SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the Quarterly Period Ended September 30, 2003

OR

o **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 ☒ No o

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of Act). Yes ☒ No o

As of October 31, 2003 there were 93,724,150 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.
CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS
(unaudited)

(In thousands, except per share data)	Three Months Ended September 30, 2003	Three Months Ended September 30, 2002	Nine Months Ended September 30, 2003	Nine Months Ended September 30, 2002
Revenues:				
Royalties	$ 8,758	$ 5,991	$ 43,808	$ 33,158
License and other	567	551	9,265	2,502
Total revenues	9,325	6,542	53,073	35,660
Costs and expenses:				
Research and development	22,505	14,306	59,955	42,245
General and administrative	6,696	4,735	18,619	13,677
Acquired in-process research and development	—	—	37,834	—
Total costs and expenses	29,201	19,041	116,408	55,922
Operating loss	(19,876)	(12,499)	(63,335)	(20,262)
Interest income	4,188	6,542	13,049	20,135
Other income	103	—	103	—
Interest expense	(3,279)	(2,034)	(6,560)	(6,516)
Impairment loss on investment	—	—	(150)	—
Loss before income taxes	(18,864)	(7,991)	(56,893)	(6,643)
Provision for income taxes	11	—	60	27
Net loss	$ (18,875)	$ (7,991)	$ (56,953)	$ (6,670)
Net loss per share:				
Basic	$ (0.20)	$ (0.09)	$ (0.62)	$ (0.08)
Diluted	$ (0.20)	$ (0.09)	$ (0.62)	$ (0.08)
Weighted average number of shares:				
Basic	93,665	88,999	92,049	88,798
Diluted	93,665	88,999	92,049	88,798

See accompanying notes

PROTEIN DESIGN LABS, INC.
CONSOLIDATED CONDENSED BALANCE SHEETS
(unaudited)

(In thousands, except per share data)	September 30, 2003	December 31, 2002
ASSETS		
Current assets:		
Cash and cash equivalents	$ 543,339	$ 287,730
Marketable securities, including $7.4 million restricted investments	231,115	318,680
Other current assets	9,675	7,432

Total current assets	784,129	613,842
Property, plant and equipment, net	126,525	70,802
Other assets	9,490	3,174
Convertible note receivable	30,000	30,000
Restricted investments	13,313	—
Total assets	$ 963,457	$ 717,818
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 6,914	$ 1,628
Accrued compensation	2,689	2,520
Accrued clinical trial costs	2,768	2,327
Accrued interest	2,493	3,071
Other accrued liabilities	17,264	4,576
Deferred revenue	374	38
Current portion of other long-term debt	492	466
Current portion of capital lease obligations	223	—
Current portion of notes payable	574	—
Total current liabilities	33,791	14,626
5.50% Convertible subordinated notes	150,000	150,000
2.75% Convertible subordinated notes	250,000	—
Other long-term debt	8,060	8,426
Notes payable	741	—
Capital lease obligations	61	—
Total liabilities	442,653	173,052
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, 250,000 shares authorized; 93,715 and 89,179 shares issued and outstanding at September 30, 2003 and December 31, 2002, respectively	937	892
Additional paid-in capital	665,113	628,292
Accumulated deficit	(147,430)	(90,477)
Accumulated other comprehensive income	2,184	6,059
Total stockholders' equity	520,804	544,766
Total liabilities and stockholders' equity	$ 963,457	$ 717,818

See accompanying notes

PROTEIN DESIGN LABS, INC.
CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS
(unaudited)

	Nine Months Ended September 30,	
(In thousands)	**2003**	**2002**
Cash flows from operating activities:		
Net loss	$ (56,953)	$ (6,670)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Acquired in-process research and development	37,834	—
Depreciation and amortization	5,759	3,971
Amortization of convertible notes offering costs	786	540
Consultant stock-based compensation expense	255	—
Amortization of assembled workforce	353	—
Impairment loss on investment	150	—
Changes in assets and liabilities:		
Interest receivable	2,019	3,468
Other current assets	(1,552)	433
Other assets	(6,195)	(316)
Accounts payable	4,335	(317)
Accrued liabilities	5,432	(1,409)
Deferred revenue	374	449
Total adjustments	49,550	6,819
Net cash provided by (used in) operating activities	(7,403)	149
Cash flows from investing activities:		
Purchases of marketable securities	(110,068)	(79,954)
Maturities of marketable securities	199,000	220,000
Change in restricted investments	(20,754)	—
Cash acquired in acquisition of Eos	2,453	—
Purchases of land, property, plant and equipment	(59,027)	(24,003)
Net cash provided by investing activities	11,604	116,043

Cash flows from financing activities:		
Proceeds from issuance of capital stock	2,449	3,301
Proceeds from issuance of convertible subordinated notes	250,000	—
Payments on other long-term obligations	(1,041)	(322)
Net cash provided by financing activities	251,408	2,979
Net increase in cash and cash equivalents	255,609	119,171
Cash and cash equivalents at beginning of period	287,730	120,268
Cash and cash equivalents at end of period	$ 543,339	$ 239,439

See accompanying notes

PROTEIN DESIGN LABS, INC.
NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS
September 30, 2003
(unaudited)

1. Summary of Significant Accounting Policies

Organization and Business

Protein Design Labs, Inc. (PDL) is a biotechnology company engaged in the development of humanized antibodies to prevent or treat various disease conditions. Our key areas of disease focus include inflammation, cancer and autoimmune diseases.

Basis of Presentation and Responsibility for Quarterly Financial Statements

The accompanying consolidated condensed financial statements are unaudited, but include all adjustments (consisting only of normal recurring adjustments) that we consider necessary for a fair presentation of our financial position at such dates and the operating results and cash flows for those periods. Although we believe that the disclosures in our financial statements are adequate to make the information presented not misleading, certain information normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States has been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission. The accompanying consolidated condensed financial statements should be read in conjunction with our Annual Report on Form 10-K filed with the Securities and Exchange Commission for the year ended December 31, 2002. The Consolidated Condensed Balance Sheet as of December 31, 2002 is derived from our audited consolidated financial statements. Results for any interim period are not necessarily indicative of results for any other interim period or for the entire year. For example, we receive royalty revenues on sales of the product Synagis. This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties recognized by us in our first and second quarters than in other quarters.

Stock-Based Compensation

At September 30, 2003, we had six stock-based employee compensation plans. We account for our plans under the recognition and measurement principles of Accounting Principles Board (APB) Opinion No. 25, “Accounting for Stock Issued to Employees,” and related Interpretations. No stock-based employee compensation cost is reflected in our reported net loss as all options granted under our plans had an exercise price equal to the market value of the underlying common stock on the date of grant. The following table illustrates the effect on reported net loss and net loss per share if we had applied the fair value recognition provisions of Financial Accounting Standards Board (FASB) Statement No. 123, “Accounting for Stock-Based Compensation,” as amended by Statement No. 148, “Accounting for Stock-Based Compensation – Transition and Disclosure,” to stock-based employee compensation.

(In thousands, except per share data)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
Net loss, as reported	$ (18,875)	$ (7,991)	$ (56,953)	$ (6,670)
Deduct: Total stock-based employee compensation expense determined under the fair value method for all awards, net of related tax	(5,047)	(3,798)	(13,653)	(6,663)
Pro forma net loss	$ (23,922)	$ (11,789)	$ (70,606)	$ (13,333)
Net loss per share:				
Basic—as reported	$ (0.20)	$ (0.09)	$ (0.62)	$ (0.08)
Basic—pro forma	$ (0.26)	$ (0.13)	$ (0.77)	$ (0.15)
Diluted—as reported	$ (0.20)	$ (0.09)	$ (0.62)	$ (0.08)
Diluted—pro forma	$ (0.26)	$ (0.13)	$ (0.77)	$ (0.15)

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted-average assumptions:

Three Months Ended September 30,	Nine Months Ended September 30,

	2003	2002	2003	2002
Expected life in years	5.0	5.0	5.0	5.0
Risk-free interest rate	2.85%	3.54%	2.88%	4.35%
Volatility	70%	87%	72%	87%
Dividend yield	0	0	0	0

Management Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires the use of management's estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Our estimates and assumptions could differ significantly from the amounts that may actually be incurred.

Recent Accounting Pronouncements

In June 2002, the FASB issued Statement No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" (FAS 146), which provides guidance related to accounting for costs associated with disposal activities covered by FAS 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", or with exit or restructuring activities previously covered by EITF Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." FAS 146 supersedes EITF Issue No. 94-3 in its entirety. FAS 146 requires that costs related to exiting an activity or to a restructuring not be recognized until the liability is incurred. We adopted FAS 146 on January 1, 2003. Our adoption of FAS 146 did not have a material impact on our results of operations or financial position.

In November 2002, the FASB issued Emerging Issues Task Force Issue No. 00-21, "Revenue Arrangements with Multiple Deliverables" (Issue 00-21). Issue 00-21 addresses certain aspects of the accounting by a company for arrangements under which it will perform multiple revenue-generating activities. Issue 00-21 addresses when and how an arrangement involving multiple deliverables should be divided into separate units of accounting. Issue 00-21 provides guidance with respect to the effect of certain customer rights due to company nonperformance on the recognition of revenue allocated to delivered units of accounting. Issue 00-21 also addresses the impact on the measurement and/or allocation of arrangement consideration of customer cancellation provisions and consideration that varies as a result of future actions of the customer or the company. Finally, Issue 00-21 provides guidance with respect to the recognition of the cost of certain deliverables that are excluded from the revenue accounting arrangement. The provisions of Issue 00-21 will apply to the Company's revenue arrangements entered into after June 30, 2003. Our adoption of Issue-00-21 did not have a material impact on our results of operations or financial position.

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN 46). FIN 46 requires a variable interest entity to be consolidated by a company if that company is subject to a majority of the risk of loss from the variable interest entity's activities or entitled to receive a majority of the entity's residual returns or both. A variable interest entity is a corporation, partnership, trust, or any other structure used for business purposes that either (a) does not have equity investors with voting rights or (b) has equity investors that do not provide sufficient financial resources for the entity to support its activities. The consolidation requirements of FIN 46 apply immediately to variable interest entities created after January 31, 2003. The consolidation requirements apply to older entities for periods ending after December 15, 2003. Certain of the disclosure requirements apply to all financial statements issued after January 31, 2003, regardless of when the variable interest entity was established. Our adoption of FIN 46 is not expected to have a material impact on our results of operations or financial position.

In May 2003, the FASB issued Statement No. 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity" (FAS 150). FAS 150 establishes standards on the classification and measurement of financial instruments with characteristics of both liabilities and equity. FAS 150 is effective for financial instruments entered into or modified after May 31, 2003. Our adoption of FAS 150 did not have a material impact on our results of operations or financial position.

2. Net Loss Per Share

In accordance with FASB Statement No. 128, "Earnings Per Share" (FAS 128), basic and diluted net loss per share amounts have been computed using the weighted average number of shares of common stock outstanding during the periods presented. The calculation of diluted net loss per share includes the effect of outstanding stock options, if dilutive, but does not include the effect of outstanding convertible notes because the assumed conversion of these notes would be anti-dilutive for the periods presented.

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

(In thousands, except per share data)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
Numerator:				
Net loss	$ (18,875)	$ (7,991)	$ (56,953)	$ (6,670)
Denominator:				
Basic net loss per share - weighted-average shares	93,665	88,999	92,049	88,798
Dilutive potential common shares - stock options	—	—	—	—
Denominator for diluted net loss per share	93,665	88,999	92,049	88,798

The total number of shares excluded from the calculations of diluted net loss per share for $400 million of outstanding convertible subordinated notes for the three and nine month periods ended September 30, 2003 was 16,389,000. Of the 16,389,000 shares, 12,415,000 shares are related to our July 2003 $250 million convertible subordinated notes.

The total number of shares excluded from the calculations of diluted net loss per share for $150 million of outstanding convertible subordinated notes for the three and nine month periods ended September 30, 2002 was 3,974,000. The total number of shares excluded from the calculation of diluted net loss per share for stock options was 2,063,000 and 1,643,000 for the three months ended September 30, 2003 and 2002, respectively. The total number of shares

excluded from the calculation of diluted net loss per share for stock options was 1,555,000 and 2,402,000 for the nine months ended September 30, 2003 and 2002, respectively. Such securities, had they been dilutive, would have been included in the computations of diluted net loss per share.

3. Comprehensive Loss

Comprehensive loss is comprised of net loss and other comprehensive loss. Other comprehensive loss includes certain changes to stockholders' equity that are excluded from net loss. Specifically, unrealized gains or losses on the Company's available-for-sale securities are included in other comprehensive loss. The following table presents the calculation of comprehensive loss, in thousands:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(In thousands)	2003	2002	2003	2002
Net loss	$ (18,875)	$ (7,991)	$ (56,953)	$ (6,670)
Other comprehensive loss:				
Decrease in unrealized gains on marketable securities	(1,005)	(458)	(3,875)	(1,705)
Total comprehensive loss	$ (19,880)	$ (8,449)	$ (60,828)	$ (8,375)

4. Acquisition of Eos Biotechnology, Inc.

In April 2003, we completed the acquisition of Eos Biotechnology, Inc. (Eos), a development stage company. Eos was engaged in drug discovery of therapeutic antibodies based on information from the human genome. By applying a disease-based approach and a suite of proprietary discovery technologies, Eos identified antibodies that selectively and specifically target pathogenic cells.

Eos' portfolio consisted of two drug candidates, including Anti-α5β1 integrin antibody (M200), a function-blocking antibody that targets a specific integrin for solid tumors, including pancreatic, non-small lung and colorectal cancers and a Fab fragment of the Anti-α5β1 integrin antibody (F200) for ocular indications, including age-related macular degeneration. We have initiated a Phase I clinical trial of M200 in patients with advanced solid tumors for whom there is no standard treatment. This acquisition was completed to expand our development pipeline of potential products in oncology.

In connection with this acquisition, we issued an aggregate of 4,180,375 shares of our common stock (net of approximately 151,000 shares that were withheld from Eos shareholders to provide for the Eos shareholder tax liabilities incurred in connection with receipt of the shares issued in the acquisition) in exchange for all outstanding shares of Eos preferred and common stock. The share issuances were exempt from registration pursuant to Section 3(a)(10) of the Securities Act of 1933, as amended. Certain shares issued will be held in escrow pursuant to the terms of the Agreement and Plan of Merger and Reorganization, as amended.

The Eos acquisition was accounted for as an acquisition of assets rather than as a business combination as Eos was a development stage company that had not commenced its planned principal operations. Eos lacked the necessary elements of a business because it did not have completed products and, therefore, no ability to access customers. The Eos operating results have been included in the Company's consolidated results of operations since April 5, 2003.

The aggregate purchase price was $38.7 million, consisting of the shares issued to the Eos stockholders valued at $35.4 million (including the value of shares withheld to provide for tax liabilities of $1.2 million), estimated transaction costs of $2.2 million and payments of $1.1 million to be made to certain EOS executives under pre-existing change of control agreements. The shares issued in connection with this acquisition were valued at $8.17 per share, which represented the average closing market price of our common stock a few days before and the acquisition announcement date (February 4, 2003).

Based upon an independent third party valuation of the tangible and intangible assets acquired, we have allocated the total purchase price to the assets acquired and liabilities assumed as follows (in thousands):

Tangible assets acquired	$ 5,283
Assembled workforce	1,410
Acquired in-process research and development	37,834
Liabilities assumed	(5,848)
	$ 38,679

The $1.4 million value assigned to the assembled workforce will be amortized over 2 years, the estimated useful life of the asset.

Approximately $37.8 million of the purchase price was allocated to acquired in-process research and development due to Eos' incomplete research and development programs that had not yet reached technological feasibility as of April 4, 2003 and had no alternative future use as of that date. A summary of these programs follows:

Program	Description	Status of Development at Acquisition Date	Value Assigned (in thousands)
Anti-angiogenesis (M200, Anti-α5β1 Integrin Antibody)	Function-blocking antibody that targets a specific integrin for solid tumors, including pancreatic, non-small lung and colorectal cancers.	IND filed December 2002; Phase 1 clinical trials Initiated in June 2003	$ 24,067
Ocular Neovascularization (F200, Anti-α5β1 Integrin Antibody)	Fab fragment of Anti-α5β1 Integrin Antibody for ocular indications, including age-related macular degeneration.	IND 2004	$ 13,767

The value of the acquired in-process research and development was determined by estimating the related future probability-adjusted net cash flows, which were then discounted to present value using a rate of 15%. This discount rate is a significant assumption and is based on our estimated weighted average cost of capital taking into account the risks associated with the projects acquired. The projected cash flows from such projects were based on estimates of revenues and operating profits related to such projects considering the stage of development of each potential product acquired, the time and resources needed

to complete each product, the estimated life of each potential commercialized product and associated risks including the inherent difficulties and uncertainties in developing a drug compound including obtaining FDA and other regulatory approvals, and risks related to the viability of and potential alternative treatments in any future target markets. In determining the value of the acquired in-process research and development, the assumed commercialization dates used for the potential products ranged from 2008 to 2009.

Numerous risks and uncertainties exist with timely completion of development, including the uncertainty and timing of commencing human clinical trials and patient enrollment, as well as and uncertainties related to the results of such studies, including interpretation of the data and obtaining FDA and other regulatory body approvals. The nature of the remaining efforts for completion of the acquired in-process research and development projects primarily consist of initiating clinical trials and studies, the cost, length and success of which are extremely difficult to determine. Feedback from regulatory authorities or results from clinical studies might require modifications or delays in later stage clinical trials or additional studies to be performed. The acquired products under development may never be successfully commercialized due to the uncertainties associated with the pricing of new pharmaceuticals and the fact that the cost of sales to produce these products in a commercial setting has not been determined. If these programs cannot be completed on a timely basis, then our prospects for future revenue growth would be adversely impacted.

5. Other Accrued Liabilities

At September 30, 2003 and December 31, 2002 other accrued liabilities consisted of the following:

(In thousands)	September 30, 2003	December 31, 2002
Royalty expense	$ 200	$ 385
Legal expense	1,039	339
Construction in-process	11,152	1,896
Consulting and service	1,676	1,458
Research funding	422	—
Preclinical expense	346	220
Acquisition costs	1,898	—
Other	531	278
Total other accrued liabilities	$ 17,264	$ 4,576

6. Statements of Cash Flows Information

(In thousands)	Nine Months Ended September 30, 2003	2002
Supplemental cash flow data:		
Cash paid during the period for interest	$ 8,859	$ 8,784
Cash paid during the period for taxes	58	26
Cash flow for acquisition of Eos:		
Assembled workforce	1,410	—
Other current assets acquired	691	—
Acquired in-process research and development	37,834	—
Property and equipment acquired	2,274	—
Liabilities assumed	(5,848)	—
Acquisition and transaction costs incurred	(4,652)	—
Common stock issued	(34,162)	—
Non-cash investing activities:		
Exchange of assets for third party preferred stock	—	1,290

7. Convertible Subordinated Notes

In July 2003, we issued 2.75% Convertible Subordinated Notes due August 16, 2023 with a principal amount of $250.0 million (Convertible Notes). The Convertible Notes are convertible into our common stock at a conversion price of $20.14 per share, subject to adjustment in certain events and at the holders' option. Interest on the Convertible Notes is payable semiannually in arrears on February 16 and August 16 of each year. We pledged a portfolio of U.S. government securities costing approximately $20.7 million as security for the Convertible Notes. These securities, and the earnings thereon, will be sufficient to pay the first six scheduled interest payments due on the Convertible Notes. The pledged amount of $20.7 million has been classified as restricted investments on our balance sheet. The portion related to payments to be made within one year, $7.4 million, is reflected on the balance sheet within marketable securities and the portion related to payments to be made thereafter, $13.3 million, is reflected on the balance sheet as long-term restricted investments. The Convertible Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The Convertible Notes may be redeemed at our option, in whole or in part, beginning on August 16, 2008 at par value. In the third quarter of 2003, we filed a shelf registration statement with the Securities and Exchange Commission covering the resale of the Convertible Notes and the common stock issuable upon conversion of the Convertible Notes.

8. Subsequent Event

Effective October 1, 2003, we entered into an amendment to our collaboration agreement with Roche, pursuant to which we obtained exclusive worldwide rights to market, develop, manufacture and sell Zenapax® (daclizumab) in all disease indications other than transplantation. Roche is currently expected to continue to market Zenapax in transplantation indications until 2007, although an earlier transfer to us of rights in transplantation may occur upon six months' written notice at Roche's election.

Under the new arrangement, we assumed worldwide responsibility for the development and, if successful, sales and marketing of daclizumab in all indications other than transplantation. We also have rights to manufacture daclizumab.

In connection with the new arrangement, in October 2003, we paid Roche $80 million in cash for return of exclusive rights in indications other than transplantation and a reversion right, exercisable by us in 2006 but effective in 2007, to repurchase all rights in remaining transplant indications, unless earlier elected by Roche. To effectuate the transfer of Zenapax in the transplantation indications, we will pay an additional exercise fee to Roche based on the average annual gross sales of Zenapax during the period from January 1, 2004 through the calendar quarter prior to the date of notice of the exercise, or Roche's notice of its decision to transfer the rights to us prior to our exercise date. If we do not receive transplantation rights, we would pay modest royalties to Roche on any sales in all diseases other than transplantation, and would continue to receive royalties on sales of Zenapax in transplantation.

We currently estimate that more than half the amount paid to Roche in October 2003 will be expensed in the fourth quarter of 2003 as acquired in-process research and development. The remaining amounts, which relate primarily to core technology and the reversion right, will be capitalized.

Effective November 3, 2003, we redeemed all of our outstanding 5.50% Convertible Subordinated Notes (the 5.5 % Convertible Notes), with a principal amount of $150 million, due February 15, 2007. The redemption price, set forth in the 5.5% Convertible Notes indenture, is 102.75% of the principal amount, or $1,027.50 per $1,000 of principal amount of the 5.5% Convertible Notes. Approximately $155.9 million in cash was used to redeem the 5.5% Convertible Notes including accrued interest of $1.8 million and we expect to incur a financial charge of approximately $6.5 million in the fourth quarter of 2003 in connection with the redemption.

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

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

OVERVIEW

We are a recognized leader in the discovery and development of humanized monoclonal antibodies for the treatment of disease. Our patented platform technology enables us to develop antibodies with high specificity based on murine antibodies, which are relatively easy to generate, but which we modify to be structurally similar to naturally occurring human antibodies. As a result, our antibodies do not have the immunogenicity and half-life limitations associated with murine antibodies. We utilize our technology to develop humanized antibodies for the treatment of certain autoimmune and inflammatory diseases, and cancer. We currently have four antibodies in clinical development for ulcerative colitis, Crohn's disease, asthma and cancerous solid tumors.

FINANCIAL RISKS AND RISKS OF OPERATIONS

In general, we have a history of operating losses and may not achieve sustained profitability. As of September 30, 2003, we had an accumulated deficit of approximately $147.4 million. Our expenses will increase because of the extensive resource commitments required to identify and develop antibody candidates, including the ongoing operating costs associated with our acquisition of Eos, achieve regulatory approval and market potential products for commercial success for any individual product. Over the next several years, we expect to incur substantial additional expenses as we continue to identify, develop and manufacture our potential products, invest in research and improve and expand our development, manufacturing, marketing and sales capabilities. Since we or our collaborative partners or licensees may not be able to successfully develop additional products, obtain required regulatory approvals, manufacture products at an acceptable cost and with appropriate quality, or successfully market such products with desired margins, we may never achieve sustained profitable operations. The amount of net losses and the time required to reach sustained profitability are highly uncertain. Although we have had some profitable reporting periods, we do not expect to achieve sustained profitability until we are able to market and sell products.

In April 2003, we completed the acquisition of Eos Biotechnology, Inc. (Eos), a privately held South San Francisco-based antibody discovery company, in exchange for 4.2 million shares of our common stock (net of approximately 151,000 of such shares that were withheld from Eos shareholders to provide for the Eos shareholder tax liabilities incurred in connection with receipt of the shares issued in the acquisition). The Eos acquisition expanded our research personnel and added new capabilities in antibody target identification and validation, particularly in oncology. We also obtained two pre-clinical antibody product candidates, one of which (M200) began clinical development for potential treatment of solid tumors in June 2003, and the second, for potential treatment of certain ocular indications (F200), is expected to begin clinical development by mid-2004.

The Eos acquisition was accounted for as an acquisition of assets rather than as a business combination as Eos was a development stage company that had not commenced its planned principal operations. Eos lacked the necessary elements of a business because it did not have completed products and, therefore, no ability to access customers. The Eos operating results have been included in the Company's consolidated results of operations since April 5, 2003. In conjunction with the merger, we recorded a charge of approximately $37.8 million related to acquired in-process research and development in the second quarter of 2003.

The aggregate purchase price of $38.7 million, consisted of the shares issued to the Eos stockholders valued at $35.4 million (including the value of shares withheld to provide for tax liabilities of $1.2 million), transaction costs of $2.2 million and employee change of control costs of $1.1 million. The shares issued in connection with this acquisition were valued at $8.17 per share, which represented the average closing market price of our common stock a few days before and the acquisition announcement date (February 4, 2003).

Effective October 1, 2003, we entered into an amendment to our collaboration agreement with Roche, pursuant to which we obtained exclusive worldwide rights to market, develop, manufacture and sell Zenapax® (daclizumab) in all disease indications other than transplantation. Roche is currently expected to continue to market Zenapax in transplantation indications until 2007, although an earlier transfer to us of rights in transplantation may occur upon six months' written notice at Roche's election.

Under the new arrangement, we assumed worldwide responsibility for the development and, if successful, sales and marketing of daclizumab in all indications other than transplantation. We also have rights to manufacture daclizumab.

In connection with the new arrangement, in October 2003, we paid Roche $80 million in cash for return of exclusive rights in indications other than transplantation and a reversion right, exercisable by us in 2006 but effective in 2007, to repurchase all rights in remaining transplant indications, unless earlier elected by Roche. To effectuate the transfer of Zenapax in the transplantation indications, we will pay an additional exercise fee to Roche based on the average annual gross sales of Zenapax during the period from January 1, 2004 through the calendar quarter prior to the date of notice of the exercise, or Roche's notice of its decision to transfer the rights to us prior to our exercise date. If we do not receive transplantation rights, we would pay modest royalties to Roche on any sales in all diseases other than transplantation, and would continue to receive royalties on sales of Zenapax in transplantation.

We currently estimate that more than half the amount paid to Roche in October 2003 will be expensed in the fourth quarter of 2003 as acquired in-process research and development. The remaining amounts, which relate primarily to core technology and the reversion right, will be capitalized.

Our commitment of resources to research and the continued development of our products will require significant additional funds. Our operating expenses may also increase as some of our earlier stage potential products move into later stage clinical development, as additional potential products are selected as clinical candidates for further development, as we invest in additional manufacturing capacity, as we defend or prosecute our patents and patent applications, and as we invest in research or acquire additional technologies, product candidates or businesses.

In the absence of substantial revenues from new corporate collaborations or patent rights or patent licensing or humanization agreements, significant royalties on sales of products licensed under our intellectual property rights, product sales or other uncertain sources of revenue, we will continue to incur substantial operating losses. For example, Genentech recently initiated the market launch of Xolair, a humanized antibody. Based on our evaluation to date of publicly available information, we believe that Xolair is covered under the claims of our humanization patents. Genentech has advised us that they do not believe Xolair is covered by our patents. We continue to hold discussions between senior management as well as between technical and legal groups to clarify the bases for our disagreement and to reach a mutually acceptable resolution to this disagreement. While we continue to believe that our analysis is correct, Genentech may not agree to exercise an option under our existing patent rights arrangement with respect to Xolair and we may be placed into a position to consider and elect appropriate legal remedies following completion of discussions between the parties if we are unable to reach agreement.

Our revenues, expenses and operating results will likely fluctuate in future periods. Our revenues have varied in the past and will likely continue to fluctuate considerably from quarter to quarter and from year to year. As a result, our revenues in any period may not be predictive of revenues in any subsequent period. Our royalty revenues may be unpredictable and may fluctuate since they depend upon the seasonality of sales of licensed products, the existence of competing products, the marketing efforts of our licensees, potential reductions in royalties payable to us due to credits for prior payments to us, the timing of royalty reports, some of which are required quarterly and others semi-annually, our method of accounting for royalty revenues from our licensees in the period reported to us, and our ability to successfully defend and enforce our patents. We receive royalty revenues on sales of the product Synagis. This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties recognized by us in our first and second quarters than in other quarters. We expect the seasonality of Synagis sales to continue to contribute to future fluctuation of our royalty revenues from quarter to quarter.

License and other revenue may also be unpredictable and may fluctuate due to the timing of payments of upfront fees, payments for manufacturing and clinical development services and payments for the achievement of milestones under new and existing collaborative**,** humanization, and patent licensing agreements. Revenue historically recognized under our prior agreements may not be an indicator of revenue from any future collaborations.

In addition, our expenses may be unpredictable and may fluctuate from quarter to quarter due to the timing of expenses, which may include clinical trial expenses as well as payments owed by us and to us under collaborative agreements for reimbursement of expenses and which are reported under our policy during the quarter in which such expenses are reported to us or to our collaborative partners and agreed to by us or our partners.

CRITICAL ACCOUNTING POLICIES AND THE USE OF ESTIMATES

There have been no significant changes in our critical accounting policies during the three and nine month periods ended September 30, 2003 as compared to what was previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2002.

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

Revenue Recognition

We currently recognize three types of revenues resulting from the licensing and use of our technology, and from services we sometimes perform in connection with the licensed technology. These revenues are typically derived from our proprietary patent portfolio covering the humanization of antibodies for use in

drug development and production. Revenue arrangements with multiple elements are divided into separate units of accounting if certain criteria are met, including whether the delivered item has value to the customer on a stand-alone basis and whether there is objective and reliable evidence of the fair value of the undelivered items. The consideration we receive is allocated among the separate units of accounting based on their respective fair values, and the applicable revenue recognition criteria are considered separately for each of the separate units. Revenues, and their respective treatment for financial reporting purposes, are as follows:

Upfront and License Maintenance Fees

We generally recognize revenue from upfront fees when the agreement is signed, we have completed the earnings process and we have no ongoing performance obligation with respect to the arrangement. Revenues recognized from upfront fees typically relate to patent license and patent rights agreements.

- Under patent license agreements, the licensee typically obtains a non-exclusive license to our patents. In this arrangement, the licensee is responsible for all of the development work on its product. The licensee has the technical ability to perform the humanization of the antibody it is developing using our patented technology, but needs to obtain a license from us to avoid infringing our patents. We have no future performance obligations under these agreements.

- Under patent rights agreements, licensees currently purchase a research patent license, in exchange for an upfront fee, and a right to obtain, in exchange for consideration separate from the upfront fee, patent licenses for commercial purposes for a specified number of drug targets to be designated by the licensee subsequent to execution of the agreement. All of the research is performed by the licensee, and therefore, upon delivery of the patent rights agreement, the earnings process is complete and we have no further performance obligations with respect to the research patent license and the grant of the right to obtain commercial patent licenses. Subsequent to execution of the agreement, the licensee has the right to purchase patent licenses to certain designated targets, for which the licensee pays separate consideration at a later date. Such consideration is recognized upon exercise of such right, execution and delivery of the associated patent license agreement and when payment is reasonably assured.

- Under our humanization agreements, at times referred to in our previous filings as research and development agreements, the licensee typically pays an upfront fee for us to “humanize” an antibody. These upfront fees are recognized on a percent completion basis, as the humanization work is performed, which is typically over three to six months.

- Under patent license agreements and humanization agreements, we may also receive annual license maintenance fees, payable at the election of the licensee to maintain the license in effect. We have no performance obligations with respect to such fees. Maintenance fees are recognized as they are due and when payment is reasonably assured.

Milestone Payments

Certain agreements include milestone payments that are recognized as revenue when earned as part of a multi-element arrangement. Each element of the contract represents a separate earnings process and as such we recognize milestone amounts when the associated earnings process is complete and, to the extent the milestone amount relates to our performance obligation, when our customer confirms that we have met the requirements under the terms of the agreement and when payment is reasonably assured. Generally, there are three types of agreements under which a customer would owe us a milestone payment:

- Humanization agreements provide for the payment of certain milestones to us after the completion of services to perform the humanization process. These milestones include delivery of a humanized antibody meeting a certain binding affinity and, at the customer’s election, delivery of a cell line meeting certain criteria described in the original agreement. We recognize these milestones

when we have no further performance obligations with respect to that milestone and the funding party confirms that the milestone stipulated in the agreement has been met.

- Patent license agreements and humanization agreements sometimes require our customers to make milestone payments to us when they achieve certain progress, such as FDA approval, with respect to the customer’s product. Because we have no obligations with respect to any of this activity, we record these milestone payments as revenue when received and we have confirmed that the milestone has been achieved.

- We may also receive certain milestone payments in connection with licensing technology to or from our partners, such as product licenses. Under these agreements, our partners may make milestone payments to us when we or they achieve certain levels of development with respect to the licensed technology. These fees are recognized when we have no further performance obligations with respect to the applicable milestone and it is confirmed that the milestone stipulated in the agreement has been met.

Royalties

Under some of our agreements, we also receive royalty payments based upon our licensees’ net sales of products. Generally, we receive royalty reports from such licensees approximately one quarter in arrears; that is, generally at the end of the second month of the quarter after the licensee has sold the royalty-bearing product. We recognize royalty revenues when we can reliably estimate such amounts and collectibility is reasonably assured. Accordingly, we have adopted an accounting policy of recording the royalty revenue in the quarter it is reported to us (i.e., generally revenue is recognized one quarter following the quarter in which sales occurred). We receive royalty revenues on sales of the product Synagis. This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties recognized by us in our first and second quarters than in other quarters. The seasonality of Synagis sales is expected to continue to contribute to future fluctuation of our royalty revenues from quarter to quarter.

Clinical Trial Expenses

Our cost accruals for clinical trials are based on estimates of the services received and efforts expended pursuant to contracts with numerous clinical trial centers and clinical research organizations. In the ordinary course of business, we contract with third parties to perform various clinical trial activities in the

on-going development of potential drugs. The financial terms of these agreements are subject to negotiation and variation from contract to contract and may result in uneven payment flows. Payments under the contracts depend on factors such as the achievement of certain events or the successful accrual of patients or the completion of portions of the clinical trial or similar conditions. The objective of our accrual policy is to match the recording of expenses in our financial statements to the actual services received and efforts expended. As such, expenses related to each patient enrolled in a clinical trial are recognized ratably beginning upon entry into the trial and over the course of the patient's continued participation in the trial. In the event of early termination of a clinical trial, we accrue an amount based on our estimate of the remaining non-cancelable obligations associated with the winding down of the clinical trial. Our estimates and assumptions could differ significantly from the amounts which may actually be incurred.

Valuation of Financial Instruments

We invest our excess cash balances primarily in short-term and long-term marketable debt securities. These securities are classified as available-for-sale and are carried at fair value, with the unrealized gains and losses reported in accumulated other comprehensive income (loss) in stockholders' equity. Estimated fair value is based upon quoted market prices for these or similar instruments. All available-for-sale securities in our portfolio have readily determinable market prices. Restricted investments are primarily in short-term and long-term marketable debt securities. Short-term restricted investments are reflected on the balance sheet within marketable securities and long-term restricted investments are reflected separately on the balance sheet. Restricted securities are carried at cost plus accrued interest.

In determining if and when a decline in market value below amortized cost is other than temporary, we evaluate the market conditions, offering prices, trends of earnings, price multiples, and other key measures for our investments in marketable debt securities. If such a decline in value is deemed to be other-than-temporary, we recognize an impairment loss in the current period operating results to the extent of the decline.

Historically, we have not recognized any impairment losses on our available-for-sale securities, nor have we realized gains or losses on the sale of available-for-sale securities, as all securities liquidated have been held to maturity.

Cost Method Investments

In determining if and when a cost method investment's decline in estimated fair value below cost is other-than-temporary, we evaluate the general market conditions, the operating results and business prospects of our investees, and other key considerations. When such a decline in value is deemed to be other-than-temporary, we recognize an impairment loss on the investment in the current period operating results to the extent of the decline.

RESULTS OF OPERATIONS

Three Months Ended September 30, 2003 and 2002

(In thousands)	Three Months Ended September 30, 2003	2002	% Change
Royalties	$ 8,758	$ 5,991	46%
License and other	567	551	3%
Total revenues	$ 9,325	$ 6,542	43%

Royalties

Royalty revenues recognized under agreements with Genentech, MedImmune, Roche and Wyeth were $8.8 million in the third quarter of 2003, a 46% increase compared to $6.0 million in the comparable period in 2002. The increase in 2003 was primarily due to significantly higher third-party sales of Herceptin reported by Genentech and somewhat higher third-party sales of Synagis reported by MedImmune. Royalty payments from sales of Synagis and Herceptin accounted for 16% and 68%, respectively, of our total revenues for the three months ended September 30, 2003 as compared to 14% and 70% of our total revenues, respectively, in the comparable period in 2002. We expect to continue to experience quarterly fluctuations in royalty revenues due to the seasonality of sales of Synagis, with first and second quarter royalty revenues significantly higher than the third and fourth quarters as a result of this seasonality.

License and Other Revenue

License and other revenue was $0.6 million for each of the three months ended September 30, 2003 and 2002. License and other revenue recognized in the third quarter of 2003 and 2002 primarily consisted of license maintenance fees.

(In thousands)	Three Months Ended September 30, 2003	2002	% Change
Costs and Expenses			
Research and development	$ 22,505	$ 14,306	57%
General and administrative	6,696	4,735	41%
Total costs and expenses	$ 29,201	$ 19,041	53%

Research and Development Expenses

Research and development expenses for the three months ended September 30, 2003were $22.5 million, a 57% increase compared to $14.3 million in the year-earlier quarter. Research and development costs include costs of personnel to support our research and development activities, costs of preclinical studies, costs of conducting our clinical trials, such as clinical investigator fees, monitoring costs, data management and clinical supply costs, research and development funding provided to third parties and an allocation of facility costs. The increase in the third quarter of 2003 was primarily due to an increase in research and development personnel headcount of approximately 120 employees, in large measure resulting from personnel costs of approximately $4.6 million as a result of the acquisition of Eos and additional employees required to pursue our development programs, an increase in facility-related costs of $1.5 million, expanded clinical development activities for our major research and development projects of approximately $1.1 million and legal costs related

to our intellectual property of $0.5 million. We expect our research and development expenses will increase further as we advance our product candidates into later stages of development and new product candidates advance towards clinical development.

General and Administrative Expenses

General and administrative expenses for the three months ended September 30, 2003 were $6.7 million, a 41% increase compared to $4.7 million in the comparable period in 2002. General and administrative costs include costs of personnel, professional services, consulting and other expenses related to our administrative functions and an allocation of facility costs. The $2.0 million increase in general and administrative expenses for the three months ended September 30, 2003 as compared to the 2002 period was primarily due to increased personnel and recruiting costs of $1.4 million to support our expanded operations, increased amortization of costs associated with the issuance of our 2.75% Convertible Subordinated Notes in July 2003 of $0.2 million and an increase in facility-related costs of $0.2 million. We expect that general and administrative expenses will continue to increase as we continue to build our organization.

(In thousands)	Three Months Ended September 30, 2003	2002	% Change
Interest and Other Income and Expense			
Interest income	$4,188	$6,542	(36)%
Other income	103	—	N/A
Interest expense	(3,279)	(2,034)	61%

Interest and Other Income and Expense

Interest income for the three months ended September 30, 2003 decreased compared to the same period in 2002 due to the reduced interest earned on our cash, cash equivalents and marketable securities balances as a result of lower interest rates on invested balances, partially offset by increased interest-bearing invested balances.

Other income is related to earn-out payments received on sales of oligonucleotides from the purchaser of the assets of a subsidiary sold by Eos in March 2001.

Interest expense for the three months ended September 30, 2003 increased compared to the same period in 2002 as a result of the issuance, in July 2003, of our 2.75% Convertible Subordinated Notes (Convertible Notes) with a principal amount of $250.0 million. The Convertible Notes resulted in increased interest expense during the third quarter of $1.4 million, partially offset by capitalization of $0.5 million of our interest cost in connection with the renovation of our existing manufacturing facilities and the development activities for our future manufacturing facilities.

Income Taxes

We have recorded a tax provision of approximately $11,000 for the three months ended September 30, 2003 primarily related to income earned in our foreign operations, compared to none for the comparable period in 2002. We do not expect to record any tax provision for federal income taxes based upon our projected tax loss for 2003.

Nine Months Ended September 30, 2003 and 2002

(In thousands)	Nine Months Ended September 30, 2003	2002	% Change
Royalties	$ 43,808	$ 33,158	32%
License and other	9,265	2,502	270%
Total revenues	$ 53,073	$ 35,660	49%

Royalties

Royalty revenues recognized under agreements with Genentech, MedImmune, Roche and Wyeth were $43.8 million for the nine months ended September 30, 2003, a 32% increase compared to $33.1 million in the comparable period in 2002. The increase in 2003 was primarily due to significantly higher third-party sales of Synagis reported by MedImmune and Herceptin reported by Genentech. Royalty payments from sales of Synagis and Herceptin accounted for 44% and 33%, respectively, of our total revenues for the nine months ended September 30, 2003, as compared to 51% and 35%, respectively, in the comparable period in 2002. We expect to continue to experience quarterly fluctuations in royalty revenues due to the seasonality of sales of Synagis, with first and second quarter royalty revenues significantly higher than the third and fourth quarters as a result of this seasonality.

License and Other Revenue

License and other revenue was $9.3 million for the nine months ended September 30, 2003, a 270% increase compared to $2.5 million in the comparable period in 2002. License and other revenue recognized in the nine months ended September 30, 2003 primarily consists of an upfront licensing fee for certain development rights to our SMART M195 antibody (Zamyl) conjugated to alpha-emitting radioisotopes, milestone payments associated with a patent licensing agreement, an option license exercise payment and license maintenance fees. License and other revenue for the nine months ended September 30, 2002 primarily consisted of a patent license fee and license maintenance fees.

(In thousands)	Nine Months Ended September 30, 2003	2002	% Change

Costs and Expenses			
Research and development	$ 59,955	$ 42,245	42%
General and administrative	18,619	13,677	36%
Acquired in-process research and development	37,834	—	N/A
Total costs and expenses	$ 116,408	$ 55,922	108%

Research and Development Expenses

Research and development expenses for the nine months ended September 30, 2003 increased to $60.0 million, a 42% increase compared to $42.2 million in the comparable period in 2002. Research and development costs include costs of personnel to support our research and development activities, costs of preclinical studies, costs of conducting our clinical trials, such as clinical investigator fees, monitoring costs, data management and clinical supply costs, research and development funding provided to third parties and an allocation of facility costs. The increase for the nine months ended September 30, 2003 was primarily due to an increase in research and development personnel headcount of approximately 120 employees, in large measure resulting from personnel costs of approximately $10.6 million as a result of the acquisition of Eos and additional employees required to pursue our development programs, expanded clinical development activities for our major research and development projects of approximately $2.8 million and increase in facility-related costs of $3.0 million, partially offset by lower preclinical study costs. We expect our research and development expenses will increase further as we advance our product candidates into later stages of development and add new product candidates.

Below is a summary of products and the related stages of development for each product in clinical development, including the research and development expenses recognized in connection with each product. The information in the column labeled “Estimated Completion of Current Phase” is our current estimate of the timing of completion of product development phases. The actual timing of completion of those phases could differ materially from the estimates provided in the table. For a discussion of the risks and uncertainties associated with the timing of completing a product development phase, see the “Clinical development is inherently uncertain and expense levels may fluctuate unexpectedly because we can not accurately predict the timing and level of such expenses,” “If we cannot successfully complete our clinical trials, we will be unable to obtain regulatory approvals required to market our products,” “Our clinical trial strategy may increase the risk of clinical trial difficulties,” “If we do not attract and retain key employees, our business could be impaired,” and “We may be unable to obtain or maintain regulatory approval for our products” sections of our Risk Factors below. For further information on our products refer to our Annual Report on Form 10-K filed with the Securities and Exchange Commission for the year ended December 31, 2002.

Product	Description/Indication	Phase of Development	Collaborator	Estimated Completion of Current Phase	Nine Months Ended September 30, 2003	2002
					(In thousands)	
Current Product Candidates						
Daclizumab					$ 11,325	$ 5,943
	Asthma	Phase II	—	2004		
	Ulcerative Colitis	Phase II	—	2004		
HuZAF					17,815	9,067
	Crohn’s Disease	Phase II	—	2004		
	Psoriasis	Phase I/II	—	Completed (1)		
Nuvion					6,494	2,495
	Steroid Refractory Graft Vs. Host Disease	Phase II	—	Completed (1)		
	Ulcerative Colitis	Phase I	—	2003		
Anti-α5β1 integrin Mab (2)	Solid Tumors	Phase I	—	2004	1,764	—
Out-license Candidates and Other						
Anti-IL-4	Asthma	Phase IIa	GlaxoSmithKline	Completed (3)	1,138	2,250
Anti-IL-12	Autoimmune Diseases	Phase I	—	Completed (4)	266	2,195
Remitogen					390	2,195
	Non-Hodgkin’s B-Cell Lymphoma	Phase II	—	Completed (5)		
	Solid Tumors	Phase I	—	2003		
Zamyl (SMART M195)	Acute Myeloid Leukemia	Phase III	—	Completed (6)	224	3,925
Other (7)	—	—	—	—	20,539	14,175
	Total Research and Development Costs				$ 59,955	$ 42,245

(1) Product is no longer being developed for this indication.
(2) Product acquired from Eos in April 2003.
(3) This product is being returned to GlaxoSmithKline.
(4) Product returned to a preclinical status while further research is conducted.
(5) Further development of this product is not currently expected.

(6) Product candidate is available for out-license. No further internal development of this product is currently expected.
(7) No single potential product included in "other" constitutes more than 5% of the total research and development costs for the period presented.

The overall completion dates presented for our major research and development programs are current estimates. The clinical development portion of these programs may span as many as 7 to 10 years and any further estimation of completion dates or costs would be highly speculative and subjective due to the numerous risks and uncertainties associated with developing drugs, including significant and changing government regulation, the uncertainty of future preclinical and clinical study results and uncertainties associated with process development and manufacturing as well as marketing. These risks and uncertainties make estimates of overall completion dates and total costs incurred during the period presented highly speculative. For additional discussion of risk factors affecting overall completion dates and total costs, see the "Clinical development is inherently uncertain and expense levels may fluctuate unexpectedly because we cannot accurately predict the timing and level of such expenses" section of our Risk Factors below.

General and Administrative Expenses

General and administrative expenses for the nine months ended September 30, 2003 were $18.6 million, a 36% increase compared to $13.7 million in the comparable period in 2002. General and administrative costs include costs of personnel, professional services, consulting and other expenses related to our administrative functions and an allocation of facility costs. The $4.9 million increase in general and administrative expenses for the nine months ended September 30, 2003 as compared to the 2002 period was primarily due to increased personnel and recruiting costs of $3.5 million to support our expanded operations, an increase in facility-related costs of $0.5 million, stock-based compensation expense related to the issuance of stock options to consultants of $0.2 million, increased amortization of costs associated with the issuance of our 2.75% Convertible Subordinated Notes in July 2003 of $0.2 million and higher costs related to our 2002 annual report of $0.2 million. We expect that general and administrative expenses will continue to increase as we continue to build our organization.

Acquired In-process Research and Development

In connection with the April 2003 acquisition of Eos, we recorded a charge for acquired in process research and development of $37.8 million for the nine months ended September 30, 2003. The charge was due to Eos' incomplete research and development programs that had not yet reached technological feasibility and had no alternative future use as of that date as of the acquisition date.

(In thousands)	Nine Months Ended September 30, 2003	2002	% Change
Interest and Other Income and Expense			
Interest income	$ 13,049	$ 20,135	(35)%
Other income	103	—	N/A
Interest expense	(6,560)	(6,516)	1%
Impairment loss on investment	(150)	—	N/A

Interest and Other Income and Expense

Interest income for the nine months ended September 30, 2003 decreased compared to the same period in 2002 due to the reduced interest earned on our cash, cash equivalents and marketable securities balances primarily as a result of lower interest rates and to a lesser extent, average lower invested balances.

Other income is related to earn-out payments received on sales of oligonucleotides from the purchaser of the assets of a subsidiary sold by Eos in March 2001.

