B
[CONFIDENTIAL TREATMENT REQUESTED]

(footnote continued from previous page)

(footnote continued on next page)

CONFIDENTIAL TREATMENT REQUESTED WITH RESPECT TO
DESIGNATED PORTIONS OF THIS DOCUMENT

AMENDED AND RESTATED AGREEMENT

This Amended and Restated Agreement ("Amended and Restated Agreement") is entered into as of October 20, 1999 ("Signing Date"), by and between F. HOFFMANN-LA ROCHE LTD of Basel, Switzerland ("F. Roche") as successor to F. Hoffmann-La Roche & Co. Limited Company, and PROTEIN DESIGN LABS, INC., a Delaware corporation having offices at 34801 Campus Drive, Fremont, California 94555, U.S.A. ("PDL").

RECITALS

A. F. Roche and PDL are parties to an Agreement dated January 31, 1989, as amended (the "1989 F. Roche Agreement") pertaining to humanized and chimeric antibodies against the interleukin-2 receptor ("IL-2R").

B. Under the 1989 F. Roche Agreement, PDL exclusively licensed to F. Roche rights to a humanized antibody now known as Daclizumab (as defined below).

C. F. Roche is currently marketing Daclizumab under the trademark Zenapax* for the prevention of acute organ rejection in patients receiving kidney transplants.

D. F. Roche and PDL now desire to replace the 1989 F. Roche Agreement with a new agreement to provide PDL with rights to develop and, if successful, promote or market Daclizumab in Autoimmune Indications (as defined below) for increased compensation from the 1989 F. Roche Agreement.

E. Concurrently with the entering into of this Agreement, PDL and Hoffmann-La Roche Inc. ("Roche") are replacing an agreement addressing rights in the United States of America similar to the 1989 F. Roche Agreement (the "1989 PDL/Roche Agreement") with a new agreement covering both the United States of America and Canada (the "1999 PDL/Roche Agreement") with respect to which F. Roche shall also be a party.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, PDL and F. Roche mutually agree to replace the 1989 F. Roche Agreement as follows:

I. DEFINITIONS

For the purposes of this Agreement, the following terms, when written with an initial capital letter (except as set forth in Sections 1.29 and 1.30), shall have the meaning ascribed to them below. All references to particular Appendices, Articles and Sections shall mean the Appendices to, and Articles and Sections of, this Agreement, unless otherwise specified.

1.1 "Affiliates" means any corporation or other business entity controlled by, controlling, or under common control with another entity, with "control" meaning direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock of, or more than a fifty percent (50%) interest in the income of, such corporation or other business entity.

1.2 "Combination Product" means any product containing both an ingredient which causes it to be considered a Licensed Product and one or more other therapeutically active ingredients.

1.3 "Field" means any humanized or chimeric antibody which binds to the IL-2R, where "humanized" means a genetically engineered combination of a substantially human framework region and constant region, and complementarity determining regions from non-human antibodies, and where "chimeric" means a genetically engineered combination of human constant region and non-human variable region. "Antibodies in the Field" means humanized and chimeric antibodies which bind to the IL-2R. It is believed that these Antibodies in the Field may be useful for therapeutic, diagnostic, imaging and similar purposes. It is understood that the Field includes, but is not limited to, that certain humanized murine monoclonal antibody prepared against the p55 component of the IL-2R ("humanized anti-Tac"). Furthermore, the Field includes, but is not limited to, all improvements relating to humanized anti-Tac, including without limitation modifications in structure introduced by genetic engineering, or by chemical or enzymatic cleavage. Also included within the Field shall be alternate hosts for producing humanized anti-Tac, methods for purification, formulations incorporating humanized anti-Tac, and uses and methods of use for humanized anti-Tac in human medicine. Humanized anti-Tac is also known as "Daclizumab". "Daclizumab" as used in this Amended and Restated Agreement means any product that contains Daclizumab.

1.4 "Initial Commercialization" means the end of the calendar month containing the date following the granting of Regulatory Approval (as defined in Section 1.10 hereof) for a Licensed Product for human therapeutic use for prevention of kidney transplant rejection or a major disease (within the meaning of Milestone #2 in Section 3.2 of the 1989 PDL/Roche Agreement) on which F. Roche, its Affiliates or sublicensees first sell such a product to an independent third party not an Affiliate of the seller in a major market within the ROW Territory, where "major market" means either Japan or two of the following three countries: France, Italy or the United Kingdom.

1.5 "Joint Inventions" means any inventions in the Field, whether patented or not, which are jointly made during the period beginning on January 31, 1989 and ending upon expiration or termination of this Amended and

Restated Agreement by at least one PDL employee or person contractually required to assign or license patent rights covering such inventions to PDL and at least one Roche or F. Roche employee or person contractually required to assign or license patent rights covering such inventions to Roche or F. Roche.

1.6 "Licensed Product" means any product in the Field, including any Combination Product, the making, use or sale of which utilizes PDL Know-How, PDL Patents or Joint Inventions or would, in the absence of this Amended and Restated Agreement, infringe a Valid Claim. Daclizumab shall be deemed to be a Licensed Product.

1.7 "Net Transplant Sales" means either Total Sales (until such time as Section 3A.4 applies) or Total Transplant Sales (beginning at such time as Section 3A.4 applies), after deducting, if not already deducted, from the amount invoiced:

(a) the amounts actually allowed as volume or quantity discounts, sales rebates (including cash discounts), price reductions, returns (including withdrawals and recalls); and

(b) sales, excise and turnover taxes imposed directly upon and actually paid by F. Roche, its Affiliates or sublicensees.

In addition, there shall be deducted, to the extent not already deducted from the amount invoiced, an amount equal to [CONFIDENTIAL TREATMENT REQUESTED] of the of the Total Sales or Total Transplant Sales, as appropriate, to cover all other expenses or discounts, including but not limited to customs duties, transportation and insurance charges and other direct expenses.

1.8 "PDL Know-How" means, except as otherwise set forth in this Section 1.8,

(a) all inventions, discoveries, trade secrets, information, experience, data, formulas, procedures and results in the Field, and improvements thereon, (collectively, "Know-How in the Field") including any information regarding the structure, sequence and characterization of Antibodies in the Field, methods of making and the characterization of cell lines producing Antibodies in the Field, and methods of achieving high levels of expression of Antibodies in the Field, which was rightfully held by PDL as of January 31, 1989, or which was developed or acquired by PDL during the period beginning on January 31, 1989 and ending January 31, 1996 (such date representing the first (1st) anniversary of the termination of the Research Program), and which Know-How in the Field is required or useful for registration, manufacturing, using or selling products in the Field, and

(b) all Know-How in the Field, including any information regarding the physical, chemical, biological, toxicological, pharmacological, clinical, and veterinary data, dosage regimens, control assays and specifications of Daclizumab, which is rightfully held by PDL or its Affiliates as of the Signing Date, or which is developed or acquired by PDL or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Know-How in the Field is required or useful for registration, using or selling Daclizumab;
provided, however, that PDL Know-How excludes any Know-How in the Field of any kind concerning generic methods of manufacturing (except as set forth in the following paragraph) designing, developing or preparing antibodies including, but not limited to, methods of humanizing antibodies, methods of reducing the immunogenicity of antibodies, and methods of increasing the affinity of antibodies.

In the event Roche or F. Roche manufactures a form or formulation of Daclizumab for Autoimmune Indications under this Amended and Restated Agreement that Roche or F. Roche is not otherwise manufacturing for the Transplant Indications, PDL Know-How shall also include all Know-How in the Field which is rightfully held by PDL or its Affiliates as of the Signing Date, or which is developed or acquired by PDL or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Know-How in the Field is required or useful for manufacturing such form or formulation of Daclizumab for Autoimmune Indications.

1.9 "PDL Patents" means all patent applications owned or controlled by PDL ("Sole PDL Patents") and all patent applications resulting from Joint Inventions ("Joint Roche-PDL Patents") containing claims in the Field, which are filed prior to or during the term of this Amended and Restated Agreement in the United States or any foreign jurisdiction, including any addition, continuation, continuation-in-part or division thereof or any substitute application therefor; any patent issued with respect to such patent application, any reissue, extension or patent term extension of any such

patent, and any confirmation patent or registration patent or patent of addition based on any such patent; and any other United States or foreign patent or inventor's certificate covering claims in the Field. "Queen et al. Patents" mean those Sole PDL Patents in the ROW Territory claiming priority under originally filed 12/28/89 as European application number 90903576.8 and claiming priority under U.S. patent application serial nos. 290,975 filed December 28, 1988 and 310,252 filed February 13, 1989.

1.10 "Regulatory Approval" means the granting of all governmental regulatory approvals required, if any, for the sale of a Licensed Product in a given country or jurisdiction within the ROW Territory.

1.11 "Research Program" means the collaborative scientific research program between PDL and Roche which was completed in January 1995 and is described more fully in the 1989 PDL/Roche Agreement.

1.12 "F. Roche Inventions" means any inventions in the Field which are made during the term of this Amended and Restated Agreement by employees of F. Roche or persons contractually required to assign or license patent rights covering such inventions to F. Roche.

1.13 "Roche Territory" means the United States of America ("U.S." or "U.S.A." or "United States") and its territories and possessions where the patent laws of the United States are in force, and Canada and its territories and possessions. It is understood that the PDL/Roche Agreement comprises a separate but complementary license agreement covering activities in the Roche Territory.

1.14 "ROW Territory" means all countries of the world excluding the Roche Territory. The ROW Territory shall not include any countries with respect to indications in which F. Roche grants an exclusive license to PDL pursuant to Section 2.4.

1.15 "Valid Claim" means, as applicable, either (a) with respect to royalties payable by F. Roche to PDL under this Agreement, a claim in any issued patent within the PDL Patents which has not been disclaimed or held unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction by a decision beyond right of review, or (b) with respect to royalties payable by PDL to F. Roche under this Agreement, a claim in any issued patent within the Roche Patents which has not been disclaimed or held unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction by a decision beyond right of review.

1.16 "Roche Know-How" means all inventions, discoveries, trade secrets, information, experience, data, formulas, procedures and results specifically related to Daclizumab, and improvements thereon (collectively, "Daclizumab Know-How") including any information regarding the physical, chemical, biological, toxicological, pharmacological, clinical, and veterinary data, dosage regimens, control assays and specifications of Daclizumab, which is rightfully held by F. Roche or its Affiliates as of the Signing Date, or which is developed or acquired by F. Roche or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Daclizumab Know-How is required or useful for development of a subcutaneous formulation for Daclizumab, and for using or promoting Daclizumab for Autoimmune Indications.

In the event that pursuant to Section 2C.2, PDL obtains a right to manufacture Daclizumab for Autoimmune Indications, Roche Know-How shall also include all Daclizumab Know-How which is rightfully held by F. Roche or its Affiliates as of the Signing Date, or which is developed or acquired by F. Roche or its Affiliates with the right to license or sublicense during the term of this Amended and Restated Agreement, and which Daclizumab Know-How is required or useful for manufacturing Daclizumab.

1.17 "Roche Patents" means all patent applications owned or controlled by Roche, F. Roche or their Affiliates ("Sole Roche Patents") and all patent applications resulting from Joint Inventions ("Joint Roche-PDL Patents") containing claims in the Field, which are filed prior to or during the term of this Amended and Restated Agreement in the United States or any foreign jurisdiction, including any addition, continuation, continuation-in-part or division thereof or any substitute application therefor; any patent issued with respect to such patent application, any reissue, extension or patent term extension of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent; and any other United States or foreign patent or inventor's certificate covering claims in the Field. "Sole Daclizumab Roche Patents" means those patents and applications included within the Sole Roche Patents containing claims specifically related to Daclizumab.

1.18 "Autoimmune Indications" means all indications that involve pathogenic consequences, including tissue injury, produced by autoantibodies

or autoreactive T lymphocytes interacting with self epitopes, i.e., autoantigens. Autoimmune Indications shall include, without limitation, psoriasis, rheumatoid arthritis, systemic lupus erythematosus, scleroderma, juvenile rheumatoid arthritis, polymytosis, Type I diabetes, sarcoidosis, Sjogrens syndrome, chronic active non-pathogenic hepatitis, non-infectous uveitis (Behcets), aplastic anemia, regional non-pathogenic enteritis (including ulcerative colitis, Crohn's Disease and inflammatory bowel disease), Kawasaki's disease, post-infectious encephalitis, multiple sclerosis, and tropic spastic paraparesis..

1.19 "Transplant Indications" means all indications that are not Autoimmune Indications, including, without limitation, solid organ transplantation (including tolerance induction and xenotransplantation), bone marrow transplantation, graft versus host disease and cell transplantation. In any event, should a given indication have applicability in both Autoimmune Indications and transplantation, such indication shall be deemed a Transplant Indication and not an Autoimmune Indication; provided that an Autoimmune Indication shall not be deemed a Transplant Indication merely because it may cause the need for a transplant (e.g., Type I diabetes, even if it causes the need for an organ transplant).

1.20 "Total Sales" means the gross invoice price ("GIP") of all Licensed Products for all indications sold or otherwise disposed of for consideration by F. Roche, its Affiliates or sublicensees (other than PDL and its Affiliates) to independent third parties not an Affiliate of the seller, as computed in the central F. Roche Swiss Francs Sales Statistics for the countries concerned, whereby the amount of such sales in foreign currencies is converted into Swiss Francs at the average rate of exchange at the time in accordance with F. Roche's then current standard practices.

In the case of Combination Products for which the Licensed Product and each of the other therapeutically active ingredients contained in the Combination Product have established market prices when sold separately, Total Sales shall be determined by multiplying the Total Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for the Licensed Product(s) contained in the Combination Product, and the denominator of which shall be the sum of the established market prices for the Licensed Product(s) plus the other active ingredients contained in the Combination Product. When such separate market prices are not established, then the parties shall negotiate in good faith to determine the method of calculating Total Sales for Combination Products.

If F. Roche or its Affiliates or sublicensees receive non-cash consideration for any Licensed Product sold or otherwise transferred to an independent third party not an Affiliate of the seller or transferor, the fair market value of such non-cash consideration on the date of the transfer as known to F. Roche, or as reasonably estimated by F. Roche if unknown, shall be included in the definition of Total Sales.

1.21 "Total Autoimmune Sales" means the difference of Total Sales minus Total Transplant Sales.

1.22 "Total Transplant Sales" means the portion of Total Sales derived from Transplant Indications.

1.23 "Net Autoimmune Sales" means Total Autoimmune Sales, after deducting, if not already deducted, from the amount invoiced:

(a) the amounts actually allowed as volume or quantity discounts, sales rebates (including cash discounts), price reductions, returns (including withdrawals and recalls); and

(b) sales, excise and turnover taxes imposed directly upon and actually paid by F. Roche, its Affiliates or sublicensees.

In addition, there shall be deducted, to the extent not already deducted from the amount invoiced, an amount equal to[CONFIDENTIAL TREATMENT REQUESTED] of the Total Autoimmune Sales to cover all other expenses or discounts, including but not limited to cash discounts, customs duties, transportation and insurance charges and other direct expenses.

1.24 "Net Sales" means the aggregate of Net Transplant Sales and Net Autoimmune Sales.

1.25 "PDL Development Costs" means, for a given Autoimmune Indication, [CONFIDENTIAL TREATMENT REQUESTED] of the worldwide development costs accrued by PDL for the development of Daclizumab. All PDL Development Costs shall be calculated in accordance with cost accounting methods consistently applied and complying with generally accepted accounting principles, incurred by PDL during a period commencing on the Signing Date and ending on the date of the filing by F. Roche of the first (1st) application for marketing approval for

that Autoimmune Indication in a Major Country. PDL Development Costs shall not include any costs incurred by PDL for the purpose of manufacturing by PDL of Daclizumab in bulk form, but shall include any costs incurred by PDL in connection with formulation development and performance of formulation, fill and finish, and related activities. All PDL Development Costs that apply to multiple Autoimmune Indications (e.g., a subcutaneous formulation of Daclizumab) until the date of filing by F. Roche for marketing approval for an Autoimmune Indication in a Major Country shall be allocated to the first Autoimmune Indication to which such costs apply that F. Roche elects to market and sell, co-market or co-promote.

1.26 "PDL Net Sales" means the GIP of Daclizumab sold or otherwise disposed of for consideration by PDL, its Affiliates or sublicensees (other than F. Roche and its Affiliates) to independent third parties not an Affiliate of the seller after deducting, if not already deducted, from the amount invoiced:

(a) the amounts actually allowed as volume or quantity discounts, rebates, price reductions, returns (including withdrawals and recalls); and

(b) sales, excise and turnover taxes imposed directly upon and actually paid by PDL, its Affiliates or sublicensees.

In addition, there shall be deducted, to the extent not already deducted from the amount invoiced, an amount equal to [CONFIDENTIAL TREATMENT REQUESTED] of the GIP to cover all other expenses or discounts, including but not limited to cash discounts, custom duties, transportation and insurance charges and other direct expenses.

In the case of Combination Products for which Daclizumab and each of the other therapeutically active ingredients contained in the Combination Product have established market prices when sold separately, PDL Net Sales shall be determined by multiplying the PDL Net Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for Daclizumab, and the denominator of which shall be the sum of the established market prices for Daclizumab plus the other active ingredients contained in the Combination Product. When such separate market prices are not established, then the parties shall negotiate in good faith to determine the method of calculating PDL Net Sales for Combination Products.

If PDL or its Affiliates or sublicensees receive non-cash consideration for any units of Daclizumab sold or otherwise transferred to an independent third party not an Affiliate of the seller or transferor, the fair market value of such non-cash consideration on the date of the transfer as known to PDL, or as reasonably estimated by PDL if unknown, shall be included in the definition of PDL Net Sales.

1.27 "Major Countries" means the United Kingdom, France, Germany, Italy and Spain.

1.28 "Cost of Goods Sold" means the manufacturing cost of unformulated bulk Daclizumab, calculated in accordance with reasonable cost accounting methods consistently applied by a party for its other pharmaceutical products, provided that such methods comply with generally accepted accounting principles. Cost of Goods Sold shall include direct labor (including fringe benefits), direct materials (including taxes and duties), and a reasonable allocation of indirect labor and materials, facilities expense (including occupancy costs and depreciation of property, plant and equipment), administration costs and other costs allocable to the manufacturing process.

1.29 "documents" used as a verb, for example in Section 2A.5 and similar uses, means provides factual or substantial support, which support may include, among other things, expert opinion.

1.30 "cover" (including variations thereof such as "covering" or "covered") as used for example in Article III and Article III-A, means that the manufacture, use, sale or importation of a particular Licensed Product would infringe a Valid Claim in the absence of rights under such patent(s). The determination of whether a particular Licensed Product is covered by particular Valid Claims shall be made on a country-by-country basis.

II. LICENSE GRANTS

2.1 License Grant to F. Roche. Subject to Sections 2.3, 2.4 and 5.2, PDL grants to F. Roche and to F. Roche's Affiliates the sole and exclusive right to the PDL Know-How and PDL Patents, but only to the extent necessary to make, have made, use and sell Licensed Products in the Field within the ROW Territory. For so long as F. Roche is in compliance with its obligations under Section 5.1, F. Roche may sublicense the right to make, have made, use and sell Licensed Products in the Field within the ROW Territory with respect to Transplant Indications, provided that no such sublicense shall be granted with respect to Autoimmune Indications without first obtaining PDL's written

consent, which consent shall not be unreasonably withheld or delayed. Any such sublicense shall be subject to Section 3.5 hereof, and shall terminate automatically if F. Roche shall not have remedied or initiated steps to remedy a breach of Section 5.1 hereof, in a manner reasonably satisfactory to PDL within sixty (60) days after receipt by F. Roche of notice of such breach from PDL.

2.2 Identification of Patents. Set forth on Appendix A is a list identifying patents or patent applications which comprise PDL Patents as of the Signing Date. PDL shall update this list by delivering a supplement to F. Roche no less frequently than once per year during the term of this Amended and Restated Agreement.

2.3 License Grant to PDL. F. Roche grants to PDL and to PDL's Affiliates the exclusive right to Daclizumab, Roche Know-How and Roche Patents, PDL Know-How, and PDL Patents but only to the extent necessary to import, make, have made and use Daclizumab for the purpose of conducting development and seeking registration of Daclizumab in Autoimmune Indications in the ROW Territory as contemplated by this Amended and Restated Agreement.

2.4 Contingent License Grants to PDL. Certain additional licenses are granted by F. Roche to PDL as described in Sections 2B.8, 2B.9, 2C.2(b) and 5.2 subject to the occurrence of certain conditions.

2.5 Sublicensing by PDL. Subject to the prior written consent of F. Roche, which consent shall not be unreasonably withheld or delayed, PDL shall have the right to sublicense [CONFIDENTIAL TREATMENT REQUESTED] any exclusive marketing rights of PDL under this Amended and Restated Agreement.

II-A. DEVELOPMENT FOR AUTOIMMUNE INDICATIONS

2A.1 Development Responsibility. On and after the Signing Date, PDL shall be solely responsible at its sole cost and expense to develop Daclizumab for Autoimmune Indications ("AI Development"), including, without limitation, any further preclinical studies or formulation development (such as the development of a subcutaneous formulation) deemed required or useful by PDL for such AI Development. All data and information generated by such activities shall be PDL Know-How and PDL shall have the right to publish such data and information in accordance with Section 8.3(b).

2A.2 Transfer of Know-How.

(a) Transfer of PDL Know-How. During the term of this Amended and Restated Agreement, PDL shall transfer within sixty (60) days of each June 30 and December 31, PDL Know-How which is required or useful for F. Roche to carry out its obligations under this Amended and Restated Agreement. PDL will permit access by F. Roche during the AI Development at reasonable times and with reasonable frequency to the relevant scientific personnel of PDL, but in any event not more than once per calendar quarter. PDL agrees to inform F. Roche on a timely basis of all results in the Field obtained by PDL during the AI Development to the extent such results are required or useful for F. Roche to carry out its obligations under this Amended and Restated Agreement.

(b) Transfer of Roche Know-How.

(i) PDL and F. Roche shall each immediately identify a person to coordinate communications related to review of Roche Know-How by PDL ("Coordinators"). The Coordinators shall agree upon a period of time, including the starting date of such period and duration of such period, during which F. Roche shall make Roche Know-How available for PDL's review. Such period shall occur within ninety (90) days after the Signing Date.

PDL's review of Roche Know-How in accordance with this Section 2A.2(b) shall occur during Roche's normal business hours and at an agreed upon site(s) of Roche. During such review, PDL shall have the right to (i) copy such available Roche Know-How as it deems required or useful and (ii) discuss the available Roche Know-How with the relevant F. Roche personnel. F. Roche shall use its commercially reasonable efforts to answer PDL's questions related to the available Roche Know-How, but F. Roche shall have no liability to PDL if despite F. Roche's commercially reasonable efforts, it is unable to answer any such questions to PDL's satisfaction; provided that F. Roche will not intentionally withhold from PDL any material and pertinent Roche Know-How.

It is understood that Roche Know-How may be embraced within documents that contain information not specifically related to Daclizumab, including information related to products of F. Roche other than Daclizumab. Accordingly, to the extent any given document within the scope of Roche Know-How contains information not specifically related to Daclizumab, F. Roche may redact such information from the relevant document prior to PDL review thereof. To the extent any given document within the scope of Roche Know-How contains unredacted information not specifically related to Daclizumab, PDL shall maintain such information as Confidential Information.

(ii) After the transfer of Roche Know-How pursuant to Section 2A.2(b)(i), upon written request by PDL, F. Roche shall, within a reasonable time, provide PDL with Roche Know-How as is required for AI Development by any regulatory or governmental authority in the ROW Territory if and when such Roche Know-How is located, but F. Roche shall have no liability to PDL if despite F. Roche's commercially reasonable efforts, it is unable to locate any such Roche Know-How.

(iii) Subject to Section 5.1, in no event shall there be any obligation on the part of F. Roche to generate any new data or information related to Licensed Products.

2A.3 Development Plan. Within sixty (60) days after the Signing Date, PDL shall prepare and deliver to F. Roche an AI Development plan, including intended AI Development activities and budgets for each intended AI Development activity. PDL shall update this plan by delivering a supplement to F. Roche from time to time during the term of this Amended and Restated Agrement, provided that PDL shall in any event provide a supplement within sixty (60) days of each December 31 during the term of this Amended and Restated Agreement.

2A.4 Reports. PDL will provide F. Roche within forty-five (45) days of each June 30 and December 31 during the term of this Amended and Restated Agreement, a written report summarizing for the preceding semi-annual period all PDL AI Development activities, including publications. F. Roche shall provide reports on the activities of F. Roche with respect to the development and sales of Daclizumab in Transplant Indications and Autoimmune Indications, if any, through the Joint Development Committee ("JDC") established pursuant to the 1999 PDL/Roche Agreement. PDL shall present the AI Development plans for the ROW Territory to the JDC.

2A.5 Decisions. PDL will make the final decision with respect to all AI Development activities, except that F. Roche will have the right to veto (through the JDC and subject to the decision-making process applicable to the JDC) any AI Development activity for which F. Roche documents that such activity is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the ROW Territory. PDL will not undertake any AI Development activity for which F. Roche documents that such activity is reasonably likely to have a material adverse impact on sales of Daclizumab for Transplant Indications within the ROW Territory.

2A.6 Certain Regulatory Matters.

(a) Clinical Trials. PDL shall have the right to file in PDL's name Investigational New Drug Applications or corresponding filings in countries of the ROW Territory ("INDs") for AI Development. F. Roche shall, at no cost to PDL, provide assistance required or useful to allow PDL to cross-reference F. Roche filings to allow PDL to carry out without delay any related clinical trial in the ROW Territory. PDL shall advise and consult with F. Roche with respect to any significant issues or questions raised by any regulatory authorities with respect to any such IND or related clinical trial. PDL shall provide copies to F. Roche of any such IND and any other records of interactions with regulatory authorities (e.g., correspondence, minutes or notes of telephone conferences or meetings, etc.) with respect to any such IND or related clinical trials in a Major Country. PDL and F. Roche, including its Affiliates, shall each supply the other copies of all regulatory filings in Major Countries related to the use of the clinical materials for AI Development promptly after the time of such filings.

To the extent F. Roche is required under applicable law, rule or regulation, F. Roche shall make all filings necessary to permit the use of the clinical materials supplied by Roche or F. Roche pursuant to Section 3C.1. PDL and F. Roche, including its Affiliates, shall each supply the other copies of all regulatory filings related to the use of the clinical materials for AI Development promptly after the time of such filings.

(b) Adverse Event Reporting. Each party shall notify the other of all information coming into its possession concerning any and all side effects, injury, toxicity, pregnancy or sensitivity reaction associated with commercial or clinical uses, studies, investigations or tests with Daclizumab, throughout the world, whether or not determined to be attributable to Daclizumab ("Adverse Event Reports"). The parties shall each identify a person to coordinate the exchange of Adverse Event Reports ("Report Coordinators") so as to enable timely reporting of such Adverse Event Reports to appropriate government and regulatory authorities consistent with all laws, rules and regulations. The Report Coordinators shall agree in writing upon formal procedures for such exchange.

2A.7 Registration.

(a) PDL shall notify in writing ("Filing Notice") F. Roche in the

event that PDL determines that any clinical trial results in an Autoimmune Indication would justify filing by F. Roche in any country in the ROW Territory of an application for Regulatory Approval for such indication. The Filing Notice shall be accompanied by (I) a list of countries in the ROW Territory for which PDL is requesting such filing, (II) data and information that PDL reasonably believes is sufficient to justify such filing, including without limitation the clinical trial results in the specified Autoimmune Indication, (III) the proposed labeling with respect to which PDL proposes such filing, (IV) accrued PDL Development Costs through the most recent calendar quarter for which PDL financial information is available prior to the date of the Filing Notice and (V) an estimate of the PDL Development Costs to be accrued through the expected date of first (1st) filing for Regulatory Approval in a Major Country identified in the Filing Notice. In any event, F. Roche shall have the right to request, and PDL shall endeavor to timely supply any existing additional data and information from PDL that F. Roche believes to be reasonably required or useful to make its decision to file or not to file hereunder.

Within sixty (60) days after receipt by F. Roche of the Filing Notice (and accompanying information) ("Registration Review Period"), F. Roche shall notify PDL in writing with respect to each country specified in the Filing Notice of whether F. Roche (i) elects to make such a filing in that country, (ii) desires to file in that country but reasonably believes that the clinical trial results would not justify a filing by F. Roche, including information in reasonable detail setting forth the basis for such belief, or (iii) elects not to make such a filing in that country (in which event F. Roche's rights to make such filing and to market and sell Daclizumab in such country in the ROW Territory for that Autoimmune Indication shall be deemed to revert to PDL as provided in Section 2A.7(c)). If F. Roche notifies PDL pursuant to (ii) of the foregoing sentence, and if PDL disagrees with F. Roche, then F. Roche and PDL shall submit the determination of whether the clinical trial results support the labeling proposed by PDL in the countries identified in the Filing Notice to an expert in regulatory matters ("Regulatory Arbiter"), including expertise in the country(ies) in question. The Regulatory Arbiter shall be an individual with not less than five (5) years of regulatory approval experience for products for use in Autoimmune Indications in the country in question and shall not have any preexisting or prior relationship with either of the parties within the past five (5) years. If the parties are unable to agree upon the Regulatory Arbiter within ten (10) business days, then each party shall submit a list of up to three (3) individuals meeting the criteria (including reasonable detail specifying the basis for why the individual is appropriate to serve as the Regulatory Arbiter and a confirmation by the party that such Arbiter is independent of the party submitting her/his name) to the Administrator of the American Arbitration Association ("AAA Administrator") in accordance with the AAA International Rules of Arbitration and the AAA shall select an individual from the lists presented. The Regulatory Arbiter shall make a final, binding determination with respect to the submitted matter with respect to the countries in question within thirty (30) days of submission to the Regulatory Arbiter hereunder. In the event that the Regulatory Arbiter determines that the clinical trial results support the labeling proposed by PDL in any of the countries identified in the Filing Notice, F. Roche shall have fifteen (15) business days from such determination to elect either Section 2A.7(i) or (iii) in each such country. The parties shall each be responsible for their respective costs for participation in the matter subject to resolution by the Regulatory Arbiter and shall share equally the costs of the Regulatory Arbiter.