Interest expense for the nine months ended September 30, 2003 increased slightly compared to the same period in 2002, due to increased interest expense resulting from the issuance of the Convertible Notes, partially offset by increased capitalized interest. Capitalized interest for the nine months ended September 30, 2003 and 2002 was $1.7 million and $0.2 million, respectively, in connection with the renovation of our existing manufacturing facilities and the development activities for our future manufacturing facilities.

Impairment Loss on Investment

As of March 31, 2003, we estimated that our investment in Signature BioScience, Inc. had become fully impaired and that such impairment was other than temporary. Accordingly, we recorded an impairment charge of $150,000 in March 2003.

Income Taxes

We have recorded a tax provision of approximately $60,000 for the nine months ended September 30, 2003 primarily related to income earned in our foreign operations and foreign withholding tax in connection with a license maintenance fee, compared to $27,000 for the comparable period in 2002. We do not expect to record any tax provision for federal income taxes based upon our projected tax loss for 2003.

LIQUIDITY AND CAPITAL RESOURCES

To date, we have financed our operations primarily through public and private placements of equity and debt securities, revenue under agreements with third parties and interest income on invested capital. At September 30, 2003, we had cash, cash equivalents and marketable securities (including restricted investments) in the aggregate of $787.8 million, compared to $606.4 million at December 31, 2002.

Net cash used in operating activities for the nine months ended September 30, 2003 was approximately $7.4 million as compared to net cash provided by operating activities of $0.1 million in the comparable period in 2002. For the nine month period ended September 30, 2003, the change in cash used in operating activities as compared to cash provided by operating activities in the 2002 period related primarily to the funding of greater net losses, increases in other current assets and other assets resulting from the transaction costs associated with the issuance of our Convertible Notes, which will be amortized over 7 years, partially offset by an increase in accounts payable and accrued liabilities resulting from the construction of our new commercial manufacturing facility in Brooklyn Park, Minnesota.

Net cash provided by investing activities for the nine months ended September 30, 2003 was $11.6 million compared to $116.0 million in the comparable period in 2002. The change in the 2003 period was primarily the result of fewer maturities of marketable securities and increased purchases of marketable securities and restricted investments, as well as increased purchases of land, property, plant and equipment. Purchases of property, plant and equipment in 2003 are primarily related to the development and construction activities for our manufacturing facility in Brooklyn Park, Minnesota. Purchases of land, property, plant and equipment in 2002 primarily consisted of land and equipment purchases the renovation of our existing Plymouth, Minnesota manufacturing facility as well as construction activities for our manufacturing facility in Brooklyn Park, Minnesota.

Net cash provided by financing activities for the nine months ended September 30, 2003 was $251.4 million compared to $3.0 million in the comparable period in 2002. The change in 2003 from 2002 was primarily the result of the proceeds of our Convertible Notes issued in July 2003, a decrease in the exercise of stock options and an increase in payments on other long-term debt as part of the liabilities assumed in the acquisition of Eos.

In July 2003, we issued 2.75% Convertible Subordinated Notes due August 16, 2023 with a principal amount of $250.0 million (Convertible Notes). The Convertible Notes are convertible into our common stock at a conversion price of $20.14 per share, subject to adjustment in certain events and at the holders' option. Interest on the Convertible Notes is payable semiannually in arrears on February 16 and August 16 of each year. The Convertible Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The Convertible Notes may be redeemed at our option, in whole or in part, beginning on August 16, 2008 at par value. In the third quarter of 2003, we filed a shelf registration statement with the Securities and Exchange Commission covering the resale of the Convertible Notes and the common stock issuable upon conversion of the Convertible Notes.

Effective October 1, 2003, we entered into an amendment to our collaboration agreement with Roche, pursuant to which we obtained exclusive worldwide rights to market, develop, manufacture and sell Zenapax® (daclizumab) in all disease indications other than transplantation.

In connection with the new arrangement, in October 2003, we paid Roche $80 million in cash for return of exclusive rights in indications other than transplantation and a reversion right, exercisable by us in 2006 but effective in 2007, to repurchase all rights in remaining transplant indications, unless earlier elected by Roche. To effectuate the transfer of Zenapax in the transplantation indications, we will pay an additional exercise fee to Roche based on the average annual gross sales of Zenapax during the period from January 1, 2004 through the calendar quarter prior to the date of notice of the exercise, or Roche's notice of its decision to transfer the rights to us prior to our exercise date. If we do not receive transplantation rights, we would pay modest royalties to Roche on any sales in all diseases other than transplantation, and would continue to receive royalties on sales of Zenapax in transplantation.

We estimate that our existing capital resources will be sufficient to fund our current level of operations for at least the next five years. Our future capital requirements will depend on numerous factors, including, among others, royalties from sales of products by third-party licensees, which products currently include Synagis, Herceptin, Zenapax and Mylotarg; our ability to enter into additional collaborative, humanization, patent license and patent rights agreements; progress of product candidates in clinical trials; the ability of our licensees to obtain regulatory approval and successfully manufacture and market products licensed under our patents; the continued or additional support by our collaborative partners or other third parties of research and development efforts and clinical trials; investment in existing and new research and development programs; time required to gain regulatory approvals; significant resources we will devote to constructing our manufacturing facilities; our ability to obtain and retain funding from third parties under collaborative arrangements; our continued development of internal marketing and sales capabilities; the demand for our potential products, if and when approved; potential acquisitions of technology, product candidates or businesses by us; the costs of defending or prosecuting any patent opposition or litigation necessary to protect our proprietary technology; and interest income. In order to develop and commercialize our potential products we may need to raise substantial additional funds through equity or debt financings, collaborative arrangements, the use of sponsored research efforts or other means. No assurance can be given that such additional financing will be available on acceptable terms, if at all, and such financing may only be available on terms dilutive to existing stockholders.

COMMITMENTS

Our commitments consist of leases for real property associated with our operations, commitments to certain collaborators and outstanding debt and construction-related obligations.

In Fremont, California; Menlo Park, California; Somerville, New Jersey; Plymouth, Minnesota and Paris, France, we occupy leased facilities under agreements that expire in 2006, 2005, 2005, 2009 and 2004, respectively. We also have leased certain office equipment under operating leases. In October 2003, we leased additional general office and research and development space in Fremont, California under an agreement that will expire in December 2006.

In September 1999, Fremont Holding L.L.C. (our wholly owned subsidiary) obtained a $10.2 million term loan to purchase our 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. The loan is secured by our Fremont, California facilities and is subject to the terms and covenants of the loan agreement.

In February 2000, we issued 5.50% Convertible Subordinated Notes due February 15, 2007 with a principal amount of $150 million (the 5.50% Convertible Notes). The 5.50% Convertible Notes are convertible at the holders' option into our common stock at a conversion price of $37.75 per share, subject to adjustment as a result of certain events. Interest on the 5.50% Convertible Notes is payable semiannually in arrears on February 15 and August 15 of each year. The 5.50% Convertible Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The 5.50% Convertible Notes were redeemed by us in November 2003.

In connection with the construction of our new commercial manufacturing facility in Brooklyn Park, Minnesota, we have entered into, and will continue to enter into, agreements with third parties for the design and construction of the facility. In July 2002, we engaged Fluor Daniel (a division of Fluor Enterprises) to handle the engineering and certain procurement services for the new facility. In addition, we have recently engaged Fluor Daniel to perform systems integration and assist in commissioning of the facility. Under these arrangements, we will owe an aggregate of approximately $27.4 million of which approximately $6.5 million is remaining to be paid in 2003 and 2004. The design and project management work to be completed under this agreement was substantially completed in the third quarter of 2003 and the construction support, systems integration and commissioning work is scheduled to be completed by the third quarter of 2004. In addition, we have entered into various commitments related to the manufacturing equipment and validation services required for the new facility of approximately $31.9 million, of which approximately $24.4 million remains to be paid in 2003 and 2004. In May 2003, we signed

agreements with McGough Construction for the construction management and certain construction services for the facility. Under those agreements, we will owe an estimated aggregate of approximately $94.0

million of which approximately $72.0 million remains to be paid in 2003 and 2004. The facility construction is scheduled to be completed in 2004.

In July 2003, we issued 2.75% Convertible Subordinated Notes due August 16, 2023 with a principal amount of $250.0 million (Convertible Notes). The Convertible Notes are convertible into our common stock at a conversion price of $20.14 per share, subject to adjustment in certain events and at the holders' option. Interest on the Convertible Notes is payable semiannually in arrears on February 16 and August 16 of each year. We pledged a portfolio of U.S. government securities costing approximately $20.7 million as security for the Convertible Notes. These securities, and the earnings thereon, will be sufficient to pay the first six scheduled interest payments due on the Convertible Notes. The pledged amount of $20.7 million has been classified as restricted investments on our balance sheet. The portion related to payments to be made within one year, $7.4 million, is reflected on the balance sheet within marketable securities and the portion related to payments to be made thereafter, $13.3 million, is reflected on the balance sheet as long-term restricted investments. The Convertible Notes are unsecured and are subordinated to all our existing and future senior indebtedness. The Convertible Notes may be redeemed at our option, in whole or in part, beginning on August 16, 2008 at par value. In the third quarter of 2003, we filed a shelf registration statement with the Securities and Exchange Commission covering the resale of the Convertible Notes and the common stock issuable upon conversion of the Convertible Notes.

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

	PAYMENTS DUE BY PERIOD				
(In thousands)	Less Than 1 Year	1-3 Years	4-5 Years	After 5 Years	Total
CONTRACTUAL OBLIGATIONS (1)					
Operating leases (2)	$ 4,265	$ 4,477	$ 1,749	$ 320	$ 10,881
Long-term debt	1,139	2,278	2,278	6,928	12,623
5.50% Convertible debentures (3)	155,913	—	—	—	155,913
2.75% Convertible debentures	6,875	13,750	13,750	263,750	298,125
Construction contracts	97,083	5,829	—	—	102,912
Total contractual obligations	$ 265,275	$ 26,334	$ 17,777	$ 270,998	$ 580,454

(1) This table does not include (a) any milestone payments from us to third parties which may become payable under research collaborations or license agreements as the timing and likelihood of such payments are not known, or (b) any royalty payments from us to third parties as the amounts of such payments and / or likelihood of such payments are not known in any period presented above.
(2) Includes lease obligations associated with the acquisition of Eos.
(3) Includes the early redemption and call premium, as of November 2003, of our 5.5% Convertible Subordinated Notes in the principal amount of $150 million due February 2007.

RISK FACTORS

You should carefully consider and evaluate all of the information included and incorporated by reference in this Quarterly Report on Form 10-Q, including the risk factors listed below. Any of these risks could materially and adversely affect our business, results of operations and financial condition, which in turn could materially and adversely affect the trading price of our common stock.

Keep these risk factors in mind when you read forward-looking statements contained in this Quarterly Report on Form 10-Q and the documents incorporated by reference herein. These statements relate to our expectations about future events and time periods. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "intends," "plans," "believes," "anticipates," "expects," "estimates," "predicts," "potential," "continue" or "opportunity," the negative of these words or words of similar import. Similarly, statements that describe our reserves and our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. Forward-looking statements involve risks and uncertainties, and future events and circumstances could differ significantly from those anticipated in the forward-looking statements.

We have a history of operating losses and may not achieve sustained profitability.

In general, our expenses have exceeded revenues. As of September 30, 2003, we had an accumulated deficit of approximately $147.4 million. We expect our expenses to increase because of the extensive resource commitments required to achieve regulatory approval and commercial success for any individual product. For example, over the next several years, we will incur substantial additional expenses as we continue to develop and manufacture our potential products, invest in research and improve and expand our manufacturing, marketing and sales capabilities. Since we or our partners or licensees may not be able to successfully develop additional products, obtain required regulatory approvals, manufacture products at an acceptable cost and with appropriate quality, or

successfully market such products with desired margins, we may never achieve sustained profitable operations. The amount of net losses and the time required to reach sustained profitability are highly uncertain. We may be unable to achieve sustained profitability.

Our commitment of resources to the continued development of our products will require significant additional funds for development. Our operating expenses may also increase as:

- some of our earlier stage potential products move into later stage clinical development;
- additional potential products are selected as clinical candidates for further development;

- we invest in additional manufacturing capacity;
- we defend or prosecute our patents and patent applications; and
- we invest in research or acquire additional technologies, product candidates or businesses.

In the absence of substantial revenues from new agreements with third party business partners, significant royalties on sales of products licensed under our intellectual property rights, product sales or other uncertain sources of revenue, we will continue to incur substantial operating losses.

We have substantial outstanding indebtedness, which could adversely affect our financial condition and prevent us from fulfilling our obligations under the notes.

In connection with our sale of the notes in July 2003, we incurred $250.0 million of indebtedness, set to mature in August 2023. Our total consolidated long-term debt as of September 30, 2003 was $410.2 million and constituted approximately 44% of our total pro forma capitalization as of such date. On November 3, 2003, we redeemed all of the outstanding 5.50% notes, due February 15, 2007, in the aggregate principal amount of $150.0 million. On a pro forma basis, taking into account the redemption of our outstanding 5.50% notes, out total consolidated long-term debt as of September 30, 2003 was approximately $260.2 million which constituted approximately 33% of our total pro forma capitalization as of such date. The indenture relating to the 2003 notes does not restrict our ability to incur additional indebtedness, including debt that is senior to the notes.

The degree to which we are leveraged could have important consequences, because:

- it could affect our ability to satisfy our obligations under the July 2003 notes;
- a substantial portion of our cash flow from operations will be required to be dedicated to interest and principal payments and may not be available for operations, working capital, capital expenditures, expansion, acquisition or general corporate or other purposes;
- our ability to obtain additional financing in the future may be impaired;
- we may be more highly leveraged than some of our competitors, which may place us at a competitive disadvantage;
- our flexibility in planning for, or reacting to, changes in our business and industry may be limited; and
- it may make us more vulnerable in the event of a downturn in our business, our industry or the economy in general.

Our ability to make payments on and, if necessary, to refinance our debt, including the July 2003 notes, will depend on our ability to generate cash in the future. This, to a certain extent, is subject to general economic, business, financial, competitive, legislative, regulatory and other factors that are beyond our control.

We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will be available in an amount sufficient to enable us to pay our debt, including the July 2003 notes, or to fund our other liquidity needs. We may need to refinance all or a portion of our debt, including the July 2003 notes, on or before maturity. We cannot assure you that we would be able to refinance any of our debt, including the notes, on commercially reasonable terms or at all.

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

Our revenues have varied in the past and will likely continue to fluctuate considerably from quarter to quarter and from year to year. As a result, our revenues in any period may not be predictive of revenues in any subsequent period. Our royalty revenues may be unpredictable and may fluctuate since they depend upon:

- the seasonality of sales of licensed products;
- the existence of competing products;
- the marketing efforts of our licensees;
- potential reductions in royalties receivable due to credits for prior payments to us;
- the timing of royalty reports, some of which are required quarterly and others semi-annually; and
- our ability to successfully defend and enforce our patents.

We receive royalty revenues on sales of the product Synagis. This product has higher sales in the fall and winter, which to date have resulted in much higher royalties paid to us in our first and second quarters than in other quarters. The seasonality of Synagis sales could contribute to fluctuation of our revenues from quarter to quarter.

License and other revenue may also be unpredictable and may fluctuate due to the timing of payments of non-recurring licensing and signing fees, payments for manufacturing and clinical development services, and payments for the achievement of milestones under new and existing agreements with third party business partners. Revenue historically recognized under our prior agreements may not be an indicator of non-royalty revenue from any future collaborations.

Our expenses may be unpredictable and may fluctuate from quarter to quarter due to the timing of expenses, including clinical trial expenses as well as payments owed by us and to us under collaborative agreements for reimbursement of expenses and which are recorded under our policy during the quarter in which such expenses are reported to us or to our partners and agreed to by us or our partners.

In addition, our expenses or other operating results may fluctuate due to the accounting treatment of securities we own or may purchase or securities we have issued or may issue. In May 2002, we entered into an agreement with our Chairman of the Board under which vesting of his stock options may accelerate in certain events, and such acceleration would trigger an accounting expense. In addition, we hold a $30.0 million five-year convertible note receivable we purchased from Exelixis, Inc. in May 2001. Accounting rules require the conversion feature of some convertible notes to be separated from the debt agreement in which the conversion feature is contained and accounted for as a derivative instrument, and therefore reflected in the note purchaser's financial statements based upon the fair market value of the stock into which the note is convertible. Due in part to the number of shares into which this note receivable would currently convert and the average daily trading volume of Exelixis stock, the Exelixis note is not currently considered a derivative instrument and, therefore, changes in the market value of Exelixis stock are not required to be recorded in our financial statements. However, a significant increase in the average daily trading volume of Exelixis stock, or new accounting pronouncements or regulatory rulings could require us to report the value of the Exelixis stock in our financial statements. Such a requirement could cause changes in the Exelixis stock price to contribute to fluctuation of our operating results from quarter to quarter.

Our humanization patents are being opposed and a successful challenge or refusal to take a license could limit our future revenues.

Most of our current revenues are related to our humanization patents and the related licenses that third parties enter into with us for rights to those patents. If our rights are successfully challenged or third parties decline to take licenses for the patents, our future revenues would be adversely affected.

At an oral hearing in March 2000, the Opposition Division of the European Patent Office decided to revoke the broad claims of our first European humanization patent. We have appealed this decision. We have received notice that an oral hearing before the Technical Board of Appeal of the European Patent Office has been scheduled to consider this case in November 2003. Until our appeal is resolved, we may be limited in our ability to collect royalties or to negotiate future licensing or collaborative research and development arrangements based on this and our other humanization patents. Moreover, if our appeal is unsuccessful, our ability to collect royalties on European sales of antibodies humanized by others would depend on the scope and validity of our second European patent, whether the antibodies are manufactured in a country outside of Europe where they are covered by one of our patents, and in that case the terms of our license agreements with respect to that situation. Also, the Opposition Division's decision could encourage challenges of our related patents in other jurisdictions, including the United States. This decision may lead some of our licensees to stop making royalty payments or lead potential licensees not to take a license, either of which might result in us initiating formal legal actions to enforce our rights under our humanization patents. In such a situation, a likely defensive strategy to our action would be to challenge our patents in that jurisdiction. During the appeals process with respect to our first European patent, if we were to commence an infringement action to enforce that patent, such an action would likely be stayed until the appeal is decided by the European Patent Office. As a result, we may not be able to successfully enforce our rights under our European or related US and

Japanese patents.

Eight notices of opposition have been filed with respect to our second European antibody humanization patent and we have filed our response with the European Patent Office. Oral hearings, originally scheduled to take place in October 2003, have been postponed by the European Patent Office. No new date has been set for the hearings.

Also, three opposition statements were filed with the Japanese Patent Office with respect to our Japanese humanization patent. The Japanese Opposition Board's subsequent decision supported one aspect of the position of the opponents, to which we filed two responses. Ultimately, we received a final determination from the Japanese Patent Office examiner affirming the Opposition Board's earlier decision. We have appealed this decision to the Tokyo High Court. The patent will remain valid and enforceable during this appeal process. If this appeal is unsuccessful, we will then have an opportunity to appeal to the Japanese Supreme Court.

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

Our ability to maintain and increase our revenues from licensing is dependent upon third parties entering into new patent licensing arrangements, exercising rights under existing patent rights agreements, and paying royalties under existing patent licenses with us. To date, we have been successful in obtaining such licensing arrangements, and in receiving royalties on product sales, from parties whose products may be covered by our patents. However, there can be no assurance that we will continue to be successful in our licensing efforts in the future. For example, Genentech recently announced that it had initiated the market launch of Xolair, a humanized antibody. Based on our evaluation to date of publicly available information, we believe that Xolair is covered under the claims of our humanization patents. Genentech has stated that it does not believe Xolair is covered by our patents and we are having discussions with Genentech in an effort to resolve this issue. Additionally, other antibody-based therapeutics with respect to which we may receive royalties, include Raptiva and Avastin, two Genentech products. Raptiva was approved by the FDA on October 27, 2003 and Avastin may be approved by the FDA in the near future. There can be no assurance that Genentech will exercise its rights to obtain licenses under our antibody humanization patents or that other licensees or prospective licensees will take licenses, or exercise rights to obtain licenses to these or other products, or that existing licensees will continue to honor the terms, including royalty obligations, of their license agreements with us. If we experience difficulty in enforcing our patent rights through licenses, or if our licensees, or prospective licensees challenge our antibody humanization patents, our revenues and financial condition could be adversely affected and we could be required to undertake additional actions, including litigation, in order to enforce our rights. Such efforts would increase our expenses and could be unsuccessful.

If we are unable to protect our patents and proprietary technology, we may not be able to compete successfully.

Our pending patent applications may not result in the issuance of valid patents or our issued patents may not provide competitive advantages. Also, our patent protection may not prevent others from developing competitive products using related or other technology. 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 our programs. Some of these applications or patents may be competitive with our applications or contain material that could prevent the issuance of patents to us or result in a significant reduction in the scope of our issued patents. For example, BTG International Limited (successor in interest to the Medical Research Council) recently has been issued a US patent, to which we have a license, with claims that might be construed to overlap with our issued humanization patents. While the significance of this new US patent is unclear, if it conflicts with our US patents or patent applications, we may become involved in patent office or legal proceedings to determine which company was the first to invent the technology and processes contained in the conflicting patents. These proceedings could be expensive, last several years and either prevent issuance of additional patents to us relating to humanization of antibodies or result in a significant reduction in the scope or invalidation of our patents. Any limitation would reduce our ability to negotiate or collect royalties or to negotiate future collaborative research and development agreements based on these patents.

The scope, enforceability and effective term of patents can be highly uncertain and often involve complex legal and factual questions. No consistent policy has emerged regarding the breadth of claims in biotechnology patents, so that even issued patents may later be modified or revoked by the relevant patent authorities or courts. 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 we are unable to predict the extent of patent protection in any country. In addition to seeking the protection of patents and licenses, we also rely upon trade secrets, know-how and continuing technological innovation that we seek to protect, in part, by confidentiality agreements with employees, consultants, suppliers and licensees. If these agreements are not honored, we might not have adequate remedies for any breach. Additionally, our trade secrets might otherwise become known or patented by our

competitors.

We may require additional patent licenses in order to manufacture or sell our potential products.

Other companies, universities and research institutions may obtain patents that could limit our ability to use, import, manufacture, market or sell our products or impair our competitive position. As a result, we might be required to obtain licenses from others before we could continue using, importing, manufacturing, marketing, or selling our products. We may not be able to obtain required licenses on terms acceptable to us, if at all. If we do not obtain required licenses, we may encounter significant delays in product development while we redesign potentially infringing products or methods or may not be able to market our products at all.

Celltech has been granted a European patent covering humanized antibodies, which we have opposed. At an oral hearing in September 2000, the Opposition Division of the European Patent Office decided to revoke this patent. Celltech appealed that decision, but the Technical Board of Appeal recently rejected the appeal. As a result, the decision revoking the patent is final; no further appeals are available. However, Celltech has a second issued divisional patent in Europe, which has claims that may be broader in scope than its first European patent, and which we have opposed. In addition, Celltech has a third divisional application currently drafted with broad claims directed towards humanized antibodies. We cannot predict whether Celltech's second European patent will be modified or revoked in any future opposition proceedings, or whether it will be able to obtain the grant of a patent from the pending divisional application with claims broad enough to generally cover humanized antibodies. Celltech has also been issued a corresponding US patent that contains claims that may be considered broader in scope than their first European patent. In addition, Celltech was recently issued a second U.S. patent with claims that may be considered broader than its first U.S. patent. We have entered into an agreement with Celltech providing each company with the right to obtain nonexclusive licenses for up to three antibody targets under the other company's humanization patents. This agreement expires in December 2004. Notwithstanding this agreement, if our humanized antibodies were covered by Celltech's European or US patents and if we were to need more than the three licenses under those patents currently available to us under the agreement, or we are unable to negotiate an extension of this agreement beyond December 2004 on terms that are acceptable to us, we would be required to negotiate additional licenses under those patents or to significantly alter our processes or products. We might not be able to successfully alter our processes or products to avoid conflict with these patents or to obtain the required additional licenses on commercially reasonable terms, if at all.

In addition, if the Celltech US patent or any related patent applications conflict with our US patents or patent applications, we may become involved in proceedings to determine which company was the first to invent the products or processes contained in the conflicting patents. These proceedings could be expensive, last several years and either prevent issuance of additional patents to us relating to humanization of antibodies or result in a significant reduction in the scope or invalidation of our patents. Any limitation would reduce our ability to negotiate or collect royalties or to negotiate future collaborative research and development agreements based on these patents.

Lonza Biologics, Inc. has a patent issued in Europe to which we do not have a license that may cover a process that we use to produce our potential products. In addition, we do not have a license to an issued US patent assigned to Stanford University and Columbia University, which may cover a process we use to produce our potential products. We have been advised that an exclusive license has been previously granted to a third party, Centocor, Inc., under this patent. If our processes were found to be covered by either of these patents, we might be required to obtain licenses or to significantly alter our processes or products. We might not be able to successfully alter our processes or products to avoid conflicts with these patents or to obtain licenses on acceptable terms.

We are also aware of issued patents that could apply to one or more of our specific products. For example, a US patent issued to Advanced Biotherapy, Inc. has claims to the use of anti-gamma interferon antibodies to treat certain autoimmune diseases. The claims issued to Advanced Biotherapy, Inc., however, do not cover treatment of either Crohn's disease or psoriasis, the two indications currently being investigated in our HuZAF (anti-gamma interferon antibody) clinical trials. However, a European patent issued to Genentech in 1998 and a US patent issued in 2003 do have claims to the use of anti-gamma interferon inhibitors, including antibodies, for treatment of inflammatory bowel disease, including Crohn's disease. Additional examples include an issued US patent to Genentech claiming humanized antibodies with certain framework region substitutions that may cover some of our antibodies in development. As a result, we might be required to obtain licenses from others. We may not be able to obtain required licenses on terms acceptable to us, if at all. If we do not obtain required licenses, we may encounter significant delays in product development while we redesign potentially infringing products or methods or we may not be able to market our products at all.

If our research efforts are not successful, we may not be able to effectively develop new products.

We are engaged in research activities intended to identify antibody product candidates that we may enter into clinical development. These research activities include efforts to discover and validate new targets for antibodies in our areas of therapeutic focus. We obtain new targets through our own drug discovery efforts and through in-licensing targets from institutions or other biotechnology or pharmaceutical companies. Our success in identifying new antibody product candidates depends upon our ability to discover and validate new targets, either through our own research efforts, or through in-licensing or collaborative arrangements. In order to increase the possibilities of identifying antibodies with a reasonable chance for success in clinical studies, part of our business

strategy is to identify a number of potential targets. If we are unsuccessful in our research efforts to identify and obtain rights to new targets, our ability to develop new products could be harmed.

Clinical development is inherently uncertain and expense levels may fluctuate unexpectedly because we cannot accurately predict the timing and level of such expenses.

Our future success depends in large part upon the results of clinical trials designed to assess the safety and efficacy of our potential products, and the majority of our expenses are to support these activities. The completion of clinical trials often depends significantly upon the rate of patient enrollment, and our expense levels will vary depending upon the rate of enrollment. In addition, the length of time necessary to complete clinical trials and submit an application for marketing and manufacturing approvals varies significantly and is difficult to predict. The expenses associated with each phase of development depend upon the design of the trial. The design of each phase of trials depends in part upon results of prior phases, and additional trials may be needed at each phase. As a result the expense associated with future phases can not predicted in advance. Further, we may decide to terminate or suspend ongoing trials. Failure to comply with extensive FDA regulations may result in unanticipated delay, suspension or cancellation of a trial or the FDA's refusal to accept test results. The FDA may also suspend our clinical trials at any time if it concludes that the participants are being exposed to unacceptable risks. As a result of these factors, we cannot predict the actual expenses that we will incur with respect to trials for any of our potential products, and we expect that our expense levels will fluctuate unexpectedly in the future.

If we cannot successfully complete our clinical trials, we will be unable to obtain regulatory approvals required to market our products.

To obtain regulatory approval for the commercial sale of any of our potential products or to promote these products for expanded indications, we must demonstrate through preclinical testing and clinical trials that each product is safe and effective for use in indications for which approval is requested. We have had, and may in the future have, clinical setbacks that prevent us from obtaining regulatory approval for our potential products. In May 2003, we announced that we have discontinued additional clinical studies of the humanized anti-IL-4 antibody after data from a Phase IIa clinical trial of the antibody in steroid-naïve, mild/moderate asthma indicated that the anti-IL-4 antibody did not demonstrate clinical benefit compared to placebo at either of the dose levels tested. Earlier clinical trials such as Phase I and II trials generally are designed to gather information to determine whether further trials are appropriate and, if so, how such trials should be designed. As a result, data gathered in these trials may indicate that the endpoints selected for these trials are not the most relevant for purposes of assessing the product or the design of future trials. Moreover, success or failure in meeting such early clinical trial endpoints may not be dispositive of whether further trials are appropriate and, if so, how such trials should be designed.

Larger or later stage clinical trials may not produce the same results as earlier trials. Many companies in the pharmaceutical and biotechnology industries, including our company, have suffered significant setbacks in clinical trials, including advanced clinical trials, even after promising results had been obtained in earlier trials. As an example, we recently announced the discontinuance of studies aimed at the treatment of steroid-refractory graft-versus-host-disease following bone marrow transplantation with Nuvion after partial, preliminary results in a Phase II trial showed that Nuvion was not, on average, associated with a significant prolongation of survival relative to historic controls.

Even when a drug candidate shows evidence of efficacy in a clinical trial, it may be impossible to further develop or receive regulatory approval for the drug if it causes an unacceptable incidence or severity of side effects, or further development may be slowed down by the need to find dosing regimens that do not cause such side effects. For example, while Nuvion has shown biological activity in some patients in a Phase I/II trial for psoriasis, it has also caused a level of side effects that would be unacceptable in this patient population. Enrollment in this trial currently is suspended and our current plan is not to continue this trial and not to further develop Nuvion for psoriasis.

In addition, we may not be able to successfully commence and complete all of our planned clinical trials without significant additional resources and expertise because we have a relatively large number of potential products in clinical development. Additionally, regulatory review of our clinical trial protocols may cause us in some cases to delay or abandon our planned clinical trials. Our potential inability to commence or continue clinical trials, to complete the clinical trials on a timely basis or to demonstrate the safety and efficacy of our potential products, further adds to the uncertainty of regulatory approval for our potential products.

Our clinical trial strategy may increase the risk of clinical trial difficulties.

Research, preclinical testing and clinical trials may take many years to complete and the time required can vary depending on the indication being pursued and the nature of the product. We may at times elect to use aggressive clinical strategies in order to advance potential products through clinical development as rapidly as possible. For example, we may commence clinical trials without conducting preclinical animal efficacy testing where an appropriate animal efficacy testing model does not exist, or we may conduct later stage trials based on limited early stage data. We anticipate that only some of our potential products may show safety and efficacy in clinical trials and some may encounter difficulties or delays during clinical development.

We may be unable to enroll sufficient patients to complete our clinical trials.

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

- the size of the patient population

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

We may have difficulty obtaining sufficient patient enrollment or clinician support to conduct our clinical trials as planned, and we may need to expend substantial additional funds to obtain access to resources or delay or modify our plans significantly. These considerations may lead us to consider the termination of ongoing clinical trials or development of a product for a particular indication.

Our revenues from licensed technologies depend on the efforts and successes of our licensees.

In those instances where we have licensed rights to our technologies, the product development and marketing efforts and successes of our licensees will determine the amount and timing of royalties we may receive, if any. We have no assurance that any licensee will successfully complete the product development, regulatory and marketing efforts required to sell products. The success of products sold by licensees will be affected by competitive products, including potential competing therapies that are marketed by the licensee or others.

If our collaborations are not successful, we may not be able to effectively develop and market some of our products.

We have agreements with pharmaceutical and other companies to develop, manufacture and market certain of our potential products. In some cases, we are relying on our partners to manufacture such products, to conduct clinical trials, to compile and analyze the data received from these trials, to obtain regulatory approvals and, if approved, to market these licensed products. As a result, we may have little or no control over the manufacturing, development and marketing of these potential products and little or no opportunity to review clinical data prior to or following public announcement.

Our agreements can generally be terminated by our partners on short notice. A partner may terminate its agreement with us or separately pursue alternative products, therapeutic approaches or technologies as a means of developing treatments for the diseases targeted by us or our collaborative effort. Even if a partner continues to contribute to the arrangement, it may nevertheless determine not to actively pursue the development or commercialization of any resulting products. In these circumstances, our ability to pursue potential products could be severely limited.

Continued funding and participation by partners will depend on the timely achievement of our research and development objectives, the retention of key personnel performing work under those agreements and on each partner's own financial, competitive, marketing and strategic considerations. Such considerations include:

- the commitment of each partner's management to the continued development of the licensed products or technology;
- the relationships among the individuals responsible for the implementation and maintenance of the development efforts;

and

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

Our ability to enter into new relationships and the willingness of our existing partners to continue development of our potential products depends upon, among other things, our patent position with respect to such products. If we are unable to successfully maintain our patents we may be unable to collect royalties on existing licensed products or enter into additional agreements.

Our lack of experience in sales, marketing and distribution may hamper market introduction and acceptance of our products.

We intend to market and sell a number of our products either directly or through sales and marketing partnership arrangements with partners. Pursuant to the terms of our revised collaboration agreement with Roche, we have a right, exercisable in 2006 but effective in 2007, to repurchase all rights relating to Zenapax, including sales and marketing rights, in transplant indications, unless earlier elected by Roche. If we elect to exercise this right, or Roche elects to transfer such rights to us, we will be responsible for the marketing and commercialization of Zenapax in all indications worldwide. While Roche must notify us at least six months prior to a transfer Zenapax to us, there can be no assurance that we will be able to establish marketing, sales and distribution capabilities for Zenapax in a timely manner. To market products directly, we must either establish a marketing group and direct sales force or obtain the assistance of another company. We may not be able to establish marketing, sales and distribution capabilities for our other products or succeed in gaining market acceptance for our products. If we were to enter into co-promotion or other marketing arrangements with pharmaceutical or biotechnology companies, our revenues would be subject to the payment provisions of these arrangements and could largely depend on these partners' marketing and promotion efforts.

If we do not attract and retain key employees, our business could be impaired.

To be successful we must retain our qualified clinical, manufacturing, scientific and management personnel. If we are unsuccessful in retaining qualified personnel, our business could be impaired.

Manufacturing difficulties could delay commercialization of our products.

Of the products that we currently have in clinical development, Hoffmann-La Roche Inc. and its affiliates (Roche) are responsible for manufacturing Zenapax. In connection with the restructuring of our collaboration agreement with Roche, we obtained the rights to manufacture Zenapax. We are responsible for manufacturing our other products for our own development, and will begin manufacturing Zenapax following a transition period which we expect will extend to 2005. Our ability to successfully market and develop Zenapax, in particular in transplantation, depends upon our success in manufacturing Zenapax in commerical quantities. We have not manufactured this product in the past and we will need to show comparability with material manufactured by Roche. There can be no assurance that we will successfully manufacture Zenapax in commercial quantities and in a timely manner following the transfer of Zenapax to us by Roche.

We intend to continue to manufacture potential products for use in preclinical and clinical trials using our manufacturing facility in accordance with standard procedures that comply with appropriate regulatory standards. The manufacture of sufficient quantities of antibody products that comply with these standards is an expensive, time-consuming and complex process and is subject to a number of risks that could result in delays and/or the inability to produce sufficient quantities of such products in a commercially viable manner. We and our collaborative partners have experienced some manufacturing difficulties. Product supply interruptions could significantly delay clinical development of our potential products, reduce third party or clinical researcher interest and support of proposed clinical trials, and possibly delay commercialization and sales of these products. Manufacturing difficulties can even interrupt the supply of marketed products, thereby reducing revenues and risking loss of market share.

We do not have experience in manufacturing commercial supplies of our potential products, nor do we currently have sufficient facilities to manufacture our potential products on a commercial scale. To obtain regulatory approvals and to create capacity to produce our products for commercial sale at an acceptable cost, we will need to improve and expand our existing manufacturing capabilities. We are currently improving our existing manufacturing plant in order to manufacture initial commercial supplies of certain products, including Zenapax. Our ability to file for, and to obtain, regulatory approvals for such products, as well as the timing of such filings, will depend on our ability to successfully improve our existing manufacturing plant. We may be unable to do so, or to obtain regulatory approval or to successfully produce commercial supplies on a timely basis. Failure to do so could delay commercialization of our products.

In addition, we have begun construction of a new commercial manufacturing plant. As we implement these plans, we will incur substantial costs. Any construction or other delays could impair our ability to obtain necessary regulatory approvals and to produce adequate commercial supplies of our potential products on a timely basis. Failure to do so could delay commercialization of some of our products and could impair our competitive position.

Our revenue may be adversely affected by competition and rapid technological change.

Potential competitors have developed and are developing human and humanized antibodies or other compounds for treating autoimmune and inflammatory diseases, transplantation, asthma and cancers. In addition, a number of academic and commercial organizations are actively pursuing similar technologies, and several companies have developed or may develop technologies that may compete with our SMART antibody technology. Competitors may succeed in more rapidly developing and marketing technologies and products that are more effective than our products or that would render our products or technology obsolete or noncompetitive. Our collaborative partners may also independently develop products that are competitive with products that we have licensed to them. This could reduce our revenues under our agreements with these partners.

Any product that we or our collaborative partners succeed in developing and for which regulatory approval is obtained must then compete for market acceptance and market share. The relative speed with which we and our 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 will affect market success. In addition, the amount of marketing and sales resources and the effectiveness of the marketing used with respect to a product will affect its marketing success. For example, Novartis, which has a significant marketing and sales force directed to the transplantation market, has received approval to market Simulect, a product competitive with Zenapax, in the United States and Europe. Novartis has acquired a significant interest in Roche. We cannot predict the impact, if any, that this relationship may have on Roche's efforts to market Zenapax in the transplant market.

We may be unable to obtain or maintain regulatory approval for our products.

All of our products in development are subject to risks associated with applicable government regulations. The manufacturing, testing and marketing of our products are subject to regulation by numerous governmental authorities in the United States and other countries. In the United States, pharmaceutical products are subject to rigorous FDA regulation. Additionally, other federal, state and local regulations govern the manufacture, testing, clinical and non-clinical studies to assess safety and efficacy, approval, advertising and promotion of pharmaceutical products. The process of obtaining approval for a new pharmaceutical product or for additional therapeutic indications within this regulatory framework requires a number of years and the expenditure of substantial resources. Companies in the pharmaceutical and biotechnology industries, including us, have suffered significant setbacks in various stages of clinical trials, even in advanced clinical trials after promising results had been obtained in earlier trials.

As part of the regulatory approval process, we must demonstrate the ability to manufacture the pharmaceutical product. Accordingly, the manufacturing process and quality control procedures must conform to rigorous guidelines in order to receive FDA approval. Pharmaceutical product manufacturing establishments are subject to inspections by the FDA and local authorities as well as inspections by authorities of other countries. To supply pharmaceutical products for use in the United States, foreign manufacturing establishments must comply with these FDA approved guidelines. These foreign manufacturing establishments are subject to periodic inspection by the FDA or by corresponding regulatory agencies in these countries under reciprocal agreements with the FDA. Moreover, pharmaceutical product manufacturing facilities may also be regulated by state, local and other authorities.

For the marketing of pharmaceutical products outside the United States, we and our collaborative partners are subject to foreign regulatory requirements and, if the particular product is manufactured in the United States, FDA and other US export provisions. Requirements relating to the manufacturing, conduct of clinical trials, product licensing, promotion, pricing and reimbursement vary widely in different countries. Difficulties or

unanticipated costs or price controls may be encountered by us or our licensees or marketing partners in our respective efforts to secure necessary governmental approvals. This could delay or prevent us, our licensees or our marketing partners from marketing potential pharmaceutical products.

Both before and after approval is obtained, a biologic pharmaceutical product, its manufacturer and the holder of the BLA for the pharmaceutical product are subject to comprehensive regulatory oversight. The FDA may deny approval to a BLA if applicable regulatory criteria are not satisfied. Moreover, even if regulatory approval is granted, such approval may be subject to limitations on the indicated uses for which the pharmaceutical product may be marketed. Further, regulatory approvals may be withdrawn if compliance with regulatory standards is not maintained or if problems with the pharmaceutical product occur following approval. In addition, under a BLA, the manufacturer continues to be subject to facility inspection and the applicant must assume responsibility for compliance with applicable pharmaceutical product and establishment standards. Violations of regulatory requirements at any stage may result in various adverse consequences, which may include, among other adverse actions, withdrawal of the previously approved pharmaceutical product or regulatory approvals and/or the imposition of criminal penalties against the manufacturer and/or BLA holder.

Manufacturing changes may result in delays in obtaining regulatory approval or marketing for our products.

Manufacturing of antibodies for use as therapeutics in compliance with regulatory requirements is complex, time-consuming and expensive. If we make changes in the manufacturing process, we may be required to demonstrate to the FDA and corresponding foreign authorities that the changes have not caused the resulting drug material to differ significantly from the drug material previously produced. Additionally, when we assume responsibility for manufacturing Zenapax, we will be required to demonstrate that the material manufactured by Roche does not differ significantly from the material we produce at our manufacturing facilities. Showing comparability between the material we produce before and after manufacturing changes, and in the case of Zenapax, between the material produced by Roche and the drug material produced by us, is particularly important if we want to rely on results of prior preclinical studies and clinical trials

performed using the previously produced drug material. Depending upon the type and degree of differences between the newer and older drug material, and in the case of Zenapax, between our material and the Roche material, we may be required to conduct additional animal studies or human clinical trials to demonstrate that the newly produced drug material is sufficiently similar to the previously produced drug material. We have made manufacturing changes and are likely to make additional manufacturing changes for the production of our products currently in clinical development. These manufacturing changes or an inability to immediately show comparability between the Roche material and our material could result in delays in development or regulatory approvals or in reduction or interruption of commercial sales and could impair our competitive position.

Our business may be harmed if we cannot obtain sufficient quantities of raw materials.

We depend on outside vendors for the supply of raw materials used to produce our product candidates. Once a supplier's materials have been selected for use in our manufacturing process, the supplier in effect becomes a sole or limited source of that raw material due to regulatory compliance procedures. If the third party suppliers were to cease production or otherwise fail to supply us with quality raw materials and we were unable to contract on acceptable terms for these services with alternative suppliers, our ability to produce our products and to conduct preclinical testing and clinical trials of product candidates would be adversely affected. This could impair our competitive position.

We may be subject to product liability claims, and our insurance coverage may not be adequate to cover these claims.

We face an inherent business risk of exposure to product liability claims in the event that the use of products during research and development efforts or after commercialization results in adverse effects. This risk will exist even with respect to any products that receive regulatory approval for commercial sale. While we have obtained liability insurance for our products, it may not be sufficient to satisfy any liability that may arise. Also, adequate insurance coverage may not be available in the future at acceptable cost, if at all.

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

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

Changes in the US and international health care industry could adversely affect our revenues.

The US and international health care industry is subject to changing political, economic and regulatory influences that may significantly affect the purchasing practices and pricing of pharmaceuticals. Cost containment measures, whether instituted by health care providers or imposed by government health administration regulators or new regulations, could result in greater selectivity in the purchase of drugs. As a result, third-party payors may challenge the price and cost effectiveness of our products. In addition, in many major markets outside the United States, pricing approval is required before sales can commence. As a result, significant uncertainty exists as to the reimbursement status of approved health care products.

We may not be able to obtain or maintain our desired price for our products. Our products may not be considered cost effective relative to alternative therapies. As a result, adequate third-party reimbursement may not be available to enable us to maintain prices sufficient to realize an appropriate return on our investment in product development. Also, the trend towards managed health care in the United States and the concurrent growth of organizations such as health maintenance organizations, as well as legislative proposals to reform health care or reduce government insurance programs, may all result in lower prices, reduced reimbursement levels and diminished markets for our products. These factors will also affect the products that are marketed by our collaborative partners.

Our common stock price is volatile and an investment in our company could decline in value.

Market prices for securities of biotechnology companies, including ourselves, have been highly volatile so that investment in our securities involves substantial risk. Additionally, 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. The following are some of the factors that may have a significant effect on the market price of our common stock:

- developments or disputes as to patent or other proprietary rights;

- disappointing sales of approved products;
- approval or introduction of competing products and technologies;
- results of clinical trials;
- failures or unexpected delays in obtaining regulatory approvals or unfavorable FDA advisory panel recommendations;
- delays in manufacturing or clinical trial plans;
- fluctuations in our operating results;
- disputes or disagreements with collaborative partners;
- market reaction to announcements by other biotechnology or pharmaceutical companies;
- announcements of technological innovations or new commercial therapeutic products by us or our competitors;
- initiation, termination or modification of agreements with our collaborative partners;
- loss of key personnel;
- litigation or the threat of litigation;
- public concern as to the safety of drugs developed by us;
- sales of our common stock held by collaborative partners or insiders;
- comments and expectations of results made by securities analysts; and
- general market conditions.

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

We may not have the ability to raise the funds to repurchase the July 2003 notes on the repurchase date or to finance any repurchase offer required by the indenture.

On each of August 16, 2010, August 16, 2013 and August 16, 2018, holders of the notes may require us to repurchase all or a portion of their notes at 100% of their principal amount, plus any accrued and unpaid interest to, but excluding, such date. For notes to be repurchased on August 16, 2010, we must pay for the repurchase in cash, and we may pay for the repurchase of notes to be repurchased on August 16, 2013 and August 16, 2018, at our option, in cash, shares of our common stock or a combination of cash and shares of our common stock. In addition, if a repurchase event occurs (as defined in the indenture), each holder of the notes may require us to repurchase all or a portion of the holder's notes. We cannot assure you that there will be sufficient funds available for any required repurchases of these securities. In addition, the terms of any agreements related to borrowing which we may enter into from time to time may prohibit or limit our repurchase of notes or make our repurchase of notes an event of default under certain circumstances. If a repurchase event occurs at a time when a credit agreement prohibits us from purchasing the notes, we could seek the consent of the lender to purchase the notes or could attempt to refinance the debt covered by the credit agreement. If we do not obtain a consent, we may not purchase the notes. Our failure to purchase tendered notes would constitute an event of default under the indenture, which might also constitute a default under the terms of our other debt. In such circumstances, our financial condition and the value of our securities could be materially harmed.

Legislative actions, potential new accounting pronouncements and higher insurance costs are likely to impact our future financial position or results of operations.

Future changes in financial accounting standards may cause adverse, unexpected revenue fluctuations and affect our financial position or results of operations. New pronouncements and varying interpretations of pronouncements have occurred with frequency and may occur in the future and we may make changes in our accounting policies in the future. Compliance with changing regulation

of corporate governance and public disclosure may result in additional expenses. Changing laws, regulations and standards relating to corporate governance and public disclosure, including the Sarbanes-Oxley Act of 2002, new SEC regulations and Nasdaq National Market rules, are creating uncertainty for

companies such as ours and insurance costs are increasing as a result of this uncertainty and other factors. We are committed to maintaining high standards of corporate governance and public disclosure. As a result, we intend to invest all reasonably necessary resources to comply with evolving standards, and this investment may result in increased general and administrative expenses and a diversion of management time and attention from revenue-generating activities to compliance activities.

Prior and future acquisitions could be difficult to integrate, disrupt our business, dilute stockholder value and harm our operating results.

In April 2003, we completed the acquisition of a privately owned company, Eos Biotechnology, Inc. We expect to continue to review opportunities to acquire other businesses, products or technologies that would complement our current products, expand the breadth of our markets or enhance our technical capabilities, or that may otherwise offer growth opportunities. In our acquisition of Eos, we issued stock as all of the consideration, and we may be obligated to release additional shares from escrow. The issuance of stock in these and any future transactions will dilute stockholders' percentage ownership.

Other risks associated with acquiring the operations of other companies include:

- problems assimilating the purchased operations, technologies or products;
- unanticipated costs associated with the acquisition;
- diversion of management's attention from our existing business;
- the potential loss of key collaborators of the acquired companies;
- lack of synergy, or the inability to realize expected synergies, resulting from the acquisition;
- adverse effects on existing relationships with other third party business partners;
- risks associated with entering markets in which we have no or limited prior experience; and
- potential loss of key employees of acquired organizations.