For each country for which F. Roche has elected to make such a filing, F. Roche or its Affiliates shall make such filing in all Major Countries and Japan for which it has elected to proceed within the next ninety (90) day period following the Registration Review Period, and in each other country for which it has elected to proceed within the same time periods as would normally be followed by F. Roche for additional indications of its other approved products, but in no event more than one hundred eighty (180) days after the Registration Review Period. For each country in the ROW Territory for which F. Roche has either elected not to make such a filing, has failed to make an election within the Registration Review Period, or has made such election but has failed to make such filing within the period specified above, F. Roche's rights to make such filing and to market and sell Daclizumab in such country in the ROW Territory for that Autoimmune Indication shall be deemed to revert to PDL as provided in Section 2A.7(c). In addition, if F. Roche has elected pursuant to Section 2B.2 to allow PDL to (a) co-market in a country in the ROW Territory for a specified Autoimmune Indication, PDL and F. Roche shall in the first instance use commercially reasonable efforts to have F. Roche make such filing and permit PDL to cross-reference the F. Roche filing in such country, provided that if such procedure is not sufficient for PDL to market and sell Daclizumab in such country in the ROW Territory for that Autoimmune Indication, PDL shall have the right to make such filing in such country in the ROW Territory for that Autoimmune Indication as provided in Section 2A.7(c) or (b) exclusively market and sell Daclizumab in a country in the ROW Territory for a specified Autoimmune Indication, PDL shall have the right to

make such filing in such country in the ROW Territory for that Autoimmune Indication as provided in Section 2A.7(c).

(b) If F. Roche has elected pursuant to Section 2A.7(a) to file an application for Regulatory Approval, PDL shall provide all assistance required or useful to allow F. Roche to carry out such filing without delay, including supplying relevant clinical data and promptly preparing and making any necessary regulatory filings relating to manufacture of Daclizumab if it is intended for PDL to conduct any manufacturing steps. For each Major Country and Japan in which F. Roche has filed an application for Regulatory Approval pursuant to Section 2A.7(a), F. Roche shall diligently pursue the approval of such application and shall advise and consult with PDL with respect to any significant issues or questions raised by any regulatory authorities with respect to such application. F. Roche shall provide copies to PDL of all such Major Country (and Japan) applications and any other records of interactions with regulatory authorities relating to significant issues (e.g., correspondence, minutes or notes of telephone conferences or meetings, etc.) with respect to such applications and Autoimmune Indications. F. Roche shall provide PDL with a quarterly summary and the status of all such applications, including a summary of any significant issues and the strategy for dealing with such issues. The parties shall discuss in good faith the labeling for Daclizumab to be requested for Regulatory Approval in a Major Country for a period not to exceed thirty (30) days from the date of notification from F. Roche that it elects to file for Regulatory Approval in a Major Country or Japan pursuant to Section 2A.7(b). If the parties are unable to agree upon the labeling to be requested during such thirty (30)-day period, the parties shall mutually agree upon a third party arbiter ("Labeling Arbiter") within ten (10) business days following determination of the parties to have the matter submitted to the Labeling Arbiter. The Labeling Arbiter shall be an individual with not less than five (5) years of marketing and/or regulatory approval experience for products for use in Autoimmune Indications in the country in question. If the parties are unable to agree upon the Labeling Arbiter within ten (10) business days, then each party shall submit a list of up to three (3) individuals meeting the criteria (including reasonable detail specifying the basis for why the individual is appropriate to serve as the Labeling Arbiter and a confirmation by the party that such Arbiter is independent of the party submitting her/his name) to the AAA Administrator in accordance with the AAA International Rules of Arbitration and the AAA shall select an individual from the lists presented. The Labeling Arbiter shall make a binding determination within thirty (30) days of the submission of the matter to the Labeling Arbiter hereunder. The parties shall each be responsible for their respective costs for participation in the matter subject to resolution by the Labeling Arbiter and shall share equally the costs of the Labeling Arbiter.

(c) For each Major Country and Japan for which the right to file an application for Regulatory Approval has reverted to PDL pursuant to Section 2A.7(a) and with respect to which PDL elects to proceed with a filing for Regulatory Approval, F. Roche shall provide all assistance required or useful to allow PDL to assume responsibility for and to carry out such filing without delay, including execution of any and all documents to transfer such authority and promptly preparing and making any necessary regulatory filings relating to manufacture of Daclizumab. If PDL elects to proceed with such filing, PDL shall diligently pursue the approval of such marketing applications and shall advise and consult with F. Roche with respect to any significant issues or questions raised by any regulatory authorities with respect to such applications. PDL shall provide copies to F. Roche of all such Major Country (and Japan) applications and any other records of interactions with regulatory authorities relating to significant issues (e.g., correspondence, minutes or notes of telephone conferences or meetings, etc.) with respect to such applications.

(d) The costs of making any filing for Regulatory Approval for Daclizumab in an Autoimmune Indication in a country in the ROW Territory shall be allocated between the parties as follows: (i) if the parties are co-marketing, the costs of making any filing shall be shared equally; (ii) if the parties are co-promoting, then the costs of making any filing shall be borne in accordance with the profit allocation specified in the co-promotion arrangement; or (iii) if either party is exclusively marketing and selling, then that party will bear all of the costs of making any filing.

II-B. COMMERCIALIZATION FOR AUTOIMMUNE INDICATIONS

2B.1 Transplant Indications. F. Roche shall continue to be responsible for all aspects of commercialization of Licensed Products for Transplant Indications in the ROW Territory and shall pay royalties on Net Transplant Sales as provided in Article III.

2B.2 Autoimmune Indications. For each country in the ROW Territory for which F. Roche has elected to file an application for marketing approval of an Autoimmune Indication pursuant to Section 2A.7(b), F. Roche shall notify PDL within ninety (90) days after making such election to file whether, if such application is approved, for that Autoimmune Indication in that country in the ROW Territory, it elects:

(a) to market and sell Daclizumab exclusively (in which case, Sections 2B.4(a) and 2B.6 will apply),

(b) to co-promote Daclizumab exclusively with PDL (in which case, Sections 2B.4(a) and 2B.7 will apply),

(c) to co-market Daclizumab with PDL (in which case, Sections 2B.4(b) and 2B.8 will apply), or

(d) to license PDL exclusively to market and sell Daclizumab (in which case, Sections 2B.4(b) and 2B.9 will apply).

For each country in the ROW Territory for which F. Roche fails to provide notice of such election within the time specified above, PDL shall have the sole right to market and sell Daclizumab for that Autoimmune Indication in that country in the ROW Territory in accordance with the provisions of Sections 2B.4(b) and 2B.9.

2B.3 One Time Elections. It is understood and agreed that for each Autoimmune Indication in a country in the ROW Territory, if F. Roche does not elect to file for approval under Section 2A.7(a)(iii) or to market and sell, co-promote or co-market under Section 2B.2(a), (b) or (c), as the case may be, for a specified Autoimmune Indication, then F. Roche shall no longer have the right to market and sell, co-promote or co-market Daclizumab in that country in the ROW Territory for that Autoimmune Indication.

2B.4 Booking of Sales, Trademarks, Etc.

(a) For each Autoimmune Indication, for all countries in the ROW Territory in which F. Roche is exclusively promoting Daclizumab in that country, or the parties are co-promoting Daclizumab in that country in the ROW Territory, the parties intend (i) that F. Roche shall be responsible at its sole cost for booking all sales of Daclizumab and for distribution of Daclizumab and, subject to Article II-C, that Roche and its Affiliates shall be responsible for manufacturing Daclizumab and (ii) that Daclizumab will be marketed under the trademark "Zenapax" or such other trademark as is selected by F. Roche. In those countries in the ROW Territory in which PDL co-promotes Daclizumab, PDL shall act as a sales agent for F. Roche and shall submit all orders for Daclizumab to F. Roche and its Affiliates.

(b) For each Autoimmune Indication, for all countries in the ROW Territory in which PDL is exclusively promoting Daclizumab in that country in the ROW Territory, or the parties are co-marketing Daclizumab in that country in the ROW Territory, the parties intend (i) that each party shall be responsible at its sole cost for booking its own sales of Daclizumab and for its own distribution of Daclizumab, (ii) that manufacturing of Daclizumab will be performed in accordance with Article II-C and (iii) that Daclizumab will be marketed by each party under its own trademark. PDL acknowledges that "Zenapax" is a trademark of F. Roche and its Affiliates and agrees that any PDL trademark for Daclizumab shall be selected using reasonable efforts to avoid a trademark that is confusingly similar to "Zenapax". If one party is manufacturing and selling supplies of Daclizumab to the other party, it shall accept and fill such orders on a non-discriminatory basis relative to accepting and filling orders from its own sales force.

2B.5 Information. In the event that F. Roche elects to exclusively market and sell Daclizumab for Autoimmune Indications in a Major Country, F. Roche shall provide to PDL regular, and in any event not less than semi-annual, reports to PDL on F. Roche's efforts and plans to market and sell Daclizumab in the Major Countries and on a summary basis for regions outside of the Major Countries.

2B.6 Where F. Roche Promotes Alone. For each country in the ROW Territory for which F. Roche has elected pursuant to Section 2B.2 to exclusively market and sell Daclizumab for a specified Autoimmune Indication (or for which PDL has elected not to exercise co-promotion or co-marketing rights if F. Roche has elected one of those options under Section 2B.2), F. Roche shall use commercially reasonable efforts to diligently market and sell Daclizumab for that Autoimmune Indication in that country in the ROW Territory. For each Major Country in the ROW Territory, F. Roche shall propose by November 1 of each year a budget for that country in the ROW Territory to be spent on marketing and sales of Daclizumab for each Autoimmune Indication in the following calendar year, for approval by the JCC (as defined in Section 2B.7(b)) or if no JCC exists, by each of the parties. F. Roche

shall deliver a report to PDL by March 31 of each year detailing the level of sales and marketing expenditure for Daclizumab for each Autoimmune Indication during the preceding calendar year for each Major Country in the ROW Territory. [CONFIDENTIAL TREATMENT REQUESTED]

2B.7 Where F. Roche and PDL Co-Promote.

(a) For each country in the ROW Territory for which F. Roche has elected pursuant to Section 2B.2 to co-promote Daclizumab with PDL for a specified Autoimmune Indication, PDL shall notify F. Roche within thirty (30) days after receiving the notice under Section 2B.2 from F. Roche of whether PDL elects to co-promote Daclizumab for that Autoimmune Indication in that country in the ROW Territory. The terms of the co-promotion arrangement shall be negotiated and agreed to promptly after notice from PDL hereunder, but in any event not later than ninety (90) days following delivery of such notice. In any event, such co-promotion arrangement shall assume a sharing of co-promotion, marketing and selling expenses [CONFIDENTIAL TREATMENT REQUESTED], except as may be adjusted pursuant to Section 2B.7(b). If PDL elects not to exercise such co-promotion rights for that Autoimmune Indication in that country in the ROW Territory, then F. Roche shall have the sole right to market and sell Daclizumab for that Autoimmune Indication in that country in the ROW Territory in accordance with Section 2B.6.

(b) Within thirty (30) days after the first election by F. Roche under Section 2B.2(b) to co-promote Daclizumab with PDL for an Autoimmune Indication in a country in the ROW Territory, F. Roche and PDL shall form a joint commercialization committee (the "JCC") consisting of two representatives from PDL and two representatives from F. Roche. The JCC shall generally oversee the co-promotion efforts relating to Daclizumab. With respect to such co-promotion efforts, the JCC shall develop a joint marketing plan, including, but not limited to, an operational budget, addressing such issues as training materials, training, sampling, promotional materials, product presentation, professional educational efforts and detailing. In the case in which the JCC determines that it is deadlocked, each party shall thereafter within ten (10) business days designate a representative at the Vice President level or higher to discuss the dispute. The designated representatives shall arrange promptly to meet and discuss in good faith a resolution of the dispute. If the designated representatives are unable to resolve the matter in question within thirty (30) days of the designation of the representatives, then to the extent the matter affects any country in the ROW Territory in which F. Roche is co-promoting Daclizumab for the Autoimmune Indication in question, F. Roche shall have the final decision with respect to activities proposed to be conducted by F. Roche. Notwithstanding the foregoing, if the deadlock referenced above relates to a budget for co-promotion, then although F. Roche may make the final decision, PDL shall have the right to decrease its [CONFIDENTIAL TREATMENT REQUESTED]

(c) In each country in the ROW Territory for which PDL has elected to co-promote Daclizumab for a specified Autoimmune Indication, PDL and F. Roche shall use commercially reasonable efforts to diligently market and sell Daclizumab for that Autoimmune Indication in that country in the ROW Territory. For each such country in the ROW Territory, the JCC, as provided in Section 2B.7(b), shall mutually agree upon an annual marketing plan by November 1 of each year which shall include a budget for that country in the ROW Territory to be spent on marketing and sales of Daclizumab for that Autoimmune Indication in the following calendar year. Each party shall deliver a report to the other party by March 31 of each year detailing the level of sales and marketing efforts for Daclizumab for that Autoimmune Indication during the preceding calendar year for each such country in the ROW Territory. If either party fails to expend [CONFIDENTIAL TREATMENT REQUESTED] of the agreed upon expenditure by that party for any country in the ROW Territory for two (2) consecutive calendar years, then the other party shall have the option to solely promote Daclizumab in such country in the ROW Territory for that Autoimmune Indication in accordance with Section 2B.6 or 2B.9, as the case may be, by notifying the party failing to meet its expenditure obligations within ninety (90) days after receipt of the report from the other party indicating such failure.

2B.8 Where F. Roche and PDL Co-Market. For each country in the ROW Territory for which F. Roche has elected pursuant to Section 2B.2 to co-market Daclizumab with PDL for a specified Autoimmune Indication, PDL shall notify F. Roche within thirty (30) days after receiving the notice under Section 2B.2 from F. Roche of whether PDL elects to co-market Daclizumab for that Autoimmune Indication in that country in the ROW Territory. If PDL elects not to exercise such co-marketing rights for that Autoimmune Indication in that country in the ROW Territory, then F. Roche shall have the sole right to market and sell Daclizumab for that Autoimmune Indication in that country in the ROW Territory in accordance with Section 2B.6.

In each country in the ROW Territory for which PDL has elected to co-market Daclizumab for a specified Autoimmune Indication, (a) PDL and F. Roche

shall act independently with respect to their own marketing and sales of Daclizumab for that Autoimmune Indication in that country in the ROW Territory, (b) the provisions of Section 2B.4(b) shall apply and (c) PDL shall automatically be granted a nonexclusive license under all Roche Patents, Roche Know-How, PDL Patents and PDL Know-How to the extent required or useful for the purposes of carrying out such PDL marketing and selling activities. F. Roche or its Affiliates will supply commercial supplies of Daclizumab to PDL in accordance with Article II-C. Nothing in this Amended and Restated Agreement shall be deemed to require the parties to share or provide any information in contravention of any applicable law, rule or regulation.

2B.9 Where PDL Promotes Alone. For each country in the ROW Territory for which F. Roche has elected pursuant to Section 2B.2 to allow PDL to exclusively market and sell Daclizumab for a specified Autoimmune Indication, or has not elected to file for marketing approval pursuant to Section 2A.7(a)(iii), or for which the option for PDL to exclusively market and sell Daclizumab pursuant to Section 2B.2, 2B.6 or 2B.7 has been triggered, if PDL then exercises its option to be the sole marketing and selling party in that country in the ROW Territory for that Autoimmune Indication, then PDL shall use commercially reasonable efforts to diligently market and sell Licensed Products for that Autoimmune Indication in that country in the ROW Territory. For each country in the ROW Territory for which PDL has exercised its option to be the exclusive marketing and selling party of Daclizumab for a specified Autoimmune Indication, upon such exercise, (a) the provisions of Section 2B.4(b) shall apply and (b) PDL shall automatically be granted a nonexclusive license under all Roche Patents, Roche Know-How, PDL Patents and PDL Know-How to the extent required or useful for the purposes of carrying out such PDL marketing and selling activities. In addition, F. Roche or its Affiliates will supply commercial supplies of Daclizumab to PDL in accordance with Article II-C.

II-C. MANUFACTURING

2C.1 Clinical Supplies.

(a) Supply. Roche and its Affiliates have agreed and shall use commercially reasonable efforts to provide clinical supplies of Daclizumab to PDL for development for Autoimmune Indications in accordance with the 1999 PDL/Roche Agreement. Nothing herein shall be deemed to limit or extend the obligations of Roche and F. Roche and its Affiliates with respect to such efforts.

(b) Formulations. In the event PDL requests Daclizumab in a formulation that F. Roche is not otherwise manufacturing for the Transplant Indications, and F. Roche supplies such form or formulation (rather than only unformulated bulk Daclizumab), PDL shall pay to F. Roche for such supplies an amount equal to F. Roche's Cost of Goods Sold (which shall be zero (0) to the extent provided without charge under the 1999 PDL/Roche Agreement) plus [CONFIDENTIAL TREATMENT REQUESTED] of F. Roche's costs of performing such formulation work. In any event, PDL shall not be obligated to have F. Roche perform such form or formulation work.

2C.2 Commercial Manufacturing.

(a) Supply. Subject to Section 2C.2(b), F. Roche shall use commercially reasonable efforts to ensure supply of requirements for Daclizumab in one of the following forms if neither Roche nor F. Roche manufactures in the formulation desired by PDL for use or sale in the ROW Territory: (a) finished product form or formulated bulk form, if Roche or F. Roche then manufactures in the formulation desired by PDL, or (b) unformulated bulk form.

(b) PDL Right to Manufacture.

[CONFIDENTIAL TREATMENT REQUESTED]

(iii) Other Manufacturing Rights. Notwithstanding the foregoing, the parties acknowledge and agree that if PDL exercises its right or obtains the right to manufacture Daclizumab under Section 2.3(c) of the 1999 PDL/Roche Agreement, F. Roche hereby grants and PDL accepts a nonexclusive worldwide license to import, make and have made Daclizumab in the ROW Territory.

(c) Transfer Pricing.

(i) In the event that PDL has either (A) the exclusive right to make and have made Daclizumab for Autoimmune Indications, or (B) the right to perform formulation, fill and finish work for the final product version of Daclizumab for any indications, PDL shall use commercially reasonable efforts to supply worldwide requirements for Daclizumab for those indications. In such event, PDL shall transfer such Daclizumab to F. Roche at a price calculated as follows:
[CONFIDENTIAL TREATMENT REQUESTED].

(ii) If Roche or F. Roche continues to supply Daclizumab to PDL and PDL is booking sales in any country under this Amended and Restated Agreement, then the parties shall negotiate in good faith to enter into a separate supply agreement which shall provide for a price to PDL calculated as follows:

[CONFIDENTIAL TREATMENT REQUESTED]

For purposes of the foregoing calculation, references to F. Roche shall mean F. Roche and its Affiliates, as applicable. The supply agreement shall also include procedures for PDL submitting its requirements to Roche or F. Roche for all indications with respect to which PDL has the right to develop, market and sell under this Amended and Restated Agreement. Such procedures shall include PDL providing (a) annual non-binding forecasts of its requirements and (b) firm purchase commitments a mutually acceptable period, but in any event not less than six (6) months prior to the time the order must be delivered to PDL by Roche or F. Roche.

III. ROYALTIES ON TRANSPLANT SALES, ETC.

3.1 Royalties on Transplant Sales. Subject to Article III-A, F. Roche agrees to pay PDL royalties on Net Transplant Sales in the ROW Territory according to the schedule and terms set forth below:

(a) Years 1 through 3. Prior to and for the first three (3) years following Initial Commercialization of a particular Licensed Product, F. Roche shall pay PDL royalties on sales of that product at a rate determined by the sum of [CONFIDENTIAL TREATMENT REQUESTED] (such sum, the "Royalty Setting Sales"), with the applicable royalty based on such Royalty Setting Sales determined as follows:

Royalty Setting Sales ($ in millions)	Royalty Rate
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Over [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

For purposes of computing aggregate annual worldwide Royalty Setting Sales, the relevant portion of F. Roche's Net Sales in the ROW Territory will be combined with the relevant portion of the Net Sales of F. Roche's Affiliates and sublicensees for all countries outside of the ROW Territory. This same understanding is being incorporated into the 1999 PDL/Roche Agreement.

(b) Years 4 and Succeeding. For the fourth and each succeeding year following Initial Commercialization, F. Roche shall pay PDL royalties in accordance with the provisions of Section 3.1(a) for Net Transplant Sales in a particular country, provided either (i) the Licensed Product or its method of manufacture (wherever actually manufactured) is covered by a Valid Claim in the country of sale, or (ii) the Licensed Product is manufactured in a country where the method of manufacture is covered by a Valid Claim (together, (i) and (ii) are referred to as the "Patentability Criteria").

Subject to Section 3.2 below, if neither of the Patentability Criteria have been satisfied, then F. Roche shall pay PDL a royalty rate of

[CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales in the country of sale for the duration of this Amended and Restated Agreement or until such time as one of the Patentability Criteria is satisfied, at which time F. Roche shall resume paying PDL royalties at the rates specified in Section 3.1(a) above.

(c) [CONFIDENTIAL TREATMENT REQUESTED]

(d) Antibodies in the Field Not Provided or Developed by PDL. In consideration of the disclosure to F. Roche of PDL Know-How and cell lines as provided for herein, F. Roche agrees that products incorporating or using Antibodies in the Field which are not provided or developed by PDL shall nevertheless be presumed to utilize PDL Know-How, with such presumption being rebuttable by clear and convincing evidence with respect to sales of such products made in those countries in the European Community, and such presumption being conclusive as between the parties hereto with respect to sales of such products made anywhere else within the ROW Territory. Accordingly, F. Roche shall pay PDL royalties on sales of each such product in the ROW Territory (except for sales with respect to which the above rebuttable presumption has in fact been refuted by F. Roche) for a period of [CONFIDENTIAL TREATMENT REQUESTED] from Initial Commercialization of such product in accordance with the terms of this Section 3.1 or Article III-A, as appropriate, and such sales shall constitute "Net Transplant Sales" if sold for Transplant Indications or "Net Autoimmune Sales" if sold for Autoimmune Indications.

3.2 De Facto Exclusivity. For purposes of this Article III, the term "de facto exclusivity" means that F. Roche, together with its Affiliates and sublicensees, controls at least [CONFIDENTIAL TREATMENT REQUESTED] of the market for a particular Licensed Product in a country as measured by unit sales. If neither of the Patentability Criteria have been satisfied and F. Roche does not enjoy de facto exclusivity for a particular Licensed Product in a particular country at any time after [CONFIDENTIAL TREATMENT REQUESTED] following Initial Commercialization of such Licensed Product, then F. Roche shall pay PDL [CONFIDENTIAL TREATMENT REQUESTED] of the Net Transplant Sales of such Licensed Product in the country of sale until the tenth anniversary of Initial Commercialization, or until F. Roche shall acquire de facto exclusivity for that product or until such time as either of the Patentability Criteria is satisfied (at which time F. Roche shall resume paying PDL royalties at the rates specified in Sections 3.1(a) or (b) above, whichever is applicable). Valid Claims and de facto exclusivity are to be determined on a country-by-country basis.

3.3 Foreign Filing Expenses Credited Against Royalties. F. Roche shall have the right to credit [CONFIDENTIAL TREATMENT REQUESTED] of all Transplant Foreign Filing Expenses (as defined in Section 5.3 below) actually paid to PDL, less credits already taken under the 1989 F. Roche Agreement, against future royalties due to PDL pursuant to this Article III provided that such credits, when added to the offset provided for in Section 3.4 below, may not reduce the royalties to be paid to PDL to less [CONFIDENTIAL TREATMENT REQUESTED] of the amount which would otherwise be due pursuant to Section 3.1 hereof.

3.4 Offset for Third Party Licenses.

(a) If PDL and F. Roche agree in writing that either party must obtain a license from an independent third party in order for F. Roche to manufacture, use or sell a Licensed Product in the ROW Territory and if PDL and F. Roche agree upon the terms of such license ("Third Party License"), then the parties shall [CONFIDENTIAL TREATMENT REQUESTED]. Such cost includes license fees and any other fixed costs associated with the Third Party License as well as any royalties. The parties then shall, within thirty (30) days, reimburse each other in the manner necessary to effect a [CONFIDENTIAL TREATMENT REQUESTED] sharing of such license fees and other fixed costs.

(b) PDL's share of the royalties portion of the cost of any Third Party License, shall be (i) accrued against and deducted from any royalties due to PDL from F. Roche pursuant to Sections 3.1, 3.2 and 3A.4 if F. Roche pays the royalties due under the Third Party License to such third party, and (ii) accrued in favor of and added to any royalties due to PDL from F. Roche pursuant to Sections 3.1, 3.2 and 3A.4 if PDL pays the royalties due under the Third Party License to such third party; provided, however, that this addition or offset shall not cause PDL's royalties to be reduced under the schedule set forth in Section 3.1 to less [CONFIDENTIAL TREATMENT REQUESTED] of Net Transplant Sales in any year, or under Sections 3.1(b) and 3.2 to less [CONFIDENTIAL TREATMENT REQUESTED] if F. Roche has de facto exclusivity and [CONFIDENTIAL TREATMENT REQUESTED] if F. Roche does not have de facto exclusivity, and provided further, that F. Roche's total royalty obligations to PDL under Sections 3.1 and 3.2 when added to those royalties payable to third parties pursuant to Third Party Licenses [CONFIDENTIAL TREATMENT REQUESTED] of Net Transplant Sales in any year.

3.5 Sublicenses. Any Net Sales of an F. Roche sublicensee shall be treated as Net Sales of F. Roche for purposes of royalty payments hereunder. If F. Roche shall grant any sublicenses under this Amended and Restated Agreement, then F. Roche shall obtain the written commitment of such sublicensees to abide by all applicable terms and conditions of this Amended and Restated Agreement and F. Roche shall remain responsible to PDL for the performance of any and all terms by such sublicensee. All such sublicenses shall terminate on termination of this Amended and Restated Agreement.

3.6 Royalties upon Termination. If this Amended and Restated Agreement is terminated pursuant to Sections 7.2, 7.3 or 7.4 below, F. Roche shall continue to pay PDL any royalties earned pursuant to this Article III or Article III-A prior to the date of termination and any royalties earned thereafter as a result of sales under Section 7.5.

III-A. ROYALTIES AFTER AUTOIMMUNE APPROVAL

3A.1 Forecasts. To the extent permissible under applicable law, F. Roche shall provide forecast information regarding the estimated sales of Daclizumab for an Autoimmune Indication in the ROW Territory as set forth in this Section 3A.1; provided that if applicable laws prohibit the sharing of such forecast information, the parties shall discuss in good faith an alternative basis for calculating and verifying the Blended Rate (as defined below) applicable for the Forecast Periods (as defined below) in question.

(a) Initial Forecast Period. Within sixty (60) days after the first filing for Regulatory Approval of Daclizumab for an Autoimmune Indication in the ROW Territory by F. Roche or its Affiliates, F. Roche shall provide PDL [CONFIDENTIAL TREATMENT REQUESTED] (the "Initial Forecast Period") of the following:

(i) if F. Roche expects to elect to make the same election under Section 2B.2(a), (b) or (c) for all countries of the ROW Territory (including those countries not identified with the Filing Notice), then F. Roche's best good faith estimate of its expected sales of Daclizumab for the ROW Territory for that Autoimmune Indication for the Initial Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche), or

(ii) if F. Roche expects not to elect to make the same election under Section 2B.2(a), (b) or (c) for all countries of the ROW Territory (including those countries not identified with the Filing Notice), then for each country in the ROW Territory, F. Roche's best good faith estimate of when it would make an election under Section 2B.2 for that Autoimmune Indication, which election it expects to make, and its expected sales of Daclizumab in that country for that Autoimmune Indication for the Initial Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche); and

(iii) F. Roche's best good faith estimate of its expected total Net Transplant Sales for the ROW Territory and worldwide for all Licensed Products for the Initial Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche).

(b) Subsequent Forecast Periods. The Initial Forecast Period shall end upon the earliest of
(i) the end of the term specified in Section 3A.1(a),

(ii) the end of the calendar quarter during which Regulatory Approval occurs for a second Autoimmune Indication for which F. Roche has elected to market and sell exclusively, co-promote or co-market Daclizumab under Section 2B.2(a), (b) or (c), or

(iii) the end of the calendar quarter during which Regulatory Approval occurs in a Major Country for the initial Autoimmune Indication for which F. Roche has elected to market and sell exclusively, co-promote or co-market Daclizumab under Section 2B.2(a), (b) or (c) but had previously not expected to make such election under Section 3A.1(a)(ii).

By way of clarification and without limitation, if F. Roche specifies that it expects to elect in all countries of the ROW Territory pursuant to Section 3A.1(a)(i), then Section 3A.1(b)(iii) above shall not apply. By way of illustration and without limitation, the following examples illustrate two cases in which a new Blended Rate would apply due to the application of Section 3(b)(iii):

(A) Example 1. If F. Roche specifies pursuant to a Filing Notice that it expects to elect in Switzerland, France and Germany pursuant to Section 3A.1(a)(ii) (i.e., for less than all of the Major Countries), and F. Roche receives Regulatory Approval in the United Kingdom (i.e., a

Major Country in which F. Roche did not expect to elect to market exclusively, co-market or co-promote), then Section 3A.1(b)(iii) above would apply and the Initial Forecast Period would end as of the date of such Regulatory Approval in the United Kingdom.

(B) Example 2. If F. Roche receives a Filing Notice only for Switzerland and elects to file in Switzerland but specifies that it expects not to make the same election in any or less than all of the Major Countries pursuant to Section 3A.1(a)(ii), and F. Roche thereafter receives Regulatory Approval in a Major Country in which F. Roche did not expect to elect to market exclusively, co-market or co-promote, then Section 3A.1(b)(iii) above would apply and the Initial Forecast Period would end as of the date of such Regulatory Approval in the first Major Country or in the first Major Country in which F. Roche specified that it would not make the same election as it made in Switzerland, as the case may be.

Each subsequent Forecast Period (as defined below) shall begin upon the end of the immediately preceding Forecast Period and shall end upon the earliest of

(I) the end of [CONFIDENTIAL TREATMENT REQUESTED] quarters after the end of the prior Forecast Period,

(II) the end of the calendar quarter during which Regulatory Approval occurs for the next Autoimmune Indication for which F. Roche has elected to market and sell exclusively, co-promote or co-market Daclizumab under Section 2B.2(a), (b) or (c) or

(III) the end of the calendar quarter during which F. Roche elects to file for Regulatory Approval in a Major Country for an Autoimmune Indication with respect to which F. Roche has previously elected to market and sell exclusively, co-promote or co-market Daclizumab under Section 2B.2(a), (b) or (c) in less than all Major Countries.

Each such period and the Initial Forecast Period are referred to as a "Forecast Period".