We cannot assure that we would be successful in overcoming problems encountered in connection with such acquisitions, and our inability to do so could significantly harm our business. In addition, to the extent that the economic benefits associated with such acquisitions diminish in the future, we may be required to record write downs of goodwill, intangible assets or other assets associated with such acquisitions.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We maintain 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. We do not use derivative financial instruments for speculative or trading purposes. We hold a $30.0 million five-year convertible note receivable we purchased from Exelixis, Inc. in May 2001. Accounting rules require the conversion feature of some convertible notes to be separated from the debt agreement in which the conversion feature is contained and accounted for as a derivative instrument, and therefore reflected in the note purchaser's financial statements based upon the fair market value of the stock into which the note is convertible. Due in part to the number of shares into which this note receivable would currently convert and the average daily trading volume of Exelixis stock, the Exelixis note is not currently considered a derivative instrument and, therefore, changes in the market value of Exelixis stock are not required to be recorded in our financial statements. However, a significant increase in the average daily trading volume of Exelixis stock, or new accounting pronouncements or regulatory rulings could require us to report the value of the Exelixis stock in our financial statements. Such a requirement could cause changes in the Exelixis stock price to contribute to fluctuation of our operating results from quarter to quarter. The securities in our investment portfolio are not leveraged and are classified as available-for-sale and therefore are subject to interest rate risk. We do not currently hedge interest rate exposure. As of September 30, 2003, there has been no material change in our interest rate exposure from that described in our Annual Report on Form 10-K for the year ended December 31, 2002.

Because we translate foreign currencies into United States dollars for reporting purposes, currency fluctuations can have an impact on our results. For the three and nine months ended September 30, 2003, there was an immaterial currency exchange impact on our Statements of Operations from our intercompany transactions. As of September 30, 2003, we did not engage in foreign currency hedging activities.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures. Based on their evaluation as of September 30, 2003, our chief executive officer and chief financial officer, with the participation of management, have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934) were sufficiently effective to ensure that the information required to be disclosed by us in this quarterly report on Form 10-Q was recorded, processed, summarized and reported within the time periods specified in the SEC's rules and Form 10-Q.

Changes in internal controls. There were no changes in our internal controls over financial reporting during the quarter ended September 30, 2003 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the effectiveness of controls. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected.

PART II. OTHER INFORMATION

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits

10.1	Manufacturing Agreement between the Company and ICOS Corporation, a Washington corporation, dated August 29, 2003.
10.2	Amended and Restated Worldwide Agreement between the Company and Hoffmann-La Roche, a New Jersey corporation and F. Hoffmann-La Roche LTD of Basel Switzerland, dated October 1, 2003.
10.3	Lease Agreement between the Company and Abgenix, Inc., a Delaware corporation, dated July 31, 2003.
10.4	Amendment No. 2 to Sublease Agreement between the Company and FibroGen, Inc., a privately-held corporation, dated October 1, 2003.
31.1	Certification required by Rule 13a-14(a) or Rule 15d-14(a).
31.2	Certification required by Rule 13a-14(a) or Rule 15d-14(a).
32.1	Certification by the Chief Executive Officer and the Chief Financial Officer of Protein Design Labs, Inc., as required by Rule 13a–14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350).

(b) Reports filed on Form 8-K during the quarter ended September 30, 2003.

On July 7, we announced the offering of up to $200 million of convertible subordinated notes due 2023 in a private placement.

On June 27, 2003 we announced we received notice that an oral hearing before the Technical Board of Appeal of the European Patent Office in connection with PDL's first European humanization patent has been scheduled to consider this case in November 2003.

On July 8, 2003, we announced the pricing of our convertible subordinated notes due 2023.

On July 29, 2003, we announced our financial results for the quarter ended June 30, 2003.

On August 14, 2003, we announced an adjustment to our financial results for the quarter ended June 30, 2003.

On August 15, 2003, we issued a press release regarding the status of our Genentech humanization patent license arrangement.

On September 30, 2003, we issued a press release regarding the restructuring of our commercial alliance with Roche.

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 3, 2003

PROTEIN DESIGN LABS, INC.
(Registrant)

/s/ Mark McDade
Mark McDade
Chief Executive Officer (Principal Executive Officer)

/s/ Glen Sato
Glen Sato
Sr. Vice President and Chief Financial Officer (Principal Financial Officer)

ICOS CORPORATION
MANUFACTURING AGREEMENT

THIS MANUFACTURING AGREEMENT (this "Agreement") between ICOS Corporation, a Washington corporation, having its principal offices at 22021 20th Avenue, Bothell, WA 98021 ("ICOS"), and Protein Design Labs, Inc., a Delaware corporation, having its principal offices at34801 Campus Drive, Fremont, CA 94555 ("PDL"), is effective as of August 29, 2003.

RECITALS

A. PDL is engaged in the discovery, development, and commercialization of new pharmaceutical candidates;

B. ICOS is in the business of providing biological development and manufacturing services; and

C. PDL has discussed certain of its areas of interest with ICOS and is familiar with ICOS's facilities and expertise and, as a result, wishes to retain ICOS to provide certain services associated with manufacturing and/or supplying certain quantities of specific product(s) for use in clinical trials, as more fully set forth in various Work and Quality Statements (as defined herein) to be attached to this Agreement, and ICOS is willing to so perform, all in accordance with the applicable Work and Quality Statements and subject to the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Definitions

1.1 "Acceptance Criteria" means the composition, quality, purity, identity and strength of a Product to be set forth in Work and Quality Statements and which must be met by ICOS in Processing the Product.

1.2 "Affiliate" means any entity that controls, is controlled by, or is under common control with a party. A corporation or other entity shall be deemed to control a corporation or entity if it directly or indirectly owns or controls at least fifty percent (50%) of the voting stock or other ownership interest of that corporation or entity.

1.3 "CMC" means Chemistry Manufacturing and Control information required by the FDA for the filing of an IND, as set forth in 21 CFR 312.23(a)(7), *et. seq*., as amended or any successor information.

1.4 "Confidential Information" means any business or technical information, trade secrets, know-how, techniques, data or other information, disclosed by the disclosing party to the receiving party in writing and marked "confidential" or that is disclosed orally and confirmed in writing as confidential within thirty (30) days following such disclosure. Confidential Information shall not include any information that is: (a) already known to the receiving party at the time of disclosure hereunder (other than from the other party hereto) as demonstrated by its written records; (b) now or hereafter becomes publicly known other than through acts or omissions of the receiving party, or anyone to whom the receiving party disclosed such information; (c) disclosed to the receiving party on a nonconfidential basis by a third party under no obligation of confidentiality to the disclosing party; or (d) independently developed by the receiving party without reliance on the Confidential Information of the disclosing party as shown by its written records. All PDL Materials, PDL Trade Secrets, and all results of the services shall be deemed Confidential Information of PDL, except to the extent any such information falls within any of the categories described in clauses (a) through (d) above.

1.5 "cGMP" means the current Good Manufacturing Practices and General Biologics Products Standards as promulgated under each of the following as in effect on the date of this Agreement and as amended or revised after the date of this Agreement:

(a) the U.S. Food, Drug & Cosmetics Act (21 U.S.C. Sect. 301 *et seq.*) and related U.S. regulations, including 21 Code of Federal Regulations (Chapters 210, 211, 600 and 610) and other FDA regulations, policies, or guidelines in effect at a particular time for the manufacture, testing and quality control of investigational drugs; and

(b) the ICH guide Q7a, "ICH Good Manufacturing Practice Guide for Active Pharmaceutical Ingredients," as applied to investigational drugs (Section 19).

1.6 "PDL Materials" means those materials supplied by PDL to ICOS (if any) pursuant to this Agreement or a particular Work or Quality Statement, except those materials provided by PDL to ICOS that are both (a) not proprietary to PDL and (b) paid for by ICOS.

1.7 "PDL Patent Rights" means patents and patent applications owned by PDL, and all divisions, continuations, continuations-in-part, and substitutions thereof; all foreign patent applications corresponding to the preceding applications; and all U.S. and foreign patents issuing on any of the preceding applications, including extensions, reissues and re-examinations (including, without limitation, all claims and causes of action for infringement, misappropriation or violation thereof).

1.8 "PDL Trade Secrets" means unpatented and/or unpatentable trade-secret information and proprietary technology of any kind or nature owned by PDL (including, without limitation, all claims and causes of action for infringement, misappropriation or violation thereof), which is disclosed by or on behalf of PDL for purposes of assisting ICOS in performing the Services.

1.9 "FDA" means the United States Food and Drug Administration, or its successor agency, and or its European counterpart(s) (currently, the European Medicines Evaluation Agency, or "EMEA"), as the case may be.

1.10 "IND" means an Investigational New Drug application to begin studies of a new drug or biologic for humans that is filed with the FDA, as set forth in 21 CFR 312.22, et. seq., as amended, or its European counterpart(s) (currently, EMEA), as the case may be, or any successor application.

1.11 "Intellectual Property Rights" means any patent, copyright, trademark, trade secret or other intellectual or industrial property rights or proprietary rights arising under the laws of any jurisdiction (including, without limitation, all claims and causes of action for infringement, misappropriation or violation thereof and all rights in any registrations and renewals).

1.12 "Manufacture and Release Requirements" means those specifications, methodologies, analytical tests, process parameters, acceptance criteria, and cGMP requirements necessary to manufacture and release to PDL the Product in conformity with a particular set of agreed on Acceptance Criteria. All Manufacture and Release Requirements are set forth in the Work and Quality Statements.

1.13 "Price and Payment Terms" means the amounts, as stated in a Work Statement, that are payable by PDL to ICOS in consideration for ICOS performing the Services pursuant to such Work Statement.

1.14 "Process," "Processed" or "Processing" means those activities associated with the Product as described in the Work and Quality Statements, which ICOS will perform for and on behalf of PDL in accordance with this Agreement.

1.15 "Product" means the Product defined in the Work and Quality Statements.

1.16 "Quality Statement" means the Quality Statement executed by the parties and attached hereto as Appendix E, and incorporated hereing by this reference, as revised by the written agreement of the parties from time to time, which shall describe the regulatory and compliance roles and responsibilities of both PDL and ICOS.

1.17 "Schedule" means the estimated, target or required timeline for Processing the Product as agreed on by the parties and set forth in a Work Statement.

1.18 "Services" means the services to be provided by ICOS for the benefit of PDL, including Processing specific Product, pursuant to the particular Work and Quality Statements, which services shall be performed subject to the terms and conditions of this Agreement.

1.19 "Work Statement" means each Work Statement executed by the parties and attached hereto as an Exhibit (including the Quality Statement described above), and incorporated herein by this reference, as revised by the written agreement of the parties from time to time, which shall contain at a minimum (a) a description of all the Services to be performed, (b) a description of the Product, Acceptance Criteria, Process, and the Manufacture and Release Requirements, (c) the Price and Payment Terms, (d) the quantity of Product to be delivered, and (e) an estimated Schedule.

2. Work and Quality Statements

Except as provided in Section 3.3, ICOS shall have no obligation to perform any services except in accordance with any Work and Quality Statements. From time to time with respect to the manufacture, analysis and/or supply of the M200 Product, they will execute and attach to this Agreement Work and Quality Statements describing the Services to be performed and related information. This Agreement and each specific Work or Quality Statement, as the same shall be completed, shall collectively, independent from any other Work or Quality Statement, constitute the entire agreement for the specific Services identified in such Work or Quality Statement. No Work or Quality Statement shall be binding unless executed by both parties.

Subject to Section 3.2C, by unanimous written decision of the Project Leaders (as defined in Section 3.5), the parties may revise the Work or Quality Statements at any time.

With respect to all services provided by ICOS from time to time that are agreed on by the parties but are outside the scope of the Services ("Additional Services"), PDL shall pay to ICOS [CONFIDENTIAL TREATMENT REQUESTED] as described in the Work Statement. Such Additional Services and PDL's payment obligations will be governed by the terms of this Agreement. ICOS will invoice PDL monthly for all Additional Services performed, with each such invoice containing a reference to the services performed and the personnel used. All such invoices will be payable under the terms described in Section 7. Notwithstanding the foregoing, and subject to the terms of this Agreement, ICOS must complete all the tasks necessary to complete the Services that are within the scope of the Work and Quality Statements to ensure that the Product is Processed in compliance with the applicable Manufacturing and Release Requirements in all material respects, and PDL shall compensate ICOS in performing such Services at the rate specified in the Work Statement.

Promptly following conclusion of the Services, if PDL reasonably determines that further services are required beyond the Services (as described in the Work and Quality Statements) to permit PDL to complete the CMC section of documents necessary to file an IND or IND Amendment with the FDA with respect to the Product, ICOS shall consider performing any such further services provided that (i) such further services are within ICOS's then current manufacturing services offerings, and (ii) ICOS has resources available (during normal working hours) to provide such further services. ICOS reserves the right to request further compensation prior to agreeing to perform such further services, considering other commercial opportunities. Such written description of supplemental services and compensation shall be an amendment to the pertinent Work and Quality Statements and shall be governed by the terms of this Agreement.

3. Scope of Services

3.1 Processing Services

Subject to the terms of this Agreement and pursuant to each Work or Quality Statement, ICOS will perform the Services as set forth in each Work or Quality Statement and, as applicable, use commercially reasonable best efforts (based on biologics manufacturing industry standards) to (a) Process the Product in accordance with the related Manufacture and Release Requirements, including without limitation cGMP, so that when released to PDL the Product will conform in all material respects with the applicable Acceptance Criteria, (b) maintain all records

regarding the Process and the Product as agreed to from time to time by the parties and in conformity with cGMP, (c) subject to the last paragraph of Section 2, provide suitable CMC support documentation to allow PDL to file an IND or IND Amendment with the FDA and (d) supply the Product to PDL in accordance with the applicable Schedule.

The parties agree that the Services, as described in the Work and Quality Statements, may not be changed without both parties' prior written agreement. PDL acknowledges that ICOS is given flexibility to conduct such activities, although not expressly stated in the Work and Quality Statements, at the time and in the manner that ICOS deems necessary as an independent contractor to fulfill its obligations in completing the Services.

3.2 Changes to Schedules and Specifications

A. Due to the unpredictable nature of the biological processes, the Schedules set down for the performance of the Services (including without limitation the dates for production and delivery of Product) set out in the Work Statement are best current estimates only. ICOS [CONFIDENTIAL TREATMENT REQUESTED] shall keep PDL regularly informed of any changes to the Schedules. ICOS understands that any such changes to the Schedules may have a material impact on PDL's business and agrees that the effect on the Schedules caused by any changes to the Schedules will be made to the minimum extent reasonably necessary.

B. The Acceptance Criteria and the Manufacturing and Release Requirements may be amended from time to time only as described in Section 3.2C or as dictated by the FDA and applicable laws.

C. ICOS will not implement any Material Changes relating to any agreed on Acceptance Criteria or Manufacture and Release Requirements without PDL's prior written approval of such changes. ICOS may, however, make non-Material Changes without PDL's prior written approval, but with timely notification to PDL. For purposes of this Section 3.2C, a "Material Change" is defined as any variation in the written procedures currently in place that (i) impacts the regulatory commitments for the Product, (ii) may affect the quality, purity, identity or strength of the Product, or (iii) would necessarily result in changing, altering or modifying the Acceptance Criteria and/or the Manufacture and Release Requirements.

D. With respect to (i) amendments dictated by the FDA or applicable laws and (ii) Material Changes, as described in this Section 3.2, PDL shall be responsible for (a) the costs specific to the Product in making such amendments to the Acceptance Criteria and/or Manufacturing and Release Requirements, including without limitation capital costs specific to the Product (but excluding [CONFIDENTIAL TREATMENT REQUESTED]), (b) the costs in validating the Process after such amendment, and (c) any increases in cost of manufacturing the Product as a result of such amendment. With respect to amendments dictated by the FDA or applicable laws, the parties will promptly meet to discuss the actions necessary to comply with such amendments and the costs associated therewith. ICOS shall invoice PDL in accordance with Section 7.2 for all cost that PDL is responsible to pay pursuant to this Section 3.2.D.

3.3 Technical Difficulties

If it becomes apparent to either ICOS or PDL at any stage in the provision of any Services that, as a result of scientific or technical reasons out of the reasonable control of either party, it will not be possible to complete the Services in the manner described in this Agreement or the applicable Work and Quality Statements, the parties shall [CONFIDENTIAL TREATMENT REQUESTED] to resolve such problems in a commercially reasonable manner.

3.4 Safety Procedures

ICOS will have responsibility for adopting and enforcing safety procedures for ICOS's internal handling and production of each Product, which procedures will comply in all material respects with applicable federal, state and local environmental and occupational safety and health requirements.

3.5 Project Leaders

Each party will, within ten (10) days of signing this Agreement, select an individual to serve as its Project Leader (collectively, the "Project Leaders") and inform the other party of such selection. Each party's Project Leader will (a) be authorized to manage the relationship of the parties under this Agreement, (b) oversee the performance of the Services, (c) take the actions specifically delegated to them under this Agreement, and (d) be the principal contact of such party for matters relating to this Agreement. Each party may change its Project Leader at any time on written notice to the other party. The Project Leaders shall meet on request of either party, but in any event no less frequently than monthly. Meetings may be held by telephone conference call and may be attended by other representatives of each party, in addition to the Project Leader, as the applicable Project Leader may desire. Decisions of the Project Leaders must be unanimous.

3.6 Ownership of Products; License to Know-How

PDL will own all rights, title and interest to all Products, PDL Materials, PDL Intellectual Property Rights, PDL Patent Rights and PDL Trade Secrets including, without limitation, all in process materials used to produce Products and paid for by PDL, cell lines, cell banks, data, marketing plans, product lines, product plans and records (except to the extent the data or records contain ICOS's Intellectual Property Rights or Confidential Information) produced pursuant to such Work and Quality Statements and all Intellectual Property Rights in and to all of the foregoing (collectively, "PDL Property"); provided, however, that PDL Property will not include any right, title or interest in or to any Intellectual Property Rights or Confidential Information owned by ICOS, including without limitation [CONFIDENTIAL TREATMENT REQUESTED]. ICOS grants to PDL a non-exclusive, non-sublicensable (except to third parties for purposes of manufacturing as described in the last sentence of this Section 3.6), royalty free license, to use ICOS's Intellectual Property Rights developed only as a result of performing the Services for PDL under the Work and Quality Statements, including but not limited to batch records and other such information (the "ICOS Project Related IP"), solely for the purpose of permitting PDL to perform clinical trials and file for an IND or an IND Amendment with the FDA. PDL shall have the right to sublicense its rights in ICOS Project Related IP granted

pursuant to this Section 3.6 for the sole purpose of permitting the third party sublicensees to perform manufacturing services that are substantially similar to the Services and related to such PDL Property, provided that each sublicensee agrees in writing to be bound by the provisions of Section 10 to the same extent as PDL is bound. In the event that PDL's license rights granted under this Section 3.6 are terminated at any time for any reason, all such sublicenses shall terminate. PDL shall include in all of its sublicense agreements granted hereunder provisions for such termination.

3.7 Assistance with Transfer of PDL Property.

ICOS agrees that during or after the term of this Agreement, PDL, at its option, may elect to engage a third party to perform the same services or services substantially similar to the Services at any time during or after the term of this Agreement. Subject to both (a) the availability of ICOS personnel, which shall not be unreasonably or unduly withheld, and (b) PDL compensating ICOS for its time spent in complying with its obligations under this paragraph [CONFIDENTIAL TREATMENT REQUESTED] in connection with such obligations, ICOS agrees to provide all necessary assistance to PDL in transferring PDL Property to such third parties that PDL engages to perform such services. In addition, ICOS agrees that in connection with such transfer, PDL may [CONFIDENTIAL TREATMENT REQUESTED] that is directly related to the PDL Property and necessary for such third parties to perform manufacturing services that are substantially similar to the Services and related to such PDL Property and the ICOS Project Related IP licensed to PDL under Section 3.6, on behalf of PDL under a confidentiality agreement containing provisions at least as protective as those of Article 10, provided that PDL [CONFIDENTIAL TREATMENT REQUESTED].

4. PDL Supply of Information

4.1 Proprietary Information to Provide Services

As soon as practicable after the parties' execution of Work and Quality Statements, PDL shall supply to ICOS all PDL Materials and shall disclose to ICOS all PDL Trade Secrets necessary for ICOS to perform the Services to be provided under such Work and Quality Statements. PDL hereby grants ICOS during the term of the applicable Work and Quality Statements the non-exclusive right to use such PDL Patent Rights, PDL Trade Secrets and PDL Materials as are necessary for ICOS to perform the Services for the sole purpose of providing the related Services. ICOS acknowledges it may not use any such rights, information or materials for any purpose other than as required to perform the Services.

4.2 Information Regarding Hazards

PDL shall also provide to ICOS on an ongoing basis throughout the term of this Agreement prompt notice of any information it receives involving the PDL Materials or Product that relates to any hazards to the health or safety of any personnel of ICOS or the possibility of cross-contamination of any other products being manufactured or stored by ICOS. ICOS shall promptly notify PDL of any information it receives relating to (a) the safety of the PDL Materials or Product, including any confirmed or unconfirmed information on adverse, serious, or unexpected events, including health or safety risks, associated with the use or toxicity of the

Product, or (b) the possibility that cross-contamination has occurred with other Products manufactured or stored by ICOS.

5. Shipping

ICOS agrees to work with PDL to deliver and transfer title to the Product in such locations and in such a manner as directed by PDL, provided that any such arrangement shall not materially alter ICOS's obligations, or expose ICOS to any additional liabilities, under or arising out of this Agreement. Notwithstanding, all Product that ICOS Processes pursuant to this Agreement shall be packaged and shipped FOB ICOS's facilities and in accordance with PDL's written instructions and in compliance with all applicable shipping regulations. The parties acknowledge that, according to the Quality Statement, ICOS may not ship the Product to PDL until PDL has authorized such shipment. In the event PDL does not grant such shipping authorization within [CONFIDENTIAL TREATMENT REQUESTED] following the date that ICOS has provided notice to PDL that it is prepared to ship the Product, the Product will be deemed to have been delivered to PDL upon the expiration of such [CONFIDENTIAL TREATMENT REQUESTED] period for all purposes under this Agreement (including, without limitation, to determine whether ICOS has timely delivered the Product to PDL, to begin the evaluation period of the Product as described in Section 6.1A, and to transfer the title and risk of loss in the Product to PDL). All risk in and title to the Product shall pass to PDL on delivery by ICOS. Unless the parties agree otherwise in the applicable Work Statement, PDL shall designate a shipping company, coordinate with such shipping company for the shipment of the Product, and be billed directly by the shipping company for all related shipping costs. Notwithstanding the foregoing, shipment may, on agreement of the parties, be arranged by ICOS and at terms and with a carrier reasonably acceptable to PDL.

6. Inspection and Acceptance

6.1 Evaluation Period

A. All Product shipped from ICOS to PDL shall comply in all material respects with the applicable Acceptance Criteria and Manufacture and Release Requirements and shall be accompanied by a certificate of analysis in a form to be agreed on by the parties. PDL shall have[CONFIDENTIAL TREATMENT REQUESTED] from the date the Product is delivered to PDL to evaluate the Product and reject the acceptance thereof; provided, however, that PDL may reject any Product only if (i) ICOS fails to deliver a certificate of analysis, (ii) the Product does not meet the Acceptance Criteria as of the date of delivery in any material respect, (iii) the Product was not Processed according to the Manufacture and Release Specifications in any material respect, or (iv) the Product was not manufactured according to cGMPs in any material respect. In the absence of PDL notifying ICOS of rejection within the above described [CONFIDENTIAL TREATMENT REQUESTED] period, PDL will be deemed to have accepted the Product as delivered.

B. In the event that the Schedules in a particular Work Statement are estimates only, PDL shall not be entitled to cancel any unfulfilled part of the Services or refuse acceptance of Product related to such Work Statement on grounds of reasonably late performance

of the Services or reasonably late delivery of the Product, as described in section 3.2.A. In such event, and notwithstanding Section 12, ICOS shall not be liable for any loss, damage, costs or expenses of any nature, whether direct or consequential, arising out of any delay in performance or delivery howsoever caused; or arising out of any failure to produce the estimated quantities of Product for delivery on the estimated schedule.

6.2 Rejection of Product

A. If PDL rejects any of the Product pursuant to Section 6.1A, PDL shall (i) immediately provide to ICOS written notice of rejection which shall state in reasonable detail the reasons for such rejection and (ii) provide ICOS with the opportunity to conduct its own tests on such rejected Product. PDL shall return all remaining unused Product to ICOS and require that ICOS replace such rejected Product; provided, however, that PDL may retain only that portion of the rejected Product that is then being used for laboratory testing, and may use such retained portion solely to complete such tests but in no event may PDL use any of the rejected Product for any human clinical testing or trials after becoming aware of the basis for such rejection (and PDL shall indemnify ICOS for all liabilities, costs and damages incurred by ICOS resulting from PDL's breach of this limitation on use). ICOS shall replace the Product (as mutually agreed) as soon as practicable. In no case shall ICOS take more than [CONFIDENTIAL TREATMENT REQUESTED] to replace such Product.

B. Notwithstanding the foregoing, if PDL rejects the Product for the reasons stated in Section 6.1A(ii) or (iii) and the parties disagree on whether PDL is entitled to so reject such Product, then (i) analysts from both parties shall promptly meet to determine that the methods of analysis are the same and are being executed in the same manner, (ii) carefully controlled and split samples shall be sent from one site to another for testing in an attempt to reach agreement, and (iii) the parties shall use good faith efforts for a period of [CONFIDENTIAL TREATMENT REQUESTED] after completing such tests to resolve whether PDL is entitled to reject such Product. In the event that the parties cannot resolve their dispute in the manner described, an independent laboratory acceptable to both parties shall be qualified and shall utilize agreed on test methods to test the Product in dispute ("Disputed Product"). The costs of such independent laboratory shall be borne by the parties equally; provided, however, that the party that is determined to be incorrect in the dispute shall be responsible for all such costs and shall reimburse the correct party for its share of such costs incurred. The decision of such independent laboratory shall be in writing and shall be binding on both ICOS and PDL.

C. If PDL properly rejects Product pursuant to Section 6.1A and 6.2B, or if ICOS breaches its warranty stated in Section 10.1B subject to the time limitation regarding notice of breach as stated therein, and ICOS cannot replace the Product with conforming Product within the time period set forth in Section 6.2A, then ICOS [CONFIDENTIAL TREATMENT REQUESTED]; provided, however, that ICOS will not wait for the time period in Section 6.2A to expire before [CONFIDENTIAL TREATMENT REQUESTED] if ICOS has earlier knowledge that it will be unable to replace the Product [CONFIDENTIAL TREATMENT REQUESTED]. Nothing in this Section shall permit ICOS to cancel its remaining obligations under the Work and Quality Statements (e.g., obligations regarding transfer of PDL Property and confidentiality) or terminate this Agreement as it relates to other Work Statements. The

provisions of this Section 6.2 shall be the sole remedies available to PDL with respect to Product that PDL properly rejects.

7. Fees and Invoices

7.1 Fees

In consideration for ICOS performing the Services, PDL shall pay to ICOS such amounts as described in the Price and Payment Terms section of the applicable Work Statement. All fees are exclusive of sales tax or of any other applicable taxes, levies, duties and fees of whatever nature imposed by or under the authority of any governmental authority, which shall be paid by PDL (other than taxes based on ICOS's income).

7.2 Invoices

ICOS shall invoice PDL as provided in the Price and Payment Terms section of the applicable Work Statement. PDL shall pay the total amount of each invoice within [CONFIDENTIAL TREATMENT REQUESTED] of receipt of the invoice. If ICOS has not received full payment prior to the expiration of such [CONFIDENTIAL TREATMENT REQUESTED] period, ICOS shall provide written notice to PDL of such non-payment. In the event PDL fails to make payment within [CONFIDENTIAL TREATMENT REQUESTED] of the date of such notice, then (a) all unpaid amounts shall accrue interest from the date of the applicable invoice at a monthly rate equal to the lower of [CONFIDENTIAL TREATMENT REQUESTED] percent ([CONFIDENTIAL TREATMENT REQUESTED]%) or the highest rate permitted by law, and (b) ICOS may terminate this Agreement as set forth in Section 14.2A upon written notice to PDL (unless PDL's failure to pay is due to its rejection of Product pursuant to Section 6.2A and the parties are within the dispute resolution procedures set forth in Section 6.2B) provided that such termination will not forgive PDL's obligation to pay all amounts owing to ICOS.

8. Raw Materials

ICOS will be responsible for procuring, testing, releasing and maintaining sufficient inventory of all raw materials necessary to Process the Product in accordance with this Agreement and the applicable Work and Quality Statements; provided, however, that PDL shall reimburse ICOS for the purchase of unusual or special raw materials, which are to be identified on the applicable Work Statement as the "PDL Raw Materials," in such amount and in the manner as described in such Work Statement.

9. Confidentiality

9.1 Non-disclosure

Each party agrees (a) to take all reasonable precautions and to use its commercially reasonable efforts (provided such efforts shall be no less than what such party uses to protect its own confidential information, but in no event less than reasonable care) to maintain the confidentiality of all

Confidential Information that such party (the "Recipient") obtains in respect to the other party (the "Disclosing Party") and (b) not to use or disclose to any third

parties Confidential Information of the Disclosing Party other than as permitted by Section 9.2. The Disclosing Party's disclosure of Confidential Information to the Recipient shall not constitute a grant of any license or any other rights or generate any business arrangements unless specifically set forth herein or in another written agreement between the parties.

9.2 Permitted Disclosures

A Recipient may disclose Confidential Information of the Disclosing Party only (a) to its employees solely for purposes of performing the Services, (b) with the prior written consent of the Disclosing Party and subject to any non-disclosure agreement that the Disclosing Party wishes to execute with the third party recipient of the Confidential Information, or (c) to appropriate regulatory authorities, attorneys and accountants and pursuant to any order of a court, administrative agency or other governmental authority, provided that the Disclosing Party has been provided with reasonable prior notice so that the Disclosing Party can take actions to prevent such disclosure or mitigate the effect of such disclosure on the Disclosing Party, and (d) to its attorneys, advisors, investors, prospective acquirors and investors, lenders and other financing sources, and to strategic partners or licensees of the Products, provided that such disclosure shall be made under terms of confidentiality at least as protective as those herein.

9.3 Terms of This Agreement

Except as required by law and disclosure to each party's respective accountants and legal counsel, neither party shall disclose to any third party any information about this Agreement other than the existence of this Agreement, without the other party's prior written consent. Each party shall give the other at least ten (10) business days advance written notice, unless such number of days must be shortened to comply with a legal request, of a disclosure required by applicable law and will cooperate with the other party to minimize the scope and content of such disclosure.

9.4 Press Release

The text and timing of any press release or other communication to be published publicly in any manner by either party concerning the subject matter of this Agreement shall require the prior written approval of the other party, which shall not be unreasonably withheld.

10. Representations and Warranties; Disclaimers

10.1 ICOS

ICOS represents and warrants to PDL the following:

A. As of the date of this Agreement, ICOS has all requisite corporate power and authority to enter into and perform all of its obligations under this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action in respect thereof on the part of ICOS. As of the date of this Agreement, neither the execution and delivery of this Agreement nor the performance of the transactions contemplated hereby, nor

compliance by ICOS with the provisions hereof, shall (i) conflict with or result in a breach of any provision of the certificate of incorporation or by-laws of ICOS, (ii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to ICOS, or (iii) conflict with any obligations or agreements of ICOS to any person, contractual or otherwise;

B. The Product will have been manufactured in all material respects with the Manufacturing and Release Requirements and cGMP; [CONFIDENTIAL TREATMENT REQUESTED] and

C. ICOS is not debarred and has not and, in providing the Services, will not knowingly use in any capacity the services of any person debarred under subsections 306(a) or (b) of the Generic Drug Enforcement Act of 1992 or any comparable law of any foreign jurisdiction, as each may be amended from time to time;

D. EXCEPT AS EXPRESSLY WARRANTED IN THIS SECTION 10.1, ICOS MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SERVICES OR PRODUCT, EXPRESS OR IMPLIED, IN ANY MANNER AND EITHER IN FACT OR BY OPERATION OF LAW, AND SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR NONINFRINGEMENT. Without limiting the foregoing, PDL acknowledges that it has not and is not relying upon any implied warranty of any kind or upon any representation or warranty whatsoever by ICOS as to the commercial exploitability of the Product, the prospects (financial, regulatory or otherwise) or likelihood of commercial success of the Product after the date of this Agreement, or the need for third party licenses to commercialize the Product.

10.2 PDL

PDL represents and warrants to ICOS the following:

A. As of the date of this Agreement, PDL has all requisite power and authority to enter into and perform all of its obligations under this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action in respect thereof on the part of PDL. Neither the execution and delivery of this Agreement nor the performance of the transactions contemplated hereby, nor compliance by PDL with the provisions hereof, shall (i) conflict with or result in a breach of any provision of the

certificate of incorporation or by-laws of PDL, (ii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to PDL, or (iii) conflict with any obligations or agreements of PDL to any person, contractual or otherwise;

B. PDL is entitled to supply the applicable PDL Patent Rights, PDL Trade-Secrets and PDL Materials to ICOS for the performance of the related Services;

C. PDL shall use all Product supplied by ICOS pursuant to this Agreement solely for conducting clinical trials (and research and development activities related thereto) for

the purpose of collecting clinical data necessary to meet North American and European regulatory filing requirements; and

D. EXCEPT AS EXPRESSLY WARRANTED IN THIS SECTION 10.2, PDL MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PDL PATENT RIGHTS, PDL TRADE-SECRETS, PDL MATERIALS OR THE PRODUCT, EXPRESS OR IMPLIED, IN ANY MANNER AND EITHER IN FACT OR BY OPERATION OF LAW, AND SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR NONINFRINGEMENT.

11. Limitation on Liability

A. EXCEPT FOR BREACHES OF SECTION 9, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) OR SPECIAL DAMAGES OF ANY TYPE OR AMOUNT ARISING OUT OF ITS BREACH OF ANY PROVISION IN THIS AGREEMENT (INCLUDING WITHOUT LIMITATION, THE PERFORMANCE OR FAILURE TO PERFORM HEREUNDER) EVEN IF SUCH DAMAGES WERE FORESEEABLE AND WHETHER SUCH DAMAGES ARISE IN TORT, IN CONTRACT OR OTHERWISE.

B. ICOS's sole liability to PDL for delivering Product that PDL is entitled to reject pursuant to Section 6.2 or breaching its warranty made in Section 10.1B, is to perform the obligations in accordance with Section 6.2.

C. Without expanding (i) PDL's liability as described in Section 7.2 for the failure to make timely payments as described therein or (ii) ICOSs' liability as described in Section 11.B for the happening of the events described therein, each party's liability to the other for any loss suffered by such other party arising as a direct result of a breach of this Agreement or of any other liability of any kind or nature, including without limitation, misrepresentation and negligence, arising out of this Agreement shall be limited to the payment of damages which shall not exceed in US Dollars an amount equal to [CONFIDENTIAL TREATMENT REQUESTED]; provided, however, if and only to the extent that such damages are caused by the party's willful or intentional misconduct, then [CONFIDENTIAL TREATMENT REQUESTED].

12. Indemnification

12.1 Indemnification of ICOS

Except to the extent any of the following Liabilities (defined as follows) are as a result of ICOS's negligence or willful misconduct, PDL shall defend, indemnify and hold harmless ICOS, its officers, agents, employees and Affiliates from and against any liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees) (collectively "Liabilities") as a result of any third party claims or actions arising out of (a) PDL's breach, violation or nonfulfillment of any of its covenant, agreements, representations or warranties

under this Agreement, (b) PDL's gross negligence or willful misconduct, (c) the handling, possession, marketing and distribution, sale or use of the Product following delivery by ICOS to PDL, including without limitation any claim alleging breach of warranty or product liability, (d) any claims alleging ICOS's use of the PDL Patent Rights, PDL Trade-Secrets and PDL Materials infringes any third party's rights, or (e) any claim of infringement arising out of the composition of matter of the Product, Processing of the Product or use of the Product.

12.2 Indemnification of PDL

Except to the extent any of the following Liabilities are as a result of PDL's negligence or willful misconduct, ICOS shall defend, indemnify and hold harmless PDL, its officers, agents, employees and Affiliates from and against any Liabilities (as defined in Section 12.1) as a result of any third party claims or actions arising out of (a) ICOS's breach, violation or nonfulfillment of any of its covenant, agreements, representations or warranties under this Agreement, (b) ICOS's gross negligence or willful misconduct, (c) ICOS's handling, possession, or use of the Product and PDL Materials (except for claims of infringement based on ICOS's Processing the Product) in ICOS's possession and prior to delivery by ICOS to PDL, and (d) claims alleging that ICOS's operations constitute an infringement of third-party proprietary rights, if infringement arises from technical information and know-how provided by ICOS, unless developed by ICOS on PDL's behalf.

12.3 Indemnification Procedures

Each party agrees it shall give to the party that is obligated to indemnify such party (a) prompt notice of any claim coming within the purview of the indemnities contained in this Section 12, (b) all relevant facts in its possession or control, (c) the right to exclusive control of the defense of any action unless a conflict of interest exists with respect to defending such action, and (d) its cooperation in the defense of any such action. In addition, each party agrees that the indemnified party will not settle any Liabilities without the prior written consent of the indemnifying party, not to be unreasonably withheld.

12.4 Product Liability and Worker's Compensation Insurance

Each Party shall maintain, during the term of this Agreement and for a period of one (1) year thereafter, product liability in an amount not less than [CONFIDENTIAL TREATMENT REQUESTED] per occurrence and aggregate and shall maintain worker's compensation insurance as required under applicable laws.

13. Term and Termination

13.1 Term

Unless terminated early according to this Agreement (a) this Agreement shall continue for a period of five (5) years from the date hereof and may be extended by the parties' mutual written agreement and (b) each Work or Quality Statement shall commence on the date of execution by the parties and shall terminate on the completion of the Services described therein. The termination of this Agreement for any reason shall automatically terminate any and all Work and Quality Statements, unless the parties otherwise agree in writing. In any event, each Work or Quality Statement is and shall remain subject to the terms and conditions of this Agreement.

13.2 Termination

PDL is entitled to terminate this Agreement at any time and for any reason on sixty (60) days prior written notice to ICOS, subject to the Effects of Termination as described in Section 13.3 including, without limitation, the obligation to make such payments to ICOS as described in Section 13.3C.

In addition to the termination rights stated in foregoing paragraph and in Section 7.2, either party may terminate this Agreement by written notice to the other party on the occurrence of any of the following events:

A. if the other commits a material breach of this Agreement which (in the case of a breach capable of remedy) is not remedied within sixty (60) days of the receipt by the other of written notice identifying the breach with specificity and requiring its remedy; provided, however, if the breach is as a result of non-payment of any amounts owed, following the expiration of any applicable grace period, the breaching party must remedy the breach within ten (10) days after receiving such written notice; or

B. a petition is filed against the other party for an involuntary proceeding under any applicable bankruptcy or other similar law, and (i) such petition has not been dismissed within sixty (60) days of filing; or (ii) a court having jurisdiction has appointed a receiver, liquidator, trustee or similar official of such other party for any substantial portion of its property, or ordered the winding up or liquidation of its affairs; or

C. the other party commences a voluntary proceeding under applicable bankruptcy or other similar law, has made any general assignment for the benefit of creditors, or has failed generally to pay its debts as they become due.

D. ICOS may terminate this Agreement by providing written notice to PDL if (i) PDL or ICOS is unable to perform or is substantially impaired from performing its respective obligations in a timely manner under this Agreement and the Work and Quality Statements due to court rulings related to third-party claims of intellectual property infringement against PDL covered under Section 12.1(d) and (ii) the parties cannot reach agreement about how to proceed within twenty (20) days of ICOS's written notice to PDL.

E. PDL may terminate this Agreement by providing written notice to ICOS if (i) PDL or ICOS is unable to perform or is substantially impaired from performing its respective obligations in a timely manner under this Agreement and the Work and Quality Statements due to court rulings related to third-party claims of intellectual property infringement against ICOS described under Section 12.2(d) and (ii) the parties cannot reach agreement about how to proceed within twenty (20) days of PDL's written notice to ICOS.

13.3 Effect of Termination

A. On termination of this Agreement for any reason (whether due to breach of either party or otherwise), ICOS will furnish to PDL a complete inventory of all work in progress and an inventory of all Processed Product.

B. By no later than the date on which the termination of this Agreement becomes effective, each party will return to the other all Confidential Information that it possesses or controls that belongs to the other, except that each may retain a copy in its law department or with its outside counsel for record-keeping purposes. Notwithstanding the foregoing, the license rights granted to PDL under Sections 3.6 and 3.7 shall survive the termination of this Agreement unless this Agreement is terminated pursuant to the events described in Section 13.3C.

C. In the event this Agreement is terminated (i) by PDL for any reason other than pursuant to Section 13.2.A, B, C or E, or Section 15 or (ii) by ICOS pursuant to Section 13.2.A, B, C or D, PDL will pay ICOS a sum equal to [CONFIDENTIAL TREATMENT REQUESTED], the payment for which shall be due to ICOS on or before the date of termination of this Agreement. With respect to the manufacturing capacity that would have otherwise been used to perform the Services, [CONFIDENTIAL TREATMENT REQUESTED].

D. If this Agreement is terminated pursuant to Section 13.2.E, ICOS shall [CONFIDENTIAL TREATMENT REQUESTED].

E. On termination of this Agreement, neither party shall use or exploit in any manner whatsoever any Intellectual Property Rights of any kind or nature of the other party, except for the express rights granted in other Agreements between the parties and in Section 3.6 of this Agreement. Without limitation to the foregoing, on termination of this Agreement, ICOS shall not use or exploit the PDL Patent Rights, PDL Trade-Secrets, PDL Confidential Information or PDL Materials in any way.

F. Termination of this Agreement for any reason will not relieve the parties of any obligation accruing prior thereto.

G. The following Sections will survive the termination of this Agreement for whatever reason: 3.6, 3.7, 6.2, 7, 8, 9 through 13, and 17 through 24.

14. Facility Inspection

PDL has the right on [CONFIDENTIAL TREATMENT REQUESTED] days' notice and during business hours to visit ICOS (i.e., person in the plant) to observe the Process and the progress of the work and to inspect related records and data for the purpose of making quality control inspections so as to assure compliance with the applicable Work and Quality Statements; provided, however, that if another party's product is being manufactured during the time that PDL intends to visit, such visit, as mutually agreed, (i) may be reasonably delayed until only PDL's Product is being manufactured or (ii) take place subject to the provision that PDL's representatives will not enter areas of any ICOS facility at times when third parties' products are being manufactured. The form, participants and procedures of all such inspections shall be subject to ICOS's reasonable approval. PDL representatives will follow such security and facility access procedures as are reasonably designated by ICOS. During all such inspections, PDL shall use good faith efforts to avoid disrupting ICOS's operations.

On no less than [CONFIDENTIAL TREATMENT REQUESTED] days' notice to ICOS, PDL shall also be entitled to conduct a reasonable annual multi-day quality assurance site audit, the form, participants and procedure of which shall be subject to ICOS's reasonable approval. When conducting an inspection or audit as described, each of PDL's representatives will (a) be subject to a nondisclosure obligation comparable in scope to Section 9, (b) follow such security and facility access procedures as are reasonably designated by ICOS, (c) be accompanied by an ICOS representative, and (d) not enter areas of any ICOS facility at times when third parties' products are being manufactured to assure protection of ICOS's or a third party's Confidential Information.

15. Force Majeure

Neither party hereto shall be liable to the other party for any delay or default in such party's performance hereunder if such delay or default is caused by conditions beyond such party's reasonable control including, but not limited to, delays by the FDA or other governmental agency which are not due to serious violations of law by ICOS, acts of God, war, insurrection, civil commotion, destruction of production facilities or materials by earthquake, fire, flood or storm, labor disturbances including strikes or lockouts or epidemic ("Force Majeure"). Each party hereto agrees to promptly notify the other party of any event of Force Majeure and to employ all reasonable efforts toward prompt resumption of its performance hereunder when possible if such performance is delayed or interrupted by reason of such event. If an event of Force Majeure affecting ICOS continues for a period of sixty (60) days, ICOS shall notify PDL as to how long ICOS expects the Force Majeure delay will last. If ICOS expects that the Force Majeure delay will last six (6) months or more, PDL shall have the right to terminate this Agreement. If ICOS expects that the Force Majeure delay will last less than six (6) months, and after such six (6) month period ICOS can still not perform under this Agreement, ICOS shall be in material breach of this Agreement and PDL shall have the right to terminate this Agreement.

16. Assignment

This Agreement will be binding on and will inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that neither party may assign any of its rights or obligations under this Agreement or the Work and Quality Statements to any third

party without the other party's prior written consent, which consent will not be unreasonably withheld; provided, however, that either party may assign its rights and obligations hereunder without the other party's consent to a third party that is acquiring or merging with such party or that is purchasing all or substantially all of such party's assets that are the subject matter of this Agreement, provided that the assignee assumes all of such party's rights and obligations under this Agreement.

17. Use of Intellectual Property Rights

Except as expressly stated in this Agreement, no Intellectual Property Rights of any kind or nature are conveyed by this Agreement and neither party shall have any right, title or interest in or to the other party's Intellectual Property Rights for any purpose whatsoever without such other party's prior written consent. Neither party shall use or disclose the name of the other in any advertising, sales, marketing or other promotional material, without the prior written consent of the other.

18. Entire Agreement; Amendments

Unless otherwise agreed to in a writing signed by both parties, this Agreement and the applicable Work and Quality Statements represent the entire understanding of the parties. There are no promises, terms or conditions, oral or written, expressed or implied, other than those contained in this Agreement and/or in a Work or Quality Statement. The terms of this Agreement shall supersede all previous and contemporaneous agreements between ICOS and PDL relating to the subject matter contained herein. To the extent any terms of a Work or Quality Statement (or any Appendices attached thereto) conflict with the terms of this Agreement, the terms of this Agreement shall control unless the parties expressly state in the Work or Quality Statement (or in the Appendices) that specific terms contained therein control over the applicable conflicting terms in this Agreement. If PDL chooses to issue a purchase order ("PO") for the delivery of Product, such PO should reference this Agreement and the specific Work and Quality Statements and shall be issued solely for the convenience of PDL and to provide subject matter description. Except as expressly provided in this Agreement, this Agreement and each Work or Quality Statement may be modified or amended only by the parties' written agreement.

19. Waiver; Severability

No delay or waiver (or single or partial exercise) on the part of either party on any one or more occasions in exercising any right, power or privilege hereunder will operate as a waiver thereof or of any other right, power or privilege hereunder. Any such waiver must be made in writing. If any provision of

this Agreement or any Work or Quality Statement is held to be illegal, invalid, or unenforceable under present or future laws effective while this Agreement remains in effect, the legality, validity and enforceability of the remaining provisions will not be affected thereby.

20. Construction; Headings

This Agreement and all Work and Quality Statements will be deemed to have been drafted by both PDL and ICOS and will not be construed against either party as the draftsperson hereof. All section titles or headings contained in this Agreement and any Work and Quality Statements are for convenience only, will not be deemed a part hereof or thereof and will not affect the meaning or interpretation of this Agreement or the Work and Quality Statements.

21. Attorneys' Fees

If either party is reasonably required to initiate legal action to enforce its rights and the other party's obligations under this Agreement, the prevailing party in such action shall be entitled to recover its reasonably attorneys' fees and costs.

22. Notices

Any notices, demand, invoices, payments or statements required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been delivered when personally delivered, when sent by fax or email (with confirmation of delivery), or on the third business day following its mailing by registered or certified mail (return receipt requested), to the parties at their respective addresses stated in the opening paragraph of this Agreement, or to such other address as designated in writing.

23. Independent Contractor

The parties hereto are independent contractors and nothing contained in this Agreement shall be construed to place them in the relationship of partners, principal and agent, employer/employee or joint venturer. The parties agree that neither shall have power or right to bind or obligate the other, nor shall either hold itself out as having such authority.

24. Counterparts

This Agreement and any Work or Quality Statements may be executed in counterparts, each of which will be deemed an original but all of which together will constitute a single instrument.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date first written above.

PROTEIN DESIGN LABS, INC.	**ICOS CORPORATION**
By _____	By _____
Name: _____	Name: _____
Title _____	Title _____

EXHIBIT

WORK STATEMENT
TO MANUFACTURING AGREEMENT
BETWEEN
ICOS CORPORATION AND PROTEIN DESIGN LABS, INC.
DATED

Date of Work Statement:

I. Product

"Product" means M200.

II. Scope of Services

Attached as Appendix A

III. PDL Materials

IV. Manufacture and Release Requirements

A. Manufacturing Procedure and Requirements

B. QA/QC Tests

C. Handling and Storage Requirements

D. Packaging Requirements

E. Record Keeping Requirements

V. Acceptance Criteria

Attached as Appendix B.

VI. Estimated Timeline

Attached as Appendix C.