Within sixty (60) days after the filing by F. Roche or its Affiliates for Regulatory Approval of Daclizumab for an additional Autoimmune Indication in the ROW Territory or for an additional Major Country by F. Roche or its Affiliates (if such a filing is the triggering event of the end of a Forecast Period) or within sixty (60) days prior to the end of the Forecast Period (if it is to end [CONFIDENTIAL TREATMENT REQUESTED] after it began), F. Roche shall provide PDL with its best good faith estimates for the next Forecast Period of the following:

(i) for each Autoimmune Indication for which F. Roche has made an election under Section 2B.2 (a), (b) or (c), if F. Roche expects to elect to make the same election for all countries of the ROW Territory for that Autoimmune Indication, then F. Roche's best good faith estimate of its expected sales of Daclizumab for the ROW Territory for that Autoimmune Indication for the next Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche), or

(ii) for each Autoimmune Indication for which F. Roche has made an election under Section 2B.2 (a), (b) or (c), if F. Roche expects not to elect to make the same election under Section 2B.2 (a), (b) or (c) for all countries of the ROW Territory, then for each country in the ROW Territory, F. Roche's best good faith estimate of when it would make an election under Section 2B.2 for that Autoimmune Indication (if not already made), which election it expects to make, and its expected sales of Daclizumab in that country for that Autoimmune Indication for the next Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche), and

(iii) F. Roche's best good faith estimate of its expected total Net Transplant Sales for the Territory and worldwide for all Licensed Products for the next Forecast Period (it being understood that such stated expectation shall not be binding upon F. Roche).

3A.2 Blended Rate. Together with each forecast by F. Roche delivered under Section 3A.1, F. Roche shall deliver a proposed royalty rate, as well as the basis for its calculation, to be applied to all Net Sales of Licensed Products in the ROW Territory during the corresponding Forecast Period by F. Roche, its Affiliates and sublicensees. Such rate shall take into account the forecasted Net Transplant Sales and the applicable royalty rates under Section 3.1, forecasted Net Autoimmune Sales, Reimbursable Development Costs and applicable royalty rates specified in Section 3A.3. PDL shall notify F. Roche within thirty (30) days after receipt of F. Roche's proposed royalty rate and the basis for its calculation of whether it accepts such rate or not. If PDL

disagrees with the proposed rate, the parties each shall submit their proposed rate to an arbiter in accordance with the procedures described in Section 3A.6(c). The royalty rate as accepted by PDL or determined by such arbiter shall be the "Blended Rate" and shall be applied to Net Sales of Licensed Products beginning with the first calendar quarter of the corresponding Forecast Period. For purposes of the calculations hereunder, once F. Roche's obligations to pay royalties to PDL have expired under Section 3.1(c), that component of the calculation of the royalties on Net Transplant Sales for purposes of calculating the Blended Rate shall be deemed to equal zero (0).

3A.3 Royalty Rates. For purposes of calculating the Blended Rate and for performing the reconciliation under Section 3A.7, the following terms and royalty rates shall apply:

(a) Transplant Sales. PDL shall be entitled to royalties on all Net Transplant Sales at the rate calculated in accordance with Section 3.1.

(b) Autoimmune Sales, Development Costs. PDL shall be entitled to reimbursement of and/or credit for the Reimbursable Development Costs by means of a royalty on Net Autoimmune Sales at a higher "initial royalty rate" until all Reimbursable Development Costs have been reimbursed to PDL and thereafter at a "maintenance royalty rate" as described below. In the event that the royalties for any Forecast Period are insufficient to fully reimburse PDL for any and all Reimbursable Development Costs, PDL shall be entitled to a credit in the subsequent Forecast Period for all such unreimbursed amounts. The applicable royalty rates on Net Autoimmune Sales shall depend for each country in the ROW Territory and for each Autoimmune Indication on whether F. Roche markets and sells exclusively or PDL co-promotes or co-markets with F. Roche and shall be determined as follows:

(i) Roche Markets Exclusively or Co-Markets. For each country in the ROW Territory and each Autoimmune Indication, if F. Roche markets and sells exclusively or co-markets Daclizumab with PDL, Net Autoimmune Sales by F. Roche, its Affiliates and sublicensees for that Autoimmune Indication in that country in the ROW Territory shall bear royalties to PDL at an initial royalty rate of fifty percent (50%) and a maintenance royalty rate of thirty-two percent (32%).

(ii) Roche and PDL Co-Promote. For each country in the ROW Territory and each Autoimmune Indication, if F. Roche and PDL co-promote Daclizumab, Net Autoimmune Sales by F. Roche, its Affiliates and sublicensees for that Autoimmune Indication in that country in the ROW Territory shall bear royalties to PDL at an initial royalty rate of fifty percent (50%) and a maintenance royalty rate of forty percent (40%). Such royalty rates assume a sharing of co-promotion expenses of [CONFIDENTIAL TREATMENT REQUESTED] and shall be subject to adjustment in the event of a different allocation between the parties as may be agreed upon in accordance with Section 2B.7(b).

3A.4 Royalty Payments. Beginning with the calendar quarter in which the first Regulatory Approval occurs for Daclizumab for an Autoimmune Indication in the ROW Territory for which F. Roche or its Affiliates has elected to exclusively promote, co-promote or co-market Daclizumab, F. Roche shall pay royalties to PDL on all Net Sales of Licensed Products in the ROW Territory at the Blended Rate, rather than at the rates specified in Article III, except as adjusted pursuant to Section 3.4. F. Roche shall provide quarterly reports in accordance with the procedures outlined in Article IV.

3A.5 Reimbursable Development Costs. With respect to each Autoimmune Indication, within thirty (30) days after the date of the first filing by F. Roche of an application for Regulatory Approval for that Autoimmune Indication in a Major Country, PDL shall provide F. Roche with the amount of PDL Development Costs through the filing date for Regulatory Approval for that Autoimmune Indication and for all other Autoimmune Indications to the extent not previously reimbursed by F. Roche. A portion of such costs ("Reimbursable Development Costs") as calculated below shall be taken into account in setting the Blended Rate pursuant to Section 3A.2, and shall be reimbursed to PDL through the payments to be made to PDL pursuant to Section 3A.4. The Reimbursable Development Costs shall be calculated by the formula [CONFIDENTIAL TREATMENT REQUESTED]

[CONFIDENTIAL TREATMENT REQUESTED]

[CONFIDENTIAL TREATMENT REQUESTED]

[CONFIDENTIAL TREATMENT REQUESTED]

3A.6 Records. PDL agrees to keep and cause its Affiliates and third parties acting on its behalf to keep full, clear and accurate records of the Reimbursable Development Costs until reimbursed to PDL pursuant to Article III-A, but in any event for a period of at least three (3) years or such

longer period as may coincide with PDL's internal record policy. PDL further agrees to permit such books and records to be examined by an independent accounting firm selected by F. Roche from time to time to the extent necessary to verify the PDL Development Costs. Unless F. Roche obtains the prior written consent of PDL, such accounting firms must be selected from among the five (5) largest accounting firms in the Major Countries. Such examination is to be made at the expense of F. Roche, except in the event that the results of the audit reveal a discrepancy in favor of PDL of [CONFIDENTIAL TREATMENT REQUESTED] or more over the period being audited, in which case reasonable audit fees for such examination shall be paid by PDL.

3A.7 Periodic Adjustment and Reconciliation.

(a) Within forty-five (45) days following the end of each Forecast Period (including the Initial Forecast Period), F. Roche shall provide PDL with a written summary ("Proposed Allocation") covering for the ROW Territory and for the entire immediately preceding Forecast Period the following:

(i) Total Sales and Net Sales,

(ii) the total Reimbursable Development Costs that has been reimbursed to PDL through the Blended Rate royalty payments,

(iii) Net Transplant Sales by year and the applicable royalties that would have applied as calculated under Article III,

(iv) Net Autoimmune Sales by country in the ROW Territory and by Autoimmune Indication, and the applicable royalties that would have applied in accordance with Section 3A.3,

(v) royalties paid by F. Roche and PDL under Third Party Licenses pursuant to Section 3.4,

(vi) the total royalties (i.e., the sum of clauses (iii) and (iv) above) that otherwise would have been due to PDL for the Forecast Period for Net Sales of Licensed Products in the ROW Territory, and the difference of such amount less the actual royalties paid to PDL for the Forecast Period through use of the Blended Rate pursuant to Section 3A.4 (the "Reconciliation Amount"), and

(vii) any additional information F. Roche has available and may be reasonably required or useful to determine the proposed allocation.

PDL shall have a period of sixty (60) days after receipt to review F. Roche's Proposed Allocation. During the review period, qualified representatives of PDL and F. Roche shall consult with one another to address any questions regarding the preparation and detail of the summaries provided pursuant to this Section 3A.7(a).

(b) PDL Agreement. If PDL does not object to F. Roche's Proposed Allocation within such sixty (60)-day period, then F. Roche shall, within ten (10) business days following the earlier of (i) confirmation from PDL that it does not object to the F. Roche Proposed Allocation or (ii) the expiration of the sixty (60)-day period, prepare a final reconciliation of Total Sales for the Forecast Period in question, including the information listed in Section 3A.6(a). If the Reconciliation Amount is positive, such final reconciliation shall be accompanied by payment of the Reconciliation Amount to PDL. If the Reconciliation Amount is negative, then F. Roche shall be entitled to a credit equal to the Reconciliation Amount against future royalty payments to PDL, provided that such credits, when added to any other offsets under this Amended and Restated Agreement, may not reduce the royalties to be paid to PDL in any period to less than [CONFIDENTIAL TREATMENT REQUESTED] of the royalties which would otherwise be due to PDL for the Forecast Period. All Reimbursable Development Costs not reimbursed to PDL for the applicable Forecast Period shall be carried over to the subsequent Forecast Period and shall be taken into account in calculating the Blended Rate for the subsequent Forecast Period.

(c) PDL Disagreement. If PDL objects to F. Roche's Proposed Allocation, then PDL shall reply in writing specifying its objection and PDL's estimate of the appropriate allocation. Within ten (10) business days of the written notice from PDL, each of the parties shall designate a representative at the Vice President level or higher to discuss the disputed allocation. The designated representatives shall arrange promptly to meet and discuss in good faith a resolution of the dispute. If the designated representatives are unable to resolve the matter in question within thirty (30) days of the designation of the representatives, then PDL shall have thirty (30) days thereafter to notify F. Roche that it elects to have the matter submitted to determination and/or audit by an independent third party (i.e., such third

party has not had a financial or other relationship with either party during the preceding five (5) years) who is knowledgeable about marketing and sales of pharmaceutical products in the transplant and/or Autoimmune Indications and may also be an auditing organization ("Allocation Arbiter") and selected by the parties' designated representatives. If the designated representatives are unable to agree on an Allocation Arbiter within thirty (30) days of the notification from PDL hereunder, the representatives shall each submit a list of up to five (5) individuals whom the representative believes meets the criteria set forth above to the Administrator of the American Arbitration Association ("AAA Administrator") in accordance with the AAA International Rules of Arbitration and the AAA shall select an individual from the lists presented. The AAA Administrator shall select an individual from one of the lists to serve as the Allocation Arbiter and such selection shall be binding upon the parties.

If PDL fails to so notify F. Roche, then PDL shall be deemed to have agreed to F. Roche's Proposed Allocation and the parties shall proceed in accordance with Section 3A.6(b). If PDL elects to submit the matter to the Allocation Arbiter, each of the parties shall submit to and/or provide access to the Allocation Arbiter all books and records of a party (including any relevant surveys that may be conducted by or for a party for submission hereunder) that the Allocation Arbiter deems reasonably required in order to make a determination regarding the allocation hereunder. Such examination and/or audit is to be made confidentially and at the expense of PDL, except in the event that the Allocation Arbiter's determination reveals that F. Roche's Proposed Allocation understated Net Sales or Net Autoimmune Sales by [CONFIDENTIAL TREATMENT REQUESTED] or more, then the expense of the examination and/or audit shall be paid by F. Roche. The determination of the Allocation Arbiter shall be final and binding on both parties for the Forecast Period in question.

Within ten (10) business days following the resolution of any disagreement regarding F. Roche's Proposed Allocation as provided under this Section 3A.6(c), F. Roche shall prepare a final reconciliation of Total Sales for the Forecast Period in question, including the information listed in Section 3A.6(a). If the Reconciliation Amount is positive, such final reconciliation shall be accompanied by payment of the Reconciliation Amount to PDL. If the Reconciliation Amount is negative, then F. Roche shall be entitled to a credit equal to the Reconciliation Amount against future royalty payments to PDL, provided that such credits, when added to any other offsets under this Amended and Restated Agreement, may not reduce the royalties to be paid to PDL in any period to less than [CONFIDENTIAL TREATMENT REQUESTED] of the total royalties which would otherwise be due to PDL. All Reimbursable Development Costs not reimbursed to PDL for the applicable Forecast Period shall be carried over to the subsequent Forecast Period and shall be taken into account in calculating the Blended Rate for the subsequent Forecast Period.

3A.7 Royalties to F. Roche.

(a) Royalty Rate. In the event that PDL obtains rights under this Amended and Restated Agreement to co-market with F. Roche or to exclusively market and sell Daclizumab for specified Autoimmune Indications in any countries in the ROW Territory, PDL shall pay F. Roche royalties on PDL Net Sales of Daclizumab in those countries at a rate of eight percent (8%).

(b) Other Royalty Terms. In the event that PDL becomes obligated to pay royalties to F. Roche as provided in Section 3A.7(a), then the provisions of Sections 3.4 (Offset for Third Party Licenses), 3.5 (Sublicenses), and 3.6 (Royalties upon Termination), and Article IV (Accounting and Payments) shall be applied to such royalty payment obligation, with such changes as are necessary to reflect that PDL would be the paying party and that PDL shall be entitled to make calculations and payments in U.S. Dollars. If such event occurs, the parties shall attempt for convenience to restate such provisions and attach them to this Amended and Restated Agreement.

3A.8 [CONFIDENTIAL TREATMENT REQUESTED]

IV. ACCOUNTING AND PAYMENTS

4.1 Royalty Payments and Reports. Until such time as the first exercise of its rights pursuant to Section 2B.2, F. Roche shall make royalty payments and written reports to PDL within forty-five (45) days after June 30 and December 31 of each year covering all sales of Licensed Products by F. Roche, its Affiliates or sublicensees for which invoices were sent during such semi-annual period. Effective as of the first quarter following a semi-annual period in which F. Roche first exercises its rights pursuant to Section 2B.2, F. Roche agrees to make royalty payments and written reports to PDL within forty-five (45) days after the end of each calendar quarter covering all sales of Licensed Products by F. Roche, its Affiliates or sublicensees for which invoices were sent during such calendar quarter (provided that the first quarter for which this occurs, such report shall cover all sales since the

last semi-annual report). Until such time as Section 3A.4 applies, each report shall state:

(a) for Licensed Products disposed of by sale, the quantity, description, country(ies) of manufacture and sale, Net Sales, GIP and the deductions pursuant to Section 1.7 by which such GIP is reduced to Net Sales,

(b) for Licensed Products disposed of other than by sale, the quantity, description, country(ies) of manufacture and disposition, and nature of the disposition, and

(c) the calculation of royalties due to PDL for such period pursuant to Section 1.7 and Article III hereof.

After such time as Section 3A.4 applies, each report shall state:
(a) for Licensed Products disposed of by sale, the quantity and description of Licensed Products, Total Sales, Net Sales, and details of the calculation of such numbers by country in the ROW Territory,

(b) if known or if estimates exist within F. Roche, Net Transplant Sales and Net Autoimmune Sales

(c) for Licensed Products disposed of other than by sale, the quantity, description, and nature of the disposition, and

(d) the calculation of Reimbursable Development Costs and royalties due to PDL for such quarter pursuant to Article III-A.

Subject to Section 11.9, the information contained in each such report shall be considered confidential and PDL agrees not to disclose such information to any third party except as may be required by law. Concurrent with the making of each quarterly report, F. Roche shall include payment due PDL of royalties for the calendar quarter covered by such report.

It is understood that pursuant to this provision, only one royalty shall be payable on a given unit of Licensed Product disposed of under this Amended and Restated Agreement. In the case of transfers or sales of any Licensed Product between Roche, F. Roche or an Affiliate or sublicensee of Roche or F. Roche, only one royalty payment shall be due, and such royalty shall be payable with respect to the sale of such Licensed Product to an independent third party not an Affiliate of the seller.

4.2 Termination Report. Roche also agrees to make a written report to PDL within ninety (90) days after the date on which Roche, F. Roche or their Affiliates or sublicensees last sell a Licensed Product, stating in such report the same information called for in each quarterly report by Section 4.1 for all Licensed Products and Combination Products made, sold or otherwise disposed of and upon which were not previously reported to PDL.

4.3 Accounting. F. Roche agrees to keep full, clear and accurate records for a period of at least [CONFIDENTIAL TREATMENT REQUESTED] years, or such longer period as may coincide with F. Roche's internal records retention policy, setting forth the manufacturing, sales and other disposition of Licensed Products and Combination Products sold or otherwise disposed of under the license herein granted in sufficient detail to enable royalties payable to PDL hereunder to be determined. F. Roche further agrees to permit its books and records to be examined by an independent accounting firm selected by PDL from time to time to the extent necessary to verify reports provided for in Sections 4.1 and 4.2 above. Unless PDL obtains the prior written consent of F. Roche, such accounting firms must be selected from among the five largest U.S. accounting firms. Such examination is to be made at the expense of PDL, except in the event that the results of the audit reveal a discrepancy in favor of F. Roche of [CONFIDENTIAL TREATMENT REQUESTED] or more over the period being audited, in which case reasonable audit fees for such examination shall be paid by F. Roche.

4.4 Methods of Payments.

(a) All payments due to PDL under this Amended and Restated Agreement shall be paid in U.S. dollars by wire transfer to a bank in the U.S. designated in writing by PDL. Whenever for the purpose of calculating royalties conversion from any foreign currency shall be required, such conversion shall be made as follows :

(i) when calculating the Total Sales and Net Sales, the amount of such sales in foreign currencies shall be converted into Swiss Francs at the average rate of exchange at the time for the applicable calendar quarter for

the countries concerned in accordance with F. Roche's then current standard practices (which practices shall be reasonably documented in the report with respect to which such conversion applies),

(ii) when converting the royalties on Net Sales calculated in Swiss Francs, the conversion shall be at the average rate of the Swiss Franc to the U. S. dollars at the time for the applicable calendar quarter in accordance with F. Roche's then current standard practices (which practices shall be reasonably documented in the report with respect to which such conversion applies), and

(iii) in the case of sales by sublicensees, using the exchange rates provided for in the written agreements between the sublicensee and F. Roche (which rates shall be reasonably documented in the report with respect to which such conversion applies).

(b) All payments due from PDL to F. Roche under this Amended and Restated Agreement shall be paid in U.S. dollars by wire transfer to a bank designated in writing by F. Roche. If any currency conversion shall be required in connection with payments by PDL to F. Roche, such conversion shall be made (i) by using the average of the daily exchange rates for such currency quoted by Citibank, N.A. for each of the last five (5) business days of each calendar quarter, or any other source otherwise agreed upon in writing by the parties, and (ii) in the case of sales by sublicensees, using the exchange rates provided for in the written agreements between the sublicensee and PDL (which rates shall be reasonably documented in the report with respect to which such conversion applies).

4.5 Withholding Taxes. If law or regulation requires the withholding of any taxes due by F. Roche's Affiliates or sublicensees on Net Sales by such Affiliates or sublicensees in a given country in the ROW Territory, the parties shall confer regarding possible alternative arrangements to lawfully avoid such withholding. If, between a country in the ROW Territory and any other place as designated, a treaty for the avoidance of double taxation is in force and such treaty reduces or eliminates the withholding of any taxes otherwise due on royalties payable from such country, PDL may (but shall not be obligated to) request a direct remittance of royalties to PDL at such place that PDL may designate hereunder. If the parties are unable to formulate or agree upon action to lawfully avoid withholding, then the parties agree [CONFIDENTIAL TREATMENT REQUESTED] of such taxes shall be applied to reduce the Net Sales amount for sales of Licensed Products in such country. Notwithstanding the foregoing, F. Roche shall be solely responsible for any withholding of taxes due on royalties payable from Japan and the countries of the European Community.

All amounts owed under this Amended and Restated Agreement shall be paid net of all applicable taxes, fees, and other charges, excluding only taxes on a party's income. Any taxes on payments due hereunder which PDL or any of its Affiliates or sublicensees shall be required by law to withhold or pay on remittance of the royalty payments shall be deducted from the royalty payable to F. Roche. In such event, PDL shall furnish to the recipient copies of all official receipts for such taxes and provide reasonable assistance in obtaining a refund or credit for such taxes withheld.

4.6 Currency Transfer Restrictions. If in any country in the ROW Territory the payment or transfer of royalties on Net Sales in such country is prohibited by law or regulation, the parties hereto shall confer regarding the terms and conditions on which Licensed Products shall be sold in such countries, including the possibility of payment of royalties to PDL in local currency to a bank account in such country or the re-negotiation of royalty rates and terms for such sales. However, PDL shall be under no obligation to accept terms and conditions other than those set forth herein, and if the parties do not reach an alternative agreement then F. Roche shall either (a) remain responsible for royalties payable to PDL with respect to Net Sales in such countries, or (b) cease sales in such countries, which shall not be deemed a breach by F. Roche of its due diligence obligations under Section 5.1 below.

V. CERTAIN COVENANTS OF F. ROCHE

5.1 Diligence. From and after the Signing Date, F. Roche shall use reasonable diligence in proceeding with registering, marketing and selling Licensed Products within the ROW Territory. Reasonable diligence as used in this Amended and Restated Agreement shall mean the same standard of effort used by F. Roche in registering, marketing and selling its own protein-based products which must receive Regulatory Approval. The parties acknowledge that F. Roche does not register, market and sell its own protein-based products in every country within the ROW Territory, and it is understood that the exercise by F. Roche of reasonable diligence is to be determined by judging its efforts in the ROW Territory taken as a whole. Notwithstanding the foregoing sentence, if F. Roche elects to proceed with a registration in any country in

the ROW Territory pursuant to Section 2A.7, then F. Roche shall proceed with reasonable diligence in filing for Regulatory Approval for the specified Autoimmune Indication in that country in the ROW Territory. Further, if F. Roche elects to market Daclizumab for an Autoimmune Indication, either exclusively or as a co-promotion or co-marketing arrangement with PDL, then F. Roche shall not position Daclizumab vis a vis its other products to the detriment of sales of Daclizumab. If F. Roche fails to exercise such diligence, PDL may terminate this Amended and Restated Agreement and F. Roche's rights hereunder pursuant to Section 7.4 below.

5.2 Initial ROW Territory Review.

(a) Initial Review. Promptly following the Signing Date, F. Roche will review its plans for obtaining marketing approvals and launching Daclizumab for Transplant Indications in the countries of the ROW Territory. For any countries in which F. Roche does not have definite plans, supported by ongoing activities to carry out those plans, both to obtain Regulatory Approval and to launch Daclizumab for Transplant Indications, F. Roche will notify PDL within sixty (60) days after the Signing Date of the identity of such countries and, with respect to each such country, whether F. Roche elects (i) to return all rights to Daclizumab to PDL for all indications, or (ii) to seek a sublicensee of F. Roche's rights to Daclizumab. For each country for which F. Roche elects to seek a sublicensee, if F. Roche has not entered into a sublicense agreement for Daclizumab for that country within[CONFIDENTIAL TREATMENT REQUESTED] after the Signing Date, all rights to Daclizumab for all indications in that country in the ROW Territory shall then immediately and automatically revert to PDL.

(b) Ongoing Review. For any countries in the ROW Territory for which F. Roche determines in its review pursuant to Section 5.2(a) that it has specific plans, supported by ongoing activities to carry out those plans, to obtain Regulatory Approval and to launch Daclizumab for Transplant Indications, if F. Roche subsequently determines not to carry out such plans or ceases to actively carry out the activities necessary to achieve such plans, then F. Roche shall promptly notify PDL, with respect to such country(ies) of whether it elects (i) to return all rights to Daclizumab to PDL for all indications, or (ii) to seek a sublicensee of F. Roche's rights to Daclizumab. For each country in the ROW Territory for which F. Roche elects to seek a sublicensee, if F. Roche has not entered into a sublicense agreement for Daclizumab for that country within six (6) months after such notice to PDL, all rights to Daclizumab for all indications in those countries in the ROW Territory shall then immediately and automatically revert to PDL.

(c) Reversion to PDL. For each country in the ROW Territory for which all rights to Daclizumab have been returned or reverted to PDL pursuant to this Section 5.2, PDL shall thereafter have the exclusive right to use, market and sell Daclizumab for all indications in that country in the ROW Territory, including the right to sublicense such rights to a sublicensee of PDL's choice without any further compensation to F. Roche, subject to F. Roche's consent, which shall not be unreasonably withheld or delayed. Manufacturing and supply of Daclizumab to PDL and regulatory matters shall be governed by Article II-C and Section 2A.6 of this Amended and Restated Agreement in the same manner as intended for countries in the ROW Territory in which PDL would obtain the exclusive right to market and sell Daclizumab for Autoimmune Indications.

5.3 Reimbursement for Costs of Patent Applications for Transplant Indications. For purposes of Sections 5.3 and 5.4, references to ROW Territory shall also include Canada, including its territories and possessions.

(a) Right to Reimbursement. In any country in the ROW Territory F. Roche agrees to reimburse PDL for all ex parte out-of-pocket expenses incurred by PDL after January 31, 1989 in connection with the prosecution and maintenance in the ROW Territory of patent applications and patents included within the PDL Patents or Joint Roche-PDL Patents for which PDL has made or makes filings with respect to Transplant Indications pursuant to Article IX of the 1999 PDL/Roche Agreement ("Transplant Foreign Filing Expenses"). F. Roche shall make such payments to PDL no less frequently than semi-annually, within thirty (30) days after submission by PDL of a reasonably itemized statement of such expenses incurred by PDL during the relevant six-month period. Notwithstanding the foregoing, F. Roche shall not be obligated to reimburse PDL for such Transplant Foreign Filing Expenses exceeding an aggregate of [CONFIDENTIAL TREATMENT REQUESTED] in any calendar year.

(b) Consultation. Prior to the filing of a patent application for Transplant Indications in the ROW Territory, PDL shall inform F. Roche concerning such proposed filing and shall consult with F. Roche concerning the proposed filing procedures, including specifically the determination of the scope of any such patent and the countries in which such application is to be filed. PDL shall regularly advise F. Roche of any substantial action or development in the prosecution of its patent applications and patents related to Transplant Indications in the ROW Territory, in particular of the question

of scope of, the issuance of, the rejection of, or an opposition to any respective patent application or patent. In any event, all patent applications filed prior to the Signing Date pursuant to Section 5.02 of the 1989 F. Roche Agreement shall be considered filings with respect to Transplant Indications.

(c) Credit. F. Roche shall be entitled to a credit for Transplant Foreign Filing Expenses against royalties payable hereunder as provided in Section 3.3 hereof.

5.4 Reimbursement for Costs of Patent Applications for Autoimmune Indications.

(a) Accrual. PDL shall be responsible for all ex parte out-of-pocket expenses incurred by PDL after the Signing Date in connection with the prosecution and maintenance in the ROW Territory of patent applications and patents included within the PDL Patents or Joint Roche-PDL Patents for which PDL makes filings with respect to Autoimmune Indications pursuant to Article IX of the 1999 PDL/Roche Agreement ("Autoimmune Foreign Filing Expenses"), which Autoimmune Foreign Filing Expenses shall be calculated as the sum of the following amounts:

(i) if such Autoimmune Foreign Filing Expenses are applicable to PDL Patents or Joint Roche-PDL Patents with claims that cover an Autoimmune Indication with respect to which F. Roche elects either 2B.2(a), (b) or (c), then PDL shall be entitled to reimbursement of [CONFIDENTIAL TREATMENT REQUESTED] of all ex parte out-of-pocket expenses incurred by PDL with respect to those patents and patent applications (to the extent not previously reimbursed); plus

(ii) if such Autoimmune Foreign Filing Expenses are applicable to PDL Patents or Joint Roche-PDL Patents with claims that cover an Autoimmune Indication with respect to which F. Roche has not yet elected either 2B.2(a), (b) or (c), then PDL shall be entitled to reimbursement of [CONFIDENTIAL TREATMENT REQUESTED] of all ex parte out-of-pocket expenses incurred by PDL with respect to those patents and patent applications (to the extent not previously reimbursed); plus

(iii) if such Autoimmune Foreign Filing Expenses are applicable to PDL Patents or Joint Roche-PDL Patents with claims that cover an Autoimmune Indication with respect to which F. Roche has notified PDL in writing that it will not elect either 2B.2(a), (b) or (c), then PDL shall be entitled to no reimbursement of ex parte out-of-pocket expenses incurred by PDL with respect to those patents and patent applications.

(b) Reimbursement Following Election. Following reimbursement to PDL pursuant to Section 3A.5 for an Autoimmune Indication with respect to which F. Roche elects either 2B.2(a), (b) or (c), PDL shall be reimbursed on an ongoing basis one hundred percent (100%) of all ex parte out-of-pocket expenses incurred by PDL with respect to prosecution and maintenance of the PDL Patents or Joint Roche-PDL Patents containing claims that cover that Autoimmune Indication. PDL shall invoice F. Roche for such amounts on a quarterly basis and payment from F. Roche shall be made to PDL within thirty (30) days of receipt of invoice from PDL.

(c) Limit on Reimbursement to PDL. In any event, F. Roche shall not be obligated to reimburse PDL pursuant to Sections 5.4 (a) or (b) for any Autoimmune Foreign Filing Expenses exceeding an aggregate of [CONFIDENTIAL TREATMENT REQUESTED] in any calendar year.

(d) PDL Control. PDL shall have full control over the strategy and decisions with respect to the filing of any patent applications and patents related to Autoimmune Indications in the ROW Territory. F. Roche agrees to cooperate with and reasonably assist PDL in the preparation of any patent applications and the maintenance of any patents. If F. Roche elects any of its rights pursuant to Section 2B.2(a), (b) or (c), PDL shall regularly advise F. Roche of any substantial action or development in the prosecution of its patent applications and patents related to Transplant Indications in the relevant countries in the ROW Territory, in particular advising F. Roche of the scope of, the issuance of, the rejection of, or an opposition to any respective patent application or patent related to Autoimmune Indications with respect to which F. Roche has exercised its rights.

VI. OWNERSHIP OF TECHNOLOGY

6.1 PDL Technology. Ownership of the PDL Know-How and PDL Patents shall remain vested at all times in PDL. Notwithstanding the provisions of Section 2.1, PDL expressly reserves under this Amended and Restated Agreement (i) all rights to use the PDL Know-How, PDL's rights under any Joint Roche-PDL Patents and PDL Patents to make, have made, use and sell anywhere in the world all products not within the Field, and (ii) the right to use the PDL Know-How,

PDL's rights under any Joint Roche-PDL Patents and PDL Patents for PDL's internal research purposes in the Field, and as specified in Sections 2.3 and 2.4.