VII. Price and Payment Terms

Attached as Appendix D.

VIII. Quality Statement

Attached as Appendix E.

PROTEIN DESIGN LABS, INC.	**ICOS CORPORATION**
By _____	By _____
Name: _____	Name: _____
Title _____	Title _____
Dated: _____	Dated: _____

APPENDIX A
SCOPE OF SERVICE

[CONFIDENTIAL TREATMENT REQUESTED]

APPENDIX B
ACCEPTANCE CRITERIA

[CONFIDENTIAL TREATMENT REQUESTED]

APPENDIX C
ESTIMATED TIMELINE

[CONFIDENTIAL TREATMENT REQUESTED]

APPENDIX D
PRICE AND PAYMENT TERMS

[CONFIDENTIAL TREATMENT REQUESTED]

APPENDIX E
QUALITY STATEMENT

[CONFIDENTIAL TREATMENT REQUESTED]

Exhibit 10.2

EXECUTION COPY

AMENDED AND RESTATED WORLDWIDE AGREEMENT

This Amended and Restated Worldwide Agreement is entered into as of October 1, 2003 (the **"Effective 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, on the other hand, PROTEIN DESIGN LABS, INC., a Delaware corporation having offices at 34801 Campus Drive, Fremont, California 94555 (**"PDL"**).

RECITALS

Roche and PDL were originally 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"**).

Under the 1989 Agreements, PDL exclusively licensed to Roche rights to a humanized antibody now known as Daclizumab (as defined below).

Roche is currently marketing Daclizumab under the trademark Zenapax® for the prevention of acute organ rejection in patients receiving kidney transplants.

In 1999, Roche and PDL replaced the 1989 Agreements with two new agreements (as amended, known separately as the **"1999 PDL/Roche Agreement"** and the **"F. Roche Agreement,"** respectively, and collectively as the **"1999 Agreements"**) which provided PDL with rights to develop and, if successful, promote Daclizumab in autoimmune indications for increased compensation from the 1989 Agreements.

Roche and PDL now desire to replace the 1999 Agreements with this Amended and Restated Worldwide Agreement that (1) reverts to PDL all IL-2R antibody rights licensed to Roche by PDL under the 1999 Agreements, subject to Roche's continuing exclusive license to market and sell Daclizumab for Transplant Indications in the Roche Territory and develop and commercialize products based [CONFIDENTIAL TREATMENT REQUESTED] that [CONFIDENTIAL TREATMENT REQUESTED] to the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED]; (2) grants to PDL the sole and exclusive worldwide rights under Roche's relevant intellectual property to develop, and, if successful, market and sell Daclizumab for Autoimmune Indications and Other Indications; and (3) grants PDL the right to purchase all of Roche's remaining rights to Daclizumab, subject to Roche's right to retain its exclusive license from PDL to develop and commercialize products based on [CONFIDENTIAL TREATMENT REQUESTED] that [CONFIDENTIAL TREATMENT REQUESTED] to the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED].

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, PDL and Roche mutually agree to amend and restate the 1999 Agreements in this single Amended and Restated Worldwide Agreement as follows:

I. DEFINITIONS

For the purposes of this Amended and Restated Worldwide Agreement, the following terms, when written with an initial capital letter, 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 Worldwide Agreement, unless otherwise specified.

1.1 **"AAGS"** shall mean the average annualized Roche Adjusted Gross Sales of Daclizumab calculated according to the following:

[CONFIDENTIAL TREATMENT REQUESTED]

1.2 **"Acting Party"** has the meaning set forth in Section 12.1(c).

1.3 **"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. Anything to the contrary in this paragraph notwithstanding, [CONFIDENTIAL TREATMENT REQUESTED].

1.4 **"AI Trademarks"** means all trademarks used in connection with the marketing, promotion, and sale of Daclizumab by PDL or its sublicensee(s) and all trademark registrations and applications therefor, and all goodwill associated therewith.

1.5 **"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.

1.6 **"Autoimmune Indications"** or **"AI"** 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, asthma, psoriasis, rheumatoid arthritis, systemic lupus erythematosus, scleroderma, juvenile rheumatoid arthritis, polymytosis, Type I diabetes, sarcoidosis, Sjogrens syndrome, chronic active non-pathogenic hepatitis, non-infectious 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.

1.7 **"Change of Control"** means a transaction in which Roche either (a) sells, conveys or otherwise disposes of all or substantially all of its property or business; or (b) either (i) merges or consolidates with any other entity (other than a wholly-owned subsidiary of Roche); or (ii) effects any other

transaction or series of transactions, in each case of clause (i) or (ii), such

that the voting stockholders of Roche immediately prior thereto, in the aggregate, no longer own, directly or indirectly, beneficially or legally, at least fifty percent (50%) of the outstanding voting securities or capital stock of the surviving entity following the closing of such merger, consolidation, other transaction or series of transactions.

1.8 **"Combination Product"** means any product containing both an ingredient that causes it to be considered a Licensed Product and one or more other therapeutically active ingredients.

1.9 **"Commercialization Term"** means the period commencing on the Effective Date and ending on the earliest of (a) the Reversion Effective Date; (b) the Put Right Effective Date; and (c) if Roche does not exercise the Roche Put Right and the Exercise Period ends without PDL exercising the Transplant Reversion, the date Roche ceases to sell Daclizumab in every country in the Roche Territory, as permitted under this Amended and Restated Worldwide Agreement.

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

1.11 **"Cost of Goods"** means the manufacturing cost of either (a) unformulated bulk Daclizumab, or (b) finished Daclizumab product made from unformulated bulk, as the case may be, calculated in accordance with internal cost accounting methods consistently applied by a party for its other biologics pharmaceutical products, provided that such methods comply with [CONFIDENTIAL TREATMENT REQUESTED]. Cost of Goods shall include [CONFIDENTIAL TREATMENT REQUESTED]. As used in this Amended and Restated Worldwide Agreement, the Cost of Goods shall not exceed [CONFIDENTIAL TREATMENT REQUESTED].

1.12 **"Cover"** (including variations thereof such as "Covering" or "Covered"), means that the manufacture, use, sale, offer for sale, or importation of a particular product would infringe a Valid Claim of a patent in the absence of rights under such patent. The determination of whether a particular product is Covered by particular Valid Claims shall be made on a country-by-country basis.

1.13 **"Daclizumab"** means any product that contains humanized anti-Tac (as defined under "Field").

1.14 **"Daclizumab Assets"** means all assets owned by Roche or its Affiliates and relevant solely to the development or commercialization of Daclizumab, other than the Trademarks and the Roche Owned Patents. Daclizumab Assets include, without limitation:

(a) domain names used in connection with the sale or promotion of Daclizumab;

(b) all then current promotional materials, including brochures, leave-behind materials, product fact sheets, advertisements in all media;

(c) all then current packaging art copy, and all trade dress rights thereto;

(d) rights to any "look and feel" of any materials referenced in (a) through (c) above and used in connection with the marketing, sale or promotion of Daclizumab and any and all copyrights or other intellectual property rights appurtenant thereto;

(e) all then current sales training materials and medical education materials;

(f) copies of market research surveys, analyses, and reports;

(g) then current customer lists, sales records, lists of distributors;

(h) regulatory filings, INDs, agreements related to physician sponsored INDs (to the extent assignable), CTXs, BLAs, and foreign equivalents of the foregoing, and all associated communications with regulatory authorities in the Roche Territory (excluding manufacturing approvals); and

(i) then current contracts with managed care groups, hospitals, transplant centers, pharmaceutical benefit managers, distributors and other similar Third Parties.

1.15 **"Excluded Field"** means [CONFIDENTIAL TREATMENT REQUESTED] that (a) [CONFIDENTIAL TREATMENT REQUESTED] to the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED], (b) [CONFIDENTIAL TREATMENT REQUESTED] the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED], and (c) may also [CONFIDENTIAL TREATMENT REQUESTED]. The Parties agree that Daclizumab is not in the Excluded Field.

1.16 **"Excluded Product"** means any product in the Excluded Field, including any Combination Product, that contains an [CONFIDENTIAL TREATMENT REQUESTED] that was [CONFIDENTIAL TREATMENT REQUESTED] by [CONFIDENTIAL TREATMENT REQUESTED] on behalf of [CONFIDENTIAL TREATMENT REQUESTED] pursuant to the [CONFIDENTIAL TREATMENT REQUESTED]. [CONFIDENTIAL TREATMENT REQUESTED] shall be deemed to be an Excluded Product.

1.17 **"Exercise Period"** has the meaning set forth in Section 5.2(a).

1.18 **"FDA"** means the United States Food and Drug Administration and any successor agency thereto, and/or any equivalent foreign governmental agency, depending on the context.

1.19 **"Field"** means any humanized or chimeric antibody that binds to 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 that bind to 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 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.

1.20 **"Joint Inventions"** means any inventions in the Field, whether patented or not, that are jointly made during the period beginning on January 31, 1989 and continuing until the end of the Commercialization Term by at least one (1) PDL employee or person contractually required to assign or license patent rights covering such inventions to PDL and at least one (1) Roche-Nutley or F. Roche employee or person contractually required to assign or license patent rights covering such inventions to Roche-Nutley or F. Roche.

1.21 **"Licensed Product"** means any product, other than an Excluded Product, in the Field, including any Combination Product, the making, importation, use, offer for sale, or sale of which utilizes Roche Know-How, Roche Patents, or Joint Inventions or would, in the absence of this Amended and Restated Worldwide Agreement, infringe a Valid Claim of a Roche Patent. Daclizumab shall be deemed to be a Licensed Product.

1.22 **"Major Country"** means the United States, United Kingdom, France, Italy and Germany.

1.23 **"Other Indications"** means all indications other than Transplant Indications and Autoimmune Indications.

1.24 "**Other Licensed Products"** means all Licensed Products other than Daclizumab.

1.25 **"PDL Adjusted Gross Sales"** means the gross invoice price of Daclizumab sold or otherwise disposed of for consideration in the Roche Territory by PDL, its Affiliates or sublicensees (other than Roche and its Affiliates hereunder) to independent Third Parties not an Affiliate of the seller, reduced by the following amounts: (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 on and actually paid by PDL, its Affiliates or sublicensees.

When calculating the PDL 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 PDL's then-current standard practices.

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 Adjusted Gross Sales shall be determined by multiplying the

PDL Adjusted Gross Sales for each such Combination Product by a fraction, the numerator of which shall be the established market price for the form and formulation of Daclizumab contained in the Combination Product, and the denominator of which shall be the sum of the established market prices for such form and formulation of 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 Adjusted Gross Sales for Combination Products.

If PDL or its Affiliates or sublicensees receive non-cash consideration for 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 deemed the PDL Adjusted Gross Sales for such Daclizumab sold or otherwise transferred.

1.26 **PDL Know-How"** means, except as otherwise set forth in this Section 1.26, all inventions, discoveries, trade secrets, information, experience, data, formulas, procedures and results in the Field, and improvements thereon, including any information regarding the physical, chemical, biological, toxicological, pharmacological, clinical, and veterinary data, dosage regimens, control assays and specifications of Daclizumab (collectively, **"Know-How in the Field"**), that is owned or Controlled by PDL or its Affiliates as of the Effective Date or that is developed or Controlled by PDL or its Affiliates during the term of this Amended and Restated Worldwide Agreement, and which Know-How in the Field is reasonably required or useful for manufacturing, 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, 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.

1.27 **"PDL Net Sales"** means the amount determined by deducting [CONFIDENTIAL TREATMENT REQUESTED] from PDL Adjusted Gross 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.

1.28 **"PDL Patents"** means all patent applications owned or Controlled by PDL alone or with a Third Party (**"Sole PDL Patents"**) and all patent applications resulting from Joint Inventions (**"Joint Roche-PDL Patents"**) Covering Daclizumab, which are filed prior to or during the term of the 1989 Agreements, the 1999 Agreements or this Amended and Restated Worldwide 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 products in the Field.

1.29 "**PDL Sole Territory**" means all countries of the world, as listed in Appendix C (which the parties may agree to update from time to time), with respect to which Roche has granted an exclusive license to PDL, in connection with the previous return or reversion of Roche's rights under the 1999 Agreements.

1.30 **"Product Operating Committee"** or **"POC"** has the meaning set forth in Section 6.2(a).

1.31 **"Put Exercise Fee"** has the meaning set forth in Section 5.3(b).

1.32 **"Put Right Effective Date"** has the meaning set forth in Section 5.3(a).

1.33 **"Queen et al. Patents"** means 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.

1.34 **"Reasonable Diligence"** means the same level of effort used by Roche in developing, registering, marketing and selling its own protein-based products that must be approved by the FDA before they can be sold in the Roche Territory. The parties acknowledge that Roche does not develop, register, market and sell its own protein-based products in every country within the Roche Territory, and it is understood that the exercise by Roche of reasonable diligence shall be determined by judging its efforts in the Roche Territory taken as a whole.

1.35 **"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 Territory.

1.36 **"Reversion Effective Date"** has the meaning set forth in Section 5.2(b).

1.37 **"Reversion Exercise Fee"** has the meaning set forth in Section 5.2(c).

1.38 **"Roche Adjusted Gross Sales"** means the gross invoice price of Daclizumab 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, reduced by the following amounts: (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 on and actually paid by Roche, its Affiliates or sublicensees.

When calculating the Roche 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 Daclizumab and each of the other therapeutically active ingredients contained in the Combination Product have established market prices when sold separately, Roche Adjusted Gross Sales shall be determined by multiplying the Roche Adjusted Gross Sales for each such Combination Product by a fraction, the numerator of

which shall be the established market price for the form and formulation of Daclizumab contained in the Combination Product, and the denominator of which shall be the sum of the established market prices for such form and formulation of 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 Roche Adjusted Gross Sales for Combination Products.

If Roche or its Affiliates or sublicensees receive non-cash consideration for 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 Roche, or as reasonably estimated by Roche if unknown, shall be deemed the Roche Adjusted Gross Sales for such Daclizumab sold or otherwise transferred.

1.39 **"Roche Commercialization Activities"** has the meaning set forth in Section 4.1(a).

1.40 **"Roche Controlled Patents"** means all patent applications Controlled by Roche or its Affiliates and not Controlled by PDL or its Affiliates Covering inventions in the Field that are filed prior to or during the term of this Amended and Restated Worldwide 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 inventions in the Field. Roche Controlled Patents are, specifically, those listed on Schedule 2.8(b).

1.41 **"Roche Inventions"** means any inventions in the Field that are made prior to or during the term of this Amended and Restated Worldwide Agreement by employees of Roche or persons contractually required to assign or license patent rights covering such inventions to Roche.

1.42 **"Roche Know-How"** means all Know-How in the Field that is owned or Controlled by Roche or its Affiliates as of the Effective Date, or that is developed or Controlled by Roche or its Affiliates during the Commercialization Term and which Know-How in the Field is reasonably required or useful for seeking registration of, manufacturing, using or selling Daclizumab, as the case may be, provided, however, that this portion of Roche Know-How excludes any Know-How in the Field of any kind concerning generic methods of manufacturing, 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. For clarity, Roche Know-How includes all Know-How in the Field provided to PDL by Roche or its Affiliates under the 1989 Agreements and 1999 Agreements.

1.43 "**Roche Licensed Know-How"** means that portion of Roche Know-How that is reasonably required or useful for seeking registration of, manufacturing, using or selling

Daclizumab for Autoimmune Indications or any Other Indication, but shall not include [CONFIDENTIAL TREATMENT REQUESTED].

1.44 **"Roche Licensed Patents"** means those Roche Patents that Cover in whole or in part the manufacture, importation, offer for sale or sale of Daclizumab or any Other Licensed Products, or the use of Daclizumab or any Other Licensed Products in Autoimmune Indications or Other Indications.

1.45 **"Roche Net Sales"** means the amount determined by deducting [CONFIDENTIAL TREATMENT REQUESTED] from Roche Adjusted Gross 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. Notwithstanding the foregoing, **"Roche Net Sales of Excluded Products"** shall be calculated in the same manner as Roche Net Sales, except that for the purpose of such calculation, Roche Adjusted Gross Sales shall be based on the gross invoice price of Excluded Products.

1.46 **"Roche Owned Patents"** means all patent applications owned by Roche or its Affiliates (**"Sole Roche Patents"**) alone or with a Third Party, and all patent applications resulting from Joint Inventions (**"Joint Roche-PDL Patents"**) covering inventions in the Field that are filed prior to or during the term of this Amended and Restated Worldwide 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 inventions in the Field. Roche Owned Patents as of the Effective Date are, specifically, those listed on Schedule 2.8(a).

1.47 **"Roche Patents"** means both the Roche Owned Patents and the Roche Controlled Patents.

1.48 **"Roche Products"** means Daclizumab and any Excluded Products.

1.49 **"Roche Put Right"** has the meaning set forth in Section 5.3(a).

1.50 **"Roche Territory"** means, collectively, (a) 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 (b) all other countries in the Territory, excluding the PDL Sole Territory (the "**Roche ROW Territory**").

1.51 **"Territory"** means all the countries of the world.

1.52 **"Third Party"** means any person or entity other than PDL, Roche, and their respective Affiliates.

1.53 **"Third Party License"** means (a) any of the license agreements set forth on Appendix B that were entered into by either party, prior to the Effective Date, in order for Roche or PDL to manufacture, use, import, offer for sale or sell Daclizumab or (b) any license agreement entered into with a Third Party by either party in accordance with Section 7.4(b).

1.54 **"Trademarks**" means the trademark "Zenapax®," and all trademark registrations and applications therefor, and all goodwill associated therewith, and all other trademarks owned by Roche (except for any Roche housemarks or trade names) and used in connection with the sale or promotion of Daclizumab in the Roche Territory.

1.55 **"Transplant Foreign Filing Expenses"** means ex parte out-of-pocket expenses (a) incurred by PDL after January 31, 1989, but prior to the Effective Date, in connection with the prosecution and maintenance in the Roche ROW Territory of patent applications and patents included within the PDL Patents or Joint Roche-PDL Patents and (b) reimbursed by Roche pursuant to Section 7.2(a) of the 1999 PDL/Roche Agreement or Section 5.3(a) of the F. Roche Agreement.

1.56 **"Transplant Indications"** means all indications that involve the suppression of rejection of transplanted organs, bone marrow or other tissue, including, without limitation, solid organ transplantation (including tolerance induction and xenotransplantation), bone marrow transplantation, graft versus host disease and cell transplantation. In any event, if a given indication satisfies the criteria for both an Autoimmune Indication and a Transplant Indication, 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).

1.57 **"Transplant Reversion"** has the meaning set forth in Section 5.2(a).

1.58 **"Valid Claim"** means a claim in any issued patent that 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.

II. LICENSE GRANTS

2.1 License Grant to PDL On Effective Date.

(a) Subject to the terms and conditions of this Amended and Restated Worldwide Agreement, Roche grants to PDL and to PDL's Affiliates the worldwide right and license under the Roche Licensed Know-How and Roche Licensed Patents, to (i) develop, use, market, promote, and detail Daclizumab in the Territory solely for use in Autoimmune Indications and/or the Other Indications, and (ii) sell and offer for sale Daclizumab in the Territory, under the AI Trademarks.

(b) The licenses set forth in Sections 2.1(a)(i) and 2.1(a)(ii) shall be exclusive (even as to Roche) with respect to the Roche Licensed Know-How and Roche Licensed Patents that Roche or its Affiliate solely owns or has an exclusive license. With respect to the Roche

Licensed Know-How and Roche Licensed Patents to which Roche or its Affiliate has a non-exclusive license, such licenses shall be sole, non-exclusive licenses. With respect to the Roche Licensed Know-How and Roche Licensed Patents that Roche or its Affiliate jointly owns, such licenses shall be sole licenses under Roche's interest in such Roche Licensed Know-How and Roche Licensed Patents. As used in this Section 2.1(b) a "sole" license means that the Roche will not grant to any Third Party a license that overlaps with the scope of the licenses granted to PDL under Section 2.1(a).

(c) Roche grants to PDL and to PDL's Affiliates, the nonexclusive right under the Roche Licensed Know-How and Roche Licensed Patents to make, have made, and import Daclizumab.

(d) PDL and its Affiliates may sublicense the rights and licenses granted to them under Sections 2.1(a) and (c) to any Affiliate or Third Party, with the right to further sublicense; provided, however, that without Roche's written consent, PDL shall not have the right to sublicense, during the Commercialization Term, any of the [CONFIDENTIAL TREATMENT REQUESTED] rights or licenses in Section 2.1(a) to any other entity, that is, as of the time of such sublicensing, [CONFIDENTIAL TREATMENT REQUESTED] in the [CONFIDENTIAL TREATMENT REQUESTED] (in at least one [CONFIDENTIAL TREATMENT REQUESTED] with [CONFIDENTIAL TREATMENT REQUESTED), or [CONFIDENTIAL TREATMENT REQUESTED] in the [CONFIDENTIAL TREATMENT REQUESTED] any [CONFIDENTIAL TREATMENT REQUESTED] for the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED] in any [CONFIDENTIAL TREATMENT REQUESTED]. It is expressly understood and agreed by Roche that PDL shall have the right to sublicense its rights under Sections 2.1(a) and (c) to [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding the preceding limitation on sublicensing, PDL and its Affiliates may use Third Party distributors in accordance with their customary practices.

(e) Subject to the terms and conditions of this Amended and Restated Worldwide Agreement, Roche grants to PDL and to PDL's Affiliates a worldwide right and license (or sublicense, as the case may be) under the Roche Licensed Know-How received by PDL pursuant to the 1989 Agreements, 1999 Agreements or Section 2.4 hereof, the Roche Controlled Patents and only those Roche Owned Patents listed in Schedule 2.8(a), to (i) develop, use, market, promote, and detail Other Licensed Products in the Territory solely for use in Autoimmune Indications and/or the Other Indications; (ii) sell and offer for sale Other Licensed Products in the Territory; and (iii) to make, have made, and import Other Licensed Products in the Territory.

(f) The license set forth in Section 2.1(e) shall be exclusive (even as to Roche) with respect to the Roche Controlled Patents that Roche or its Affiliate solely owns or has an exclusive license. With respect to the Roche Controlled Patents to which Roche or its Affiliate has a non-exclusive license, such license shall be a sole, non-exclusive license. With respect to the Roche Owned Patents that Roche or its Affiliate jointly owns, such license shall be a sole license under Roche's interest in such Roche Owned Patents. PDL and its Affiliates shall have the right freely to sublicense, through multiple tiers, the rights and licenses granted to them under Section 2.1(e). Notwithstanding anything to the contrary in Section 2.1(e), the license to Roche Licensed Know-How shall be non-exclusive. Roche hereby covenants that, until the termination,

pursuant to Section 2.2(a), of the license set forth in Section 2.1(e), it will not grant to any Third Party any right or license under the (i) Roche Controlled Patents to which Roche or its Affiliate has a non-exclusive license or (ii) Roche Owned Patents that Roche or its Affiliate jointly owns, to (A) develop, use, market, promote, and detail Other Licensed Products in the Territory for use in Autoimmune Indications and/or the Other Indications; (B) sell and offer for sale Other Licensed Products in the Territory; and (C) make, have made, and import Other Licensed Products in the Territory.

(g) If PDL wishes to receive a license with respect to Other Licensed Products in Autoimmune Indications and/or Other Indication, under any Roche Owned Patents that are not listed in Schedule 2.8(a), it shall [CONFIDENTIAL TREATMENT REQUESTED] and Roche shall [CONFIDENTIAL TREATMENT REQUESTED].

2.2 License Grant to PDL On Reversion Effective Date or Put Right Effective Date.

(a) Effective only on the Reversion Effective Date or the Put Right Effective Date, Roche hereby grants the following license to PDL: subject to the terms and conditions of this Amended and Restated Worldwide Agreement, Roche grants to PDL and to PDL's Affiliates a worldwide right and license under the Roche Know-How and Roche Patents, to develop, use, manufacture, have manufactured, market, promote, import, offer for sale, sell and have sold Daclizumab and all Other Licensed Products in the Field and in the Territory. On the effectiveness of the license set forth in this Section 2.2(a), the licenses granted in Section 2.1(a), (c) and (e) shall terminate. PDL and its Affiliates shall have the right freely to sublicense, with the right to further sublicense, the right and license granted to them under this Section 2.2(a).

(b) For Daclizumab, the license set forth in Section 2.2(a) shall be exclusive (even as to Roche) with respect to the Roche Know-How and Roche Patents that Roche or its Affiliate solely owns or has an exclusive license. With respect to the Roche Know-How and Roche Patents to which Roche or its Affiliate has a non-exclusive license, the license set forth in Section 2.2(a) shall be a sole, non-exclusive license. With respect to the Roche Know-How and Roche Patents that Roche or its Affiliate jointly owns, the license set forth in Section 2.2(a) shall be a sole license under Roche's interest in such Roche Know-How and Roche Patents. Roche hereby covenants that it will not grant to any Third Party any right or license, under (i) the Roche Know-How and Roche Patents to which Roche or its Affiliate has a non-exclusive license or (ii) the Roche Know-How and Roche Patents that Roche or its Affiliate jointly owns, to develop, use, manufacture, have manufactured, market, promote, import, offer for sale and sell Daclizumab in the Field and in the Territory.

(c) For Other Licensed Products, the license set forth in Section 2.2(a) shall be non-exclusive. Notwithstanding the preceding sentence, Roche hereby covenants that it will not grant licenses to any Third Party under the Roche Patents to make, have made, use, sell, offer for sale or import any Other Licensed Product.

2.3 [CONFIDENTIAL TREATMENT REQUESTED]

2.4 Transfer of Roche Licensed Know-How to PDL. Promptly after the Effective Date, Roche shall transfer all Roche Licensed Know-How to PDL in the manner in which and to the extent to which the parties, prior to the Effective Date, have transferred know-how under the Joint Development Committee or the Joint Commercialization Committee under the 1999 Agreements. Thereafter, and until the Reversion Effective Date or the Put Right Effective Date, if Roche develops or gains Control of additional Roche Licensed Know-How, Roche shall promptly provide such additional Roche Licensed Know-How to PDL through the parties' participation in the POC. On either the Reversion Effective Date or the Put Right Effective Date, Roche shall transfer to PDL any Roche Know-How not previously transferred to PDL, including in particular, any Roche Know-How related to the Transplant Indications.

2.5 License Grants to Roche.

(a) Subject to the terms and conditions of this Amended and Restated Worldwide Agreement, PDL grants to Roche and to Roche's Affiliates, during the Commercialization Term, the exclusive (even as to PDL) right and license under the PDL Know-How and PDL Patents to (i) market, promote, and detail Daclizumab in the Roche Territory solely for use in the Transplant Indications, and (ii) to sell and offer for sale Daclizumab in the Roche Territory under the Trademarks. In addition, PDL grants to Roche and to Roche's Affiliates, the nonexclusive right under the PDL Know-How and PDL Patents to make, have made and import Daclizumab, but only to the extent reasonably necessary for Roche to carry out its rights and obligations under this Amended and Restated Worldwide Agreement. Roche may sublicense the rights and licenses granted to Roche under this Section 2.5, subject to PDL's written consent, which consent PDL may not unreasonably withhold. It shall be deemed reasonable for PDL to withhold consent with respect to sublicense by Roche of any of the rights or licenses to any other entity that is [CONFIDENTIAL TREATMENT REQUESTED] (in at least one [CONFIDENTIAL TREATMENT REQUESTED] with [CONFIDENTIAL TREATMENT REQUESTED]), or [CONFIDENTIAL TREATMENT REQUESTED] in a [CONFIDENTIAL TREATMENT REQUESTED] any [CONFIDENTIAL TREATMENT REQUESTED] for the [CONFIDENTIAL TREATMENT REQUESTED] of any [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding the preceding sentence, Roche and its Affiliates may use Third Party distributors in accordance with their customary practices. All sublicenses granted by Roche or its Affiliates of the licenses set forth in this Section 2.5(a) shall automatically terminate on the Reversion Effective Date or Put Right Effective Date.

(b) Subject to the terms and conditions of this Amended and Restated Worldwide Agreement, in particular the restrictions set forth in Section 3.1(b), PDL grants to Roche and to Roche's Affiliates the exclusive (even as to PDL) right and license, including the right to grant sublicenses, under the PDL Know-How and PDL Patents to use, develop, make, have made, sell, offer for sale, and import the Excluded Products in the Roche Territory; provided, however that the license granted under this Section 2.5(b) under [CONFIDENTIAL TREATMENT REQUESTED] shall be nonexclusive.

(c) PDL hereby covenants that, until the expiration of [CONFIDENTIAL TREATMENT REQUESTED], it will not make, have made, use, sell, offer for sale or import any product in the Excluded Field Covered by [CONFIDENTIAL TREATMENT REQUESTED] in

the Roche Territory, and it will not grant to any Third Party any right or license under [CONFIDENTIAL TREATMENT REQUESTED] the right to make, have made, use, sell, offer for sale or import any product in the Excluded Field in the Roche Territory.

(d) If during the term of this Amended and Restated Worldwide Agreement, Roche or its Affiliate challenges the validity or enforceability in any jurisdiction of [CONFIDENTIAL TREATMENT REQUESTED], then PDL shall have the right to [CONFIDENTIAL TREATMENT REQUESTED] to Roche under this Amended and Restated Worldwide Agreement to PDL Patents that include [CONFIDENTIAL TREATMENT REQUESTED].

(e) Roche hereby covenants that it shall not, nor shall it cause any Affiliate or sublicensee to:

(i) knowingly use or practice, directly or indirectly, any PDL Know-How or PDL Patents for any other purposes other than those expressly permitted by this Amended and Restated Worldwide Agreement or any other written agreements in the Field between the Parties currently in existence and not expressly superceded by this Amended and Restated Worldwide Agreement, or which may later be entered into by the Parties;

(ii) market, promote, detail, sell or offer for sale Daclizumab, during the Commercialization Term, in any manner outside the scope of the licenses set forth in Section 2.5(a), including, in particular, for any use in the treatment of Autoimmune Indications or Other Indications; or

(iii) use, develop, make, have made, sell, offer for sale or import Excluded Products in any manner outside the scope of the licenses set forth in Section 2.5(b).

(f) PDL hereby covenants that it shall not, nor shall it cause any Affiliate or sublicensee to market, promote, detail, sell or offer for sale Daclizumab, during the Commercialization Term, in any manner outside the scope of the licenses set forth in Sections 2.1 and 2.2.

2.6 Identification of the Queen et al Patents. Set forth on Appendix A is a list identifying patents or patent applications that comprise the Queen et al. Patents in the Roche Territory as of the Effective Date. 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 Worldwide Agreement.

2.7 Cooperation Regarding Third Party Licenses. In the event Roche negotiates and intends to enter into a license agreement with a Third Party with respect to the right to make, use, sell, import, offer for sale or sale of any [CONFIDENTIAL TREATMENT REQUESTED] under such Third Party's intellectual property, it shall so inform PDL and provide PDL the opportunity to participate in such negotiations and enter into such license agreement or take a sublicense thereunder with respect to [CONFIDENTIAL TREATMENT REQUESTED], on such terms as are agreed by the parties.

2.8 Roche Representations, Warranties and Covenants. Roche hereby represents and warrants as of the Effective Date as follows:

(a) To the best of Roche's knowledge, Schedule 2.8(a) identifies the Roche Owned Patents existing as of the Effective Date. To the extent that it is not prohibited from doing so, Roche agrees to make available to PDL copies of such Roche Owned Patents promptly following the Effective Date. Roche covenants that, to the extent any additional Roche Owned Patents are identified by Roche subsequent to the Effective Date and to the extent that it is not prohibited from doing so, it shall promptly inform PDL, and Schedule 2.8(a) shall be revised to so reflect such additional Roche Owned Patents.

(b) Schedule 2.8(b) identifies all of the license agreements under which Roche has rights to Roche Controlled Patents existing as of the Effective Date (other than the license rights from Genentech referred to in Section 2.3). Roche agrees to make available to PDL copies of such license agreements pursuant to which the Roche Controlled Patents were licensed to Roche promptly following the Effective Date, to the extent not already in PDL's possession and to the extent that Roche has a right to do so. [CONFIDENTIAL TREATMENT REQUESTED]

(c) Roche has not granted any Third Party a license or other right that is currently in effect under any of the Roche Owned Patents for any purpose.

(d) To Roche's knowledge, Roche has complied with its obligation under 37 CFR §1.56(a) to disclose to the United States Patent and Trademark Office, during the pendency of each United States patent application included in the Roche Owned Patents, information known to Roche to be material to the patentability of the pending claims in such application. None of the Roche Owned Patents is involved in any interference or opposition proceeding, and, to Roche's knowledge, no such proceeding is being threatened with respect to any of the Roche Owned Patents.

(e) [CONFIDENTIAL TREATMENT REQUESTED]

(f) [CONFIDENTIAL TREATMENT REQUESTED]

(g) Roche and its Affiliates have not granted to any Third Party in any Major Country, any sublicense, under the license(s) to the PDL Know-How and PDL Patents that Roche and its Affiliates received pursuant to the 1999 Agreements, to: (i) promote and sell Daclizumab generally, and/or for use in Autoimmune Indications or the Other Indications; or (ii) develop, make, use, import, offer for sale and sell Other Licensed Products for any indication in the Field. Roche shall, prior to the [CONFIDENTIAL TREATMENT REQUESTED], disclose in writing to PDL all sublicenses that Roche or its Affiliate have granted, under the PDL Know-How and PDL Patents, to develop, make, use, import, promote, offer for sale and sell Daclizumab and Other Licensed Products for any indication in the Field. If any such sublicenses exist at such time, the parties, through the POC, will work together to [CONFIDENTIAL TREATMENT REQUESTED] (including [CONFIDENTIAL TREATMENT REQUESTED], where practicable) such sublicense.

(h) Roche covenants that, in the event that Roche [CONFIDENTIAL TREATMENT REQUESTED] of the [CONFIDENTIAL TREATMENT REQUESTED] of the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED], through whatever means, on PDL's request, Roche will within [CONFIDENTIAL TREATMENT REQUESTED] days of such request, meet and discuss with PDL the impact of such event on the relationship between PDL and Roche at such time, and modify this Amended and Restated Worldwide Agreement to the extent deemed appropriate by both parties.

2.9 Termination of Certain Sublicenses. If, prior to the Effective Date, PDL and Roche or an Affiliate of Roche entered into any agreement(s), other than the 1999 Agreements, wherein PDL granted Roche or such Affiliate a sublicense with respect to Daclizumab or Other Licensed Product(s), under any Third Party intellectual property rights licensed by PDL, then such sublicenses are hereby terminated and replaced by the licenses set forth in Section 2.5.

III. DEVELOPMENT; REGULATORY ISSUES

3.1 Development by Roche.

(a) Development of Daclizumab. Following the Effective Date, [CONFIDENTIAL TREATMENT REQUESTED] after the Effective Date. In addition, to the extent Roche receives any data or other results of any clinical trials pursuant to ongoing physician sponsored trials, Roche will update the POC with respect to such trial results and data. Further, Roche shall promptly forward to PDL any requests for new [CONFIDENTIAL TREATMENT REQUESTED] studies involving Daclizumab that Roche receives after the Effective Date.

(b) Development of Excluded Products. Roche shall be solely responsible, at its sole cost and expense and at its sole discretion, for the non-clinical, clinical, and regulatory development of any Excluded Product. Notwithstanding the foregoing, it is understood and agreed that [CONFIDENTIAL TREATMENT REQUESTED] for any indication other than [CONFIDENTIAL TREATMENT REQUESTED] without the written consent of PDL, such consent not to be unreasonably withheld. The Parties recognize that it may be desirable to develop the Excluded Products for [CONFIDENTIAL TREATMENT REQUESTED], in which case the POC shall discuss and recommend to the parties whether [CONFIDENTIAL TREATMENT REQUESTED]. Following the Effective Date, Roche shall use Reasonable Diligence in proceeding with the development and registration of Excluded Products in the Roche Territory, to the extent permitted under this Section 3.1(b). If Roche fails to exercise such diligence, PDL may terminate the license granted to Roche under Section 2.5(b), but shall not be obligated to do so.

3.2 Development by PDL.

(a) General. Following the Effective Date, PDL shall be solely responsible, at its sole cost and expense and at its sole discretion, for the non-clinical, clinical, and regulatory development of Daclizumab for all indications in the Territory, other than those trials referenced in Section 3.1(a), subject to the restrictions set forth in Section 3.2(b). All data and information

generated by PDL development activities pursuant to this Section 3.2(a) shall be PDL Know-How.

(b) Restriction on PDL Development. During the period commencing on the Effective Date and ending at the end of the Commercialization Term, PDL agrees not to pursue the clinical or regulatory development of Daclizumab for use in the [CONFIDENTIAL TREATMENT REQUESTED] in the Roche Territory.

3.3 Assistance by Roche. At no cost to PDL (except as provided in the following sentence), Roche will allow PDL to cross-reference Roche regulatory filings and clinical data with respect to Daclizumab and will grant PDL reasonable access during normal business hours to such regulatory filings and clinical data. To the extent Roche is required under applicable law, rule or regulation, Roche, at PDL's cost, shall promptly make all filings reasonably required or useful to permit the use of the clinical materials, if any, supplied pursuant to Section 4.5(a) (e.g., preparation and filing of required technical reports, data summaries, or a regulatory dossier).

3.4 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 Adverse Event Reports to appropriate governmental and regulatory authorities consistent with all laws, rules and regulations. The parties, through their Report Coordinators, have agreed in writing on formal procedures for such exchange, which are embodied in the PDL-Roche Procedure for the Exchange of Daclizumab Adverse Event Reports, dated December 2000 (**"Pharmacovigilance Agreement"**). Promptly after the Effective Date, Roche and PDL agree to cause their Report Coordinators (a) to review the Pharmacovigilance Agreement and (b) to negotiate in good faith an amendment to the Pharmacovigilance Agreement to reflect the terms of this Amended and Restated Worldwide Agreement, if the Report Coordinators agree that such an amendment is required. Such Pharmacoviligance Agreement (as amended, if applicable) shall survive the end of the Commercialization Term.

3.5 Copies of Responses. Within a reasonable time frame prior to submission of responses to any regulatory authority on product safety issues regarding Daclizumab, a copy of a near final draft response will be provided to the other party for review. Final copies of responses submitted to any regulatory authority will be provided to the other party within five (5) business days of document finalization.

3.6 Regulatory Actions. The party responsible to interact with regulators on a specific safety issue regarding Daclizumab must communicate action requested by regulators to the other party without delay. Such actions may include, for example, change in label, Dear Doctor letter, trial on hold for clinical safety reasons and the like.

3.7 Other Safety Issues. Either party may request that specific safety issues be discussed, and the parties will establish a Joint Safety Committee (**"JDSC"**), consisting of an

equal number of representatives from each party, for such purpose. JDSC discussion on such issues will be for the purpose of advising each party concerning the collection and evaluation of safety data, and responding to any significant safety issues raised, or requests made, by regulatory authorities.

3.8 Registration. PDL shall notify Roche in writing if PDL determines that clinical trial results for Daclizumab justify filing an Application. 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 periodic reports required by the FDA related to any such Applications and for timely filing such periodic reports with the FDA. Through the POC, 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.

IV. COMMERCIALIZATION AND MANUFACTURING

4.1 Commercialization By Roche.

(a) Commercialization of Daclizumab by Roche. The parties intend that, following the Effective Date, Roche will continue to market and sell Daclizumab in the Transplant Indications in the Roche Territory for the duration of the Commercialization Term, under the Trademarks. In particular, and without limitation, during the Commercialization Term and in the Roche Territory, Roche shall be responsible, at its sole cost and as permitted by applicable law, for (i) the marketing, promotion, and detailing of Daclizumab for use in the Transplant Indications; (ii) accepting and filling orders for Daclizumab received by it or its Affiliates, including the distribution of Daclizumab to fill such orders; (iii) booking all sales of Daclizumab attributable to such orders; and (iv) any other activities reasonably related to Daclizumab that are permitted under the license granted in Section 2.5(a) (the **"Roche Commercialization Activities"**). As provided in Article VII, Roche shall pay royalties to PDL on Roche Net Sales.

(b) Commercialization of Excluded Products by Roche. Roche, its Affiliates, or sublicensees shall be solely responsible for, at its or their sole cost and as permitted by law, all aspects of the commercialization of Excluded Products in the Roche Territory, including but not limited to the booking of all sales of Excluded Products in the Roche Territory. Roche shall use commercially diligent efforts to develop and commercialize such Excluded Products. Following receipt of regulatory approval, Roche shall use Reasonable Diligence in proceeding with the marketing, promotion and sale of Excluded Products in the Roche Territory. If Roche fails to exercise such diligence, PDL may terminate the license granted to Roche under Section 2.5(b), but shall not be obligated to do so. As provided in Article VII, Roche shall pay royalties to PDL on Roche Net Sales of Excluded Products.

4.2 Commercialization by PDL.

(a) Commercialization by PDL During Commercialization Term. In the Roche Territory, PDL, its Affiliates, or sublicensees shall have the right, but not the obligation, at its or

their sole cost and as permitted by law, to pursue all aspects of the commercialization of Daclizumab and any Other Licensed Products, excluding the Roche Commercialization Activities. Without limiting the generality of the foregoing, in the Roche Territory and during the Commercialization Term, PDL, its Affiliates, or sublicensees shall have the right, but not the obligation, to commercialize Licensed Products in Autoimmune Indications and Other Indications

and to commercialize Other Licensed Products in any indication. In particular, in the Roche Territory, PDL shall be responsible, at its sole cost and as permitted by applicable law, for (i) the marketing, promotion, and detailing of Daclizumab for use in the Autoimmune Indications or Other Indications; (ii) accepting and filling orders for Daclizumab received by it or its Affiliates, including the distribution of Daclizumab to fill such orders; (iii) booking all sales of Daclizumab attributable to such orders; and (iv) any other activities reasonably related to Daclizumab that are permitted under the license granted in Section 2.1. As provided in Article VII, PDL shall pay royalties to Roche on PDL Net Sales during the Commercialization Term.

(b) Commercialization by PDL Following Reversion Effective Date or Put Right Effective Date. Following the Reversion Effective Date or the Put Right Effective Date, PDL, its Affiliates, or sublicensees shall have the right, but not the obligation, to pursue, at its or their sole cost and as permitted by law, all aspects of the commercialization of Daclizumab for all indications and for all Other Licensed Products. Following the Reversion Effective Date or the Put Right Effective Date, in no event shall PDL owe any royalties or any other compensation to Roche on sales of Daclizumab under Section 7.2(c) in the Territory, whether by PDL, its Affiliates, or their sublicensees.

4.3 Commercialization in the PDL Sole Territory. PDL, its Affiliates, or sublicensees shall have the right, but not the obligation, to pursue, at its or their sole cost and as permitted by law, all aspects of the commercialization of Licensed Products in the PDL Sole Territory, including but not limited to the booking of all sales of Licensed Products in the PDL Sole Territory.

4.4 Pricing. As between the parties, PDL has the sole right to determine the price for Daclizumab or any Other Licensed Product that it sells and distributes. As between the parties, Roche has the sole right to determine the price for any Excluded Product that it sells and distributes, and the sole right during the Commercialization Term to determine the price for Daclizumab that it sells and distributes; provided, however, that until the earlier of (a) [CONFIDENTIAL TREATMENT REQUESTED] or (b) PDL's receipt of a [CONFIDENTIAL TREATMENT REQUESTED] from [CONFIDENTIAL TREATMENT REQUESTED] having the power to grant [CONFIDENTIAL TREATMENT REQUESTED], stating that [CONFIDENTIAL TREATMENT REQUESTED] will grant [CONFIDENTIAL TREATMENT REQUESTED] for Daclizumab in [CONFIDENTIAL TREATMENT REQUESTED], Roche shall provide PDL with [CONFIDENTIAL TREATMENT REQUESTED] of any [CONFIDENTIAL TREATMENT REQUESTED] in the [CONFIDENTIAL TREATMENT REQUESTED] of Daclizumab and shall give [CONFIDENTIAL TREATMENT REQUESTED] to any [CONFIDENTIAL TREATMENT REQUESTED] or [CONFIDENTIAL TREATMENT REQUESTED] by PDL regarding the [CONFIDENTIAL TREATMENT REQUESTED] of Daclizumab whether [CONFIDENTIAL TREATMENT REQUESTED]. It is expressly understood that following the date which is the earliest of (i) [CONFIDENTIAL TREATMENT

REQUESTED], (ii) the receipt of [CONFIDENTIAL TREATMENT REQUESTED] for Daclizumab in [CONFIDENTIAL TREATMENT REQUESTED], or (iii) the Reversion Effective Date or Put Right Effective Date, the obligations of either party in the foregoing sentence shall terminate, and PDL shall have sole control regarding the price of Daclizumab that it sells and distributes.

4.5 Manufacturing. References to Roche in Sections 4.5(a) and 4.5(b) shall include Roche, its Affiliates [CONFIDENTIAL TREATMENT REQUESTED] and any sublicensees manufacturing Daclizumab for Roche or its Affiliates.

(a) Clinical Manufacturing.

(i) Supply. Subject to Section 4.5(a)(ii) and until [CONFIDENTIAL TREATMENT REQUESTED]. All Daclizumab for the development of Daclizumab for AI, regardless of form or formulation, shall be manufactured in accordance with cGMPs and any other applicable regulatory or legal requirements. Through the POC, the parties shall meet periodically and discuss the availability and timing of delivery of Daclizumab hereunder. [CONFIDENTIAL TREATMENT REQUESTED]. At PDL's cost, PDL shall perform any bridging studies that are necessary to enable PDL to use PDL-manufactured Daclizumab to satisfy its clinical development requirements. On [CONFIDENTIAL TREATMENT REQUESTED], and any time thereafter, PDL shall have the sole responsibility for the manufacture of all Daclizumab and placebo required by PDL for the development of Daclizumab for AI.

(ii) Limitations. From the Effective Date until [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding anything to the contrary herein, from the Effective Date until [CONFIDENTIAL TREATMENT REQUESTED] of Daclizumab.

(iii) Procedures. During the period commencing on the Effective Date and ending on [CONFIDENTIAL TREATMENT REQUESTED], or under such other procedures as the POC determines.

(b) Commercial Manufacturing. Effective on the Effective Date and subject to Section 4.5(c) and this Section 4.5(b), each party shall each be solely responsible for the manufacturing of all Daclizumab necessary to satisfy the commercial requirements of itself, its Affiliates and its sublicensees. [CONFIDENTIAL TREATMENT REQUESTED]

(c) Commercial Manufacturing Following Exercise of the Roche Put Right. In the event that Roche exercises the Roche Put Right, [CONFIDENTIAL TREATMENT REQUESTED].

4.6 Roche Diligence. Following the Effective Date, Roche shall use Reasonable Diligence in proceeding with the manufacturing, marketing and sale of Daclizumab for use in the Transplant Indications in the Territory as contemplated by this Amended and Restated Worldwide Agreement, and in a manner comparable to its conduct of the manufacturing, marketing and sale of Daclizumab [CONFIDENTIAL TREATMENT REQUESTED] during the

[CONFIDENTIAL TREATMENT REQUESTED] prior to the Effective Date. If Roche fails to exercise such diligence, PDL may exercise its rights hereunder pursuant to Section 13.3 below, but shall not be obligated to do so. Roche's diligence obligations under this Section 4.6 shall expire on, (i) if PDL exercises the Transplant Reversion or Roche exercises the Roche Put Right, the completion of all activities and undertakings set forth in Sections 5.4(b), (c), (e) and (f), or (ii) if the Exercise Period expires without PDL exercising the Transplant Reversion. In the event of a dispute as to whether Roche has used Reasonable Diligence, the party that loses on this issue in an arbitration brought pursuant to Article XV shall reimburse all of the other party's arbitration expenses, including reasonable attorneys' fees relating to such arbitration.

V. PDL RIGHT TO ACQUIRE TRANSPLANT BUSINESS FROM ROCHE

5.1 General. The parties intend that, subject to the terms and conditions of this Amended and Restated Worldwide Agreement, the commercialization of Daclizumab in the Transplant Indications in the Roche Territory will continue to be an exclusive Roche responsibility unless and until PDL decides to undertake commercialization of Daclizumab in the Transplant Indications under the terms provided in this Article V. Subject to the limitations set forth below, PDL shall have the option to terminate Roche's rights with respect to Daclizumab, which, if exercised, would allow PDL to replace Roche as the party responsible for the promotion, sales, distribution and manufacturing of Daclizumab for use in the Transplant Indications in the Roche Territory. In the event that PDL exercises such option, PDL shall pay an exercise fee as set forth in Section 5.2(c) below. In addition, Roche shall have the right to "put" to PDL the rights to commercialize Daclizumab in the Roche Territory prior to PDL's exercise of such option and payment of the exercise fee, as provided in Section 5.3 below.