6.2 Joint Inventions and Joint Roche-PDL Patents. Ownership of Joint Inventions and Joint Roche-PDL Patents shall be vested jointly in PDL and F. Roche. Except as expressly provided in this Amended and Restated Agreement, F. Roche shall have the exclusive right within the Territory during the term of this Amended and Restated Agreement to make, have made, use or sell any Joint Invention in the Field under any Joint Roche-PDL Patent. In any event, both parties shall have the nonexclusive right within the Territory during the term of this Amended and Restated Agreement to make, have made, use or sell any Joint Invention outside the Field under any Joint Roche-PDL Patent, and neither party shall be obligated to account to the other. Upon the expiration or termination of this Amended and Restated Agreement, both parties shall have the nonexclusive right to make, have made, use or sell any Joint Invention under any Joint Roche-PDL Patent without restriction and without any obligation to account to the other party. Notwithstanding the foregoing or the provisions of Section 2.1, PDL expressly reserves the right to use any Joint Invention under any Joint Roche-PDL Patent for PDL's internal research purposes in the Field, and as specified in Sections 2.3 and 2.4.

6.3 F. Roche Inventions. PDL hereby acknowledges that this Amended and Restated Agreement does not grant PDL any ownership rights in the F. Roche Inventions. F. Roche hereby confirms the rights of PDL to certain contingent license grants to Roche Patents, Roche's rights under Joint Roche-PDL Patents and Roche Know-How as provided in this Amended and Restated Agreement.

VI-A. ENFORCEMENT OF PATENTS

6A.1 Sole Patents.

(a) In the event of any action against a third party for infringement of any claim in any issued patent in the ROW Territory within the Sole PDL Patents or Sole Daclizumab Roche Patents, as the case may be, or the institution by a third party of any proceedings for the revocation of any such claim, each party will notify the other promptly and, following such notification, the parties shall confer. PDL shall have the right, but shall not be obligated, to prosecute such actions or to defend such proceedings involving the Sole PDL Patents at its own expense, in its own name and entirely under its own direction and control. F. Roche shall have the right, but shall not be obligated, to prosecute such actions or to defend such proceedings involving the Sole Daclizumab Roche Patents, at its own expense, in its own name and entirely under its own direction and control.

(b) If a party with the first right hereunder elects not to prosecute any action for infringement or to defend any proceeding for revocation of any claims in any issued patent in the ROW Territory within the Sole PDL Patents or Sole Daclizumab Roche Patents, as the case may be, within ninety (90) days of being requested by the other party to do so, the other party may prosecute such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control.

(c) In any event, the party bringing an action ("acting party") pursuant to this Section 6A.1 shall solicit, and seriously consider in good faith the non-acting party's input with respect to all material aspects of such action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, the acting party shall keep the other party promptly and fully informed of the status of any such action, and the non-acting party shall have the right to review and comment upon the acting party's activities related thereto.

(d) Each party will reasonably assist the acting party in any such action or proceeding being prosecuted or defended by the acting party, if so requested by the acting party or required by law. The acting party will pay or reimburse the assisting party for all costs, expenses and liabilities which the assisting party may incur or suffer in affording assistance to such actions or proceedings. No settlement of any such action or defense which restricts the scope or affects the enforceability of PDL Know-How or Sole PDL Patents may be entered into by either PDL or F. Roche without the prior consent of the other party hereto, which consent, in the case of F. Roche shall not be unreasonably withheld and in the case of PDL may be withheld in PDL's sole and absolute discretion. No settlement of any such action or defense which restricts the scope or affects the enforceability of Roche Know-How or Sole Daclizumab Roche Patents may be entered into by either PDL or F. Roche without the prior consent of the other party hereto, which consent, in the case of PDL shall not be unreasonably withheld and in the case of F. Roche may be withheld in F. Roche's sole and absolute discretion.

(e) If either party elects to prosecute an action for infringement or to defend any proceedings for revocation of any claims pursuant to this

Section 6A.1 and subsequently ceases to continue or withdraws from such action or defense, it shall forthwith so notify the other party in writing and the other party may substitute itself for the withdrawing party and the parties' respective rights and obligations under this Section 6A.1 shall be reversed.

6A.2 Joint Roche-PDL Patents. In the event of any action against a third party for infringement of any claim in any issued patent in the ROW Territory within the Joint Roche-PDL Patents, or the institution by a third party of any proceedings for the revocation of any such claim, each party will notify the other promptly and, following such notification, the parties shall confer to determine whether either or both parties shall control the prosecution or defense of such action or proceeding and who shall bear the costs thereof. If the parties are unable to reach agreement within ninety (90) days of the notification referred to above, then each party shall have the right to bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; provided, however, that if both parties elect to prosecute or defend, each party shall bear its own expenses but both parties shall have equal control over such prosecution or defense. No settlement of any action or defense which restricts the scope or affects the enforceability of Joint Roche-PDL Patents may be entered into by either PDL or F. Roche without the prior consent of the other party hereto, which consent shall not be unreasonably withheld. In any event, the party bringing an action ("acting party") pursuant to this Section 6A.2 shall solicit, and seriously consider in good faith the other party's input with respect to all material aspects of such action, including without limitation, the development of the litigation strategy and the execution thereof. In furtherance and not in limitation of the foregoing, the acting party shall keep the other party promptly and fully informed of the status of any such action, and the other party shall have the right to review and comment upon the acting party's activities related thereto.

6A.3 Distribution of Proceeds. In the event either party exercises the rights conferred in Section 6A.1 or 6A.2 hereof, 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 costs and expenses connected therewith including reasonable attorneys' fees, necessarily involved in the prosecution and/or defense of any suit or proceeding, and if after such reimbursement any funds shall remain from such damages or other sums recovered, said recovery shall belong to the party exercising its rights; provided, however, that any remaining recovery by shall be shared [CONFIDENTIAL TREATMENT REQUESTED].

6A.4 Defense of Infringement Actions.

(a) F. Roche shall defend at its own cost any infringement suit that may be brought against PDL or F. Roche on account of the development, manufacture, production, use or sale of any Licensed Product by F. Roche in the ROW Territory, and shall indemnify and save PDL harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, which may be incurred by PDL therein or in settlement thereof. Any and all settlements which restrict the scope or enforceability of PDL Know-How or PDL Patents must be approved by PDL in its sole and absolute discretion before execution by F. Roche. Any and all settlements which restrict the scope or enforceability of Joint Roche-PDL Patents must be approved by PDL before execution by F. Roche, such approval not to be unreasonably withheld. PDL shall not be required to approve any settlement which does not include as a condition thereof the granting to PDL of a full and unconditional release of claims.

(b) PDL shall defend at its own cost any infringement suit that may be brought against F. Roche or PDL on account of the development, manufacture, production, use or sale of Daclizumab in the ROW Territory by PDL, and shall indemnify and save F. Roche harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, which may be incurred by F. Roche therein or in settlement thereof. Any and all settlements which restrict the scope or enforceability of Roche Know-How or Roche Patents must be approved by F. Roche in its sole and absolute discretion before execution by PDL. Any and all settlements which restrict the scope or enforceability of Joint Roche-PDL Patents must be approved by F. Roche before execution by PDL, such approval not to be unreasonably withheld. F. Roche shall not be required to approve any settlement which does not include as a condition thereof the granting to F. Roche of a full and unconditional release of claims. F. Roche will use commercially reasonable efforts to avoid knowingly infringing any patents of third parties in F. Roche's design of the cell lines that may be delivered to PDL hereunder, and F. Roche will inform PDL of any such potential infringement promptly upon F. Roche's becoming aware of such potential infringement.

6A.5 Right to Counsel. Each party to this Amended and Restated

Agreement shall always have the right to be represented by counsel of its own selection and its own expense in any suit or other action instituted by the other for infringement, under the terms of this Amended and Restated Agreement.

6A.6 Coordination. Each party acknowledges and agrees that the efforts of the parties under this Article VI-A shall take into consideration the efforts and responsibilities of PDL and Roche under the 1999 PDL/Roche Agreement.

VII. TERM AND TERMINATION

7.1 Term. Unless earlier terminated pursuant to the terms of this Article VII, this Amended and Restated Agreement shall remain in effect until the date of expiration of all payment obligations, including royalties and reimbursement amounts, under Article III and Article III-A, at which time all the rights and licenses granted under this Amended and Restated Agreement shall become irrevocable and fully-paid. Upon the expiration of this Amended and Restated Agreement pursuant to this Section 7.1, if it is not otherwise terminated pursuant to this Article VII, (a) in each country in which F. Roche at the time of expiration has rights to Licensed Products hereunder, PDL shall grant to F. Roche a nonexclusive, royalty-free license to use the PDL Know-How, PDL's rights under any Joint Roche-PDL Patents and PDL Patents and cell lines delivered by PDL pursuant to the 1989 and 1999 PDL/Roche Agreements, but only to the extent necessary to make, have made, use and sell Licensed Products for the indications with respect to which F. Roche has rights in countries in the ROW Territory as of the expiration date; and (b) in each country in which PDL at the time of expiration retains rights to Daclizumab or other Licensed Products hereunder, F. Roche hereby grants to PDL a nonexclusive, fully-paid license under the Roche Patents, Roche Know-How, and F. Roche's rights under any Joint Roche-PDL Patents and Joint Inventions but only to the extent necessary to make, have made, use and sell Daclizumab or other such Licensed Products in with respect to which PDL has rights in countries in the ROW Territory as of the expiration date.

7.2 Termination by Mutual Agreement. This Amended and Restated Agreement may be terminated by the written agreement of the parties.

7.3 Termination by F. Roche. F. Roche may terminate its rights under this Amended and Restated Agreement upon one hundred eighty (180) days written notice to PDL.

7.4 Termination by Default.

(a) If either party defaults in the performance of, or fails to be in compliance with, any material agreement, condition or covenant of this Amended and Restated Agreement, the party not in default may terminate the other party's rights this Amended and Restated Agreement at its option; provided, however, that if such event of default or non-compliance is the first (1st) occurrence of an event giving rise to the right of termination pursuant to this Section 7.4, the non-defaulting party may terminate the other party's rights under this Amended and Restated Agreement only if such default or noncompliance shall not have been remedied, or steps initiated to remedy the same to the other party's reasonable satisfaction within sixty (60) days after receipt by the defaulting party of a written notice thereof from the other party.

(b) If PDL terminates the 1999 PDL/Roche Agreement pursuant to Section 11.4 thereof, PDL may elect to simultaneously terminate this Amended and Restated Agreement upon written notice to F. Roche. If Roche terminates the 1999 PDL/Roche Agreement pursuant to Section 11.4 thereof, F. Roche may elect to simultaneously terminate this Amended and Restated Agreement upon written notice to PDL.

7.5 Inventory. Upon termination of this Amended and Restated Agreement for default by a party hereunder, the defaulting party holding inventory of Daclizumab shall notify the other of the amount of Daclizumab such defaulting party, its Affiliates, sublicensees and distributors then have on hand ("Inventory"), the sale of which would, but for the termination, be subject to payment of royalties or other consideration under this Amended and Restated Agreement. The defaulting party and its Affiliates, sublicensees and distributors shall thereupon be permitted to sell the Inventory, provided that the other party shall have the first option for a period not to exceed sixty (60) days to purchase all or part of the Inventory [CONFIDENTIAL TREATMENT REQUESTED]. If the non-defaulting party fails to exercise its option to purchase all of the Inventory or for that part of the Inventory with respect to which the option is not exercised, the party holding the Inventory will be free to sell such Inventory to third parties for a period not to exceed one hundred eighty (180) days from the termination of the non-defaulting party's option. In any event, the parties shall pay the royalties or other consideration due on the sale of such Inventory in the amounts and manner

provided for in Articles III and III-A. Upon expiration or termination of this Amended and Restated Agreement for any reason other than default, each of the parties shall have a right to sell Inventory for a period of one(1) year from the date of such expiration or termination, subject to the obligation to pay the royalty or other consideration due to the other party with respect to the sale of such Inventory. In any event, sales of Inventory by a party pursuant to this Section 7.5 for Autoimmune Indications shall be in accordance with the terms and conditions of this Amended and Restated Agreement.

7.6 Return of Materials. Subject to Section 7.8 hereof concerning archival copies, upon termination of this Amended and Restated Agreement by F. Roche pursuant to Section 7.3 or by either or both parties pursuant to Sections 7.2 or 7.4, F. Roche forthwith shall return to PDL all cell lines and their progeny, antibodies and other biological materials provided by PDL under the 1989 and 1999 PDL/Roche Agreements.

7.7 Rights and Obligations on Termination or Expiration.

(a) Unless expressly provided to the contrary, the provisions of Sections 3.6 and 5.3 and Articles III-A, IV, VI-A, VII, VIII, IX and XI shall survive the termination of this Amended and Restated Agreement. In the event that termination by either party results in the termination of rights to Daclizumab or other Licensed Products and the reversion or transfer of such rights to the other party, then the party whose rights are terminated shall act in good faith using commercially reasonable efforts to transfer any and all information, data and materials with the goal of providing minimal disruption in the marketing and sale of Daclizumab or other Licensed Product, as the case may be.

(b) In the event of termination (i) by F. Roche pursuant to Section 7.3 or (ii) by PDL for default by F. Roche pursuant to Section 7.4, then effective as of the date of termination, F. Roche hereby grants to PDL an exclusive, fully-paid license under the Roche Patents, Roche Know-How, and F. Roche's rights under any Joint Roche-PDL Patents and Joint Inventions to make, have made, use and sell Daclizumab or other such Licensed Products in the ROW Territory.

7.8 Archival Copies. Section 7.6 notwithstanding, each party shall be entitled to keep for archival purposes one copy of all written materials returned to the other party pursuant to Section 7.6.

VIII. CONFIDENTIALITY, DISCLOSURE AND PUBLICATIONS

8.1 Confidentiality. During the term of this Amended and Restated Agreement and for a period of five (5) years following expiration or termination of this Amended and Restated Agreement, each party shall maintain in confidence all information and materials including, but not limited to, cell lines, their progeny, and antibodies, disclosed by the other party hereto which such party knows or has reason to know are or contain trade secrets or other proprietary information of the other, including, without limitation, information relating to the PDL Know-How, PDL Patents, Roche Know-How, Roche Patents, Joint Roche-PDL Patents, Joint Inventions and inventions of the other party, and the business plans of the other party, including, without limitation, information provided by either party to the other party hereto prior to the Signing Date, and shall not use such trade secrets or proprietary information for any purpose, including, without limitation, for the purpose of developing products in the Field except as permitted by this Amended and Restated Agreement or disclose the same to anyone other than those of its Affiliates, sublicensees, prospective sublicensees, employees, consultants, agents or subcontractors as are necessary in connection with such party's activities as contemplated in this Amended and Restated Agreement. Each party shall be responsible for ensuring compliance with these obligations by such party's Affiliates, sublicensees, prospective sublicensees, employees, consultants, agents and subcontractors. Each party shall use a similar effort to that which it uses to protect its own most valuable trade secrets or proprietary information to ensure that its Affiliates, sublicensees, employees, consultants, agents and subcontractors do not disclose or make any unauthorized use of trade secrets or proprietary information of the other party hereto. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other's trade secrets or proprietary information.

8.2 Exceptions. The obligation of confidentiality contained in this Amended and Restated Agreement shall not apply to the extent that (a) either party (the "Recipient") is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction or (b) the Recipient can demonstrate that (i) the disclosed information was at the time of such disclosure by the Recipient already in the public domain other than as a result of actions of the Recipient, its Affiliates, employees, licensees, agents or subcontractors, in violation hereof; (ii) the disclosed information was rightfully known by the Recipient or its Affiliates (as shown

by its written records) prior to the date of disclosure to the Recipient in connection with the negotiation, execution or performance of this Amended and Restated Agreement; or (iii) the disclosed information was received by the Recipient or its Affiliates on an unrestricted basis from a source unrelated to any party to this Amended and Restated Agreement and not under a duty of confidentiality to the other party, or (c) the Recipient can demonstrate that disclosure to a regulatory authority is required by its product license approval process.