5.2 PDL Transplant Reversion.

(a) Grant; Exercise Period. PDL is hereby granted the right, subject to the terms of this Section 5.2(a), to terminate Roche's license rights under Section 2.5 for Daclizumab (the **"Transplant Reversion"**). Such right may be exercised by PDL in its discretion at any time during the period commencing [CONFIDENTIAL TREATMENT REQUESTED] and ending [CONFIDENTIAL TREATMENT REQUESTED] (the **"Exercise Period"**) by written notice to Roche and payment of the Reversion Exercise Fee set forth in Section 5.2(c).

(b) Effective Date of Exercise. If, during the Exercise Period, PDL provides Roche with written notice that PDL desires to exercise the Transplant Reversion, [CONFIDENTIAL TREATMENT REQUESTED] shall determine the effective date (the **"Reversion Effective Date"**) of such exercise and reversion of rights, which shall be at least [CONFIDENTIAL TREATMENT REQUESTED] after the date of PDL's written notice that it desires to exercise the Transplant Reversion, but in no event be later than [CONFIDENTIAL TREATMENT REQUESTED].

(c) Reversion Exercise Fee. PDL shall pay to Roche an exercise fee based on the AAGS, which exercise price shall be calculated as follows (the **"Reversion Exercise Fee"**):

AAGS	Exercise Price
[CONFIDENTIAL TREATMENT REQUESTED] or more	[CONFIDENTIAL TREATMENT REQUESTED]
[CONFIDENTIAL TREATMENT REQUESTED] or more but not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
[CONFIDENTIAL TREATMENT REQUESTED] or more but not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

(d) Payment of Reversion Exercise Fee. Payment of such Reversion Exercise Fee shall be made in two installments: [CONFIDENTIAL TREATMENT REQUESTED] of such Reversion Exercise Fee shall be made within [CONFIDENTIAL TREATMENT REQUESTED] of PDL's written notice that it is exercising the Transplant Reversion and the remaining [CONFIDENTIAL TREATMENT REQUESTED] of such Reversion Exercise Fee shall be made on the later of the [CONFIDENTIAL TREATMENT REQUESTED], or the [CONFIDENTIAL TREATMENT REQUESTED] after completion of all activities and undertakings set forth in Sections [CONFIDENTIAL TREATMENT REQUESTED].

5.3 Roche Put Right Regarding Transplant Reversion.

(a) If, at any time from the Effective Date until Roche receives written notice from PDL pursuant to Section 5.2(a) of PDL's exercise of the Transplant Reversion, Roche desires that all of its rights to market, sell, promote and otherwise commercialize Daclizumab in the Roche Territory should revert to PDL, Roche shall have such right, on [CONFIDENTIAL TREATMENT REQUESTED] written notice to PDL (the **"Roche Put Right"**); provided, however, that such right shall not be exercisable by Roche before [CONFIDENTIAL TREATMENT REQUESTED] or after [CONFIDENTIAL TREATMENT REQUESTED]. If so exercised, the effective date of such reversion (the **"Put Right Effective Date"**) shall be deemed to be that date [CONFIDENTIAL TREATMENT REQUESTED] following the date of such written notice. The Roche Put Right shall expire on [CONFIDENTIAL TREATMENT REQUESTED] if not previously exercised.

(b) On receipt from Roche of its notice of exercise of the Roche Put Right, PDL would pay to Roche an exercise fee based on the AAGS, which exercise price shall be calculated as follows (the **"Put Exercise Fee"**):

AAGS	Exercise Price
[CONFIDENTIAL TREATMENT REQUESTED] or more	[CONFIDENTIAL TREATMENT REQUESTED]
[CONFIDENTIAL TREATMENT REQUESTED] or more but not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
[CONFIDENTIAL TREATMENT REQUESTED] or more but not	[CONFIDENTIAL

more than [CONFIDENTIAL TREATMENT REQUESTED]	TREATMENT REQUESTED]
not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

(c) Payment of such Put Exercise Fee shall be made in two installments: [CONFIDENTIAL TREATMENT REQUESTED] of such Put Exercise Fee shall be made within [CONFIDENTIAL TREATMENT REQUESTED] of Roche's written notice that it is exercising the Roche Put Right and the remaining [CONFIDENTIAL TREATMENT REQUESTED] of such Put Exercise Fee shall be made on the later of the [CONFIDENTIAL TREATMENT REQUESTED], or the [CONFIDENTIAL TREATMENT REQUESTED] after completion of all activities and undertakings set forth in Sections [CONFIDENTIAL TREATMENT REQUESTED].

(d) In the event of exercise by Roche of the Roche Put Right, PDL agrees to do the following, until [CONFIDENTIAL TREATMENT REQUESTED]:

(i) to the extent [CONFIDENTIAL TREATMENT REQUESTED], use [CONFIDENTIAL TREATMENT REQUESTED] efforts to maintain [CONFIDENTIAL TREATMENT REQUESTED] in effect as of the Put Right Effective Date by and between Roche and Third Party [CONFIDENTIAL TREATMENT REQUESTED] with respect to Daclizumab for use in the Transplant Indications in the US; and

(ii) pay to Roche those payments provided in Section 7.2(d).

5.4 Transfer and Assignment of Daclizumab Assets; Cooperation. As soon as practicable following PDL's notice of its exercise of the Transplant Reversion, or on delivery by Roche of written exercise of the Roche Put Right, Roche shall take all steps reasonable and appropriate to facilitate and shall initiate, or to cause its Affiliates to facilitate or initiate, the assignment to PDL of all of Roche's and its Affiliates' right, title and interest in and to the Daclizumab Assets and the transfer of Daclizumab commercialization and regulatory responsibilities in the Roche Territory from Roche to PDL. Such actions shall include, without limitation:

(a) cooperate and communicate with PDL as PDL may reasonably request in effectuating such transfer, including responding in a reasonable time frame to all reasonable

inquiries and requests of PDL with respect to the nature or extent of the Daclizumab Assets, including providing copies of all relevant documents for PDL's use [CONFIDENTIAL TREATMENT REQUESTED];

(b) assign and transfer all Regulatory Approvals and other Daclizumab Assets described in Section 1.14(h) from Roche to PDL (excluding manufacturing approvals);

(c) identify all distributors and other Third Parties involved in the promotion, sale and distribution of Daclizumab, and as and to the extent possible offering to assign agreements with such Third Parties to PDL, to the extent not adverse to the interests of Roche to do so;

(d) on PDL's request and at PDL's sole discretion, Roche shall assign and shall cause its Affiliates to assign, to PDL any contracts (or relevant portions thereof) then in force between Roche and any Third Parties regarding the marketing, promotion, and sale of Daclizumab, to the extent assignable, and where not so assignable, use its reasonably diligent efforts to obtain consent to such assignment;

(e) prepare, execute and deliver assignments to PDL of the Roche Owned Patents listed on Schedule 2.8(a) and record, where appropriate with the relevant authorities, such assignments to PDL of all of Roche's and its Affiliates' right, title and interest in and to the Roche Owned Patents listed on Schedule 2.8(a); and

(f) prepare, execute and deliver assignments to PDL of all of Roche's and its Affiliates' right, title, and interest in and to the Trademarks.

In such matters, Roche shall bear the [CONFIDENTIAL TREATMENT REQUESTED] of its [CONFIDENTIAL TREATMENT REQUESTED] and associated [CONFIDENTIAL TREATMENT REQUESTED] but PDL shall [CONFIDENTIAL TREATMENT REQUESTED] for any [CONFIDENTIAL TREATMENT REQUESTED] to [CONFIDENTIAL TREATMENT REQUESTED] (such as [CONFIDENTIAL TREATMENT REQUESTED]) required in connection with such transfers, together with any [CONFIDENTIAL TREATMENT REQUESTED] for [CONFIDENTIAL TREATMENT REQUESTED] requested by PDL and agreed to by Roche. Roche shall use its commercially diligent efforts to ensure that all such transfer activities shall be completed as expeditiously as possible, but in any event by the Reversion Effective Date or the Put Right Effective Date. All such activities shall be coordinated through and overseen by the POC, as provided in Section 6.2.

5.5 Effect of Exercise. Effective immediately on either the Reversion Effective Date or the Put Right Effective Date:

(a) the license granted to Roche under Section 2.5(a) shall terminate and all such rights shall revert to PDL; except that, following any Put Right Effective Date, the license granted to Roche to manufacture Daclizumab in the second sentence of Section 2.5(a) shall survive, to the extent provided in Section 2.5(a);

(b) the license granted to PDL in Section 2.2 shall be in full force and effect;

(c) PDL shall have the right to purchase all or any portion of Roche's then existing inventory of bulk and/or finished Daclizumab, and Roche agrees to so sell such bulk and/or finished Daclizumab, at a price equal to [CONFIDENTIAL TREATMENT REQUESTED], as necessary to meet commercial requirements; and

(d) PDL thereafter shall commence booking all sales of Daclizumab in the Roche Territory, whether sold under a Trademark or the AI Trademark or any other trademark.

5.6 No Effect on Excluded Field and Excluded Products. Any exercise of either the Transplant Reversion or the Roche Put Right shall have no effect on Roche's rights in and to the Excluded Field and the Excluded Product, or on the license granted to Roche under Section 2.5(b), except as provided in Section 13.3.

5.7 No Assumption of Liabilities. Except as specifically assumed by PDL in writing in connection with an assignment and/or sublicense to PDL of any Third Party contracts comprising the Daclizumab Assets pursuant to Section 5.4, PDL shall assume no liabilities of Roche or its Affiliates as a result of either the exercise by PDL of the Transplant Reversion or the exercise by Roche of the Roche Put Right, including (a) tax liabilities; (b) any liabilities relating to accounts payable, indebtedness, accrued liabilities or legal services, accounting services, financial advisory services or investment banking services or other professional services; (c) any wages, salaries or benefits or any other liabilities relating to the employment of any current or former employee; (d) any rent, wages or other obligations of any kind payable by Roche; (e) any environmental liabilities; and (f) any liabilities with respect to Third Party contracts not expressly assumed by PDL hereunder. Roche shall remain responsible for all liabilities associated with its sale, prior to the Reversion Effective Date or Put Right Effective Date (as applicable), of Daclizumab, and its manufacture of Daclizumab, including without limitation uncollected amounts, returns, recalls, and third party royalties (subject to Section 7.4) associated with such sales.

5.8 Effect of [CONFIDENTIAL TREATMENT REQUESTED]. In the event of any [CONFIDENTIAL TREATMENT REQUESTED], the following shall occur:

(a) The Roche Put Right shall immediately terminate;

(b) The exercisability of the Transplant Reversion shall [CONFIDENTIAL TREATMENT REQUESTED] and the Exercise Period shall be deemed to commence on the date that is [CONFIDENTIAL TREATMENT REQUESTED] after the effective date of such [CONFIDENTIAL TREATMENT REQUESTED] and shall extend until [CONFIDENTIAL TREATMENT REQUESTED]. In the event PDL exercises such Transplant Reversion during such [CONFIDENTIAL TREATMENT REQUESTED] time, PDL would pay to Roche an exercise fee based on the AAGS, which exercise price shall be calculated as follows (the **"**[CONFIDENTIAL TREATMENT REQUESTED] **Exercise Fee"**):

AAGS	**Exercise Price**
more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
more than [CONFIDENTIAL TREATMENT REQUESTED] but not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
not more than [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

and

(c) Payment of such [CONFIDENTIAL TREATMENT REQUESTED] Exercise Fee shall be made in two installments: [CONFIDENTIAL TREATMENT REQUESTED] of such [CONFIDENTIAL TREATMENT REQUESTED] Exercise Fee shall be made within [CONFIDENTIAL TREATMENT REQUESTED] of PDL's written notice that it is exercising the Transplant Reversion and the remaining [CONFIDENTIAL TREATMENT REQUESTED] of such [CONFIDENTIAL TREATMENT REQUESTED] Exercise Fee shall be made on the later of the [CONFIDENTIAL TREATMENT REQUESTED], or [CONFIDENTIAL TREATMENT REQUESTED] after completion of all activities and undertakings set forth in Sections [CONFIDENTIAL TREATMENT REQUESTED].

VI. PRODUCT OPERATING COMMITTEE

6.1 Dissolution of Committees under 1999 Agreements**.** Effective as of the Effective Date, the Joint Development Committee and the Joint Commercialization Committee, as authorized under the 1999 Agreements, shall be dissolved.

6.2 Product Operating Committee.

(a) Within thirty (30) days after the Effective Date, PDL and Roche shall form a Product Operating Committee (**"POC"**) composed of [CONFIDENTIAL TREATMENT REQUESTED] representatives of each party who shall be appointed (and may be replaced at any time, subject to the terms of this Section 6.2(a)) by such party with the prior written consent of the other party in accordance with this Amended and Restated Worldwide Agreement. Each POC representative shall have suitable experience and expertise in the development and commercialization of biopharmaceutical drugs. Each party shall each have the right to replace its representatives from time to time, provided that such party obtains the written consent of the other party on such replacement in advance thereof.

(b) The POC shall meet not less than [CONFIDENTIAL TREATMENT REQUESTED] on such dates and at such times as agreed to by PDL and Roche, alternating between Fremont, California and Nutley, New Jersey or such other locations as the POC determines. On the determination of the POC, any such meetings may be conducted by

teleconference or videoconference. Other representatives of the parties and their invitees may also attend the POC meetings.

(c) The POC shall be responsible for (i) exchanging information regarding the activities conducted by the parties, their sublicensees or their respective Affiliates under this Amended and Restated Worldwide Agreement, including without limitation, [CONFIDENTIAL TREATMENT REQUESTED] of any [CONFIDENTIAL TREATMENT REQUESTED] with respect to [CONFIDENTIAL TREATMENT REQUESTED], (ii) making recommendations to the parties regarding the [CONFIDENTIAL TREATMENT REQUESTED] for [CONFIDENTIAL TREATMENT REQUESTED] for the [CONFIDENTIAL TREATMENT REQUESTED] of the [CONFIDENTIAL TREATMENT REQUESTED], (iii) discussing the [CONFIDENTIAL TREATMENT REQUESTED] for [CONFIDENTIAL TREATMENT REQUESTED] the [CONFIDENTIAL TREATMENT REQUESTED] for [CONFIDENTIAL TREATMENT REQUESTED] and the potential for a [CONFIDENTIAL TREATMENT REQUESTED] between the [CONFIDENTIAL TREATMENT REQUESTED] to accomplish this goal, (iv) coordinating and overseeing the [CONFIDENTIAL TREATMENT REQUESTED] to PDL of the [CONFIDENTIAL TREATMENT REQUESTED] pursuant to Section [CONFIDENTIAL TREATMENT REQUESTED]; and (vi) such other activities as mutually agreed by Roche and PDL[CONFIDENTIAL TREATMENT REQUESTED]. If PDL elects to exercise its Transplant Reversion under Section 5.2, or Roche exercises its Roche Put Right under Section 5.3, the POC will coordinate transition of manufacturing and commercialization responsibilities to PDL over the period specified in this Amended and Restated Worldwide Agreement; the POC shall dissolve after the completion of such transition [CONFIDENTIAL TREATMENT REQUESTED]. The POC shall have no authority to determine pricing of Daclizumab by either party in its respective indications nor shall the POC have any authority to make any decisions regarding Daclizumab that shall take effect or continue to remain in effect, after the Reversion Effective Date or Put Right Effective Date.

(d) In general, the POC is not intended to be a decision-making body with respect to either party's efforts to develop or commercialize Daclizumab. However, all required decision making with respect to matters before the POC shall be effected [CONFIDENTIAL TREATMENT REQUESTED]

VII. COMPENSATION

7.1 Payment to Roche. In consideration for the rights and licenses granted by Roche under this Amended and Restated Worldwide Agreement, PDL shall pay to Roche a non-refundable, non-creditable fee in the sum of Eighty Million U.S. Dollars (US$80,000,000), due and payable no later than [CONFIDENTIAL TREATMENT REQUESTED] after the Effective Date.

7.2 Royalties.

(a) Royalties to PDL on Daclizumab Sales.

(i) Royalty Rate. Roche shall pay PDL royalties on Roche Net Sales commencing as of the Effective Date, at a royalty rate determined by annual (or annualized, as the case may be for partial years) Roche Net Sales as follows:

Annual Roche Net Sales (US$)	Royalty Rate
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED] but not exceeding [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED] but not exceeding [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED] but not exceeding [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

No adjustment will be made to the royalty rates specified in this Section 7.2(a), regardless of whether the manufacture, use, sale, or importation of Daclizumab by Roche or its Affiliates in a particular country is covered by a Valid Claim of a PDL Patent.

(ii) Expiration of Roche's Royalty Obligations. Roche's obligation to pay royalties to PDL under this Article VII shall expire (A) with respect to sales of Daclizumab in the [CONFIDENTIAL TREATMENT REQUESTED], on [CONFIDENTIAL TREATMENT REQUESTED], and (B) with respect to sales of Daclizumab in the [CONFIDENTIAL TREATMENT REQUESTED], on [CONFIDENTIAL TREATMENT REQUESTED]. Notwithstanding the above, Roche's obligation to pay royalties to PDL under this Section 7.2(a) shall expire on the first to occur, if any, of the Reversion Effective Date or the Put Right Effective Date.

(b) Royalties to PDL on Excluded Product Sales.

(i) Royalty Rate. Roche shall pay PDL royalties on Roche Net Sales of Excluded Products at a royalty rate determined by annual Roche Net Sales of Excluded Products as follows, as measured on a calendar year basis:

Annual Roche Net Sales of Excluded Products (US$)	Royalty Rate

Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

(ii) Term of Royalty Obligations. Roche's obligation to pay royalties to PDL under Section 7.2(b)(i) with respect to any Excluded Product shall expire, on a country-by-country basis, on the later of (A) the last date on which the manufacture, use, sale, or importation in such country in the Roche Territory, by Roche, its Affiliates, or sublicensees (other than PDL, its Affiliates, and sublicensees) of such Excluded Product is covered under a Valid Claim of a PDL Patent (which determination, if not otherwise covered by a Valid Claim in the country of use, sale, or importation shall be based on whether or not covered by a Valid Claim in the country of manufacture), or (B) the [CONFIDENTIAL TREATMENT REQUESTED] of the first commercial sale by Roche, its Affiliates, or sublicensees (other than PDL, its Affiliates, or sublicensees) of such Excluded Product in such country.

(c) Royalties to Roche.

(i) Royalty Rate. PDL shall pay Roche royalties on PDL Net Sales at a royalty rate determined by annual PDL Net Sales as follows, as measured on a calendar year basis:

Annual PDL Net Sales (US$)	**Royalty Rate**
Up to and including [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]
Amount in excess of [CONFIDENTIAL TREATMENT REQUESTED]	[CONFIDENTIAL TREATMENT REQUESTED]

(ii) Term of PDL's Royalty Obligations Where Transplant Reversion Exercised. PDL's obligation to pay royalties pursuant to Section 7.2(c)(i) shall expire on the earlier of the Put Right Effective Date or the Reversion Effective Date.

(iii) Term of PDL's Royalty Obligations Where No Transplant Reversion Exercised. In the event PDL does not exercise the Transplant Reversion and Roche does not exercise the Roche Put Right, PDL's obligation to pay royalties to Roche under Section 7.2(c)(i) shall expire, on a country-by-country basis, on the later of (A) the last date on which the manufacture, use, sale, or importation in such country in the Roche Territory, by PDL, its

Affiliates, or sublicensees (other than Roche, its Affiliates, and sublicensees) of Daclizumab is covered under a Valid Claim of a Roche Patent (which determination, if not otherwise covered by a Valid Claim in the country of use, sale or importation, shall be based on whether or not covered by a Valid Claim in the country of manufacture), or (B) the [CONFIDENTIAL TREATMENT REQUESTED] of the first commercial sale by PDL, its Affiliates, or sublicensees (other than Roche, its Affiliates, or sublicensees) of Daclizumab in such country.

(d) Payment to Roche in Event of Roche Put Right Exercise. In the event Roche exercises the Roche Put Right, following the Put Right Effective Date, and until [CONFIDENTIAL TREATMENT REQUESTED]. PDL shall pay Roche (i) for commercial supply of finished and packaged Daclizumab from Roche as set forth in Section 4.5(c), a transfer price equal to the [CONFIDENTIAL TREATMENT REQUESTED] and (ii) an amount determined by the parties in good faith to be equal to [CONFIDENTIAL TREATMENT REQUESTED] for its [CONFIDENTIAL TREATMENT REQUESTED] and [CONFIDENTIAL TREATMENT REQUESTED] efforts that are [CONFIDENTIAL TREATMENT REQUESTED]; provided that, PDL's payment obligation under this Section 7.2(d) for any given calendar quarter shall in no event exceed a maximum (the "Payment Ceiling") calculated as follows:

Payment Ceiling = [CONFIDENTIAL TREATMENT REQUESTED]

7.3 Foreign Filing Expenses Credited Against Royalties. Roche shall have the right to credit [CONFIDENTIAL TREATMENT REQUESTED] of all Transplant Foreign Filing Expenses actually paid to PDL, less credits already taken under the 1989 and 1999 Agreements, against future royalties due to PDL on sales of Daclizumab pursuant to this Article VII, provided that such credits, when added to the offset provided for in Section 7.4 below, may not in the aggregate reduce the royalties to be paid to PDL to less than [CONFIDENTIAL TREATMENT REQUESTED] of the amount that would otherwise be due pursuant to Section 7.2(a) hereof.

7.4 Offset for Third Party Licenses.

(a) Appendix B sets forth the allocation between the parties of the costs associated with each Third Party License entered into prior to the Effective Date. Such costs include license fees and any other fixed costs associated with the Third Party License as well as any royalties. After the Effective Date, the parties shall, within [CONFIDENTIAL TREATMENT REQUESTED] of the end of each [CONFIDENTIAL TREATMENT REQUESTED], reimburse each other in accordance with this Section 7.4 to effect the agreed-on sharing of such license fees and other fixed costs. Both parties hereby acknowledge that [CONFIDENTIAL TREATMENT REQUESTED] has obtained a required license from the [CONFIDENTIAL TREATMENT REQUESTED] to use the [CONFIDENTIAL TREATMENT REQUESTED] in order to carry out the activities anticipated by this Amended and Restated Worldwide Agreement and that [CONFIDENTIAL TREATMENT REQUESTED] has reimbursed [CONFIDENTIAL TREATMENT REQUESTED] under the 1989 Agreements so that the license fees and other fixed costs of the [CONFIDENTIAL TREATMENT REQUESTED] license have been shared [CONFIDENTIAL TREATMENT REQUESTED].

(b) If PDL and Roche agree in writing, after the Effective Date, that either party must obtain an additional license from an independent Third Party in order for Roche or PDL to manufacture, use, import, offer for sale or sell Daclizumab and if PDL and Roche agree on the terms of such license, then such license shall be deemed a Third Party License and the parties shall, subject to Sections 2.3, 7.4(c) and 7.4(d), share the cost of such Third Party License [CONFIDENTIAL TREATMENT REQUESTED]. Such cost includes license fees and any other fixed costs associated with such Third Party License as well as any royalties. The parties shall, within [CONFIDENTIAL TREATMENT REQUESTED] of the end of each [CONFIDENTIAL TREATMENT REQUESTED], reimburse each other in accordance with this Section 7.4 to effect a [CONFIDENTIAL TREATMENT REQUESTED] of such license fees and other fixed costs.

(c) Notwithstanding anything to the contrary herein, the following mechanism shall apply to the royalty portion of any Third Party Licenses to the extent such royalties arise due to sales of Daclizumab by Roche or its Affiliates or sublicensees during the time that Roche is obligated to pay royalties to PDL pursuant to Section 7.2(a): (i) PDL's share of such Third Party royalties shall be accrued against and deducted from any amounts due to PDL from Roche pursuant to Section 7.2(a) if Roche pays the royalties due under the Third Party License to such Third Party, and (ii) Roche's share of the royalties portion of the cost of any Third Party License shall be accrued in favor of and added to any amounts due to PDL from Roche pursuant to Section 7.2(a) if PDL pays the royalties due under the Third Party License to such Third Party; provided, however, that the total amounts of all deductions made by Roche pursuant to clause (i) above (without taking into account any additions made pursuant to clause (ii)) shall not exceed [CONFIDENTIAL TREATMENT REQUESTED] of the amount that would otherwise be due to PDL, pursuant to Section 7.2(a), in any calendar quarter if no adjustments were permitted to account for payments made pursuant to Third Party Licenses; provided further that the sum of Roche's royalty obligations to PDL under Section 7.2(a) in any calendar quarter, plus Roche's share of those royalties payable for such calendar quarter to Third Parties pursuant to Third Party Licenses shall not exceed [CONFIDENTIAL TREATMENT REQUESTED] of the amount that would otherwise be due to PDL, pursuant to Section 7.2(a), in such calendar quarter if no adjustments were permitted to account for payments made pursuant to Third Party Licenses. Royalty payments made by Roche or PDL pursuant to Third Party Licenses that, due to the limitations set forth in the preceding sentence, cannot be deducted from, or added to, the amount to be paid to PDL by Roche under Section 7.2(a), may be carried forward to subsequent calendar quarters. An example of the foregoing principles is set forth in Appendix D.

(d) Notwithstanding anything to the contrary herein, the following mechanism shall apply to the royalty portion of any Third Party Licenses to the extent such royalties arise due to sales of Daclizumab by PDL or its Affiliates or sublicensees during the time that PDL is obligated to pay royalties to Roche, pursuant to Section 7.2(c): (i) Roche's share of such Third Party royalties shall be accrued against and deducted from any amounts due to Roche from PDL pursuant to Section 7.2(c) if PDL pays the royalties due under the Third Party License to such Third Party, and (ii) PDL's share of such Third Party royalties shall be accrued in favor of and added to any amounts due to Roche from PDL pursuant to Section 7.2(c) if Roche pays the royalties due under the Third Party License to such Third Party; provided, however, that the royalty payments made by PDL to Roche pursuant to Section 7.2(c) shall not, as a result of the adjustments set forth in this Section 7.4(d), be reduced to less than [CONFIDENTIAL

TREATMENT REQUESTED] of PDL Net Sales. Royalty payments made by Roche or PDL pursuant to Third Party Licenses that, due to the maximum royalty rate set forth in the preceding sentence, cannot be deducted from, or added to, the amount to be paid to PDL by Roche under Section 7.2(c), may be carried forward to subsequent calendar years.

(e) If PDL exercises the Transplant Reversion or Roche exercises the Roche Put Right, then commencing on the Reversion Effective Date or the Put Right Effective Date (as applicable): (i) Roche shall not have any further obligation pursuant to this Section 7.4 to share the costs of, or pay directly, any royalties pursuant to any Third Party Licenses on account of sales of Daclizumab by PDL or its Affiliates or sublicensees, and (ii) PDL shall thereafter have sole responsibility for paying such royalties.

(f) If the Exercise Period expires without PDL exercising the Transplant Reversion or Roche exercising the Roche Put Right, then:

(i) commencing on [CONFIDENTIAL TREATMENT REQUESTED], with respect to sales of Daclizumab in the [CONFIDENTIAL TREATMENT REQUESTED] by Roche and its Affiliates and sublicensees, or [CONFIDENTIAL TREATMENT REQUESTED], with respect to sales of Daclizumab in the [CONFIDENTIAL TREATMENT REQUESTED] by Roche and its Affiliates and sublicensees, (A) PDL shall not have any further obligation pursuant to this Section 7.4 to share the costs of, or pay directly, any royalties pursuant to any Third Party Licenses on account of sales of Daclizumab by Roche or its Affiliates or sublicensees, and (B) Roche shall thereafter have sole responsibility for paying such royalties.

(ii) commencing on, a country-by-country basis, with the expiration of PDL's obligations to pay royalties to Roche, pursuant to Section 7.2(c), in such country with respect to the sale of Daclizumab by PDL and its Affiliates and sublicensees, (A) Roche shall not have any further obligation pursuant to this Section 7.4 to share the costs of, or pay directly, any royalties pursuant to any Third Party Licenses on account of sales of Daclizumab by PDL or its Affiliates or sublicensees, and (B) PDL shall thereafter have sole responsibility for paying such royalties.

7.5 Royalties on Termination. If this Amended and Restated Worldwide Agreement is terminated pursuant to Sections 13.2, 13.3 or 13.4, then Roche shall continue to pay PDL, and PDL shall continue to pay Roche, as the case may be, any royalties earned pursuant to this Article VII prior to the date of termination.

7.6 Sublicenses.

(a) Any Roche Net Sales or Roche Net Sales of Excluded Products by a Roche sublicensee shall be treated as Roche Net Sales or Roche Net Sales of Excluded Products of Roche, as the case may be, for the purposes of payments under Article VII. If Roche, in accordance with Section 2.5(a) or (b), shall grant any sublicenses under this Amended and Restated Worldwide Agreement, then Roche shall obtain the written commitment of such sublicensees to abide by all applicable terms and conditions of this Amended and Restated

Worldwide Agreement and Roche shall remain responsible to PDL for the performance by such sublicensee of any and all terms. All such sublicenses to any Excluded Products shall provide that such license terminates on any termination of the license granted pursuant to Section 2.5(b). Any sublicense granted under the license in Section 2.5(a) shall expire as set forth in that Section 2.5(a).

(b) Any PDL Net Sales by a PDL sublicensee shall be treated as PDL Net Sales of PDL for the purposes of payments under Article VII. If PDL, in accordance with Section 2.1, shall grant any sublicenses under this Amended and Restated Worldwide Agreement, then PDL shall obtain the written commitment of such sublicensees to abide by all applicable terms and conditions of this Amended and Restated Worldwide Agreement and PDL shall remain responsible to Roche for the performance by such sublicensee of any and all terms.

VIII. PAYMENTS, REPORTS, AND ACCOUNTING

8.1 Roche Quarterly Royalty Payments and Reports.

(a) Promptly after the Effective Date, the parties shall work in good faith to establish procedures for (a) compiling a final accounting, pursuant to the 1999 Agreements, for all sales of Daclizumab made during 2003 prior to the Effective Date and (b) Roche to make all royalty payments owed to PDL, pursuant to the 1999 Agreements, with respect to such sales.

(b) Beginning with the report for the last calendar quarter of 2003 and for each calendar quarter thereafter, Roche agrees to make payments and written reports to PDL within [CONFIDENTIAL TREATMENT REQUESTED] after the end of each calendar quarter covering all sales of the Roche Products in the Roche Territory by Roche, its Affiliates or sublicensees (except PDL, its Affiliates and sublicensees) for which invoices were sent during such calendar quarter, each such written report stating for the period in question:

(i) for Roche Products disposed of by sale, the quantity and description of Roche Products and the calculation of Roche Net Sales or Roche Net Sales of Excluded Products,

(ii) for Roche Products disposed of other than by sale, the quantity, description, and nature of the disposition, and

(iii) the calculation of the amount due to PDL for such quarter pursuant to Article VII.

(c) The information contained in each report under Section 8.1(b) shall be considered confidential and PDL agrees not to disclose such information to any Third Party, other than its Affiliates and sublicensees or 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.

(d) It is understood that only one royalty payment under Article VII shall be payable on a given unit of Roche Product disposed of under this Amended and Restated

Worldwide Agreement. In the case of transfers or sales of any Roche Product between Roche and an Affiliate or sublicensee of Roche, only one royalty payment under Article VII shall be due, and such royalty shall be payable with respect to, the sale of such Roche Product to (i) an independent Third Party not an Affiliate of the seller or (ii) if the end user is an Affiliate of the seller, then such end user.

8.2 PDL Quarterly Royalty Payments and Reports.

(a) Until the expiration of PDL's royalty obligations under Section 7.2(c), PDL agrees to make payments and written reports to Roche within [CONFIDENTIAL TREATMENT REQUESTED] after the end of each calendar quarter covering all sales of Daclizumab in the Roche Territory by PDL for which invoices were sent during such calendar quarter, or, in the case of royalties from the PDL Net Sales of PDL's Affiliates or sublicensees (except Roche, its Affiliates and sublicensees), within [CONFIDENTIAL TREATMENT REQUESTED] following the end of the quarter in which PDL receives the royalty report from the Affiliate or sublicensee. Each report shall state for the period in question:

(i) for Daclizumab disposed of by sale, the gross sales by PDL of Daclizumab and PDL Adjusted Gross Sales and the calculation of PDL Net Sales,

(ii) for Daclizumab disposed of other than by sale, the quantity, description, and nature of the disposition, and

(iii) the calculation of the amount due to Roche for such quarter pursuant to Article VII.

(b) The information contained in each report under Section 8.2(a) shall be considered confidential and Roche agrees not to disclose such information to any Third Party, other than its Affiliates and sublicensees or except as may be required by law, rule or regulation. Concurrent with the making of each quarterly report, PDL shall include payment due Roche hereunder for the calendar quarter covered by such report.

(c) It is understood that only one royalty payment under Article VII shall be payable on a given unit of Licensed Product disposed of under this Amended and Restated Worldwide Agreement. In the case of transfers or sales of any Licensed Product between PDL and an Affiliate or sublicensee of PDL, only one royalty payment under Article VII shall be due, and such royalty shall be payable with respect to the sale of such Licensed Product to (i) an independent Third Party not an Affiliate of the seller or (ii) if the end user is an Affiliate of the seller, then such end user.

8.3 Termination Report. Roche agrees to make a written report to PDL within [CONFIDENTIAL TREATMENT REQUESTED] after the date on which Roche, or its Affiliates or sublicensees last sell Daclizumab, stating in each such report the same information called for in each quarterly report by Section 8.1(b) for all Daclizumab made, sold or otherwise disposed of and which was not previously reported to PDL. Roche further agrees to make a written report to PDL within [CONFIDENTIAL TREATMENT REQUESTED] after the date on

which Roche, or its Affiliates or sublicensees last sell all Excluded Products, stating in each such report the same information called for in each quarterly report by Section 8.1(b) for all Excluded Product made, sold or otherwise disposed of and which was not previously reported to PDL. PDL agrees to make a

written report to Roche within [CONFIDENTIAL TREATMENT REQUESTED] after the date on which PDL, or its Affiliates or sublicensees last sell Daclizumab, stating in such report the same information called for in each quarterly report by Section 8.2(a) for all Daclizumab made, sold or otherwise disposed of and which was not previously reported to Roche; provided, however, that PDL need not file such report if such date of last sale of Daclizumab occurs after the expiration of PDL's royalty under Section 7.2(c)).

8.4 Accounting. Each Party (the **"Royalty Paying Party"**) agrees to keep full, clear and accurate records for a period of at least [CONFIDENTIAL TREATMENT REQUESTED], setting forth the manufacturing, sales and other disposition of Daclizumab, Roche Products (as the case may be), and Combination Products sold or otherwise disposed of under the license herein granted in sufficient detail to enable royalties and compensation payable to the other Party (the **"Royalty Receiving Party"**) hereunder to be determined. Each Royalty Paying Party further agrees to permit its books and records to be examined by an independent accounting firm selected by the Royalty Receiving Party to verify reports provided for in this Article VIII. Unless the Royalty Receiving Party obtains the prior written consent of the Royalty Paying Party, such accounting firms must be selected from among the four largest U.S. accounting firms. Such audit shall not be performed more frequently that [CONFIDENTIAL TREATMENT REQUESTED] per calendar year nor more frequently than [CONFIDENTIAL TREATMENT REQUESTED] with respect to records covering any specific period of time. Such examination is to be made at the expense of the Royalty Receiving Party, except in the event that the results of the audit reveal a discrepancy in favor of the Royalty Paying Party of [CONFIDENTIAL TREATMENT REQUESTED] or more over the period being audited, in which case reasonable audit fees for such examination shall be paid by the Royalty Paying Party.

8.5 Methods of Payments. All payments due to either PDL or Roche under this Amended and Restated Worldwide Agreement shall be paid in United States dollars by wire transfer to a bank in the United States designated in writing by the party to which the payment is due.

8.6 Taxes. If provision is made in law or regulation of any country of the Roche Territory or the Territory (as applicable) for withholding of taxes of any type, levies or other charges with respect to the any amounts payable hereunder to a party, the other party (**"Withholding Party"**) shall promptly pay such tax, levy or charge for and on behalf of the party to the proper governmental authority, and shall promptly furnish the party with receipt of such payment. The Withholding Party shall have the right to deduct any such tax, levy or charge actually paid from payment due the party or be promptly reimbursed by the party if no further payments are due the party. Each Withholding Party agrees to assist the other party in claiming exemption from such deductions or withholdings under double taxation or similar agreement or treaty from time to time in force and in minimizing the amount required to be so withheld or deducted.

IX. CELL LINES

9.1 Cell Lines.

(a) The parties acknowledge that PDL has delivered all cell lines to Roche as required under the 1989 Agreements. 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 Agreements or delivered to Roche under Milestone #1 of Section 3.1 of the 1989 Agreements, together with their progeny and derivatives, shall remain vested at all times in PDL.

(c) Roche may use the cell lines delivered to it under the 1989 Agreements, or their progeny or derivatives or the plasmids contained therein (the **"Cell Line Derivatives"**) solely to perform the Roche Commercialization Activities. Furthermore, the Cell Line Derivatives may be used by Roche solely in connection with the genes encoding antibodies developed or provided by PDL.

(d) On the earliest to occur of [CONFIDENTIAL TREATMENT REQUESTED] in the Roche Territory as permitted under this Amended and Restated Worldwide Agreement, Roche shall, on request by PDL, promptly return to PDL all cell lines provided by PDL under the 1989 Agreements and all Cell Line Derivatives.

(e) PDL MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY CELL LINES DELIVERED UNDER THE 1989 AGREEMENTS OR CELL LINE DERIVATIVES USED HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. FOR CLARITY, PDL MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND THAT THE USE OF THE CELL LINES DELIVERED TO ROCHE OR THE CELL LINE DERIVATIVES WILL NOT INFRINGE ANY PATENT OR OTHER RIGHTS OF ANY THIRD PARTY.

X. OWNERSHIP OF TECHNOLOGY AND INTELLECTUAL PROPERTY

10.1 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 Worldwide 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, import, offer to sell and sell anywhere in the world all products within the Field that are other than Daclizumab for use in the Transplant Indications (unless and until the Roche Put Right or the Transplant Reversion is exercised) and other than any Excluded Product or any other product in the Excluded Field; and (ii) for all uses outside of the Field. Following exercise of the Transplant Reversion or the Roche Put Right, PDL shall have the right to use such technology for any and all purposes other than products in the Excluded Field, which right shall be exclusive to Roche except as provided in Section 10.2.

10.2 Joint Inventions and Joint Roche-PDL Patents. Subject to Article XI, ownership of Joint Inventions and Joint Roche-PDL Patents shall be vested jointly in PDL and Roche. Both parties shall at all times have the co-exclusive right within the Territory to practice, or to make, have made, use, import, offer for sale 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. On the earlier of (i) the Reversion Effective Date, or (ii) the Put Right Effective Date, the following shall occur: (a) PDL shall have the exclusive right to practice, and to make, have made, use, import, offer for sale or sell any Joint Invention in the Field (but not in the Excluded Field) under any Joint Roche-

PDL Patent, and (b) Roche shall have the exclusive right to practice, and to make, have made, use, import, offer for sale or sell any Joint Invention solely in the Excluded Field, in each case, without restriction and without any obligation to account to the other party. As used herein, a right to practice any Joint Roche-PDL Patent for a particular purpose without any obligation to account shall include the right to grant licenses for such purpose without the consent of the other party. To the extent either party needs the consent of the other party to exploit its co-exclusive or exclusive rights with respect to Joint Roche-PDL Patents, including the right to sublicense or enforce such Joint Roche-PDL Patents, the other party shall cooperate with the party making such a request and promptly supply all needed consents, signatures and the like. In the event the Roche Put Right and the Transplant Reversion both expire unexercised, each party shall have the co-exclusive right to practice, and to make, have made, use, import, offer for sale or sell any Joint Invention in the Field under any Joint Roche-PDL Patent, subject to the license grants set forth in Article II.

10.3 Roche Technology. PDL hereby acknowledges that, except as expressly provided herein, this Amended and Restated Worldwide 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 license grants to Roche Patents and Roche Know-How as provided in Section 2.1 of this Amended and Restated Worldwide Agreement.

10.4 Trademarks.

(a) Until the Reversion Effective Date or Put Right Effective Date, Roche shall exclusively own all Trademarks, and the exclusive right to use them in the Roche Territory in connection with the marketing and promotion of Daclizumab. Roche shall have no right to use the Trademarks, or any other marks confusingly similar to the Trademarks, in connection with the promotion, sale or marketing of any other product, including any Excluded Product.

(b) PDL shall have the right to select any and all AI Trademarks; provided such AI Trademarks are not confusingly similar to the Trademarks (unless otherwise agreed), and PDL shall retain ownership of the AI Trademarks and the exclusive right to use them in connection with the promotion, marketing and sale of Daclizumab for AI or any Other Indications.

(c) Each party shall be responsible for selection, prosecution, maintenance and enforcement of its own trademarks, and shall indemnify and defend the other from any Third Party claims arising from the indemnifying party's use of such marks. At the request [CONFIDENTIAL TREATMENT REQUESTED] of PDL, Roche shall file trademark registration applications for, and procure and maintain registration of, the trademark "Zenapax®" in any

country in the Territory in which Roche, as of the Effective Date, has not made such application or procured such registration. All such applications and registrations shall be deemed to be Trademarks.

(d) Roche shall assign the Trademarks to PDL upon exercise of either the Transplant Reversion or the Roche Put Right, as provided for in Section 5.4(f).

XI. PATENT PROSECUTION

11.1 Sole PDL Patents and Roche Owned Patents.

(a) PDL agrees to prosecute and reasonably maintain all of the patents and applications included within the Sole PDL Patents, to the extent it has the rights to do so, and Roche agrees to prosecute and reasonably maintain the Roche Owned Patents, to the extent it has the rights to do so from any co-owner of such Roche Owned Patents. The parties agree and acknowledge that the Roche Owned Patents listed on Schedule 2.8(a) are co-owned by Roche and a Third Party, and are governed by the [CONFIDENTIAL TREATMENT REQUESTED] (the "Joint Patent Agreement") which provides, among other things, that Roche undertake certain obligations in order to continue to maintain its [CONFIDENTIAL TREATMENT REQUESTED] in the Roche Owned Patent. Promptly after the Effective Date, to the extent that Roche is permitted to do so, Roche shall provide to PDL a copy of the Joint Patent Agreement, and the Roche Owned Patent for PDL's review such that PDL may determine whether and to what extent, it intends that such Joint Patent Agreement and Roche Owned Patent be assigned to PDL in the event of the Transplant Reversion or the exercise of the Roche Put Right.

(b) The party responsible for such patent (**"Responsible Party"**) shall bear all costs and expenses for such prosecution and maintenance. On 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 Roche Owned 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 Roche Owned 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 (or, following either the Reversion Effective Date or the Put Right Effective Date, outside the Excluded Field only), PDL and its Affiliates shall have a worldwide immunity from suit thereunder. If Roche's interest in any Roche Owned Patents is assigned to PDL, PDL will thereafter prosecute and reasonably maintain such Roche Owned Patent at PDL's own cost to the extent that PDL desires to do so, provided that to the extent such Roche Owned Patent contains claims outside the Field (or following either the Reversion Effective Date or the Put Right Effective Date, outside the Excluded Field only), Roche and its Affiliates shall have a worldwide immunity from suit thereunder. In the event Roche's interest in the Roche Owned Patents is assigned to PDL pursuant to Section 5.4(e), Roche shall have no further rights with respect thereto under this Section 11.1 except those set forth in the penultimate sentence of this Section 11.1.

11.2 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.

(b) The party not performing the priority patent filings for Joint Inventions pursuant to this Section 11.2 undertakes without cost to the filing party to obtain all necessary assignment documents for the filing party, to render all signatures that shall be necessary for such patent filings and to assist the filing party in all other reasonable ways that 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 on 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 11.2 undertakes to perform, at its cost and expense, the corresponding convention filings from case to case, after having discussed the countries for foreign filings with the other party.

(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. On 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 (or, following the Reversion Effective Date or the Put Right Effective Date, outside the Excluded 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.

11.3 General Procedures. Until the Reversion Effective Date, the Put Right Effective Date or the expiration of the Exercise Period without PDL exercising the Transplant Reversion, the parties shall observe the following procedures for patent applications for inventions arising from this Amended and Restated Worldwide 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) 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 Worldwide Agreement and shall belong solely to the party having made the invention or other intellectual property.

11.4 Reimbursement for Costs of Patent Applications for Transplant Indications.

(a) **No Reimbursement**. As of the Effective Date, PDL shall be responsible for all ex parte out-of-pocket expenses incurred by PDL after the Effective Date in connection with the prosecution and maintenance in the Territory of patent applications and patents included within the PDL Patents or Joint Roche-PDL Patents for which PDL makes filings with respect to Transplant Indications pursuant to Article XI of this Amended and Restated Worldwide Agreement.

(b) **PDL Control**. After either the Reversion Effective Date or the Put Right Effective Date, PDL shall have full control over the strategy and decisions with respect to the filing of any patent applications and patents related to Transplant Indications in the Territory. Roche agrees to cooperate with and reasonably assist PDL in the preparation of any patent applications and the maintenance of any patents. Prior to the Reversion Effective Date or the Put Right Effective Date, PDL shall consult Roche with respect to its patent prosecution strategy and decisions, as follows: Prior to the filing of a patent application in the Territory 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 and countries in which such application is to be filed. PDL shall regularly advise Roche of any substantial action or development in the prosecution of its patent applications and patents in the Territory 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) **Accrued Transplant Foreign Filing Expenses**. Transplant Foreign Filing Expenses accrued prior to [CONFIDENTIAL TREATMENT REQUESTED] shall remain creditable against royalties payable by Roche to PDL in the Territory (excluding the U.S., including its territories and possessions), as provided in Section 7.3 of this Amended and Restated Worldwide Agreement.

11.5 Reimbursement for Costs of Patent Applications for Autoimmune Indications.

(a) **No Reimbursement**. PDL shall be responsible for all ex parte out-of-pocket expenses incurred by PDL after the Effective Date in connection with the prosecution and maintenance in the 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 XI of this Amended and Restated Worldwide Agreement.

(b) **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 Territory. Roche agrees to cooperate with and reasonably assist PDL in the preparation of any patent

applications and the maintenance of any patents.

11.6 No Reimbursement for Roche's Costs of Patent Applications. Roche shall be responsible for all ex parte out-of-pocket expenses incurred by Roche after the Effective Date in connection with the prosecution and maintenance in the Territory of patent applications and patents included within the Roche Owned Patents or Joint Roche-PDL Patents for which Roche makes filings pursuant to this Article XI of this Amended and Restated Worldwide Agreement.

XII. ENFORCEMENT AND DEFENSE OF PATENTS

12.1 Sole Patents.

(a) Except for enforcement or revocation actions involving Sole PDL Patents or Roche Owned Patents outside the Field, 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 Roche Owned 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. [CONFIDENTIAL TREATMENT REQUESTED] shall have the right, but not the obligation, 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. [CONFIDENTIAL TREATMENT REQUESTED] shall have the right, but not the obligation, to prosecute such actions or to defend such proceedings involving the Roche Owned 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 (other than those Sole PDL Patents for which PDL [CONFIDENTIAL TREATMENT REQUESTED]) or Roche Owned Patents (other than those Roche Owned Patents [CONFIDENTIAL TREATMENT REQUESTED]), as the case may be, within [CONFIDENTIAL TREATMENT REQUESTED] 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. This Section 12.1(b) shall expire on the Reversion Effective Date or the Put Right Effective Date.

(c) In any event, the party bringing an action (**"Acting Party"**) pursuant to this Section 12.1 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 on the Acting Party's activities related thereto. The obligations of this Section 12.1(c) shall not apply to PDL as the Acting Party after either the Reversion Effective Date or the Put Right Effective Date.

(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. Without limiting the generality of the foregoing, the non-acting party agrees to join such action or proceeding if required by law to maintain such action or proceeding. The Acting Party will pay or reimburse the assisting party for all costs, expenses and liabilities that the assisting party may incur or suffer in affording assistance to such actions or proceedings. No settlement of any such action or defense that restricts the scope or affects the enforceability of PDL Know-How or Sole PDL Patents may be entered into by either PDL (if it would affect Roche's rights under this Agreement) or Roche without the prior consent of the other party hereto, [CONFIDENTIAL TREATMENT REQUESTED]. No settlement of any such action or defense that restricts the scope or affects the enforceability of Roche Know-How or Roche Owned Patents may be entered into by either PDL or Roche without the prior consent of the other party hereto (if it would affect the other party's rights under this Agreement, [CONFIDENTIAL TREATMENT REQUESTED]. The consent obligations of this Section 12.1(d) shall not apply to PDL as the Acting Party after either the Reversion Effective Date or the Put Right Effective Date.

(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 12.1 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 12.1 shall be reversed. The obligations of this Section 12.1(e) shall not apply to PDL as the Acting Party after either the Reversion Effective Date or the Put Right Effective Date.

12.2 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 both parties wish to control the prosecution or defense of such action or proceeding and the parties are unable to reach agreement within [CONFIDENTIAL TREATMENT REQUESTED] of the notification referred to above, then (a) with respect to alleged infringement in the [CONFIDENTIAL TREATMENT REQUESTED], [CONFIDENTIAL TREATMENT REQUESTED] shall have the exclusive right to bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction, (b) with respect to alleged infringement in the [CONFIDENTIAL TREATMENT REQUESTED], [CONFIDENTIAL TREATMENT REQUESTED] shall have the exclusive right to bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction; and (c) with respect to alleged infringement [CONFIDENTIAL TREATMENT REQUESTED], [CONFIDENTIAL TREATMENT REQUESTED] 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 that 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 Acting Party pursuant to this Section 12.2 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 on the Acting Party's activities related thereto.

12.3 Distribution of Proceeds. In the event either party exercises the rights conferred in Section 12.1 or 12.2 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 reimburse the parties for all costs and expenses incurred in connection 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 remaining recovery shall belong to [CONFIDENTIAL TREATMENT REQUESTED]; provided, however, that any remaining recovery by the party exercising its rights for a Joint Roche-PDL Patent with respect to alleged infringement outside the Field shall be shared, with [CONFIDENTIAL TREATMENT REQUESTED] of such remaining recovery to Roche and [CONFIDENTIAL TREATMENT REQUESTED] of such remaining recovery to PDL.

12.4 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, importation, offer for sale, or sale of Daclizumab or Excluded Products by Roche, and shall indemnify and hold PDL harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, that may be incurred by PDL therein or in settlement thereof. Any and all settlements that 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 that restrict the scope or enforceability of Joint Roche-PDL Patents or Sole Roche Patents (other than those Sole Roche Patents co-owned by a Third Party) 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 that 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, importation, offer for sale, or sale of Licensed Products by PDL, and shall indemnify and hold Roche harmless against any such patent or other infringement suits, and any claims, losses, damages, liabilities, expenses, including reasonable attorneys' fees and cost, that may be incurred by Roche therein or in settlement thereof. Any and all settlements that 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 that 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 that does not include as a condition thereof the granting to Roche of a full and unconditional release of claims. [CONFIDENTIAL TREATMENT REQUESTED]

12.5 Right to Counsel. Each party to this Amended and Restated Worldwide 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 Worldwide Agreement.

XIII. TERM AND TERMINATION

13.1 Term. Unless earlier terminated pursuant to the terms of this Article XIII, this Amended and Restated Worldwide Agreement shall go into effect on the Effective Date and shall remain in effect until the latest of (i) expiration of the last to expire PDL Patents; (ii) expiration of the last to expire Roche Patents; (iii) expiration of PDL's payment obligations hereunder; or (iv) expiration of Roche's payment obligations hereunder. On expiration of this Amended and Restated Worldwide Agreement, any exclusive licenses then in effect under any Roche Know-How or PDL Know-How will convert to fully paid, non-exclusive licenses.

13.2 Termination by Mutual Agreement. This Amended and Restated Worldwide Agreement may be terminated by the written agreement of both parties.

13.3 Termination by PDL on Roche Default. If, during the period commencing on the Effective Date and terminating on the earlier of Reversion Effective Date or the Put Right Effective Date, Roche defaults in the performance of, or fails to be in compliance with, any material agreement, condition or covenant of this Amended and Restated Worldwide Agreement with respect to either (a) the rights PDL grants to Roche under Article II of this Amended and Restated Worldwide Agreement, including royalties and consideration due from Roche to PDL under Article VII, or (b) the Transplant Reversion granted under Article V, then PDL may terminate any or all of the rights and licenses granted to Roche under Section 2.5 of this Amended and Restated Worldwide Agreement at its option, at which time Roche's right to promote, distribute and sell Daclizumab in the Roche Territory shall terminate as though PDL had exercised its Transplant Reversion, with all the same effect as though that were the case, but without the need for any payment of the Reversion Exercise Fee. PDL shall have such right to so terminate Roche's rights under this Section 13.3 only if such default or noncompliance shall not have been remedied, or steps initiated to remedy the same to PDL's reasonable satisfaction, within [CONFIDENTIAL TREATMENT REQUESTED] after receipt by Roche of a written notice thereof from PDL. It is expressly understood that PDL's rights to terminate under this Section 13.3 are in effect only until the earlier of the Reversion Effective Date or the Put Right Effective Date, and that such rights expire with the expiration, without exercise, of the Transplant Reversion and the Roche Put Right.

13.4 Voluntary Termination Of License by Roche.

(a) Roche shall have the right, in the event the Transplant Reversion and the Roche Put Right expire unexercised, to voluntarily terminate its licenses under Section 2.5(a), on six (6) months written notice. On notice of such voluntary termination, Roche shall notify PDL of the amount of Daclizumab that Roche, its Affiliates, sublicensees and distributors then have on hand (**"Inventory"**). 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 [CONFIDENTIAL TREATMENT REQUESTED] 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, then Roche will be free to sell such

Inventory to Third Parties for a period not to exceed [CONFIDENTIAL TREATMENT REQUESTED] from the termination of PDL's option. In any event, Roche shall pay the royalties or other consideration due, if any, on the sale of such Inventory in the amounts and manner provided for in Articles VII and VIII.

(b) Roche shall have the right at any time during the term of this Amended and Restated Worldwide Agreement, to voluntarily terminate its license granted under Section 2.5(b), on [CONFIDENTIAL TREATMENT REQUESTED] written notice to PDL. In the event of such unilateral termination, Roche agrees to negotiate with PDL, on PDL's request, for the transfer and/or license of any Roche owned or licensed intellectual property or technology relevant to the development and/or commercialization of the Excluded Products, in return for [CONFIDENTIAL TREATMENT REQUESTED].

13.5 Return of Materials. On termination of this Amended and Restated Worldwide Agreement in whole by both parties pursuant to Section 13.2, by PDL pursuant to Section 13.3, or by Roche pursuant to Section 13.4, Roche forthwith shall (a) return to PDL all cell lines and their progeny, antibodies and other biological materials provided by PDL under the 1989 Agreements; and (b) subject to Section 13.4, at PDL's cost, shall deliver to PDL then available supplies of Daclizumab.

13.6 Rights and Obligations on Termination or Expiration. Unless expressly provided to the contrary, the provisions of Sections 2.1(g), 2.3, 2.7, 3.4, 5.7, 7.4, 7.5, 9.1(c), 9.1(e), 13.4, 13.5, 13.6, 13.7, 17.4, 17.5, 17.6, 17.8, and 17.11, and Articles VIII, X, XI, XII, XIV and XV shall survive the termination of this Amended and Restated Worldwide Agreement and shall expire on their own terms, or if no expiration is expressly indicated therein, shall continue indefinitely.

XIV. CONFIDENTIALITY, DISCLOSURE AND PUBLICATIONS

14.1 Confidentiality.

(a) Generally. During the term of this Amended and Restated Worldwide Agreement and for a period of [CONFIDENTIAL TREATMENT REQUESTED] following expiration or termination of this Amended and Restated Worldwide 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 that 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 Effective 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 Worldwide 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 Worldwide 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 [CONFIDENTIAL TREATMENT REQUESTED] 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 on discovery of any unauthorized use or disclosure of the other's trade secrets or proprietary information.

(b) Additional Roche Obligations. During the period commencing on the Effective Date and terminating on the earlier of Reversion Effective Date or the Put Right Effective Date, Roche agrees to maintain in confidence the Roche Know-How related to Daclizumab in a manner consistent with Roche's maintenance of confidentiality with respect to know-how and trade secrets related to its other products and technologies and consistent with Roche's past practices with respect to such Roche Know-How.

14.2 Exceptions. The obligation of confidentiality contained in this Amended and Restated Worldwide 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 Worldwide 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 Worldwide 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.

14.3 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, 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. On 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 14.1 and 14.2 hereof. 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. At any time prior to PDL's exercise of the Transplant Reversion or Roche's exercise of the Roche Put Right, if a party intends to publicly disclose or submit for publication a manuscript describing the results of any permitted scientific, preclinical or clinical study involving Daclizumab conducted by or on behalf of such party (the **"Publishing Party**") or its Affiliates, the Publishing Party shall send the other party by expedited delivery a copy of the manuscript to be submitted and shall allow the other party a reasonable time period (such period to be stated in the transmittal and not to exceed forty-five (45) days from the date of confirmed receipt by the other party) 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 either Transplant Indications or Autoimmune Indications, as the case may be, in the Territory or confidential information belonging to the other party. After the expiration of such stated reasonable period from the date of confirmed receipt by the other party of such manuscript, the Publishing Party shall be free to submit such manuscript for publication and publish or otherwise disclose to the public such research results. During such stated reasonable period, if the other party believes the manuscript contains information that is reasonably likely to have a material adverse impact on Daclizumab for Transplant Indications or Autoimmune Indications, as the case may be, in the Territory, then prior to the expiration of the stated period above, the other party shall notify the Publishing Party in writing of its determination and the reasons therefor. On receipt of such written notice from the other party, the Publishing Party shall confer with the other party and shall attempt in good faith to resolve such concerns before the Publishing Party makes any public disclosure of such information or submission of the manuscript. After the Reversion Effective Date or the Put Right Effective Date, PDL shall have

the sole right to publish or otherwise publicly disclose, without the consent of Roche, the results of any scientific, preclinical and clinical data involving Daclizumab conducted by or on behalf of PDL or Roche or their Affiliates.

XV. DISPUTE RESOLUTION

15.1 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 Worldwide Agreement or the breach or alleged breach thereof shall be submitted by the parties to arbitration by the American Arbitration Association ("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 that is mutually agreed on, 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 Worldwide 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 on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

XVI. FORCE MAJEURE

16.1 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, act of terrorism, 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 force majeure which occasioned the delay, interruption or prevention. The party invoking such force majeure rights of this Section 16.1 must notify the other party by courier or overnight dispatch (e.g., Federal Express) within a period of fifteen (15) days of both 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.

XVII. MISCELLANEOUS

17.1 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 Worldwide 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, or in the Joint PDL-Roche Patents, as the result of such Third Party's former employment of any employee of that party.

17.2 Assignment. Either party may assign this Amended and Restated Worldwide Agreement and the licenses herein granted (a) to any Affiliate of such party without the consent of the other party, provided that such party remains fully liable for the performance of such party's obligations hereunder by such Affiliate, or (b) to any Third Party, on the prior written consent of the other party, not to be unreasonably withheld; and (c) without the consent of the other party, to any Third Party purchaser of all or substantially all of the business unit to which this Amended and Restated Worldwide Agreement relates,

which in the case of PDL, shall mean the Daclizumab business, and in the case of Roche, shall mean Roche's therapeutic antibody business or transplant therapeutic business. The parties agree that it would be reasonable for a party to withhold consent to the other party's proposed assignment of this Amended and Restated Worldwide Agreement to an entity, that is, as of the time of such proposed assignment, [CONFIDENTIAL TREATMENT REQUESTED] (in at least one [CONFIDENTIAL TREATMENT REQUESTED] with [CONFIDENTIAL TREATMENT REQUESTED]), or [CONFIDENTIAL TREATMENT REQUESTED] in any [CONFIDENTIAL TREATMENT REQUESTED] any [CONFIDENTIAL TREATMENT REQUESTED] for the [CONFIDENTIAL TREATMENT REQUESTED] of [CONFIDENTIAL TREATMENT REQUESTED] in any [CONFIDENTIAL TREATMENT REQUESTED]. This Amended and Restated Worldwide Agreement shall be binding on and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

17.3 Entire Agreement. This Amended and Restated Worldwide Agreement, the Reversion Agreement between F. Roche and PDL dated March 4, 2002 (**"Japan Reversion Agreement"**), the Pharmacovigilance Agreement, and the Joint Defense Agreement dated June 20, 2000, constitute the entire agreement between the parties hereto with respect to the subject matter herein and, effective on the Effective Date, supersede all previous agreements (including the 1999 Agreements), whether written or oral, such superseding resulting in, among other things, the licenses granted thereunder having no further force or effect and being replaced by the licenses set forth in Article II of this Amended and Restated Worldwide Agreement. Notwithstanding the foregoing, (a) certain provisions of the 1999 Agreements shall remain in force and effect, to the extent this Amended and Restated Worldwide Agreement so indicates by specific reference, and (b) any royalties or other payments accruing under the 1999 Agreements prior to the Effective Date shall remain due and payable. This Amended and Restated Worldwide Agreement shall not be changed or modified orally, but only by an instrument in writing signed by both parties.

17.4 Releases. The parties hereby confirm the releases contained in Section 15.4 of the 1999 PDL/Roche Agreement and in Section 11.4 of the F. Roche Agreement.

17.5 Severability. If any provision of this Amended and Restated Worldwide Agreement is declared invalid by an arbitrator pursuant to Section 15.1 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 Worldwide Agreement will be deemed to have been terminated only as to the portion thereof that relates to the provision invalidated by that decision and only in the relevant jurisdiction, but this Amended and Restated Worldwide 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 Worldwide 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 15.1.

17.6 Indemnification.

(a) Roche agrees to defend, indemnify and hold harmless PDL, its trustees, officers, agents and employees from and against any and all Third Party suits, claims, acts, liabilities, 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, promotion, marketing or sale or other disposition, by Roche, an Affiliate of Roche, or any distributor, customer, sublicensee or representative of Roche or anyone in privity therewith (other than PDL), of (A) any Licensed Product, as defined in the 1999 Agreements, prior to the Effective Date, (B) Daclizumab or any Excluded Product on or after the Effective Date, or (C) any cell lines, their progeny, or other biological materials, method, process, device or apparatus licensed or provided by PDL pursuant to the 1989 Agreements, the 1999 Agreements or this Amended and Restated Worldwide Agreement; (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 Worldwide Agreement, except where such claim is based on the negligent acts of commission or omission of PDL; (iii) out of any breach by Roche of any representation, warranty or covenant of this Amended and Restated Worldwide Agreement; (iv) out of any violation of applicable law by an action, policy or procedure of Roche or its Affiliates; or (v) out of any negligence or willful misconduct of Roche or its Affiliates.

(b) PDL agrees to defend, indemnify and hold harmless Roche, its trustees, officers, agents and employees harmless from and against any and all Third Party suits, claims, actions, liabilities, 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, promotion, marketing or sale or other disposition, by PDL, an Affiliate of PDL, or any distributor, customer, sublicensee or representative of PDL or anyone in privity therewith (other than Roche), of (A) Daclizumab prior to the Effective Date, or (B) Daclizumab or any Other Licensed Product on or after the Effective Date, or (C) any biological materials, method, process, device or apparatus licensed or provided by Roche pursuant to this Amended and Restated Worldwide Agreement; (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 Worldwide Agreement, except where such claim is based on the negligent acts of commission or omission of Roche; (iii) out of any breach by PDL of any representation, warranty or covenant of this Amended and Restated Worldwide Agreement; (iv) out of any violation of applicable law by an action, policy or procedure of PDL or its Affiliates; (v) out of any negligence or willful misconduct of PDL or its Affiliates; or (vi) from any claim for failure to pay any license fee, royalty or other payment due on sales of Daclizumab or any Other Licensed Product by PDL or its Affiliates or sublicensees under any license agreement for any Roche Controlled Patents between Roche and any Third Party licensor that PDL elected not to take a sublicense under as provided in Section 2.8(b).

(c) Procedure. In the event of a claim by a Third Party against a party entitled to indemnification under this Amended and Restated Worldwide Agreement (**"Indemnified Party"**), the Indemnified Party shall promptly notify the other party (**"Indemnifying Party"**) in writing of the claim and the Indemnifying Party shall undertake and solely manage and control, at its sole expense, the defense of the claim and its settlement. The Indemnified Party shall cooperate with the Indemnifying Party, including, as requested by the Indemnifying Party and at the Indemnifying Party's cost, entering into a joint defense agreement. The Indemnified Party may, at its option and expense, be represented in any such action or proceeding by counsel of its choice. The Indemnifying Party shall not be liable for any litigation costs or expenses incurred by the Indemnified Party without the Indemnifying Party's written consent. The Indemnifying Party shall not settle any such claim unless such settlement fully and unconditionally releases the Indemnified Party from all liability relating thereto, unless the Indemnified Party otherwise agrees in writing.

17.7 Notices. Any notice or report required or permitted to be given under this Amended and Restated Worldwide 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: Chief Executive Officer
and	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

17.8 Choice of Law. The validity, performance, construction, and effect of this Amended and Restated Worldwide Agreement shall be governed by the laws of the State of California, U.S.A, without regard to conflicts of law principles that would provide for application of the law of a jurisdiction outside California and excluding the United Nations Convention on Contracts for the International Sales of Goods.

17.9 Publicity. The parties agree to issue press releases in an agreed-on form and format concerning their entry into this Amended and Restated Worldwide 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 Worldwide 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. The other party shall have a reasonable opportunity to review and comment on any such proposed publicity release. Except as required by law, no party hereto shall publicly disclose the terms of this Amended and Restated Worldwide Agreement, the 1989 Agreements, the 1999 Agreements, the Japan Reversion Agreement, or their 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 is authorized, 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 Roche, or royalties or consideration paid by Roche with respect to, Daclizumab or Excluded Products without the prior written consent of Roche, except that PDL shall have the right to disclose the terms of this Amended and Restated Worldwide Agreement to any bona fide investors, advisors, investment banking representatives, or prospective strategic partners or collaborators, under binder of confidentiality. If not otherwise disclosed by PDL, Roche shall not disclose to any Third Party the amount of sales of PDL, or royalties or consideration paid by PDL with respect to, Daclizumab without the prior written consent of PDL, which consent shall not be unreasonably withheld.

17.10 Further Assurances. The parties agree to reasonably cooperate with each other in connection with any actions required to be taken as part of their respective obligations under this Amended and Restated Worldwide Agreement, and shall (a) furnish to each other such further information; (b) execute and deliver to each other such other documents; and (c) do such other acts and things (including working collaboratively to correct any clerical, typographical, or other similar errors in this Amended and Restated Worldwide Agreement), all as the other party may reasonably request for the purpose of carrying out the intent of this Amended and Restated Worldwide Agreement.

17.11 Tax Treatment and Tax Structure Disclosure. Notwithstanding anything herein to the contrary, any party to this Amended and Restated Worldwide Agreement (and any employee, representative, or other agent of any party to this Amended and Restated Worldwide Agreement) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Amended and Restated Worldwide Agreement

and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure; *provided however*, that such disclosure may not be made to the extent a lack of disclosure is reasonably necessary to comply with any applicable federal or state securities laws. For the purposes of the foregoing sentence, (a) the "tax treatment" of a transaction means the purported or claimed federal income tax treatment of the transaction, and (b) the "tax structure" of a transaction means any fact that may be relevant to understanding the purported or claimed federal income tax treatment of the transaction.

17.12 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.

17.13 No Waiver. Any omission or delay by either party at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms, covenants or provisions hereof, by the other party, shall not constitute a waiver of such party's rights to the future enforcement of its rights under this Amended and Restated Worldwide Agreement. Any waiver by a party of a particular breach or default by the other party shall not operate or be construed as a waiver of any subsequent breach or default by the other party.

17.14 No Strict Construction. This Amended and Restated Worldwide Agreement has been prepared jointly by the parties and shall not be strictly construed against either party.

17.15 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

17.16 Counterparts. This Amended and Restated Worldwide 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 Worldwide Agreement through their duly authorized representatives to be effective as of the Effective Date.

PROTEIN DESIGN LABS, INC.

By: _____

Title: Chief Executive Officer

Date: _____

HOFFMANN-LA ROCHE INC.

By: _____

Title: _____

Date: _____

F. HOFFMANN-LA ROCHE LTD

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Appendix A

PDL Patent Rights

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: March 5, 2003)

1. The following issued U.S. patents and pending U.S. patent applications:

Patent No. 5,585,089, "Humanized Immunoglobulins," issued December 17, 1996.

Patent No. 5,693,761, "Polynucleotides Encoding Improved Humanized Immunoglobulins," issued December 2, 1997.

Patent No. 5,693,762, "Humanized Immunoglobulins," issued December 2, 1997.

Patent No. 6,180,370 "Humanized Immunoglobulins and Method of Making the Same", issued January 30, 2001.

[CONFIDENTIAL TREATMENT REQUESTED]

2. The following patents and patent applications outside the U.S.:

		Patent No.	Country	Title*
Issued	9/29/00	AR 254487 V1	Argentina	"Novel Immunoglobulins, Their Production and Use"
Issued	1/24/96	AT 0451216	Austria	"
Issued	1/24/96	0451216	Belgium	"
Issued	8/25/99	0682040	Belgium	"
Issued	1/14/03	1101125-4	Brazil	"
Issued	10/27/97	61095	Bulgaria	"
Issued	8/13/02	2328851	Canada	"
Issued	8/20/02	2006865	Canada	"
Issued	4/11/00	40279	Chile	"

Issued	7/21/00	58770	China	”
Issued	11/4/99	P920500A	Croatia	”
Issued	12/02/02	174317	Denmark	”
Issued	1/24/96	0451216B1	Europe(1)	”
Issued	8/25/99	0682040 B1	Europe(1)	”
Issued	3/28/02	108797	Finland	”
Issued	1/24/96	FR0451216	France	”
Issued	8/25/99	FR0682040	France	”

Issued	1/24/96	DE 68925536.5	Germany	”
Issued	8/25/99	DE 68929061.6	Germany	”
Issued	1/24/96	DD 296 964	East Germany	”
Issued	1/24/96	GB 0451216	Great Britain	”
Issued	8/25/99	GB 0682040	Great Britain	”
Issued	1/5/93	1001050	Greece	”
Regist.	7/14/00	0682040	Hong Kong	”
Issued	3/22/96	211174	Hungary	”
Issued	2/3/03	82755	Ireland	”
Issued	1/24/96	IT 0451216	Italy	”
Issued	8/25/99	IT 0682040	Italy	”
Issued	1/24/96	LU 0451216	Luxembourg	”
Issued	8/25/99	LU 0682040	Luxembourg	”
Issued	2/18/92	92.2146	Monaco	”
Issued	1/24/96	NL 0451216	Netherlands	”
Issued	8/25/99	NL 0682040	Netherlands	”
Issued	10/20/97	231984	New Zealand	”
Issued	6/8/00	314793	New Zealand	”
Issued	7/9/01	19912385	Norway(3)	”
Issued	12/26/91	132068	Pakistan	”
Issued	5/17/96	29729	Philippines	”
Issued	10/20/95	92758	Portugal	”
Issued	2/10/99	2126046	Russia	”
Issued	1/24/96	SG 0451216	Singapore	”
Issued	5/22/01	78258	Singapore	”
Issued	2/28/99	8912489	Slovenia	”
Issued	10/31/90	89/9956	South Africa	”
Issued	11/23/98	178385	South Korea	”
Issued	1/24/96	2081974 T3	Spain	”
Issued	8/25/99	0682040	Spain	”
Issued	1/24/96	SE 0451216	Sweden	”
Issued	8/25/99	SE 0682040	Sweden	”
Issued	1/24/96	CH 0451216	Switzerland	”
Issued	8/25/99	CH 0682040	Switzerland	”
Issued	12/2/91	50034	Taiwan	”
Issued	5/19/93	13349	Uruguay	”
Issued	2/9/96	56455	Venezuela	”

[CONFIDENTIAL TREATMENT REQUESTED]

* Exact titles may differ in different countries.
(1) and corresponding European national patents issued therefrom**.**
(2) registration date
[CONFIDENTIAL TREATMENT REQUESTED]

Appendix B

Third Party Licenses as of the Effective Date

[CONFIDENTIAL TREATMENT REQUESTED]

Appendix C

PDL Sole Territory: Countries or Jurisdictions in which All Rights Have Reverted to PDL

[CONFIDENTIAL TREATMENT REQUESTED]

Appendix D

Example of Section 7.4(c) Royalty Adjustments

[CONFIDENTIAL TREATMENT REQUESTED]

Schedule 2.8(a)

Certain Roche Owned Patents

[CONFIDENTIAL TREATMENT REQUESTED]

Schedule 2.8(b)

Certain Roche Controlled Patents

All patents and patent applications licensed to Roche in the following agreements:

[CONFIDENTIAL TREATMENT REQUESTED]

Schedule 2.8(e)

Notices of Third Party IP Rights

[CONFIDENTIAL TREATMENT REQUESTED]

Schedule 2.8(f)

Third Party Licenses

[CONFIDENTIAL TREATMENT REQUESTED]

SUBLEASE

THIS SUBLEASE ("Sublease") is made as of July 31, 2003 by and between PROTEIN DESIGN LABS, INC., a Delaware corporation ("Subtenant"), and ABGENIX, INC., a Delaware corporation ("Sublandlord").

R E C I T A L S

A. John Arrillaga, Trustee or his successor trustee, UTA dated 7/20/77 (John Arrillaga Survivor's Trust) as amended, and Richard T. Peery, Trustee, or his successor trustee, UTA dated 7/20/77 (Richard T. Peery Separate Property Trust), as amended (collectively, "Master Landlord"), and Sublandlord as Tenant, are parties to a certain Lease Agreement dated as of January 22, 2002 (the "Master Lease"), a copy of which is attached hereto as Exhibit A.

B. Pursuant to the terms of the Master Lease, Master Landlord presently leases to Sublandlord that certain premises consisting of approximately 50,668 rentable square feet located at 34700 Campus Drive, Fremont, California (as more particularly described in the Master Lease, the "Premises" or "Building"). (Initially capitalized terms not otherwise defined in this Sublease shall have the meanings attributed to such terms in the Master Lease; and unless otherwise expressly provided herein all references in this Sublease to "Article" and "Section" shall refer to the respective "Article" or "Section" of the Master Lease and all references to "Paragraph" in this Sublease shall refer to the respective "Paragraph" of this Sublease.)

C. Sublandlord now desires to sublease to Subtenant, and Subtenant now desires to sublease from Sublandlord, the entire Premises (hereinafter referred to as the "Sublease Premises"), on the terms and conditions contained herein.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **Sublease.** Sublandlord hereby subleases to Subtenant, and Subtenant hereby subleases from Sublandlord, the Sublease Premises, together with all appurtenances thereto as provided in the Master Lease, on the terms and conditions contained in this Sublease.

2. **Term**.

(a) The term of this Sublease ("Sublease Term") shall commence as of the later of (i) October 1, 2003 or (ii) the date of obtaining of Master Landlord's consent as described in Paragraph 19(f) hereof (as so determined, the "Sublease Commencement Date"), and shall expire approximately thirty-nine (39) months after the Sublease

---

Commencement Date on the fixed expiration date of December 31, 2006, unless (A) sooner terminated in accordance with the provisions hereof or the provisions of the Master Lease or (B) extended in accordance with the provisions of Paragraph 5 hereof. Except as provided in Paragraph 5 hereof, Subtenant shall not have any right or option to extend the term of this Sublease, notwithstanding any right of Sublandlord to extend the term of the Master Lease.

(b) Upon execution of this Sublease and payment of Subtenant's Base Rent for the first month of the Sublease Term pursuant to Paragraph 4(a), Subtenant may upon advance notice to and coordination of scheduling with Sublandlord, enter upon the Sublease Premises prior to the Sublease Commencement Date for the purpose of space planning, installing telephone wiring and cabling or any other improvements permitted by Sublandlord under this Sublease other than for the conduct of its business, such early entry shall be at Subtenant's sole risk and subject to all the terms and provisions hereof (including satisfaction of the insurance requirements set forth herein). Sublandlord shall have the right to impose such additional conditions on Subtenant's early entry as Sublandlord may consider reasonable under the circumstances.

3. **Conditions of Sublease Premises.** In entering into this Sublease, Subtenant has not relied upon or been induced by any statements or representations of any persons with respect to the physical condition of the Sublease Premises or with respect to any other matter affecting the Sublease Premises, that might be pertinent in considering the leasing of the Sublease Premises or the execution of this Sublease. Subtenant has, on the contrary, relied solely on such investigations, examinations and inspections as Subtenant has chosen to make or have made on its behalf. Subtenant acknowledges that it has been afforded the opportunity for full and complete investigations, examinations and inspections. Sublandlord hereby warrants that all mechanical, plumbing, and electrical systems in the Premises shall be in good operating condition for the first seventy-five (75) days of the Sublease Term. In the event that Subtenant's construction of Subtenant Alterations (as defined in Paragraph 14 below) or Subtenant's or Subtenant's agents, employees, contractors, officers or directors negligence or willful misconduct causes damage to the mechanical, plumbing or electrical systems in the Premises, Sublandlord shall not be responsible for the repair of the same. Except as set forth in this Paragraph 3, upon taking possession of the Sublease Premises, Subtenant shall be deemed to have accepted the Sublease Premises in an "as-is" condition.

4. **Rent/Security Deposit**

(a) Subtenant shall pay to Sublandlord, monthly on or before three (3) business days prior to the first day of each calendar month throughout the Sublease Term, rental for the Sublease Premises equal to the sum of (i) Fifty-Two Thousand Five Hundred Dollars ($52,500) per month from the Sublease Commencement Date through April 30, 2004, Seventy-Six Thousand Thirty-Two Dollars ($76,032) per month from May 1, 2004 through October 31, 2004, Seventy-Eight Thousand Five Hundred Sixty-Six

---

and 40/100ths Dollars ($78,566.40) from November 1, 2004 through October 31, 2005, Eighty-One Thousand One Hundred and 80/100ths Dollars ($81,100.80) from November 1, 2005 through December 31, 2006 ("Subtenant's Base Rent"); (ii) Subtenant's Additional Rent (as defined in Paragraph 4(b)); and (iii) any other amounts, charges, expenses or sums Subtenant is required to pay under this Sublease (collectively, "Subtenant's Rent"). Subtenant shall remain responsible for Subtenant's Rent and any other amounts or charges which first arise, accrue or are invoiced at any time during or after the expiration of the Sublease Term, whether by Sublandlord or Master Landlord, to the extent they arise or accrue from any liabilities or obligations of Subtenant under the

provisions of this Sublease (including any provisions of the Master Lease which are incorporated herein as liabilities or obligations of Subtenant). Notwithstanding anything to the contrary contained herein, Subtenant shall pay in advance to Sublandlord, upon execution of this Sublease, Subtenant's Base Rent payable for the first month of the Sublease Term.

(b) In addition to Subtenant's Base Rent, Subtenant shall pay to Sublandlord, in accordance with Paragraph 4(a), (i) Subtenant's Share (as defined below) of the aggregate sum of all Additional Rent (as defined in the Master Lease) including, without limitation, all Taxes (as defined in Article 9 of the Master Lease) relating to the Sublease Premises, all insurance premiums (as described in Article 12 of the Master Lease), (ii) any other costs or expenses incurred by Sublandlord in the performance of Sublandlord's obligations under the Master Lease and (iii) any other amounts or charges which will become due and payable to Master Landlord under the terms of the Master Lease during or with respect to the ensuing calendar month (collectively, "Subtenant's Additional Rent"). Subtenant's Additional Rent shall be calculated by Sublandlord in accordance with Paragraph 4(c). For purposes of this Sublease, the term "Subtenant's Share" shall mean one hundred percent (100%).

(c) Prior to or at any time after the commencement of each calendar year during the Sublease Term, Sublandlord may provide Subtenant with notice of Sublandlord's estimate of the amount of Subtenant's Additional Rent which will be payable for such calendar year. Subtenant shall pay to Sublandlord, on a monthly basis as provided in Paragraph 4(a), Subtenant's Additional Rent in an amount equal to one twelfth (1/12) of the amount of Sublandlord's estimate of Subtenant's Additional Rent for the relevant calendar year of the Sublease Term. If the cost of any item included in Subtenant's Additional Rent is increased during a calendar year, Sublandlord may increase the estimated Subtenant's Additional Rent during such year by giving Subtenant written notice to that effect, and thereafter, Subtenant shall pay to Sublandlord, in each of the remaining months of such year, an amount equal to the amount of such increase in the estimated Subtenant's Additional Rent divided by the number of months remaining in such year. Within thirty (30) days (or as soon thereafter as possible) after receipt from the year-end reconciliation of Additional Rent from Master Landlord under the Master Lease, Sublandlord shall provide Subtenant with a statement of the amount of such year's actual Subtenant's Additional Rent owed by Subtenant, together with a list of types of

expenses and related amounts incorporated in such statement and a copy of the statement of Additional Rent delivered to Sublandlord pursuant to Section 4(D) of the Master Lease. If the amount set forth in such statement exceeds the amount actually paid by Subtenant for such year, Subtenant shall pay the amount still owing to Sublandlord within ten (10) days of receipt of such statement, which obligation shall survive the expiration or earlier termination of this Sublease. If the amount set forth in such statement is less than the amount actually paid by Subtenant, Sublandlord shall credit the amount of Subtenant's excess against the next accruing payment(s) of Subtenant's Additional Rent or reimburse Subtenant for the same if this Sublease has terminated prior to the date such determination is made.

(d) Subtenant's Rent and all other sums or charges due or payable by Subtenant to Sublandlord hereunder shall be due and payable without billing or demand, and without deduction, set-off or counter claim, in lawful money of the United States of America, at Sublandlord's address for notices in Paragraph 11 hereof or to such other person or at such other place as Sublandlord may from time to time designate in writing, and shall be due and payable by Subtenant to Sublandlord on or before the date specified in subparagraph (a) of this Paragraph 4, provided that if no date is therein specified as to the applicable payment, then on or before (i) three (3) business days prior to the corresponding date provided in the Master Lease for payment of the same by Sublandlord to Master Landlord or (ii) if there is no corresponding date provided in the Master Lease for payment of the same by Sublandlord to Master Landlord, then ten (10) days after written request from Sublandlord to Subtenant. The failure of Subtenant to make any payments of Subtenant's Rent or any other sums or charges payable by Subtenant by the date provided herein shall subject Subtenant to the obligation to pay to Sublandlord late charges in accordance with Paragraph 4(h).

(e) If the Sublease Term commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, then Subtenant's Rent for the first and last fractional months of the Sublease Term shall be appropriately prorated.

(f) With reasonable advance notice to Subtenant, Sublandlord may at any time or from time to time instruct Subtenant to make any payment of Subtenant's Rent or Subtenant's Share of any other sums or charges falling due under the Master Lease directly to Master Landlord, in which event Subtenant shall timely make all such payments so instructed directly to Master Landlord (with a copy of the check to be contemporaneously forwarded by Subtenant to Sublandlord at the time of making of each such payment), and in such event Sublandlord shall have no responsibility to Subtenant for the payment of any such amount, and Subtenant shall be solely responsible for any interest or late charges that may be imposed as a result of any failure of Subtenant to have timely and properly made any such payment to Master Landlord.

(g) Security Deposit. Concurrently with Subtenant's execution of this Sublease, Subtenant shall deposit with Sublandlord a security deposit ("Security

Deposit") in the amount of Seventy-Six Thousand Thirty-Two and no/100ths Dollars ($76,032), as security for the full and faithful performance of every provision of this Sublease to be performed by Subtenant. If Subtenant defaults with respect to any provision of this Sublease, including but not limited to the provisions relating to the payment of Subtenant's Rent, Sublandlord may use, apply or retain all or any part of the Security Deposit for the payment of any Subtenant's Rent or any other amount which Sublandlord may spend or become obligated to spend by reason of Subtenant's default, to repair damages to the Sublease Premises, to clean the Sublease Premises or to compensate Sublandlord for any other loss or damage which Sublandlord may suffer by reason of Subtenant's default. Sublandlord shall not be required to keep the Security Deposit separate from its general funds, and Subtenant shall not be entitled to interest on such deposit. If Subtenant shall have then performed all of its obligations under this Sublease to be performed by it, the Security Deposit or any balance thereof shall be returned to Subtenant within thirty (30) days of the expiration of the Sublease Term.

(h) **Late Payment Charges**. SUBTENANT ACKNOWLEDGES THAT LATE PAYMENT BY SUBTENANT TO SUBLANDLORD OF SUBTENANT'S RENT AND OTHER CHARGES PROVIDED FOR UNDER THIS SUBLEASE WILL CAUSE SUBLANDLORD TO INCUR COSTS NOT CONTEMPLATED BY THIS SUBLEASE, THE EXACT AMOUNT OF SUCH COSTS BEING EXTREMELY DIFFICULT OR IMPRACTICABLE TO FIX. THEREFORE, IF ANY INSTALLMENT OF RENT OR ANY OTHER CHARGE DUE FROM SUBTENANT IS NOT RECEIVED BY SUBLANDLORD WITHIN FIVE DAYS OF THE DATE DUE, SUBTENANT SHALL PAY TO SUBLANDLORD AN ADDITIONAL SUM EQUAL TO TEN PERCENT (10%) OF THE AMOUNT OVERDUE AS A LATE CHARGE. THE PARTIES AGREE THAT THIS LATE CHARGE REPRESENTS A

FAIR AND REASONABLE ESTIMATE OF THE COSTS THAT SUBLANDLORD WILL INCUR BY REASON OF THE LATE PAYMENT BY SUBTENANT. SUCH LATE CHARGE SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ANY INTEREST THAT MAY ACCRUE ON ANY SUCH OVERDUE AMOUNT PURSUANT TO THE PROVISIONS OF THE MASTER LEASE.

Initials:

Sublandlord _____ Subtenant _____

5. **Extension of Sublease Term.**

(a) Conditions to Exercise of Option. Provided that Subtenant is not in default under this Sublease and Subtenant is in occupancy of the entire Sublease Premises at the time of exercise of each option to extend and at the commencement of the applicable extension term, Subtenant shall have the right to extend the Sublease Term for three consecutive extension periods, the first being a period of two (2) years commencing upon the expiration of the initial Sublease Term (the "First Extension Term"), followed

by a period of eighteen (18) months commencing upon the expiration of the First Extension Term (the "Second Extension Term"), followed by another period of eighteen (18) months commencing upon the expiration of the Second Extension Term (the "Third Extension Term").

(b) Notice of Exercise. If Subtenant elects to extend this Lease for the First Extension Term, Subtenant shall give written notice of its exercise to Sublandlord not later than July 1, 2004. In the event that Subtenant exercises the First Extension Term, Subtenant shall give Sublandlord written notice with regard to the Second Extension term not more than three hundred sixty-five (365) days prior to the expiration of the First Extension Term and not less than one hundred eighty (180) days prior to the expiration of the First Extension Term. In the event that Subtenant exercises the Second Extension Term, Subtenant shall give Sublandlord written notice with regard to the Third Extension term not more than three hundred sixty-five (365) days prior to the expiration of the Second Extension Term and not less than one hundred eighty (180) days prior to the expiration of the Second Extension Term. (The notices set forth above are collectively referred to herein as the "Exercise Notice".) Subtenant's failure to provide any Exercise Notice within the time periods contemplated herein shall be deemed a waiver of Subtenant's right to exercise the applicable extension term.

(c) Conditions Terminating Tenant's Rights to Exercise Options. In the event that any payment of Subtenant's Rent due hereunder is thirty (30) or more days late four (4) or more times during any calendar year of the Sublease Term or the then current extension term, Subtenant shall not have the right to further extend the Sublease Term.

(d) Terms of the Extension Terms. The giving of an Exercise Notice shall constitute an irrevocable election by Subtenant to extend the Sublease upon the terms, covenants and conditions set forth herein. The terms, covenants and conditions applicable to each applicable Extension Term shall be the same terms, covenants and conditions of this Sublease except that (1) Subtenant shall not be entitled to any further option to extend after the Third Extension Term, (2) the Base Rent for the Extension Term shall be adjusted as provided in this Paragraph; and (3) no provisions relating to the initial delivery of the Sublease Premises to Subtenant (including, but not limited to, any construction obligations or tenant improvement allowance provisions) shall be applicable to any Extension Term.

(e) Extension Option Personal to Original Subtenant. The options to extend granted to Subtenant pursuant to this Paragraph shall not be assignable to any successor or assign of Subtenant, and shall terminate at the option of Sublandlord, if, at any time during the Sublease Term or applicable extension term, Subtenant has subleased all or any portion of the Sublease Premises to any other party.

(f) Conditions to Exercise or Termination of Option May Only Be Asserted By Sublandlord and May Be Waived By Sublandlord. The conditions to the exercise by Subtenant of any Extension Option and the conditions which may terminate

Subtenant's right to exercise the Extension Options as set forth in this Paragraph 5, are solely for the benefit of Sublandlord and any such conditions may be affirmatively waived by Sublandlord in writing. Subtenant may not, after the giving of any Exercise Notice, assert that because any such condition is then or thereafter not fully satisfied, that such condition renders such Exercise Notice ineffective or entitles Subtenant to terminate the applicable Extension Option.

(g) Determination of Base Rent During Extension Term.

(i) Extension Term Initial Base Rent. The Base Rent during the First Extension Term shall be Eighty-Six Thousand One Hundred Sixty-Nine and 60/100ths Dollars (86,169.60) per month. The Base Rent during the first year of the Second Extension Term shall be equal to the greater of (1) the "Fair Market Rental Value" of the Sublease Premises for the first year of the Second Extension Term determined as provided herein or (2) the Base Rent for the last month of the First Extension Term (as so determined pursuant to clause (1) or (2) above, the "Second Extension Term Initial Base Rent").

(ii) Fair Market Rental Value. "Fair Market Rental Value" as used herein shall mean: 100% of the base rent and other amounts new or renewal tenants (who do not have any below market renewal rights) at which tenants lease comparable space as of the commencement of the Second Renewal Term. For this purpose comparable space ("Comparable Space") shall be office, light manufacturing and research and development space which is (i) not subleased; (ii) not subject to another tenant's expansion right; (iii) comparable in size, location, and quality to the Sublease Premises, (iv) leased for a term comparable to the Second Renewal Term and (v) located in comparable buildings. In determining the Fair Market Rental Value of the Sublease Premises during the Extension Term, consideration shall be given to the uses of the Sublease Premises permitted under this Sublease, the quality, size, design and location of the Sublease Premises, the credit worthiness of the tenant, and the rental value of comparable, improved, space located in the geographical area of the Building (ignoring tenant improvement allowances, free rent periods, and other tenant benefits/concessions typically associated with a new lease it being acknowledged that the option to extend hereunder

reflects Subtenant's negotiated right to defer its decision whether to initially lease the Sublease Premises for such longer period of time, as opposed to Subtenant's right to enter into a new sublease).

(iii) Sublandlord and Subtenant to Seek to Agree. Sublandlord and Subtenant shall have thirty (30) days after Sublandlord receives the applicable Exercise Notice in which to seek to agree on the Second Extension Term Initial Base Rent. If Sublandlord and Subtenant agree on the Second Extension Term Initial Base Rent during the thirty (30) day period (or at any time thereafter), they immediately shall execute an amendment to this Sublease confirming the Second

Extension Term Initial Base Rent as so agreed as the Base Rent for the first year of the Second Extension Term.

(iv) Selection of Appraiser to Determine the Second Extension Term Initial Base Rent. If Sublandlord and Subtenant are unable to agree on the Second Extension Term Initial Base Rent within the thirty (30) day period, then the Second Extension Term Initial Base Rent shall be determined by an appraisal as herein set forth and the Second Extension Term Initial Base Rent as so determined shall be binding upon Sublandlord and Subtenant. Sublandlord and Subtenant shall appoint an appraiser within ten (10) days after the expiration of such thirty (30) day period. If the Sublandlord and Subtenant are unable to agree upon an appraiser, then either party may immediately request the Presiding Judge of the San Francisco Superior Court to make such selection. Such appraiser shall complete an appraisal within the next thirty (30) days. The appraiser shall select the rental figure named by Sublandlord or Subtenant which such appraiser feels most nearly approximates the Fair Market Rental Value of the Sublease Premises. The appraiser may not select any other figure. The decision of the appraiser shall be final and binding. The cost of the appraisal shall be shared equally by Sublandlord and Subtenant. Unless the parties agree on lesser qualifications, to be appointed as an appraiser the person so appointed shall hold the professional designation MAI awarded by the American Institute of Real Estate Appraisers or such designation as may then be the preeminent professional designation, hold any licenses which may then be required by law and have at least three years current experience in appraisal of commercial properties in the San Francisco Bay Area. Until the appraisal is completed Subtenant shall continue to pay the Subtenant's Base Rent for the last month of the First Extension Term.

(v) Notice to Sublandlord and Subtenant. After the Second Extension Term Initial Base Rent for the first year of the Second Extension Term has been set by the appraiser pursuant to subparagraph (iv) above, the appraiser shall notify Sublandlord and Subtenant immediately and Sublandlord and Subtenant shall immediately execute an amendment to this Sublease confirming the Second Extension Term Initial Base Rent as so determined as the Subtenant's Base Rent for the first year of the Second Extension Term (and any increases thereto).

(vi) Base Rent Third Extension Term. Base Rent during the Third Extension Term shall be determined through the process set forth above, with references therein to "Second Extension Term" meaning "Third Extension Term" and references therein to "First Extension Term" meaning "Second Extension Term."

6. **Incorporation of Master Lease**.

(a) This Sublease is subject to all of the terms and conditions of the Master Lease, all of which are hereby incorporated by reference. Except as provided in Paragraph 6(e) below, all references in the Master Lease to "Landlord" and "Tenant" shall, for purposes of incorporation thereof into this Sublease, mean and refer to Sublandlord and Subtenant, respectively. Subtenant hereby agrees to be bound by the terms of the Master Lease and, with respect to the Sublease Premises, hereby assumes and agrees to pay, perform and observe for the benefit of Master Landlord and Sublandlord, each and all of the liabilities, obligations, covenants, conditions and restrictions to be paid, performed or observed by Sublandlord, as Tenant, under the Master Lease, except to the extent any of the same are herein expressly acknowledged not to constitute an obligation of Subtenant. Without limiting the foregoing, Subtenant shall not commit or permit to be committed on the Sublease Premises any act or omission which shall violate any term, covenant or condition of the Master Lease.

(b) Notwithstanding the foregoing, whenever any provision of the Master Lease incorporated herein specifies a time period in connection with the payment or performance of any liability or obligation by Subtenant hereunder, or any notice period or other time condition to the exercise of any right or remedy by Sublandlord hereunder, such time period shall be shortened in each instance by three (3) business days for the purpose of incorporation into this Sublease. Any default notice or other notice of any obligation (including any billing or invoice for any Subtenant's Rent or any other expense or charge falling due under the Master Lease) from Master Landlord which is received by Subtenant (whether directly or as a result of being forwarded by Sublandlord to Subtenant) shall constitute such notice from Sublandlord to Subtenant under this Sublease without the need for any additional notice from Sublandlord. If Subtenant shall fail to pay any installment of Subtenant's Rent or any other expense or charge when due hereunder or shall breach or default in the observance or performance of any conditions or covenants to be observed or performed by Subtenant hereunder (including under any of the applicable provisions of the Master Lease incorporated herein), then Sublandlord shall have and may exercise all rights and remedies against Subtenant as provided to Master Landlord in the event of default by Sublandlord as set forth in the Master Lease (including, but not limited to, the rights and remedies provided in Article 19.02 of the Master Lease).

(c) This Sublease is and shall be at all times subject and subordinate to the Master Lease, including all rights of Master Landlord thereunder. Without limiting the generality of the foregoing, in the event of termination of Sublandlord's interest under the Master Lease for any reason (including, without limitation, upon the occurrence of any casualty or condemnation pertaining to the Sublease Premises), this Sublease shall terminate coincidentally therewith without any liability of Sublandlord to Subtenant. Sublandlord agrees that, notwithstanding the provisions of Paragraph 12 below, so long as Subtenant is not in Default hereunder beyond any applicable notice and cure periods, Sublandlord shall not voluntarily terminate the Master Lease without the prior written consent of Subtenant, which consent may be withheld in Subtenant's sole and absolute discretion.