8.3 Publications.

(a) Scientific Publications. Prior to public disclosure or submission for publication of a manuscript describing the results of any scientific activity or collaboration between PDL and F. Roche in the Field, the party disclosing or submitting such a manuscript ("Disclosing Party") shall send the other party ("Responding Party") by expedited delivery a copy of the manuscript to be submitted and shall allow the Responding Party a reasonable time period (not to exceed forty-five (45) days from the date of confirmed receipt) in which to determine whether the manuscript contains subject matter of which patent protection should be sought (prior to publication of such manuscript) for the purpose of protecting an invention conceived or developed in connection with the PDL/F. Roche scientific collaboration, or whether the manuscript contains confidential information belonging to the Responding Party. After the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript, the Disclosing Party shall be free to submit such manuscript for publication and publish or otherwise disclose to the public such research results. Should the Responding Party believe the subject matter of the manuscript contains confidential information or a patentable invention of substantial commercial value to the Responding Party, then prior to the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript by the Responding Party, the Responding Party shall notify the Disclosing Party in writing of its determination that such manuscript contains such information or subject matter for which patent protection should be sought. Upon receipt of such written notice from the Responding Party, the Disclosing Party shall delay public disclosure of such information or submission of the manuscript for an additional period of sixty (60) days to permit preparation and filing of a patent application on the disclosed subject matter. The Disclosing Party shall thereafter be free to publish or disclose such information, except that the Disclosing Party may not disclose any confidential information of the Responding Party in violation of Section 8.1hereof. Determination of authorship for any paper or patent shall be in accordance with accepted scientific practice. Should any questions on authorship arise, this will be determined by good faith consultation between the respective heads of research for each of the parties.

(b) Preclinical and Clinical Studies. Prior to public disclosure or submission for publication of a manuscript by PDL describing the results of any preclinical or clinical study conducted by or on behalf of PDL in Autoimmune Indications, PDL shall send F. Roche by expedited delivery a copy of the manuscript to be submitted and shall allow F. Roche a reasonable time period (not to exceed forty-five (45) days from the date of confirmed receipt by F. Roche) to review the manuscript, including for the purpose of determining whether the manuscript contains information which is reasonably likely to have a material adverse impact on Daclizumab for Transplant Indications in the ROW Territory or confidential information belonging to F. Roche. After the expiration of forty-five (45) days from the date of confirmed receipt by F. Roche of such manuscript, PDL shall be free to submit such manuscript for publication and publish or otherwise disclose to the public such research results. Should F. Roche believe the manuscript contains information which is reasonably likely have a material adverse impact on Daclizumab for Transplant Indications in the ROW Territory or which is confidential information of F. Roche, then prior to the expiration of forty-five (45) days from the date of confirmed receipt of such manuscript by F. Roche, F. Roche shall notify the PDL in writing of its determination and the reasons therefor. Upon receipt of such written notice from F. Roche that the manuscript contains confidential information of F. Roche, PDL shall delay public disclosure of such information or submission of the manuscript for an additional period not to exceed sixty (60) days to permit the parties to agree as to how to revise the manuscript so that PDL will not disclose any confidential information of F. Roche in violation of Section 8.1 hereof.

IX. DISPUTE RESOLUTION

9.1 Arbitration. Except as expressly provided herein, any claim, dispute or controversy arising out of or in connection with or relating to this agreement or the breach or alleged breach thereof shall be submitted by the parties to arbitration by the AAA in Santa Clara County, California under the International Arbitration Rules then in effect for that AAA except as provided herein. All proceedings shall be held in English and a transcribed record prepared in English. The parties shall choose, by mutual agreement, one arbitrator within thirty (30) days of receipt of notice of the intent to

arbitrate. If no arbitrator is appointed within the times herein provided or any extension of time which is mutually agreed upon, the AAA Administrator in accordance with the AAA International Rules of Arbitration and the AAA shall select an individual within thirty (30) days of such failure. The award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses, and judgment on such award may be entered in any court having jurisdiction thereof. The parties shall be entitled to discovery as provided in Sections 1283.05 and 1283.1 of the Code of Civil Procedure of the State of California, whether or not the California Arbitration Act is deemed to apply to said arbitration. Nothing in this Amended and Restated Agreement shall be deemed as preventing either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute as necessary to protect either party's name, proprietary information, trade secrets, know-how or any other proprietary right. If the issues in dispute involve scientific or technical matters, any arbitrator chosen hereunder shall have educational training and/or experience sufficient to demonstrate a reasonable level of knowledge in the field of biotechnology. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

X. FORCE MAJEURE

10.1 If either party shall be delayed, interrupted in or prevented from the performance of any obligation hereunder by reason of force majeure including an act of God, fire, flood, earthquake, war (declared or undeclared), public disaster, strike or labor differences, governmental enactment, rule or regulation, or any other cause beyond such party's control, such party shall not be liable to the other therefor; and the time for performance of such obligation shall be extended for a period equal to the duration of the contingency which occasioned the delay, interruption or prevention. The party invoking such force majeure rights of this subparagraph must notify the other party by courier or overnight dispatch (e.g., Fedex) within a period of fifteen (15) days, from the first and last day of the force majeure unless the force majeure renders such notification impossible in which case notification will be made as soon as possible. If the delay resulting from the force majeure exceeds six (6) months, both parties shall consult together to find an appropriate solution.

XI. MISCELLANEOUS

11.1 Representations of Each Party. Each party represents and warrants to the other party hereto that, except as may otherwise be disclosed in writing to such party:

(a) each party has the full right and authority to enter into this Amended and Restated Agreement; and

(b) to the best knowledge of the party after reasonable investigation, no third party has any right, title or interest in the PDL Patents, PDL Know-How, Joint Roche-PDL Patents, Roche Know-How or Roche Patents, as the case may be, as the result of such third party's former employment of any employee of that party.

11.2 Assignment. This Amended and Restated Agreement and the licenses herein granted other than the 1999 PDL/Roche Agreement relating to the same Field but for the Roche Territory shall be binding upon and shall inure to the benefit of, successors of the parties hereto, or to an assignee of all of the good will and entire business and assets of a party hereto relating to pharmaceutical and veterinary products but shall not otherwise be assignable without the prior written consent of the other party, which consent will not be unreasonably withheld.

11.3 Entire Agreement. This Amended and Restated Agreement and the 1999 PDL/Roche Agreement constitute the entire agreement between the parties hereto with respect to the within subject matter and supersede all previous agreements, whether written or oral. This Amended and Restated Agreement shall not be changed or modified orally, but only by an instrument in writing signed by both parties.

11.4 Releases.

(a) The parties agree that as of the Signing Date, PDL hereby releases

and forever discharges F. Roche and its Affiliates (including Genentech, Inc., a Delaware corporation) from any and all claims, liabilities and demands whatsoever on account of or arising from the 1989 F. Roche Agreement that PDL may have, otherwise continue to have or have had, past, present or future, including with respect to Article III and Article VII of the 1989 F. Roche Agreement and including without limitation any and all claims liabilities and demands on account of or arising from Section 3.1(d) of the 1989 F. Roche Agreement, including any remedies which PDL may have on, prior to or after the Signing Date thereunder both in equity and at law; provided that nothing herein shall be deemed to release any claims, liabilities or demands that PDL may have after the Signing Date under this Amended and Restated Agreement.

(b) The parties agree that as of the Signing Date, F. Roche and its Affiliates hereby release and forever discharge PDL from any and all claims, liabilities and demands whatsoever on account of or arising from that certain Joint Development, Marketing and License Agreement between PDL and Boehringer Mannheim GmbH ("Boehringer") dated October 28, 1993, as amended, and all related agreements entered into between PDL and Boehringer as of that same date that F. Roche and its Affiliates may have, otherwise continue to have or have had, past, present or future, including any remedies which Roche may have on, prior to or after the Signing Date thereunder both in equity and at law; provided that nothing herein shall be deemed to release any claims, liabilities or demands that F. Roche or its Affiliates may have after the Signing Date under this Amended and Restated Agreement.

11.5 Severability. If any provision of this Amended and Restated Agreement is declared invalid by an arbitrator pursuant to Section 9.1 or by a court of last resort or by any court or other governmental body from the decision of which an appeal is not taken within the time provided by law, then and in such event, this Amended and Restated Agreement will be deemed to have been terminated only as to the portion thereof which relates to the provision invalidated by that decision and only in the relevant jurisdiction, but this Amended and Restated Agreement, in all other respects and all other jurisdictions, will remain in force; provided, however, that if the provision so invalidated is essential to the Amended and Restated Agreement as a whole, then the parties shall negotiate in good faith to amend the terms hereof as nearly as practical to carry out the original intent of the parties, and, failing such amendment, either party may submit the matter to arbitration for resolution pursuant to Section 9.1.

11.6 Indemnification.

(a) F. Roche shall defend, indemnify and hold harmless PDL, its trustees, officers, agents and employees harmless from any and all liability, demands, damages, expenses, and losses of any kind, including those resulting from death, personal injury, illness or property damage arising (i) out of the manufacture, distribution, use, testing, sale or other disposition, by F. Roche, an Affiliate of F. Roche, or any distributor, customer, sublicensee or representative of F. Roche or anyone in privity therewith, of any Licensed Product, or any cell lines, their progeny, or other biological materials provided by PDL pursuant to the 1999 PDL/Roche Agreement, method, process, device or apparatus licensed or provided by PDL to F. Roche hereunder, or (ii) as a result of practicing a Joint Invention, or using PDL Know-How or PDL Patents licensed to F. Roche under this Amended and Restated Agreement, except where such claim is based on the negligent acts of commission or omission of PDL.

(b) PDL shall defend, indemnify and hold harmless F. Roche, its trustees, officers, agents and employees harmless from any and all liability, demands, damages, expenses, and losses of any kind, including those resulting from death, personal injury, illness or property damage arising (i) out of the manufacture, distribution, use, testing, sale or other disposition, by PDL, an Affiliate of PDL, or any distributor, customer, sublicensee or representative of PDL or anyone in privity therewith, of Daclizumab or any other Licensed Product in Autoimmune Indications, or (ii) as a result of practicing a Joint Invention, using Roche Know-How or Roche Patents licensed to PDL under this Amended and Restated Agreement, except where such claim is based on the negligent acts of commission or omission of F. Roche.

11.7 Notices. Any notice or report required or permitted to be given under this Amended and Restated Agreement shall be in writing and shall be mailed by certified or registered mail, or telexed or telecopied and confirmed by mailing, as follows and shall be effective five (5) days after such mailing:

If to PDL: Protein Design Labs, Inc.
34801 Campus Drive
Fremont, California U.S.A. 94555
Attention: General Counsel

If to F. Roche: F. Hoffmann-La Roche Ltd
Grenzacherstrasse 124
CH-4002 Basle, Switzerland
Attention: Law Department

11.8 Choice of Law. The validity, performance, construction, and effect of this Amended and Restated Agreement shall be governed by the laws of the State of California, United States of America.

11.9 Publicity. Both parties agree to issue a press release concerning entry into this Amended and Restated Agreement, with the content of such release to be approved in advance by both parties. In all other respects, neither party shall use the name of the other party in any publicity release without the prior written permission of such other party, which shall not be unreasonably withheld. The other party shall have a reasonable opportunity to review and comment on any such proposed publicity release. Except as required by law, neither party shall publicly disclose the terms of this Amended and Restated Agreement or its terms and conditions unless expressly authorized to do so by the other party which authorization shall not be unreasonably withheld. In the event that disclosure shall be agreed upon then the parties will work together to develop a mutually acceptable disclosure. Notwithstanding anything to the contrary herein, if not otherwise disclosed by F. Roche, PDL shall not disclose to any third party the amount of sales of or royalties or consideration paid with respect to Licensed Product without the prior written consent of F. Roche, which consent shall not be unreasonably withheld.

11.10 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

[The remainder of this page intentionally left blank.]

11.11 Counterparts. This Amended and Restated Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Agreement to be effective as of the Signing Date.

PROTEIN DESIGN LABS, INC.
By
Title:
Date:
F. HOFFMANN-LA ROCHE LTD

By
Title:
Date:

Solely with respect to the granting of rights in Joint Roche-PDL Patents to F. Roche, Roche hereby joins in this Amended and Restated Agreement.

HOFFMANN-LA ROCHE INC.

By
Title:
Date:

Appendix A
PDL Patents

A. The following are patents and patent applications (also known as the "Queen et al. Patents") issued and filed in certain countries in the world.

1. The following issued U.S. patents and U.S. patent applications:

No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

Patent No.	Country	Title*	
647383	Australia	"Novel Immunoglobulins, Their Production and Use"	Issued
671949	Australia	"	Issued
AT E133452	Austria	"	Issued
0451216	Belgium	"	Issued
61095	Bulgaria	"	Issued
970016	Brazil	"	Issued
0451 216B1	European	"	Issued
0682040 B1	European		Issued
FR0451216	France	"	Issued
DE 68925536	Germany	"	Issued
DD 296 964	East Germany	"	Issued
GB 0451216	Great Britain	"	Issued
1001050	Greece	"	Issued
211174	Hungary	"	Issued
IT O451216	Italy	"	Issued
2828340	Japan	"	Issued
LU O451216	Luxembourg	"	Issued
92.2146	Monaco		

"
Issued
NL 0451216
Netherlands
"
Issued
231984
New Zealand
"
Issued
132068
Pakistan
"
Issued
29729
Philippines
"
Issued
92758
Portugal
"
Issued
4895847.13
Russia
"
Issued
2126046
Russia
"
Issued
SG O451216
Singapore
"
Issued
89/9956
South Africa
"
Issued
178385
South Korea
"
Issued
2081974 T3
Spain
"
Issued
SE O451216
Sweden
"
Issued
CHO 451216
Switzerland
"
Issued
50034
Taiwan
"
Issued
13349
Uruguay
"
Issued
48700
Yugoslavia
"

Country
Title*
Pending
Argentina
"Novel Immunoglobulins, Their
Production and Use"
Pending
Canada
"
Pending
Chile
"

Pending
China
"
Pending
Croatia
"
Pending
Czech Republic
"
Pending
Ecuador
"
Pending
Europe
"
Pending
Hong Kong
"
Pending
Ireland
"
Pending
Israel
"
Pending
Japan
"
Pending
South Korea

Pending
Romania
"
Pending
Slovak Republic
"
Pending
Venezuela
"
Pending
Denmark
"
Pending
Finland
"
Pending
Norway
"

*Exact titles may differ in different countries.

B. The following patent applications relate to the use of anti-IL2 receptor antibodies in treatment of acute transplant rejection.

Title: Method of preventing acute rejection following solid organ transplantation.

Inventors: Susan Light and Cary Queen

PCT Publication No.: WO 98/13067 claiming priority to U.S. provisional patent application serial no. 60/026,643 filed September 24, 1996.

(footnote continued from previous page)

(footnote continued on next page)

CONFIDENTIAL TREATMENT REQUESTED WITH RESPECT TO
DESIGNATED PORTIONS OF THIS DOCUMENT

common/contracts/roche//Roche 99 ROWAmend v8.0

5
THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED
FROM THE ACCOMPANYING FINANCIAL STATEMENTS AND IS QUALIFIED IN
ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

1,000

9-MOS
DEC-31-1999
Jan-01-1999
Sep-30-1999
14,341
120,327
3,000
0
0
23,879
37,727
0
175,945
7,393
0
0
0
187
158,558
175,945
27,697
27,697
0
0
32,081
0
0
(4,384)
0
(4,384)
0
0
0
(4,384)
($0.24)
($0.24)