(d) In the event of conflict between any provision of the Master Lease which is incorporated herein as described above in this Paragraph 6 and any provision of this Sublease, the latter shall control. In determining whether to grant or withhold any consent or approval hereunder,

Sublandlord may expressly condition the same upon the consent or approval of Master Landlord, as applicable, if such consent or approval is required under the Master Lease.

(e) The following provisions of the Master Lease are hereby acknowledged by Sublandlord and Subtenant not to be incorporated by reference into this Sublease: Article 2 (Term); Article 3 (Possession); Article 4 (Rent); Article 13 (Indemnification); Article 27 (Construction Changes); Article 31 (Notices); Article 39 (Basic Rent); Article 40 (Consent); Section 42(A) (Assignment to Affiliates); Article 48 (Termination Contingency); Article 49 (Brokers); Article 50 (Cross Default); Article 51 (Option to Extend); Article 52 (Existing Tenant Improvements); Article 53 (Trade Fixtures); and Exhibits A, B-1, C and D.

(f) Sublandlord and Subtenant agree that Sublandlord shall not be responsible or liable to Subtenant for the performance or nonperformance of any obligations of Master Landlord under the Master Lease, and in furtherance thereof agree as follows:

(i) Notwithstanding anything to the contrary contained in this Sublease, Sublandlord shall not be required to (A) provide or perform any insurance and services (including without limitation, the insurance described in Article 12 of the Master Lease) or any alterations, improvements, improvement allowances or other construction obligations as to the Sublease Premises that Master Landlord may have agreed to provide or perform pursuant to the Master Lease or as required by law, (B) provide any utilities (including electricity) to the Sublease Premises that Master Landlord may have agreed to furnish pursuant to any provision of the Master Lease (or as required by law), (C) perform any maintenance or make any of the repairs to the Sublease Premises or the Building that Master Landlord may have agreed to perform or make (or as required by law), (D) comply with any laws or requirements of governmental authorities regarding the maintenance or operation of the Sublease Premises, (E) take any other action relating to the operation, maintenance, repair, alteration or servicing of the Sublease Premises that Master Landlord may have agreed to provide, furnish, make, comply with, or take, or cause to be provided, furnished, made, complied with or taken under the Master Lease, or (F) provide Subtenant with any rebate, credit, allowance or other concession required of Master Landlord pursuant to the Master Lease except to pass through to Subtenant any such rebate, credit, allowance or concession that may in fact be granted by the Master Landlord, with respect to the Sublease Premises during the term of this Sublease. Sublandlord makes no representation or warranty of quiet enjoyment as to any persons claiming by, through or under Master Landlord.

(ii) Sublandlord agrees, upon request of Subtenant, to use commercially reasonable efforts, at Subtenant's sole cost and expense, to cause Master Landlord to provide, furnish, or comply with any of Master Landlord's obligations under the Master Lease (provided, however, that Sublandlord shall not be obligated to use such efforts or take any action which, in Sublandlord's reasonable judgment, might give rise to a default by Sublandlord under the Master Lease). If Master Landlord shall default in the performance of any of its obligations under the Master Lease or at law, Sublandlord shall, upon request and at the expense of Subtenant, cooperate with Subtenant in the prosecution of any action or proceeding which Sublandlord, in its reasonable judgment, deems meritorious, in order to have Master Landlord (A) make such repairs, furnish such electricity, provide such services or comply with any other obligation of Master Landlord under the Master Lease or as required by law, and/or (B) compensate Subtenant for any earlier default by Master Landlord in the payment or performance of its liabilities and obligations under the Master Lease during the Sublease Term.

(iii) The indemnity obligation of Subtenant as set forth in Paragraph 9(b) shall apply to any claims of Master Landlord arising from or in connection with any such request, action or proceeding referred to in clause (ii) above.

(iv) Subtenant shall not make any claim against Sublandlord for any damage which may arise by reason of: (i) the failure of Master Landlord to keep, observe or perform any of its obligations under the Master Lease; or (ii) the acts or omissions of Master Landlord or its agents, contractors, employees, invitees or licensees.

(g) Subtenant agrees that any waiver of liability, waiver of subrogation rights, or indemnification provisions in the Master Lease which are incorporated herein as waivers or obligations of Subtenant (including, without limitation, Article 12 of the Master Lease), shall be deemed expanded so as to provide for Subtenant to make such waivers and provide such indemnities not only in favor of Sublandlord, but also in favor of Master Landlord, and the respective affiliated employees, agents and the like of both Sublandlord and Master Landlord as enumerated in such provisions.

7. **Insurance**. Subtenant shall comply in all respects with the provisions of Articles 10 and 11 of the Master Lease with regard to the maintenance of insurance. Such insurance shall name, as additional insureds, Master Landlord, Sublandlord and any other parties required to be named under the terms of the Master Lease, and a policy or certificate thereof shall be provided to Sublandlord not later than two business days prior to the commencement of the term of this Sublease. The maintenance of insurance coverage with respect to the Sublease Premises and any property of Subtenant shall be the sole obligation of Subtenant. All insurance required to be maintained by Subtenant

shall provide for thirty (30) days prior written notice to Sublandlord and Master Landlord in the event of any termination or reduction in coverage of such insurance.

8. **Surrender and Holdover**.

(a) As soon as its right to possession ends, Subtenant will surrender the Sublease Premises to Sublandlord in as good repair and condition as when Subtenant first occupied, except for reasonable wear and tear, and for damage or destruction by fire or other casualty for which Subtenant is not otherwise responsible. Subtenant will concurrently deliver to Sublandlord all keys to the Sublease Premises, and restore any locks which it has changed to the system which existed at the commencement of the Term. If possession is not immediately surrendered, Sublandlord may enter upon and take possession of the Sublease Premises and expel or remove Subtenant and any other person who may be occupying the Sublease Premises or any part thereof.

(b) Under no circumstances shall Subtenant be permitted to holdover following the end of the term of this Sublease. Accordingly, if Subtenant has not fully surrendered possession of the Sublease Premises in the manner required hereunder on or before termination of this Sublease, all of the terms, covenants and agreements hereof shall continue to bind Subtenant to the extent applicable, except that (a) the monthly Subtenant's Base Rent shall be

equal to one-hundred-fifty percent (150%) of Subtenant's Base Rent payable by Subtenant under this Sublease for the month immediately preceding such holdover period, and (b) Subtenant shall indemnify and defend Sublandlord against, and hold Sublandlord harmless from, any and all claims, losses and liabilities for damages, consequential or otherwise, resulting from Subtenant's failure to surrender possession, including, without limitation, any such claims by Master Landlord or any successor tenant of all or any portion of the Premises.

9. **Waiver and Indemnification**.

(a) Sublandlord shall not be liable or responsible in any way for, and Subtenant hereby waives all claims against Sublandlord with respect to or arising out of, (i) any death, illness or injury of any nature whatsoever that may be suffered or sustained by Subtenant or its employees, agents, customers, licensees, invitees or guests, or by any other person, from any causes whatsoever, or (ii) any loss or damage or injury to any property in, on or about the Sublease Premises belonging to Subtenant or its employees, agents, customers, licensees, invitees or guests, or by any other person, except to the extent such injury or damage is caused solely by the active negligence or willful misconduct of, or breach of this Sublease by, Sublandlord.

(b) Subtenant shall hold Sublandlord harmless from, and defend and indemnify Sublandlord against, any and all losses, damages, claims, liability, expense or costs (including reasonable attorneys' fees) arising out of, from, or in connection with (i) Subtenant's use or occupancy of the Sublease Premises (including, but not limited to, any damage to any property or injury, illness or death of any person occurring in, on, or about

the Sublease Premises, or any part thereof, arising at any time and from any cause whatsoever) or (ii) any breach or default by Subtenant under this Sublease, including the failure of Subtenant to pay, perform, observe or comply with any liability, obligation, covenant, condition or restriction imposed on Sublandlord under the Master Lease which has been incorporated herein as a liability, obligation, covenant, condition or restriction required to be paid, performed or observed by Subtenant hereunder (including, but not limited to any liability to, or indemnity obligation in favor of, Master Landlord either under the Master Lease or at law or in equity), except to the extent such loss, damage, claim, liability, expense or cost is caused solely by the active negligence or willful misconduct of or breach of this Sublease by Sublandlord.

10. **Hazardous Materials**.

(a) Subtenant shall not, and Subtenant shall not permit any of its employees, agents, customers, licensees, invitees or guests, or any other person to, manage, handle, store or use in any way in, on or about the Sublease Premises or the Building any Toxic or Hazardous Materials (including but not limited to any petroleum products and radioactive materials) of any kind whatsoever (excluding reasonable amounts of customary office supplies and those Toxic or Hazardous Materials described on Exhibit B attached hereto). For purposes of this Section 10, "Toxic or Hazardous Materials" shall mean any product, substance, chemical, material or waste whose presence, nature, quality and/or intensity or existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be in the Sublease Premises or Building is either (i) potentially injurious to public health, safety or welfare, the environment or the Sublease Premises or Building; or (ii) regulated or monitored by any governmental authority.

(b) Subtenant shall, at its sole cost and reasonable expense, on or before the Sublease Commencement Date and on or about the end of the Sublease Term, as the same may be extended, hire a qualified environmental consultant, reasonably acceptable to Sublandlord, to determine whether, on each such date, the Sublease Premises are in compliance with all Environmental Laws (the "Initial Report" and "Final Report", respectively). Subtenant shall submit to Sublandlord a report from such environmental consultant which discusses the environmental consultant's findings. Subtenant shall at the end of the Sublease Term, as the same may be extended, surrender the Sublease Premises to Sublandlord, with all fume hoods closed in compliance with Environmental Laws. Subtenant shall surrender the Sublease Premises to Sublandlord at the end of the Sublease Term, as the same may be extended, in condition such that all Hazardous Materials existing in the Sublease Premises (or the surrounding property) shown in the Final Report, but not shown in the Initial Report have been cleaned-up and remediated in accordance with all Environmental Laws. Subtenant shall be solely responsible for all investigation and clean up of any Hazardous Materials which came to be located on the Premises (or surrounding property) due to the acts or omissions of Subtenant or Subtenant's employees, agents, customers, assignees, sub-subtenants, contractors, licensees, invitees or guests.

(c) As contemplated by Article 43 of the Master Lease, Subtenant shall, on the anniversary of the commencement of the Master Lease Term, hire a qualified environmental consultant reasonably acceptable to Sublandlord and Master Landlord to determine whether Subtenant is in compliance with all Governmental Regulations (as defined in the Master Lease) pertaining to Hazardous Materials (as defined in the Master Lease). Subtenant shall submit to Master Landlord and to Sublandlord a report from such environmental consultant which discusses the environmental consultant's findings within two (2) months of each Anniversary Date (as defined in the Master Lease) (the "Annual Environmental Report"). Subtenant shall promptly take all steps necessary to correct any and all problems identified by the environmental consultant and provide Master Landlord and Sublandlord with documentation of all such corrections. Sublandlord shall reimburse Subtenant for the actual reasonable costs Subtenant pays to such qualified environmental consultant for preparing the Annual Environmental Report, provided that in no event shall Sublandlord be required to reimburse Subtenant in excess of Three Thousand Dollars ($3,000) per year for such costs. Subtenant shall provide Sublandlord with a written invoice evidencing such costs.

(d) Subtenant shall, at Subtenant's sole cost and expense, and with counsel reasonably acceptable to Sublandlord, indemnify, defend and hold harmless Sublandlord and Sublandlord's shareholders, directors, officers, employees, partners, members, affiliates, agents, successors and assigns with respect to all losses arising out of or resulting from the release of any Toxic or Hazardous Materials in or about the Sublease Premises or Building, or the violation of any Environmental Law (as defined below), by Subtenant or Subtenant's employees, agents, customers, assignees, sub-subtenants, contractors, licensees, invitees or guests.

(e) Sublandlord shall, at Sublandlord's sole cost and expense, and with counsel reasonably acceptable to Subtenant indemnify, defend and hold harmless Subtenant and Subtenant's shareholders, directors, officers, employees, partners, members, affiliates, agents, successors and assigns with respect to all losses arising out of or resulting from the release of any Toxic or Hazardous Materials in or about the Sublease Premises or Building, or the violation of any Environmental Law (as defined below), by Sublandlord or Sublandlord's employees, agents, customers, contractors, licensees, invitees or guests.

For purposes of this Section 10, Environmental Laws include any federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders) imposing liability or standard of conduct concerning any Toxic or Hazardous Materials, including without limitation, Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675) and Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code section 6901-6992k). The provisions of this Paragraph 10 shall survive the expiration or earlier termination of this Sublease.

11. **Notices**. Subtenant hereby designates the party set forth below as the sole representative of Subtenant authorized to give and receive all notices and other communications on behalf of Subtenant under this Sublease. All notices, demands, statements and other communications that may or are required to be given by either party to the other hereunder shall be in writing and shall be (i) personally delivered to the address or addressee provided herein or sent via facsimile to the fax number provided below, or (ii) sent by first class United States mail, postage prepaid, or (iii) delivered by a reputable messenger or overnight courier service and, in any case, addressed as follows:

If to Sublandlord:
Abgenix, Inc.
6701 Kaiser Drive
Fremont, CA 94555
Attn: Chief Financial Officer

with a copy to:
Abgenix, Inc.
6701 Kaiser Drive
Fremont, CA 94555
Attn: General Counsel

If to Subtenant:
Protein Design Labs, Inc.
34801 Campus Drive
Fremont, CA 94555
Attn: General Counsel

Notices shall be deemed to have been fully given upon actual delivery thereof to the address or addressee provided above or, if delivery thereof is refused, then upon such refusal to accept delivery (provided that there is reasonable evidence of such refusal). Either party shall have the right upon ten (10) days prior notice to the other to change its address for notice as provided above.

12. If Master Landlord and Sublandlord jointly and voluntarily elect, for any reason whatsoever, to terminate the Master Lease prior to the scheduled Master Lease termination date, then this Sublease (if then still in effect) shall terminate concurrently with the termination of the Master Lease. Subtenant expressly acknowledges and agrees that (1) the voluntary termination of the Master Lease by Master Landlord and Sublandlord and the resulting termination of the Sublease shall not give Subtenant any right or power to make any legal or equitable claim against Master Landlord, including without limitation, any claim for interference with contract or interference with prospective economic advantage, and (2) Subtenant hereby waives any and all rights it may have under law or at equity against Landlord to challenge such an early termination of the Sublease and unconditionally releases and relieves Master Landlord, and its officers, directors, employees and agents from any and all claims, demands, and/or causes or action whatsoever (collectively, "Claims"), whether such matters are known or unknown, latent or apparent, suspected or unsuspected, foreseeable or unforeseeable,

which Subtenant may have arising out of or in connection with any such early termination of this Sublease. Subtenant knowingly and intentionally waives any and all protection which is or may be given by Section 1542 of the California Civil Code which provides, as follows: "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 debtor".

The term of the Sublease is therefore subject to early termination, Subtenant's initials below evidence (a) Subtenant's consideration of and agreement to this early termination provision, (b) Subtenant's acknowledgment that, in determining the net benefits to be derived by Subtenant under the terms of his Sublease, Subtenant has anticipated the potential for early termination, and (c) Subtenant's agreement to the general waiver and release of Claims set forth above.

Initials: _____

Sublandlord Subtenant

13. **Personal Property**.

(a) Subtenant shall have the use of Sublandlord's existing cubicles and the furniture set forth on Exhibit C attached hereto (the "Personal Property") for the Sublease Term at no additional cost to Subtenant. After Subtenant has had an opportunity to inventory the Personal Property actually located at the Sublease Premises, compare the same with Exhibit C, and determine which Personal Property items Subtenant desires to use, but in no event later than sixty (60) days following the Sublease Commencement Date, Subtenant shall prepare a revised Exhibit C, subject to timely approval by Sublandlord, Exhibit C, as so revised, shall be substituted for Exhibit C initially attached hereto. Subtenant and Sublandlord shall cooperate, to remove from the Sublease Premises any items which were listed in the initial Exhibit C, but deleted from the revised Exhibit C. Sublandlord shall assume control over and responsibility for such items and such items shall be omitted from the definition of Personal Property used hereunder from and after the date of removal of such items. Subject to the foregoing sentence, the Personal Property shall remain in the Sublease Premises at all times, provided that Subtenant may store the same off-site with Sublandlord's prior written consent. Subtenant has not relied upon or been induced by any statements or representations of any person with respect to the physical condition of the Personal Property or with respect to any matter affecting the Personal Property that might be pertinent in considering the use of the Personal Property. Subtenant has relied solely on such examinations and inspections as Subtenant has chosen to make or have made on its behalf. Subtenant acknowledged that it has been afforded the opportunity for full and complete examinations and inspections and upon taking possession of the Personal Property, Subtenant shall be deemed to have accepted the Personal Property in its "as-is" condition. Upon termination of the Sublease, all of the

Personal Property shall remain on or be returned to the Sublease Premises in the same condition that such Personal Property was in as of the Sublease Commencement Date, normal wear and tear excepted.

(b) Prior to the end of the Sublease Term, Subtenant shall repair any damage to the Personal Property resulting from causes other than ordinary wear and tear. Subtenant assumes and shall bear all risk of loss of and damage to the Personal Property from any and every cause whatsoever (whether insured or uninsured, except ordinary wear and tear), and, except as otherwise provided herein, shall be obligated to repair or replace any Personal Property so damaged. In the event any Personal Property is damaged by either an insured or uninsured cause to the extent that it is not commercially reasonable to repair the same (taking into consideration both the useful life of the respective item of Personal Property and the then remaining term of this Sublease), Sublandlord and Subtenant shall discuss the same and reasonably agree upon the removal and disposal of such items of Personal Property, but no such removal or disposal shall result in any reduction of the Subtenant's Rent payable under this Sublease, and Subtenant shall be responsible for paying to Sublandlord the reasonable value of any such item to be so disposed (determined as of the date immediately preceding the occurrence of such damage), reduced by any salvage value realized by Sublandlord from the disposal of the same.

14. **Alterations**. Notwithstanding anything to the contrary contained in the Master Lease, Subtenant shall not make any alterations, improvements or installations (collectively, "Subtenant Alterations") in or to the Sublease Premises without the prior written consent of Sublandlord and Master Landlord. Sublandlord, at its sole option, may, however, require as a condition to the granting of any such consent, that Subtenant provide to Sublandlord, at Subtenant's sole cost and expense, a lien and completion bond in an amount equal to one and one-half (1½) times any and all estimated costs of any Subtenant Alterations, to insure Sublandlord against any liability for mechanics' and materialmen's liens and to insure completion of the work; provided, however, that if Subtenant is required and provides such bond under Article 7 of the Mater Lease, then no bond shall be required under this Paragraph 14. Subtenant shall give Sublandlord written notice of Subtenant's intention to perform any work on the Sublease Premises at least twenty (20) days prior to the commencement of such work to enable Sublandlord to post and record an appropriate Notice of Nonresponsibility or other notice deemed proper before the commencement of any such work. All Subtenant Alterations shall be subject to the terms and conditions of the Master Lease, including without limitation, the obligation to remove such Subtenant Alterations at the end of the Sublease Term and restore the Sublease Premises to its original condition if so required by Sublandlord or Master Landlord. All Subtenant Alterations shall be performed by a contractor approved by Sublandlord and Master Landlord.

15. **Brokers**. Subtenant and Sublandlord respectively warrant and represent to each other that it has dealt with no leasing agent or broker in connection with this Sublease except for Cresa Partners and Cornish and Carey Commercial ("Broker"). Subtenant and Sublandlord each agree to indemnify, defend and hold the other party harmless from and against any claims arising out of a breach of the foregoing

representation and warranty. Sublandlord agrees that it shall be responsible for paying a commission to the Broker in accordance with a separate agreement.

16. **Assignment and Subletting**

(a) The terms of Article 16 of the Master Lease are incorporated herein by reference with regard to further transfers or assignments of this Sublease or subletting of any portion of the Sublease Premises by Subtenant; provided, however, that Subtenant shall pay to Sublandlord, as Subtenant's Additional Rent, fifty percent (50%) of any Excess Rent (as defined in the Master Lease) received by Subtenant from any transfer, assignment or sublease consented to by Sublandlord and Master Landlord, after Master Landlord has recovered any Excess Rent to which it may be entitled pursuant to the provisions of Article 16 of the Maser Lease.

(b) No transfer, assignment, or sublease by Subtenant, nor the consent of the Sublandlord thereto, shall relieve Subtenant from its obligations hereunder, and consent of Sublandlord to any assignment or subletting, shall not be deemed to constitute consent to any subsequent transfer, assignment or subletting.

17. **Intentionally Omitted**.

18. **Financial Statements**. Subtenant represents, warrants and covenants that any financial statements heretofore or hereafter furnished to Sublandlord, in connection with this Sublease, are accurate and are not materially misleading. At any time (but not more frequently than once each twelve months during the Sublease Term), Subtenant shall, upon ten (10) days prior written notice, provide Sublandlord with a current quarterly financial statement and the last annual statement, which are to have been prepared in accordance with generally accepted accounting principles and, if such is Subtenant's normal practice and the audit has been completed, the annual statement as so audited and as publicly filed.

19. **Miscellaneous**.

(a) The parties agree that during the Sublease Term Subtenant shall have the use of the emergency generator located on the Property. Subtenant shall be responsible, at it's cost and expense, for maintaining all permits necessary for the maintenance and operation of such emergency generator.

(b) This Sublease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

(c) This Sublease cannot be changed or terminated orally. All informal understandings and agreements heretofore made between the parties are merged in this Sublease, which alone fully and completely expresses the agreement between Sublandlord and Subtenant as to the subleasing of the Sublease Premises.

(d) Each and every indemnification obligation set forth in this Sublease, or incorporated into this Sublease from the Master Lease, shall survive the expiration or earlier termination of the term of this Sublease.

(e) If, for any reason, any suit be initiated between Sublandlord and Subtenant to enforce any provision of this Sublease, the prevailing party shall be entitled to legal costs, expert witness expenses, and reasonable attorneys' fees, as fixed by the court.

(f) This Sublease shall not become effective and shall not be deemed to be an offer to sublease or create any rights or obligations between Subtenant or Sublandlord unless and until Sublandlord and Subtenant have executed and delivered the same, and Master Landlord has executed and delivered a consent to this Sublease in a form reasonably acceptable to Sublandlord and Subtenant, or shall otherwise have been deemed to have granted its consent to this Sublease pursuant to the provisions of the Master Lease. If no such consent to this Sublease is given or deemed given by Master Landlord within thirty (30) days after the delivery of a copy of the fully executed Sublease to Master Landlord, then either Sublandlord or Subtenant shall have the right, by written notice to the other, to terminate this Sublease at any time prior to such consent from Master Landlord being given or deemed given. By delivering this Sublease, each party hereby represents and warrants to the other that such execution and delivery has been duly authorized by all necessary corporate or partnership action and that the person(s) executing same have been duly authorized to do so.

(g) Subject to the restrictions on assignment set forth in this Sublease, this Sublease shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(h) The parties mutually acknowledge that this Sublease has been negotiated at arm's length. The provisions of this Sublease shall be deemed to have been drafted by all of the parties and this Sublease shall not be interpreted or constructed against any party solely by virtue of the fact that such party or its counsel was responsible for its preparation.

IN WITNESS WHEREOF, the parties have executed this Sublease as of the date set forth above.

SUBLANDLORD:

ABGENIX, INC.,
a Delaware corporation

By: _____
Name: _____
Its: _____

SUBTENANT:

PROTEIN DESIGN LABS, INC.,
a Delaware corporation

By: _____
Name: _____
Its: _____

EXHIBIT A

MASTER LEASE AGREEMENT

THIS LEASE, made this 22nd day of January, 2002 between JOHN ARRILLAGA, Trustee, or his Successor Trustee, UTA dated 7/20/77 (JOHN ARRILLAGA SURVIVOR'S TRUST) as amended, and RICHARD T. PEERY, Trustee, or his Successor Trustee, UTA dated 7/20/77 (RICHARD T. PEERY SEPARATE PROPERTY TRUST) as amended, hereinafter called Landlord, and ABGENIX, INC., a Delaware corporation, hereinafter called Tenant.

WITNESSETH:

Landlord hereby leases to Tenant and Tenant hereby hires and takes from Landlord those certain premises (the "Premises") outlined in red on Exhibit "A", attached hereto and incorporated herein by this reference thereto more particularly described as follows:

All of that certain 50,688+ square foot, one-story building located at 34700 Campus Drive, Fremont, California 94555. Said Premises is more particularly shown within the area outlined in Red on *Exhibit A* attached hereto. The Premises shall include the entire parcel, of which the Building is a part, including exclusive parking appurtenant thereto, as shown within the area outlined in Green on *Exhibit A* attached. The Premises is leased on an "as is" basis, in its present condition, and in the configuration as shown in Red on *Exhibit B* to be attached hereto.

The word "Premises" as used throughout this lease is hereby defined to include the nonexclusive use of landscaped areas, sidewalks and driveways in front of or adjacent to the Premises, and the nonexclusive use of the area directly underneath or over such sidewalks and driveways. The gross leasable area of the building shall be measured from outside of exterior walls to outside of exterior walls, and shall include any atriums, covered entrances or egresses and covered building loading areas.

Said letting and hiring is upon and subject to the terms, covenants and conditions hereinafter set forth and Tenant covenants as a material part of the consideration for the Lease to perform and observe each and all of said terms, covenants and conditions. This Lease is made upon the conditions of such performance and observance.

1. USE Tenant shall use the Premises only in conformance with applicable governmental laws, regulations, rules and ordinances for the purpose of general office, light manufacturing, research and development (including biotechnological research and associated animal research) and storage and other uses as may be necessary or appropriate for Tenant to conduct Tenant's business, provided that such uses shall be in accordance with all applicable governmental laws and ordinances, and for no other purpose without Landlord's prior written consent. Tenant shall not do or permit to be done in or about the Premises nor bring or keep or permit to be brought or kept in or about the Premises anything which is prohibited by or will in any way increase the existing rate of (or otherwise affect) fire or any insurance covering the Premises or any part thereof, or any of its contents, or will cause a cancellation of any insurance covering the Premises or any part thereof, or any of its contents. Tenant shall not do or permit to be done anything in, on or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Premises or neighboring premises or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. No sale by auction shall be permitted on the Premises. Tenant shall not place any loads upon

the floors, walls or ceiling which endanger the structure, or place any harmful fluids or other materials in the drainage system of the building, or overload existing electrical or other mechanical systems. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Premises or outside of the building in which the Premises are a part, except in trash containers placed inside exterior enclosures designated by Landlord for that purpose or inside of the building proper where designated by Landlord. No materials, supplies, equipment, finished products or semi-finished products, raw materials or articles of any nature shall be stored upon or permitted to remain outside the Premises. Tenant shall not place anything or allow anything to be placed near the glass of any window, door partition or wall which may appear unsightly from outside the Premises. No loudspeaker or other device, system or apparatus which can be heard outside the Premises shall be used in or at the Premises without the prior written consent of Landlord. Tenant shall not commit or suffer to be committed any waste in or upon the Premises. Tenant shall indemnify, defend and hold Landlord harmless against any loss, expense, damage, reasonable attorneys' fees, or liability arising out of failure of Tenant to comply with any applicable law relating to Tenant's use of the Premises or for which Tenant is otherwise obligated to comply under the terms of this Lease. Tenant shall comply with any covenant, condition, or restriction ("CC&R's") affecting the Premises. The provisions of this paragraph are for the benefit of Landlord only and shall not be construed to be for the benefit of any tenant or occupant of the Premises.

2. TERM*

A. The term of this Lease shall be for a period of TWELVE (12) years TWO (2) months (unless sooner terminated as hereinafter provided) and, subject to Paragraphs 2B and 3, shall commence on the 1st day of May, 2002 and end on the 30th day of June, 2014.

B. Possession of the Premises shall be deemed tendered and the term of the Lease shall commence on May 1, 2002, or

(d) As otherwise agreed in writing.

3. POSSESSION If Landlord, for any reason whatsoever, cannot deliver possession of said premises to Tenant at the commencement of the said term, as hereinbefore specified, this Lease shall not be void or voidable; no obligation of Tenant shall be affected thereby; nor shall Landlord or Landlord's agents be liable to Tenant for any loss or damage resulting therefrom; but in that event the commencement and termination dates of the Lease, and all other dates affected thereby shall be revised to conform to the date of Landlord's delivery of possession, as specified in Paragraph 2B, above. The above is, however, subject to the provision that the period of delay of delivery of the Premises shall not exceed 60 days from the commencement date hereof (except those delays caused by Acts of God, strikes, war, utilities, governmental bodies, weather, unavailable materials, and delays beyond Landlord's control shall be excluded in calculating such period) in which instance Tenant, at its option, may, by written notice to Landlord, terminate this Lease.

4. RENT

A. *Basic Rent.* Tenant agrees to pay to Landlord at such place as Landlord may designate without deduction, offset, prior notice, or demand, and Landlord agrees to accept as Basic Rent for the leased Premises the total sum of FOURTEEN MILLION FOUR HUNDRED THOUSAND FOUR HUNDRED SIXTY AND 80/100 Dollars ($14,400,460.80) in lawful money of the United States of America, payable as follows:

See Paragraph 39 for Basic Rent Schedule

* It is agreed in the event said Lease commences on a date other than the first day of the month the term of the Lease will be extended to account for the number of days in the partial month. The Basic Rent during the resulting partial month will be pro-rated (for the number of days in the partial month) at the Basic Rent rate scheduled for the projected commencement date as shown in Paragraph 39.

B. *Time for Payment.* Full monthly rent is due in advance on the first day of each calendar month. In the event that the term of this Lease commences on a date other than the first day of a calendar month, on the date of commencement of the term hereof Tenant shall pay to Landlord as rent for the period from such date of commencement to the first day of the next succeeding calendar month that proportion of the monthly rent hereunder which the number of days between such date of commencement and the first day of the next succeeding calendar month bears to thirty (30). In the event that the term of this Lease for any reason ends on a date other than the last day of a calendar month, on the first day of the last calendar month of the term hereof Tenant shall pay to Landlord as rent for the period from said first day of said last calendar month to and including the last day of the term hereof that proportion of the monthly rent hereunder which the number of days between said first day of said last calendar month and the last day of the term hereof bears to thirty (30).

C. *Late Charge.* Notwithstanding any other provision of this Lease, if Tenant is in default in the payment of rental as set forth in this Paragraph 4 when due, or any part thereof, Tenant agrees to pay Landlord, in addition to the delinquent rental due, a late charge for each rental payment in default ten (10) days. Said late charge shall equal ten percent (10%) of each rental payment so in default.

D. *Additional Rent.* Beginning with the commencement date of the term of this Lease, Tenant shall pay to Landlord or to Landlord's designated agent in addition to the Basic Rent and as Additional Rent the following:

(a) All Taxes relating to the Premises as set forth in Paragraph 9, and

(b) All insurance premiums and deductibles relating to the Premises, as set forth in Paragraph 12, and

(c) All charges, costs and expenses, which Tenant is required to pay hereunder, together with all interest and penalties, costs and expenses including reasonable attorneys' fees and legal expenses, that may accrue thereto in the event of Tenant's failure to pay such amounts, and all damages, reasonable costs and expenses which Landlord may incur by reason of default of Tenant or failure on Tenant's part to comply with the terms of this Lease. In the event of nonpayment by Tenant of Additional Rent, Landlord shall have all the rights and remedies with respect thereto as Landlord has for nonpayment of rent, and

(d) all prorated costs and expenses related to the Ardenwood Property Owners' Association as set forth in Paragraph 44.

The Additional Rent due hereunder shall be paid to Landlord or Landlord's agent (i) within five business days for taxes and insurance and within thirty days for all other Additional Rent items after presentation of invoice from Landlord or Landlord's agent setting forth such Additional Rent and/or (ii) at the option of Landlord, Tenant shall pay to Landlord monthly, in advance, Tenant's prorata share of an amount estimated by Landlord to be Landlord's approximate average monthly expenditure for such Additional Rent items, which estimated amount shall be reconciled within 120 days of the end of each calendar year or more frequently if Landlord elects to do so at Landlord's sole and absolute discretion as compared to Landlord's actual expenditure for said Additional Rent items, with Tenant paying to Landlord, upon demand, any amount of actual expenses expended by Landlord in excess of said estimated amount, or Landlord crediting to Tenant (providing Tenant is not in default in the performance of any of the terms, covenants and conditions of this Lease) any amount of estimated payments made by Tenant in excess of Landlord's actual expenditures for said Additional Rent items. Within thirty (30) days after receipt of Landlord's reconciliation, Tenant shall have the right, at Tenant's sole expense, to audit, at a mutually convenient time at Landlord's office, Landlord's records relating to the foregoing expenses. Such audit must be conducted by Tenant or an independent nationally recognized accounting firm that is not being compensated by Tenant or other third party on a

contingency fee basis. If such audit reveals that Landlord has overcharged Tenant, the amount overcharged shall be credited to Tenant's account within thirty (30) days after the audit is concluded.

E. *Fixed Management Fee.* Beginning with the Commencement Date of the Term of this Lease, Tenant shall pay to Landlord or Landlord's Assignee, in addition to the Basic Rent and Additional Rent, a fixed monthly management fee ("Management Fee") equal to one and one-half percent (1.5%) of the Basic Rent due for each month during the Lease Term.

The respective obligations of Landlord and Tenant under this paragraph shall survive the expiration or other termination of the term of this Lease, and if the term hereof shall expire or shall otherwise terminate on a day other than the last day of a calendar year, the actual Additional Rent incurred for the calendar year in which the term hereof expires or otherwise terminates shall be determined and settled on the basis of the statement of actual Additional Rent for such calendar year and shall be prorated in the proportion which the number of days in such calendar year preceding such expiration or termination bears to 365.

F. *Place of Payment of Rent and Additional Rent.* All Basic Rent hereunder and all payments hereunder for Additional Rent shall be paid to Landlord at the office of Landlord at PEERY/ARRILLAGA, FILE 1504, BOX 60000, SAN FRANCISCO, CA 94160 or to such other person or to such other place as Landlord may from time to time designate in writing.

G. *Security Deposit.* Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of ONE HUNDRED TWENTY-EIGHT THOUSAND SEVEN HUNDRED FIFTY-ONE AND NO/100 Dollars ($128,571.00). Said sum shall be held by Landlord as a Security Deposit for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including, but not limited to, the provisions relating to the payment of rent and any of the monetary sums due herewith, Landlord may (but shall not be required to) use, apply or retain all or any part of this Security Deposit for the payment of any other amount which Landlord may spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in the amount sufficient to restore the Security Deposit to its original amount. Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep this Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such Deposit. If Tenant fully and faithfully performs every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant (or at Landlord's option, to the last assignee of Tenant's interest hereunder) at the expiration of the Lease term and after Tenant has vacated the Premises. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer said Deposit to Landlord's successor in interest whereupon Tenant agrees to release Landlord from liability for the return of such Deposit or the accounting therefor.

5. ACCEPTANCE AND SURRENDER OF PREMISES Be entry hereunder Tenant accepts the Premises as being in good and sanitary order, condition and repair and accepts the building and improvements included in the Premises in their present condition and without representation or warranty by Landlord as to the condition of such building or as to the use of occupancy which may be made thereof. Any exceptions to the foregoing must be by written agreement executed by Landlord and Tenant. Tenant agrees on the last day of the Lease term or on the sooner termination of this Lease. To surrender the Premises promptly and ocaceably to Landlord in good condition and repair (damage by Acts of God, fire and other causes for which Tenant does not have the obligation to repair under the other provisions of this Lease, and normal wear and tear excepted), with all interior walls painted, or cleaned so that they appear freshly painted, and repainted, and repaired or replaced, if damaged; all floors cleaned and waved; all carpets cleaned and shampooed; all broken, marred or nonconforming acoustical ceiling files replaced; all windows washed; the air conditioning and heating systems serviced

by a reputable and licensed service firm and in good operating condition and repair; the plumbing and electrical systems and lighting in good order and repair, including replacement of any burned out or ballast; the lawn and shrubs in good condition including the replacement of any dead or damaged plantings; the sidewalk, driveways and parking areas in good order, condition and repair; together with all alterations, additions, and improvements which may have been made in, to, or on the Premises (except moveable trade fixtures installed at the expense of Tenant) except that Tenant shall ascertain from Landlord within

thirty (30) days before the end the term of this Lease whether Landlord desires to have the Premises or any part or parts thereof restored to their condition and configuration as when the Premises were delivered to Tenant and if Landlord shall so desire, then Tenant shall restore said Premises or such part or parts thereof before the end of this Lease at Tenant's sole cost and expense. Notwithstanding the above, Tenant shall not be required to remove such interior improvements shown on Exhibit B to this Lease. Tenant on or before the end of the term or sooner termination of this Lease, shall remove all of Tenant's personal property and trace fixtures from the Premises, and all property not so removed on or before on or before the end of the term or sooner termination of this Lease shall be deemed abandoned by Tenant and to same shall thereupon pass to Landlord without compensation to Tenant. Landlord may, upon termination of this Lease, remove all moveable furniture and equipment so abandoned by Tenant, at Tenant's sole cost, and repair any damage caused by such removal at Tenant's sole cost. If the Premises be not surrendered at the end of the term or sooner termination of this Lease. Tenant shall indemnify Landlord against loss or liability resulting from the delay by Tenant in so surrendering the Premises including, without limitation, any claims made by any successful Tenant founded on such delay. Nothing contained herein shall be construed as an extension of the term hereof or as a consent of Landlord to any holding given by Tenant. The voluntary or other surrender of this Lease or the Premises by Tenant or a mutual cancellation of this Lease shall not work as a merger and. all the option of Landlord, shall either terminate all or any existing subleases or subleases or operate as an assignment to Landlord of all or any such subleases or subtenancies.

6. ALTERATIONS AND ADDITIONS Tenant shall not make, or suffer to be made, any alteration or addition to the Premises, or any part thereof, without the written consent of Landlord first had and obtained by Tenant (such consent not to be unreasonably withheld), but at the cost of the Tenant, and any addition to or allocation of the Premises, except moveable furniture and trade fixtures, shall at once become a part of the Premises and upon Termination of this Lease belong to Landlord. Landlord reserves the right to approve all contracts and mechanics proposed by Tenant to make such alterations and additions which approval shall not be unreasonably withheld. Tenant shall retain little to all moveable furniture and trade fixtures placed in the Premises. All heating, lighting, electrical, air conditioning, floor to ceiling partitioning, drapery, carpeting, and floor installations made by Tenant, together with a property that has become an integral part of the Premises, shall not be deemed trade failure. Tenant agrees that it will not proceed to make such alteration or additions, without having obtained consent from Landlord to do so, and until five (5) days from the receipt of such consent. In order that Landlord may post appropriate notices to avoid any liability to contracts or materials suppliers for payment for Tenant's improvements. Tenant will at all times permit such notices to be posted and to remain posted until the completion of work, Tenant shall, if required by Landlord, secure at Tenant's own cost and expense, a completion and man indemnity band, satisfactory to Landlord, for such work. Tenant further covenants and agrees that any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to Tenant, will be discharged by Tenant, by band or otherwise, within ten (10) days after notice of the filing thereof, at the cost and expense of Tenant. Any excepting to the foregoing must be made in writing and executed by both Landlord and Tenant.

7. TENANT MAINTENANCE Subject to the provisions of Paragraph 21, Tenant shall, at its sole cost and expense, keep and maintain the Premises (including appurtenances) and every part thereof in a-high standard of maintenance and repair, or replacement,an in good and sanitary condition. Tenant's maintenance and repair responsibilities herein referred to include, but are not limited to, amortization,

all windows (interior and exterior), window frames, plate glass and glazing (destroyed by accident or act of third parties), truck doors, plumbing systems (such as water and drain lines, sinks, toilets, faucets, drains, showers and water fountains), electrical systems (such as panels, conduits, outlets, lighting fixtures, lamps, bulbs, tubes, and ballasts), heating and air conditioning systems (such as compressors, fans, air handlers, ducts, mixing boxes, thermostats, time clocks, boilers, heaters, supply and return grills), structural elements and exterior surfaces of the building, store fronts, roofs, downspouts, all interior improvements within the premises including but not limited to wall coverings, window coverings, carpet, floor coverings, partitioning, ceilings, doors (both interior and exterior), including closing mechanisms, latches, locks, skylights (if any), automatic fire extinguishing systems, and elevators and all other interior improvements of any nature whatsoever, and all exterior improvements including but not limited to landscaping, sidewalks, driveways, parking lots including striping and seating, sprinkler systems, lighting, ponds, fountains, waterways, and drains. Tenant agrees to provide carpet shields under all rolling chairs or to otherwise be responsible for wear and tear of the carpet caused by such rolling chairs if such wear and tear excess that caused by normal tool traffic in surrounding areas. Areas of excessive wear shall be replaced all Tenant's sole expense upon Lease termination. Tenant hereby waives all rights under, and benefits of, Subsection 1 of Section 1932 and Section 1341 and 1942 of the California Civil Code and under any similarities law, statute or ordinance now or hereafter in effect. In the event any of the above maintenance responsibilities apply to any other tenant(s) of Landlord where there is common usage with other tenant(s), such maintenance responsibilities and charges shall be allocated to the leased Premises by square footage or other equitable and determined by Landlord.

8. UTILITIES Tenant shall pay promptly, as the same become due, all charged for water, gas, electricity, telephone, telex and other electronic communication service, sewer service, waste pick-up and any other Utilities, materials or services furnished directly to or used by Tenant or about the Premises during the term of this Lease, including, without limitation, any temporary or permanent utility surcharge or other exactinos whether or not hereinafter imposed. In the event the above charges apply in any other tenant(s) of Landlord where there is common usage with other tenant(s), such charges shall be allocated to the leased Premises by square footage or other equitable basis as calculated and determined by Landlord.

Landlord shall not be liable for and Tenant shall not be entitled to any abatement or reduction of rent by reason of any interruption or failure of utility services in the Premises when such interruption or failure is caused by accident, breakage, repair, strikes, lockouts, or other labor disturbances or labor disputes of any nature, or by any other cause, similar or dissimilar, beyond the reasonable control of Landlord.

9. TAXES

A. As Additions Rent and in accordance with Paragraph 4D of this Lease, Tenant shall pay to Landlord, or if Landlord so directs, directly to the Tax Collector, all Real Property Taxes relating to the Premises accruing with respect to the Premises during the Term of this Lease. In the event the Premises leased hereunder consists of only a portion of the entire tax parcel, Tenant shall pay to Landlord as they become due Tenant's proportionate share of such real estate taxes allocated to the leased Premises by square footage or other reasonable basis as calculated and determined by Landlord, if the tax billing partains 100% to the leased Premises, and Landlord chooses to have Tenant pay said real estate taxes directly to the Tax Collector, then in such event it shall be the responsibility of Tenant to obtain the tax and assessment bills and pay, prior to delinquency, the applicable real property taxes and assessments pertaining to the leased Premises, and failure to receive a bill for taxes and/or assessments shall not provide a basis for cancellation of or nonresponsibility for payment of penalties for nonpayment or late payment by Tenant. The term "Real Property Taxes", as used herein, shall mean (i) all taxes, assessments, levies and other charges of any kind or nature whatsoever, general and special, foreseen and unforeseen (including all installations of principal and interest required to pay any general special assessments for public improvements and any increases resulting from reassessments

caused by any change in ownership of the Premises) now or hereafter imposed by any governmental or quasi-governmental authority or special district having the direct or indirect power to tax or levy assessments, which are levied or assessed against, or with respect to the value, occupancy or use of, all or any portion of the Premises (as now constructed or as may at any time hereafter be constructed, altered, or otherwise changed) or Landlord's interest therein; any improvements located within the Premises (regardless of ownership); the failures, equipment and other property of Landlord, neat or personal, that are an integral part if located in the Premises; or parking areas, public utilities, or energy within the Premises; (ii) all charges, levies or fees imposed by reason of environmental regulation or other governmental control of the Premises, excluding any taxes related to on-site Hazardous Materials contamination which Tenant did not cause or contribute to; and (iii) all costs and fees (including reasonable attorneys' fees) incurred by Landlord in reasonably contesting any Real Property Tax and in negotiating with public authorities as to any Real Property Tax, if at any time during the term of this Lease the taxation or assessment of the Premises prevailing as of the commencement date of this Lease shall be altered so that in lieu of or in addition to any Real Property Tax described above there shall be levied, assessed or imposed (whether by reason or change in the method of taxation or assessment, creation of a new tax exchange, or any other cause) an alternate or additional tax or charge (i) on the value, use or occupancy of the Premises of Landlord's interest therein or (ii) on or measured by the gross receipts, income or rentals from the Premises, on Landlord's business of leasing the Premises, or computed in any manner with respect to the Premises, then any such tax or charge, however designatee shall be included within the meaning of the term "Real Property Taxes" for purposes of this Lease, if any Real Property Tax is based upon property or rents unrelated to the Premises, then only that part of such Real Property Tax that is fairly allocable to the Premises shall be included within the meaning of the term "Real Property Taxes". Notwithstanding the foregoing, the term "Real Property Taxes" shall not include estate, inheritance, gift or franchise fares of Landlord or the federal or state net income tax imposed on Landlord's income from all sources or other personal taxes measured by the net income (as distinguished from gross income) of Landlord from the leasing of the Premises either separately or together with other property. SEE PARAGRAPH 46

B. *Taxes on Tenant's Property* Tenant shall be liable for and shall pay ten days before delinquency, taxes levied against any personal property or trade fixtures placed by Tenant in or about the Premises. If any such taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property or if the assessed value of the Premises is increased by the inclusion therein of a value placed upon personal property or trade fixtures Tenant and if Landlord, after written notice to Tenant, pays the taxes based on such increased assessment, which Landlord shall have the right to do regardless of the validity thereof, but only under proper protest if requested by Tenant, Tenant shall within ten (10) days after demand, as the case may be, repay to Landlord the taxes so levied against Landlord, or the proportion of such taxes resulting from such increase in the assessment; provided that in any such event Tenant shall have the right. In the name of Landlord and with Landlord's full cooperation, to bring suit in any court of competent jurisdiction to recover the amount of such taxes so paid under protest, and any amount so recovered shall belong to Tenant.

10. LIABILITY INSURANCE Tenant, at Tenant's expense, agrees to keep in force during the term of this Lease's policy of commercial general liability insurance with combined single limit coverage of not less than Two Million Dollars ($2,000,000), per occurrence for bodily injury and property damage occurring in, on or about the Premises, including parking and landscaped areas. Such insurance shall be primary and noncontributary as respects any insurance carried by Landlord. The policy or policies effecting such insurance shall name Landlord as additional insureds, and shall insure any liability of Landlord, contingent or otherwise; as respects acts or omission of Tenant. Its agents, employees or invitees or otherwise by any conduct or transactions of any of said persons in or about or concerning the Premises including any failure of Tenant to observe or perform any of its obligations hereunder; shall be issued by an insurance company admitted to transact business in the State of California; and shall provide that the insurance effected thereby shall not be canceled, except upon thirty (30) days

prior written notice to Landlord. A certificate of insurance said policy shall be delivered to Landlord. If, during the term of this Lease, in the considered opinion of Landlord's Lender, Insurance advisor, or counsel, the amount of Insurance described in this Paragraph 10 is not adequate, Tenant agrees to increase said coverage to such reasonable amount as Landlord's Lender, insurance advisor, or counsel shall deem adequate.

11. TENANT'S PERSONAL PROPERTY INSURANCE AND WORKMAN'S COMPENSATION INSURANCE Tenant shall maintain a policy or policies of fire and property damage insurance in "all risk" form with a sprinkler leakage endorsement ensuring the personal property, inventory, trade fixtures, and leasehold improvements within the leased Premises for the full replacement value thereof. The proceeds from any of such policies shall be used for the repair or replacement of such items so insured.

Tenant shall also maintain a policy or policies of workman's compensation insurance and any other employee benefit insurance sufficient to comply with all laws.

12. PROPERTY INSURANCE Landlord shall purchase and keep in force, and as Additional Rent and in accordance with Paragraph 4D of this Lease. Tenant shall pay to Landlord (or Landlord's agent of so directed by Landlord) Tenant's proportional share (allocated to the leased Premises by square footage or other equitable basis as calculated and determined by Landlord) of the deductibles on insurance claims and the cost of, policy of policies of insurance covering loss or damage to the Premises (excluding routine maintenance and repairs and incidental damage or destruction caused by accidents or vandalism for which Tenant is responsible under Paragraph 7) in the amount of the full replacement value thereof, providing protection against those parts included within the classification of "all risks" insurance and flood and/or earthquake insurance. If available, plus a policy of rental income insurance in the amount of one hundred (100%) percent of twelve (12) months Basic Rent, plus sums paid as Additional Rent, if such insurance cost is increased due to Tenant's use of the Premises, Tenant agrees to pay to Landlord the full cost of such increase. Tenant shall have no interest in nor any right to the proceeds of any insurance procured by Landlord for the Premises.

Landlord and Tenant do each hereby respectively release the other, to the extent of insurance coverage of the releasing party, from any liability for less or damage caused by fire or any of the extended coverage casualties included in the releasing party's insurance policies. Irrespective of the cause of such fire or casualty; provided, however, that if the insurance policy of either releasing party prohibits such waiver, then this waiver shall not take effect until consent to such waiver is obtained. If such waiver is so prohibiting, the insured party affected shall promptly notify the other party thereof.

13. INDEMNIFICATION Landlord shall not be liable to Tenant and Tenant hereby waives all claims against Landlord for any injury to or death any person or damage to or destruction of property in or about the Premises by or from any cause whatsoever, including, without limitation, gas, fire, oil, electricity or leakage of any character from the roof, walls, basement or other portions of the Premises but excluding, however, the willful misconduct or negligence of Landlord, its agents, servants, employees, invitees, or contractors of which negligence Landlord has knowledge and reasonable time to correct. Except as to injury to persons or damage to property to the extent arising from the willful misconduct or the negligence of Landlord, its agents, servants, employees, invitees, or contractors, Tenant shall hold Landlord harmless from and defend Landlord against any and all expenses, including reasonable

attorney's fees. In connection therewith, arising out of any injury to or death of any person or damage to or destruction or property occurring in, on or about the Premises, of any part thereof, from any causes whatsoever.

14. COMPLIANCE Tenant, at its sole cost and expense, shall promptly comply with all laws, statutes, ordinances and governmental rules, regulations of its agents, servants, employees, invitees, or contractors requirements now or hereafter in effect; with the requirements of any board of fire underwriters or other similar body now or hereafter constituted; and with any direction or occupancy certificate issued pursuant to law by any public officer, provided, however, that no such failure shall be

deemed a breach of the provisions. If Tenant, immediately upon notification, commences to remedy or rectify said failure. The judgement of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such law, statute, ordinance or governmental rule, regulation, requirement, direction or provision, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall, at its sole cost and expense, comply with any and all requirements pertaining to said Premises, of any insurance organization or company, necessary for the maintenance of reasonable fire and public liability insurance covering requirements pertaining to said Premises.

15. LIENS Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligation incurred by Tenant, in the event that Tenant shall not, within ten (10) days following notice of the imposition of such lien, cause the same to be released of record. Landlord shall have, in addition to all other remedies provided herein and by law, the right (after two days written notice), but no obligation, to cause the same to be released by such means as if shall deem proper, including payment of the claim giving rise to such lien. All sums paid by Landlord for such purpose, and all expense incurred by it in connection therewith, shall be payable to Landlord by Tenant on demand with interest at the prime rate of interest as quoted by the Bank of America.

16. ASSIGNMENT AND SUBLETTING Tenant shall assign, transfer, or hypothecate the leasehold estate under this Lease, of any interest therein, and shall not sublet the Premises, or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person or entity to occupy or use the Premises, or any portion thereof, without, in increase, the prior written consent of Landlord which consent will not be unreasonably withheld. As a condition for granting this consent to any assignment, transfer, or subletting. Landlord may require that Tenant agrees to pay to Landlord, as Additional Rent, twenty-five percent (25%) of all rents or additional consideration received by Tenant from its assignees, transferees, or subleasees in excess of the Rent payable by Tenant to Landlord hereunder ("Excess Rent"); provided, however, that before sharing such Excess Rent, Tenant shall first be entitled to recover from such Excess Rent (i) the amount of any reasonable leasing commissions paid by Tenant to third parties not affiliated with Tenant and (ii) Tenant's unamortized costs, excluding costs of interest (if any), to construct interior improvements in the area being sublet for said subtenant(s). Tenant shall, by thirty (30) days written notice, advice Landlord of its intent to assign or transfer Tenant's interest in the Lease or sublet the Premises or any portion thereof for any part of the term hereof. Within thirty (30) days after receipt of said written notice, Landlord may, in its sole discretion elect to terminate this Lease as to the portion of the Premises described in Tenant's notice on the date specified in Tenant's notice by giving written notice of such election to terminate (provided Tenant intends to sublet 50% or more of the Premises) If no such notice to terminate is given to Tenant within said thirty (30) day period. Tenant may proceed to locate an acceptable sublease, assignor, or other transfer for presentment to Landlord for Landlord's approval, all in accordance with the lease, covenant and condition of this paragraph 16. If Tenant intends to sublet Premises and Landlord elects to terminate this Lease, this Lease shall be terminated on the date specified in Tenant's notice. If, however, this Lease shall terminate pursuant to the foregoing with respect to less than all the Premises, the rent as defined and reserved hereinabove shall be adjusted on a pro rata basis to the number of square feet retained by Tenant, and this Lease as so amended shall continue in full force and effect. In the event Tenant is allowed to assign, transfer or sublet the whole or any part of the Premise, with the prior written consent of Landlord, no assignee, transferee or subtenant shall assign or transfer this Lease, either in whole or in part, or sublet the whole or any part of the Premises without having obtained prior written consent of Landlord which consent shall not be unreasonably withheld. A consent of Landlord to one assignment, transfer, hypothecation, subletting, occupation or use without such consent shall be void and shall constitute a breach of this Lease by Tenant and shall, if the option of Landlord exercised by written notice to Tenant, terminate this Lease. The leasehold estate under this Lease shall not shall any interest therein, be assignable for any purpose by operation of law without the written consent of Landlord which consent shall not be unreasonably withheld. As a condition to its consent,

Landlord may require Tenant to pay all expenses in connection with the assignment, and Landlord may require Tenant's assignee or transferee (or other assignees or transferees) to assume in writing all of the obligations under this Lease and for Tenant to remain liable to Landlord under the Lease. SEE PARAGRAPH 42

17. SUBORDINATION AND MORTGAGES In the event Landlord's title or leasehold interest is now or hereafter encumbered by a deed of trust, upon the interest of Landlord in the land and buildings in which the demised Premises are located, to secure a loan from a lender thereinafter referred to as "Lender" to Landlord, Tenant shall, at the request of Landlord or Lender, execute in writing an agreement (in form reasonably acceptable to Tenant) subordinating its rights under this Lease to the lien of such deed of trust, or, if so requested, agreeing that the lien of Lender's deed of trust shall be or remain subject and subordinate to the rights of Tenant under this Lease. Notwithstanding any such subordination, Tenant's possession under this Lease shall not be disputed if Tenant is not in default and so long as Tenant shall pay all rent and observe and perform all of the provisions set forth in this Lease and any Subordination agreement shall reflect the agreement of the Lender to the same. SEE PARAGRAPH 47

18. ENTRY BY LANDLORD Landlord reserves, and shall at all reasonable times after at least 24 hours notice (except in emergencies) have, the right to enter the Premises to inspect them; to perform any services to be provided by Landlord hereunder; to make repairs or provide any services to a contiguous tenant(s); to submit the Premises to prospective purchasers, mortgagors or tenants; to post notices of nonresponsibility; and to alter, improve or repair the Premises or other parts of the building, all without abatement of rent, and may erect scaffolding and other necessary structures in or through the Premises where reasonably required by the character of the work to be performed provided, however that the business of Tenant shall be interfered with to the least extent that is reasonably practical. Any entry to the Premises by Landlord for the purposes provided for herein shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the premises or any portion thereof.

19. BANKRUPTCY AND DEFAULT The commencement of a bankruptcy action or liquidation action or reorganization action or insolvency action or an assignment of or by Tenant for the benefit of creditors, or any similar action undertaken by Tenant, or the insolvency of Tenant, shall, at Landlord's option, constitute a breach of this Lease by Tenant. If the trustee or receiver appointed to serve during a bankruptcy, liquidation, reorganization, insolvency or similar

action elects to reject Tenant's unexpired Lease, the trustee or receiver shall notify Landlord in writing of its election within thirty (30) days after an order for relief in a liquidation action or within thirty (30) days after the commencement of any action.

Within thirty (30) days after court approval of the assumption of this Lease, the trustee or receiver shall cure (or provide adequate assurance to the reasonable satisfaction of Landlord that the trustee or receiver shall cure) any and all previous defaults under the unexpired Lease and shall compensate Landlord for all actual pecuniary loss and shall provide adequate assurance of future performance under said Lease to the reasonable satisfaction of Landlord. Adequate assurance of future performance, as used herein, includes, but shall not be limited to: (i) assurance of source and payment of rent, and other consideration due under this Lease; (ii) assurance that the assumption or assignment of this Lease will not breach substantially any provision, such as radius, location, use, or exclusivity provision, in any agreement relating to the above described Premises.

Nothing contained in this section shall affect the existing right of Landlord to refuse to accept an assignment upon commencement of or in connection with a bankruptcy, liquidation, reorganization or insolvency action or an assignment of Tenant for the benefit of creditors or other similar act. Nothing contained in this Lease shall be construed as giving or granting or creating an equity in the demised Premises to Tenant. In no event shall the leasehold estate under this Lease, or any interest therein, be assigned by voluntary or involuntary bankruptcy proceeding without the prior written consent of Landlord. In no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency or reorganization proceedings.

The failure to perform or honor any covenant, condition or representation made under this Lease shall constitute a default hereunder by Tenant upon expiration of the appropriate grace period hereinafter provided. Tenant shall have a period of five (5) business days from the date of written notice from Landlord within which to cure any default in the payment of rental or adjustment thereto. Tenant shall have a period of thirty (30) days from the date of written notice from Landlord within which to cure any other default under this Lease; provided, however, that if the nature of Tenant's failure is such that more than thirty days is reasonably required to cure the same, Tenant shall not be in default so long as Tenant commences performance within such thirty day period and thereafter prosecutes the same to completion.

Upon an uncured default of this Lease by Tenant, Landlord shall have the following rights and remedies in addition to any other rights or remedies available to Landlord at law or in equity:

(a) The rights and remedies provided for by California Civil Code Section 1951.2, including but not limited to, recovery of the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of said Section 1951.2. Any proof by Tenant under subparagraphs (2) and (3) of Section 1951.2 of the California Civil Code of the amount of rental loss that could be reasonably avoided shall be made in the following manner: Landlord and Tenant shall each select a licensed real estate broker in the business of renting property of the same type and use as the Premises and in the same geographic vicinity. Such two real estate brokers shall select a third licensed real estate broker, and the three licensed real estate brokers so selected shall determine the amount of the rental loss that could be reasonably avoided from the balance of the term of this Lease after the time of award. The decision of the majority of said licensed real estate brokers shall be final and binding upon the parties hereto.

(b) The rights and remedies provided by California Civil Code Section which allows Landlord to continue the Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover rent as it becomes due, for so long as Landlord does not terminate Tenant's right to possession; acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver upon Landlord's initiative to protect its interest under this Lease shall not constitute a termination of Tenant's right to possession.

(c) The right to terminate this Lease by giving notice to Tenant in accordance with applicable law.

(d) To the extent permitted by law the right and power, to enter the Premises and remove therefrom all persons and property, to store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant, and to sell such property and apply such proceeds therefrom pursuant to applicable California law, Landlord may from time to time sublet the premises or any part thereof for such term or terms (which may extend beyond the term of this Lease) and at such rent and such other terms as Landlord in its reasonable sole discretion may deem advisable, with the right to make alterations and repairs to the Premises. Upon each subletting, (i) Tenant shall be immediately liable to pay Landlord, in addition to indebtedness other than rent due hereunder, the reasonable cost of such subletting, including, but not limited to, reasonable attorneys' fees, and any real estate commissions actually paid, and the cost of such reasonable alterations and repairs incurred by Landlord and the amount, if any, by which the rent hereunder for the period of such subletting (to the extent such period does not exceed the term hereof) exceeds the amount to be paid as rent for the Premises of such period or (ii) at the option of Landlord, rents received from such subletting shall be applied first to payment of indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs of such subletting and of such alterations and repairs; third to payment of rent due and

unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same becomes due hereunder. If Tenant has been credited with any rent to be received by such subletting under option (i) and such rent shall not be promptly paid to Landlord by the subtenant(s), or if such rentals received from such subletting under option (ii) during any month be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant. Notwithstanding any such subletting without termination, Landlord may at any time hereafter elect to terminate this Lease for such previous breach.

(e) The right to have a receiver appointed for Tenant upon application by Landlord, to take possession of the Premises and to apply any rental collected from the premises and to exercise all other rights and remedies granted to Landlord pursuant to subparagraph d above.

20. ABANDONMENT Tenant shall not vacate or abandon the Premises at any time during the term of this Lease (except that Tenant may vacate so long as it pays Rent, provides a security service to check the Premises during normal business hours from Monday to Friday, and otherwise performs its obligations hereunder) and if Tenant shall abandon, vacate or surrender said Premises, or be dispossessed by the process of law, or otherwise, any personal

property belonging to Tenant and left on the Premises shall be deemed to be abandoned, at the option of Landlord, except such property as may be mortgaged to Landlord.

21. DESTRUCTION In the event the Premises are destroyed in whole or in part from any cause, except for routine maintenance and repairs and incidental damage and destruction or caused from vandalism and accidents for which Tenant is responsible under Paragraph 7, Landlord may, at its option:

(a) Rebuild or restore the Premises to their condition prior to the damage or destruction, or

(b) Terminate this Lease, (providing that the Premises is damaged to the extent of $33^{1}/_{3}$% of the replacement cost. If Landlord does not give Tenant notice in writing within thirty (30) days from the destruction of the Premises of its election to either rebuild and restore them or to terminate this Lease, Landlord shall be deemed to have elected to rebuild or restore them, in which event Landlord agrees, at its expense promptly to rebuild or restore the premises to their condition prior to the damage or destruction. Tenant shall be entitled to a reduction in rent while such repair is being made in the proportion that the area of the Premises rendered untenantable by such damage bears to the total area of the Premises. If it is reasonably estimated by Landlord that the rebuilding or restoration will exceed 180 days or if Landlord does not complete the rebuilding or restoration within one hundred eighty (180) days following the date of destruction (such period of time to be extended for delays caused by the fault or neglect of Tenant or because of subsequent acts of God, acts of public agencies, labor disputes, strikes, fires, freight embargos, rainy or stormy weather, inability to obtain materials, supplies or fuels, acts of contractors or subcontractors, or delay of the contractors or subcontractors due to such causes or other contingencies beyond the control of Landlord), then Tenant shall have the right to terminate this Lease by giving fifteen (15) days prior written notice to Landlord. Notwithstanding anything herein to the contrary, Landlord's obligation to rebuild or restore shall be limited to the building and interior improvements constructed by Landlord as they existed as of the commencement date of the Lease and shall not include restoration of Tenant's trade fixtures, equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises, which Tenant shall forthwith replace or fully repair at Tenant's sole cost and expense provided this Lease is not cancelled according to the provisions above.

Unless this Lease is terminated pursuant to the foregoing provisions, this Lease shall remain in full force and effect. Tenant hereby expressly waives the provisions of Section 1932, Subdivision 2, in Section 1933, Subdivision 4 of the California Civil Code.

In the event that the building in which the Premises are situated is damaged or destroyed to the extent of not less than $33^{1}/_{3}$% of the replacement cost thereof, Landlord may elect to terminate this Lease, whether the Premises be injured or not.

22. EMINENT DOMAIN If all or any part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, this Lease shall terminate as to any portion of the Premises so taken or conveyed on the date when title vests in the condemnor, and Landlord shall be entitled to any and all payment, income, rent, award, or any interest therein whatsoever which may be paid or made in connection with such taking or conveyance, and Tenant shall have no claim against Landlord or otherwise for the value of any unexpired term of this Lease. Notwithstanding the foregoing paragraph, any compensation specifically awarded Tenant for loss of business, Tenant's personal property, moving cost or loss of goodwill, shall be and remain the property of Tenant.

If any action or proceeding is commenced for such taking of the Premises or any material part thereof, then Landlord shall have the right to terminate this Lease by giving Tenant written notice thereof within sixty (60) days of the date of receipt of said written advice, or commencement of said action or proceeding, or taking conveyance, which termination shall take place as of the first to occur of the last day of the calendar month next following the month in which such notice is given or the date on which title to the Premises shall vest in the condemnor.

In the event of such a partial taking or conveyance of the Premises, if the portion of the Premises taken or conveyed is so substantial that the Tenant can no longer reasonably conduct its business, Tenant shall have the privilege of terminating this Lease within sixty (60) days from the date of such taking or conveyance, upon written notice to Landlord of its intention to do so, and upon giving of such notice this Lease shall terminate on the last day of the calendar month next following the month in which such notice is given, upon payment by Tenant of the rent from the date of such taking or conveyance to the date of termination.

If a portion of the Premises be taken by condemnation or conveyance in lieu thereof and neither Landlord nor Tenant shall terminate this Lease as provided herein, this Lease shall continue in full force and effect as to the part of the Premises not so taken or conveyed, and the rent herein shall be apportioned as of the date of such taking or conveyance so that thereafter the rent to be paid by Tenant shall be in the ratio that the area of the portion of the Premises not so taken or conveyed bears to the total area of the Premises prior to such taking.

23. SALE OR CONVEYANCE BY LANDLORD In the event of a sale or conveyance of the Premises or any interest therein, by any owner of the reversion then constituting Landlord, the transferor shall thereby be released as to such interest transferred from any further liability upon any of the terms, covenants or conditions (express or implied) herein contained in favor of Tenant, and in such event, insofar as such transfer is concerned, Tenant agrees to look solely to the responsibility of the successor in interest of such transferor in and to the Premises and this Lease. This Lease shall not be affected by any such sale or conveyance, and Tenant agrees to attorn to the successor in interest of such transferor.

24. ATTORNMENT TO LENDER OR THIRD PARTY In the event the interest of Landlord in the land and buildings in which the leased Premises are located (whether such interest of Landlord is a fee title interest or a leasehold interest) is encumbered by deed of trust, and such interest is acquired by the lender or any third party through judicial foreclosure or by exercise of a power of sale at private trustee's foreclosure sale, Tenant hereby agrees to attorn to the purchaser at any such foreclosure sale and to recognize such purchaser as the Landlord under this Lease. In the event the lien of the deed of

trust securing the loan from a Lender to Landlord is prior and paramount to the Lease, this Lease shall nonetheless continue in full force and effect for the remainder of the unexpired term hereof, at the same rental herein reserved and upon all the other terms, conditions and covenants herein contained.

25. HOLDING OVER Any holding over by Tenant after expiration or other termination of the term of this Lease with the written consent of Landlord delivered to Tenant shall not constitute a renewal or extension of the Lease or give Tenant any rights in or to the leased Premises except as expressly provided

in this Lease. Any holding over after the expiration or other termination of the term of this Lease, with the consent of Landlord, shall be construed to be a tenancy from month to month, on the same terms and conditions herein specified insofar as applicable except that the monthly Basic Rent shall be increased to an amount equal to one hundred fifty (150%) percent of the monthly Basic Rent required during the last month of the Lease term.

26. CERTIFICATE OF ESTOPPEL Tenant shall at any time upon not less than ten (10) days prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of the Landlord hereunder, or specifying such defaults, if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises. Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant that this Lease is in full force and effect without modification except as may be represented by Landlord; that there are no uncured defaults in Landlord's performance, and that not more than one month's rent has been paid in advance.

27. CONSTRUCTION CHANGES It is understood that the description of the Premises and the location of ductwork, plumbing and other facilities therein are subject to such minor changes as Landlord or Landlord's architect determines to be desirable in the course of construction of the Premises, and no such changes shall effect this Lease or entitle Tenant to any reduction of rent hereunder or result in any liability of Landlord to Tenant. Landlord does not guarantee the accuracy of any drawings supplied to Tenant and verification of the accuracy of such drawings rests with Tenant.

28. RIGHT OF LANDLORD TO PERFORM All terms, covenants and conditions of this Lease to be performed or observed by Tenant shall be performed or observed by Tenant at Tenant's sole cost and expense and without any reduction of rent. If Tenant shall fail to pay any sum of money, or other rent, required to be paid by it hereunder and such failure shall continue for five (5) days after written notice by Landlord, or shall fail to perform any other term or covenant hereunder on its part to be performed, and such failure shall continue for thirty (30) days after written notice thereof by Landlord, Landlord, without waiving or releasing Tenant from any obligation of Tenant hereunder, may, but shall not be obliged to, make any such payment or perform any such other term or covenant on Tenant's part to be performed. All sums so paid by Landlord and all necessary costs of such performance by Landlord together with interest thereon at the rate of the prime rate of interest per annum as quoted by the Bank of America from the date of such payment or performance by Landlord, shall be paid (and Tenant covenants to make such payment) to Landlord within five (5) business days after demand by Landlord, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of nonpayment by Tenant as in the case of failure by Tenant in the payment of rent hereunder.

29. ATTORNEYS' FEES

A. In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease, or for any other relief against the other party hereunder, then all costs and expenses,

including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

B. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy hereunder, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including a reasonable attorney's fee.

30. WAIVER The waiver by either party of the other party's failure to perform or observe any term, covenant or condition herein contained to be performed or observed by such waiving party shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent failure of the party failing to perform or observe the same or any other such term, covenant or condition therein contained, and no custom or practice which may develop between the parties hereto during the term hereof shall be deemed a waiver of, or in any way affect, the right of either party to insist upon performance and observance by the other party in strict accordance with the terms hereof.

31. NOTICES All notices, demands, requests, advices or designations which may be or are required to be given by either party to the other hereunder shall be in writing. All notices, demands, requests, advices or designations by Landlord to Tenant shall be sufficiently given, made or delivered if personally served on Tenant by United States certified or registered mail, postage prepaid, or by a reputable same day or overnight courier service, addressed to Tenant at the Premises Attn: President. All notices, demands, requests, advices or designations by Tenant to Landlord shall be sent by United States certified or registered mail, postage prepaid, addressed to Landlord at its offices at Peery/Arrillaga, 2560 Mission College Blvd., Suite 101, Santa Clara, CA 95054. Each notice, request, demand, advice or designation referred to in this paragraph shall be deemed received on the date of receipt or refusal to accept receipt of the mailing thereof in the manner herein provided, as the case may be. Either party shall have the right, upon ten (10) days written notice to the other, to change the address noted herein.

32. EXAMINATION OF LEASE Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and this instrument is not effective as a lease or otherwise until its execution and delivery by both Landlord and Tenant.

33. DEFAULT BY LANDLORD Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event earlier than (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have heretofore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligations; provided, however, that if the nature of Landlord's obligations is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

34. CORPORATE AUTHORITY If Tenant is a corporation (or a partnership), each individual executing this Lease on behalf of said corporation (or partnership) represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation (or partnership) in accordance with the by-laws of said corporation (or partnership in accordance with the partnership agreement) and that this Lease is binding upon said corporation (or partnership) in accordance with its terms. If Tenant is a corporation, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of the resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

36. LIMITATION OF LIABILITY In consideration of the benefits accruing hereunder. Tenant and all successors and assigns covenant and agree that, in the event of any actual or alleged failure, breach or default hereunder by Landlord:

(a) the sole and exclusive remedy shall be against Landlord's interest in the Premises leased herein;

(b) no partner of Landlord shall be sued or named as a party in any suit or action (except as may be necessary to secure jurisdiction of the partnership);

(c) no service of process shall be made against any partner of Landlord (except as may be necessary to secure jurisdiction of the partnership);

(d) no partner of Landlord shall be required to answer or otherwise plead to any service of process;

(e) no judgment will be taken against any partner of Landlord;

(f) any judgment taken against any partner of Landlord may be vacated and set aside at any time without hearing;

(g) no writ of execution will ever be levied against the assets of any partner of Landlord;

(h) these covenants and agreements are enforceable both by Landlord and also by any partner of Landlord.

Tenant agrees that each of the foregoing covenants and agreements shall be applicable to any covenant or agreement either expressly contained in this Lease or imposed by statute or at common law.

37. SIGNS No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed or printed or affixed on or to any part of the outside of the Premises or any exterior windows of the Premises without the written consent of Landlord first had and obtained and Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant. If Tenant is allowed to print or affix or in any way place a sign in, on, or about the Premises, upon expiration or other sooner termination of this Lease, Tenant at Tenant's sole cost and expense shall both remove such sign and repair all damage in such a manner as to restore all aspects of the appearance of the Premises to the condition prior to the placement of said sign.

All approved signs or lettering on outside doors shall be printed, painted, affixed or inscribed at the expense of Tenant by a person approved of by Landlord.

Tenant shall not place anything or allow anything to be placed near the glass of any window, door partition or wall which may appear unsightly from outside the Premises.

38. MISCELLANEOUS AND GENERAL PROVISIONS

A. *Use of Building Name.* Tenant shall not, without the written consent of Landlord, use the name of the building for any purpose other than as the address of the business conducted by Tenant in the Premises.

B. *Choice of Law, Severability.* This Lease shall in all respects be governed by and construed in accordance with the laws of the State of California. If any provision of this Lease shall be invalid, unenforceable or ineffective for any reason whatsoever, all other provisions hereof shall be and remain in full force and effect.

C. *Definition of Terms.* The term "Premises" includes the space leased hereby and any improvements now or hereafter installed therein or attached thereto. The term "Landlord" or any pronoun used in place thereof includes the plural as well as the singular and the successors and assigns

of Landlord. The term "Tenant" or any pronoun used in place thereof includes the plural as well as the singular and individuals, firms, associations, partnerships and corporations, and their and each of their respective heirs, executors, administrators, successors and permitted assigns, according to the context hereof, and the provisions of this Lease shall inure to the benefit of and bind such heirs, executors, administrators, successors, and permitted assigns.

The term "person" includes the plural as well as the singular and individuals, firms, associations, partnerships and corporations. Words used in any gender include other genders. If there be more than one Tenant the obligations of Tenant hereunder are joint and several. The paragraph headings of this Lease are for convenience of reference only and shall have no effect upon the construction or interpretation of any provision hereof.

D. *Time of Essence.* Time is of the essence of this Lease and of each and all of its provisions.

E. *Quitclaim.* At the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge and deliver to Landlord, within ten (10) days after written demand from Landlord to Tenant, any quitclaim deed or other document required by any reputable title company, licensed to operate in the State of California, to remove the cloud or encumbrance created by this Lease from the real property of which Tenant's Premises are a part.

F. *Incorporation of Prior Agreements: Amendments.* This instrument along with any exhibits and attachment hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this agreement.

G. *Recording.* Neither Landlord nor Tenant shall record this Lease or a short form memorandum hereof without the consent of the other.

H. *Amendments for Financing.* Tenant further agrees to execute any reasonable amendments required by a lender to enable Landlord to obtain financing, so long as Tenant's rights hereunder are not substantially affected.

I. *Additional Paragraphs.* Paragraphs 39 through 53 are added hereto and are included as a part of this lease.

J. *Clauses, Plats and Riders.* Clauses, plats and riders, if any, signed by Landlord and Tenant and endorsed on or affixed to this Lease are a part hereof.

K. *Diminution of Light, Air or View.* Tenant covenants and agrees that no diminution or shutting off of light, air or view by any structure which may be hereafter erected (whether or not by Landlord) shall in any way affect his Lease, entitle Tenant to any reduction of rent hereunder or result in any liability of Landlord to Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have executed and delivered this Lease as of the day and year last written below.

LANDLORD:	**TENANT:**
JOHN ARRILLAGA SURVIVOR'S TRUST	ABGENIX, INC. a Delaware corporation
By _____ John Arrillaga, Trustee	By _____
Date: _____	Title _____
RICHARD T. PEERY SEPARATE PROPERTY TRUST	Type or Print Name
By _____ Richard T. Peery, Trustee	Date: _____
Date: _____	

Paragraphs 39 through 53 to Lease Agreement Dated January 22, 2002, By and Between the John Arrillaga Survivor's Trust and the Richard T. Peery Separate Property Trust, as Landlord, and Abgenix, Inc., a Delaware corporation, as Tenant for 50,688± Square Feet of Space Located at 34700 Campus Drive, Fremont, California.

39. BASIC RENT: Subject to Paragraphs 2A, 2B and 48 below, and in accordance with Paragraph 4A herein, the total aggregate sum of FOURTEEN MILLION FOUR HUNDRED THOUSAND FOUR HUNDRED SIXTY AND 80/100 DOLLARS ($14,400,460.80), shall be payable as follows:

Upon Tenant's execution of this Lease, the sum of EIGHTY-THREE THOUSAND SIX HUNDRED THIRTY-FIVE AND 20/100 DOLLARS ($83,635.20) shall be due, representing the Basic Rent for the period of May 1, 2002 through May 31, 2002. In the event the Lease does not commence on May 1, 2002, said Basic Rent amount prepaid for the month of May 2002 shall be applied to the amount due as of the Lease Commencement Date and shall be prorated if the Lease does not commence on the first day of a given month, with any excess payment credited to the following month's Basic Rent due.

On June 1, 2002, the sum of EIGHTY-THREE THOUSAND SIX HUNDRED THIRTY-FIVE AND 20/100 DOLLARS ($83,635.20) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2002.

On January 1, 2003, the sum of EIGHTY-SIX THOUSAND ONE HUNDRED SIXTY-NINE AND 60/100 DOLLARS ($86,169.60) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2003.

On January 1, 2004, the sum of EIGHTY-EIGHT THOUSAND SEVEN HUNDRED FOUR AND NO/100 DOLLARS ($88,704.00) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2004.

On January 1, 2005, the sum of NINETY-ONE THOUSAND TWO HUNDRED THIRTY-EIGHT AND 40/100 DOLLARS ($91,238.40) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2005.

On January 1, 2006, the sum of NINETY-THREE THOUSAND SEVEN HUNDRED SEVENTY-TWO AND 80/100 DOLLARS ($93,772.80) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2006.

On January 1, 2007, the sum of NINETY-SIX THOUSAND THREE HUNDRED SEVEN AND 20/100 DOLLARS ($96,307.20) shall be due, and a like sum due on the first day of each month thereafter, through and including December 2007.

On January 1, 2008, the sum of NINETY-EIGHT THOUSAND EIGHT HUNDRED FORTY-ONE AND 60/100 DOLLARS ($98,841.60) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2008.

On January 1, 2009, the sum of ONE HUNDRED ONE THOUSAND THREE HUNDRED SEVENTY-SIX AND NO/100 DOLLARS ($101,376.00) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2009.

On January 1, 2010, the sum of ONE HUNDRED THREE THOUSAND NINE HUNDRED TEN AND 40/100 DOLLARS ($103,910.40) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2010.

On January 1, 2011, the sum of ONE HUNDRED SIX THOUSAND FOUR HUNDRED FORTY FOUR AND 80/100 DOLLARS ($106,444.80) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2011.

On January 1, 2012, the sum of ONE HUNDRED EIGHT THOUSAND NINE HUNDRED SEVENTY-NINE AND 20/100 DOLLARS ($108,979.20) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2012.

On January 1, 2013, the sum of ONE HUNDRED ELEVEN THOUSAND FIVE HUNDRED THIRTEEN AND 60/100 DOLLARS ($111,513.60) shall be due, and a like sum due on the first day of each month thereafter, through and including December 1, 2013.

On January 1, 2014, the sum of ONE HUNDRED FOURTEEN THOUSAND FORTY-EIGHT AND NO/100 DOLLARS ($114,048.00) shall be due, and a like sum due on the first day of each month thereafter, through and including June 1, 2014; or until the entire aggregate sum of FOURTEEN MILLION FOUR HUNDRED THOUSAND FOUR HUNDRED SIXTY AND 80/100 Dollars ($14,400,460.80) has been paid, subject to an adjustment as may be required by any provisions providing for abatement of Rent or adjustment of the Term of this Lease.

40. CONSENT: Whenever the consent or approval of one party to the other is required by the terms of this Lease, such consent or approval shall not be unreasonably withheld.

41. ASSESSMENT CREDITS: The demised property herein may be subject to a special assessment levied by the City of Fremont as part of an Improvement District. As a part of said special assessment proceedings (if any), additional bonds were or may be sold and assessments were or may be levied to provide for construction contingencies and reserve funds. Interest shall be earned on such funds created for contingencies and on reserve funds which will be credited for the benefit of said assessment district. To the extent surpluses are created in said district through unused contingency funds, interest earnings or reserve funds, such surpluses shall be deemed the property of Landlord. Notwithstanding that such surpluses may be credited on assessments otherwise due against the Leased Premises, Tenant shall pay to Landlord, as additional rent if, and at the time of any such credit of surpluses, an amount equal to all such surpluses so credited. For example: if (i) the property is subject to an annual assessment of $1,000.00, and (ii) a surplus of $200.00 is credited towards the current year's assessment which reduces the assessment amount shown on the property tax bill from $1,000.00 to $800.00, Tenant shall, upon receipt of notice from Landlord, pay to Landlord said $200.00 credit as Additional Rent.

42. ASSIGNMENT AND SUBLETTING (CONTINUED):

A. In addition to and notwithstanding anything to the contrary in Paragraph 16 of this Lease, Landlord hereby agrees to consent to Tenant's assigning or subletting said Lease to: (i) any parent or subsidiary corporation, affiliate, or corporation with which Tenant merges or consolidates, and provided that, with respect to any such assignment, said parent or subsidiary corporation, affiliate, or said corporation has a net worth equal to or greater than the net worth of Tenant at the time of such assignment, merger, or consolidation; or (ii) any third party or entity to whom Tenant sells all or substantially all of its assets; provided, that the net worth of the resulting or acquiring corporation has a net worth after the merger, consolidation or acquisition equal to or greater than the net worth of Tenant at the time of such merger, consolidation or acquisition. No such assignment or subletting will release the Tenant from its liability and responsibility under this Lease to the extent Tenant continues in existence following such transaction. Notwithstanding the above, Tenant shall be required to (a) give Landlord written notice prior to such assignment or subletting to any party as described in (i) and (ii) above, and (b) execute Landlord's consent document prepared by Landlord reflecting the assignment or subletting.

B. Any and all sublease agreement(s) between Tenant and any and all subtenant(s) (which agreements must be consented to by Landlord, pursuant to the requirements of this Lease) shall contain the following language:

"If Landlord and Tenant jointly and voluntarily elect, for any reason whatsoever, to terminate the Master Lease prior to the scheduled Master Lease termination date, then this Sublease (if

then still in effect) shall terminate concurrently with the termination of the Master Lease. Subtenant expressly acknowledges and agrees that (1) the voluntary termination of the Master Lease by Landlord and Tenant and the resulting termination of this Sublease shall not give Subtenant any right or power to make any legal or equitable claim against Landlord, including without limitation any claim for interference with contract or interference with prospective economic advantage, and (2) Subtenant hereby waives any and all rights it may have under law or at equity against Landlord to challenge such an early termination of the Sublease, and unconditionally releases and relieves Landlord, and its officers, directors, employees and agents, from any and all claims, demands, and/or causes of action whatsoever (collectively, "Claims"), whether such matters are known or unknown, latent or apparent, suspected or unsuspected, foreseeable or unforeseeable, which Subtenant may have arising out of or in connection with any such early termination of this Sublease. Subtenant knowingly and intentionally waives any and all protection which is or may be given by Section 1542 of the California Civil Code which provides as follows: "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 debtor.

The term of this Sublease is therefore subject to early termination. Subtenant's initials here below evidence (a) Subtenant's consideration of and agreement to this early termination provision, (b) Subtenant's acknowledgment that in determining the net benefits to be derived by Subtenant under the terms of this Sublease, Subtenant has anticipated the potential for early termination, and (c) Subtenant's agreement to the general waiver and release of Claims above.

Initials: _____ Initials: _____

Subtenant Tenant"

43. HAZARDOUS MATERIALS: Landlord and Tenant agree as follows with respect to the existence or use of "Hazardous Materials" (as defined herein) on, in, under or about the Premises and real property located beneath said Premises (hereinafter collectively referred to as the "Property"):

As used herein, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is or becomes subject to or regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Materials" includes, without limitation any material or hazardous substance which is (i) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 30, (ii) listed or defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, Section 42 U.S.C. Section 6901 et. seq., (iii) listed or defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq, (42 U.S.C. Section 9601), (iv) petroleum or any derivative of petroleum, or (v) asbestos.

Tenant shall have no obligation to "clean up", reimburse, release, indemnify, or defend Landlord with respect to any Hazardous Materials or wastes which Tenant (prior to and during the Term of the Lease) or other parties on the Property, as described below, (during the Term of this Lease) did not store, dispose, or transport in, use, or cause to be on the Property or which Tenant, its agents, employees, contractors, vendors, invitees, visitors or its future subtenants and/or assignees (if any) (during the Term of this Lease), did not store, dispose, or transport in, use or cause to be on the Property in violation of applicable law.

Tenant shall be 100 percent liable and responsible for: (i) any and all "investigation and cleanup" of any Hazardous Materials contamination resulting from any Hazardous Materials which Tenant, its agents, employees, contractors, vendors, invitees visitors or its future subtenants and/or assignees (if any), or other parties on the Property, does store, dispose, or transport in, use or cause to be on the

Property, and (ii) any claims, including third party claims, resulting from such Hazardous Materials contamination. Tenant shall indemnify Landlord and hold Landlord harmless from any liabilities, demands, costs, expenses and damages, including, without limitation, attorney fees incurred as a result of any claims resulting from any such Hazardous Materials contamination.

Tenant also agrees not to use or dispose of any Hazardous Materials on the Property without first obtaining Landlord's written consent; provided, however, that Landlord's consent shall not be required for normal use of customary household and office supplies, such as cleaners, lubricants, solvents, copier toner, etc. Tenant agrees to complete compliance with governmental regulations regarding the use or removal or remediation of all Hazardous Materials used, stored, disposed of, transported or caused to be on the Property as stated above, and prior to the termination of said Lease Tenant agrees to follow the proper closure procedures and will obtain a clearance from the local fire department and/or the appropriate governing agency. If Tenant uses any Hazardous Materials, Tenant also agrees to install, at Tenant's expense, such Hazardous Materials monitoring devices as Landlord deems reasonably necessary. It is agreed that the Tenant's responsibilities related to Hazardous Materials will survive the termination date of the Lease and that Landlord may obtain specific performance of Tenant's responsibilities under this Paragraph 43.

Subject to the terms and conditions of this Lease, Landlord hereby acknowledges its consent to Tenant's storage and use on the Property of those Hazardous Materials listed on *Exhibit C* attached hereto. At Tenant's sole cost and expense, each year upon the anniversary of the Commencement Date of the Lease Term ("Anniversary Date"), Tenant shall hire a qualified environmental consultant, acceptable to Landlord, to evaluate whether Tenant is in compliance with all applicable Governmental Regulations pertaining to Hazardous Materials. Tenant shall submit to Landlord a report from such environmental consultant which discusses the environmental consultant's findings within two (2) months of each Anniversary Date. Tenant shall promptly take all steps necessary to correct any and all problems identified by the environmental consultant and provide Landlord with documentation of all such corrections.

As evidenced by their initials set forth immediately below, Tenant acknowledges that Landlord has provided Tenant with copies of the environmental reports listed on *Exhibit D* ("Reports"), and Tenant acknowledges that Tenant and Tenant's experts (if any) have had ample opportunity to review such reports and that Tenant has satisfied itself as to the environmental conditions of the Property and the suitability of such conditions for Tenant's intended use of the Property. To the best of Landlord's knowledge as of the date of this Lease, except as noted in said Reports, no additional on site Hazardous Materials contamination exist on the Property; however, Landlord shall have no obligation to further investigate.

Initial: _____ Initial: _____
Tenant Landlord

It is agreed that the Tenant's responsibilities related to Hazardous Materials will survive the expiration or termination of this Lease and that Landlord may obtain specific performance of Tenant's responsibilities under this Paragraph 43.

44. ASSOCIATION DUES: The Premises leased hereunder is part of the Ardenwood Property Owner's Association (the "Association"), and is subject to Association Dues to fund the cost of the Association's obligations and expenses as authorized under said Agreement. As of the date of this Lease, Tenant's current prorata share of the Association Dues is currently estimated at $44.52 per month and is subject to adjustment as provided for by said Association. Said Association Dues are payable to Tenant to Landlord as Additional Rent on a monthly basis throughout the Term of this Lease. Tenant understands that it will not be a direct member of the Association.

45. AUTHORITY TO EXECUTE: The parties executing this Agreement hereby warrant and represent that they are properly authorized to execute this Agreement and bind the parties on behalf of whom they execute this agreement and to all of the terms, covenants and conditions of this Agreement as they relate to the respective parties hereto.

46. TAXES CONTINUED: Notwithstanding anything within Paragraph 9, it is agreed that if any special assessments for capital improvements are assessed, and if Landlord has the option to either pay the entire assessment in cash or go to bond, and if Landlord elects to pay the entire assessment in cash in

lieu of going to bond, the entire portion of the assessment assigned to Tenant's Leased Premises will be prorated over the same period that the assessment would have been prorated had the assessment gone to bond.

47. SUBORDINATION AND MORTGAGES CONTINUED: Landlord represents to Tenant that the Premises are not presently encumbered by a deed of trust or other security device in favor of any Lender.

48. LEASE CONTINGENT UPON LANDLORD OBTAINING TERMINATION AGREEMENT WITH CURRENT TENANT: This Lease is subject to and conditional upon Landlord obtaining from Matrix Pharmaceutical, Inc. ("Matrix"), the current tenant occupying the Premises leased hereunder, a Termination Agreement related to the Premises satisfactory to Landlord on or before April 30, 2002. In the event Matrix does not fully vacate and surrender the Premises to Landlord on or before April 30, 2002, the scheduled Commencement Date herein shall automatically be amended to June 1, 2002. In the event Landlord is unable to obtain said satisfactory Termination Agreement on or before May 31, 2002, this Lease shall be automatically rescinded.

49. BROKERS. Landlord and Tenant each represent and warrant that they have not dealt with any real estate brokers, agents, or finders in connection with the original Term of this Lease, and know of no real estate broker, agent or finder who is entitled to a commission in connection with this Lease ("Lease Commission"), except Mark Pearson of Cresa Partners, which Lease Commission shall be paid one hundred percent (100%) by Matrix Pharmaceutical, Inc. The parties hereto acknowledge that Landlord will not pay a Lease Commission to Mark Pearson, Cresa Partners or any other broker related to the original Term of this Lease, or in the event this Lease is extended or the square footage leased hereunder is increased for any reason whatsoever. Landlord and Tenant each agrees to defend, protect, indemnify and hold the other party harmless from and against all claims for brokerage commissions, finder's fees, and other compensation made by any other broker, agent, or finder as consequence of Landlord's or Tenant's actions or dealings with such other broker, agent or finder.

50. CROSS DEFAULT. It is understood that Landlord and Tenant have previously entered into another lease dated July 31, 1996 for premises located at 7601 Dumbarton Circle, Fremont, California (the "Existing Lease"). As a material part of the consideration for the execution of this Lease by Landlord, it is agreed between Landlord and Tenant that a default under this Lease, or a default under said Existing Lease may, at the option of Landlord, be considered a default under both leases, in which event Landlord shall be entitled (but in no event required) to apply all rights and remedies of Landlord under the terms of one lease to both leases including, but not limited to, the right to terminate one or both of said leases by reason of a default under said Existing Lease or hereunder.

51. OPTION TO EXTEND LEASE FOR ONE (1) YEAR SEVEN (7) MONTHS: Landlord hereby grants to Tenant an Option to Extend this Lease Agreement for an additional one (1) year seven (7) month period upon the following terms and conditions;

A. Tenant shall give Landlord written notice of Tenant's exercise of this Option to Extend not later than twelve (12) months prior to the scheduled Lease Termination Date, which Termination Date is currently projected to be June 30, 2014, in which event the Lease shall be considered extended for an additional one (1) year and seven (7) months, subject to the Basic Rental set forth below and with: (i) the Rent to be determined pursuant to Paragraph B below; (ii) the terms and conditions subject to amendment by Landlord (Landlord, in its sole and absolute discretion, may, but is not required to, incorporate its current Lease provisions that are standard in Landlord's leases as of the date of Tenant's exercise of its Option to Extend); and (iii) this Paragraph 51 deleted. In the event that Tenant fails to timely exercise Tenant's Option to Extend as set forth herein in writing, Tenant shall have no

further Option to Extend this Lease, and this Lease shall continue in full force and effect for the full remaining term hereof, absent this Paragraph 51.

B. In the event Tenant timely exercises Tenant's Option to Extend as set forth herein, Landlord shall, within fifteen (15) days after receipt of Tenant's exercise of option, advise Tenant of the terms and conditions and Rent required for the Extended Term of the Lease. Tenant shall have five (5) days after receipt from the Landlord of said new terms and conditions and Rent in which to accept said new Basic Rental, terms and conditions and enter into written documentation confirming same. In the event Tenant fails to execute said written documentation confirming said new terms and conditions and Rent for the Extended Term of Lease within said five (5) day period, Tenant shall have no further Option to Extend this Lease, and this Lease shall continue in full force and effect for the full remaining term hereof absent of this Paragraph 51, with Landlord having no further responsibility or obligation to Tenant with respect to Tenant's Option to Extend.

C. The option rights of Tenant under this Paragraph 51, and the Extended Term hereunder, are granted for Tenant's personal benefit and may not be assigned or transferred by Tenant, either voluntarily or by operation of law, in any manner whatsoever (except to a parent or subsidiary corporation or successor by merger as provided for in Paragraph 42A). In the event that Landlord consents to a sublease or assignment under Paragraph 51, the option granted herein and any Extended Term hereunder shall be void and of no force and effect, whether or not Tenant shall have purported to exercise such option prior to such assignment or sublease.

D. It is agreed that if Tenant is at any time prior to exercising its Option to Extend in default of this Lease and has failed to cure the default in the time period allowed, this Paragraph 51 will be null and void and Tenant will have no further rights under this Paragraph 51. It is further agreed that if Tenant has exercised its Option to Extend and is subsequently in default and fails to cure said default in the time period allowed prior to, or at any time the lease commences on the Extended Term, Landlord may at its sole and absolute discretion, cancel Tenant's Option to Extend, and this Lease will continue in full force and effect for the full remaining term hereof, absent of this Paragraph 51.

52. EXISTING TENANT IMPROVEMENTS: It is agreed between the parties hereto that the existing tenant improvements ("Existing Tenant Improvements") as detailed on Exhibit B-1 attached hereto shall not be removed from the Premises by Landlord prior to the Lease Commencement Date or thereafter during the Lease Term and that said Existing Tenant Improvements will be available for Tenant's use during the Lease Term. Notwithstanding the above, Tenant shall be one hundred percent (100%) responsible for the maintenance, repair and replacement (if necessary) of said Existing Tenant Improvements.

53. TRADE FIXTURES: Notwithstanding anything to the contrary in Lease Paragraphs 5 ("Acceptance and Surrender of Premises") and 6 ("Alterations and Additions"), Tenant shall be entitled to remove any trade fixtures that are not attached to the Premises. Any trade fixtures that are attached to the Premises shall become the property of Landlord at the expiration of the Lease, and may not be removed by Tenant without the prior written consent of Landlord. Tenant shall be one hundred percent (100%) responsible for the maintenance, repair and replacement (if necessary) of all trade fixtures installed in the Premises.

[Floor Plan 1]

EXHIBIT A **TO LEASE AGREEMENT DATED JANUARY 22, 2002 BY AND BETWEEN THE JOHN ARRILLAGA SURVIVOR'S TRUST AND THE RICHARD T. PEERY SEPARATE PROPERTY TRUST, AS LANDLORD, AND ABGENIX, INC., AS TENANT.**

[Floor Plan 2]

EXHIBIT B **TO LEASE AGREEMENT DATED JANUARY 22, 2002 BY AND BETWEEN THE JOHN ARRILLAGA SURVIVOR'S TRUST AND THE RICHARD T. PEERY SEPARATE PROPERTY TRUST, AS LANDLORD, AND ABGENIX, INC., AS TENANT.**

EXHIBIT B-1

Existing Tenant Improvements Not to Be Removed By Landlord Prior to Lease Commencement Date or During the Lease Term

1. All HVAC, plumbing, electrical, and security systems currently installed (as of the Lease Commencement Date) within the Premises.
2. Emergency Generator.
3. All walls, doors and built-in cabinetry.
4. All laboratory case work and fume hoods.
5. One cold room.
6. All installed glass wash and autoclave equipment/facilities.
7. All installed equipment/facilities servicing the vivarium (Bally Boiler and Gage Wash equipment).
8. All other installed utility systems and related infrastructure shall remain in place.
9. All installed data/telephone cabling.
10. All installed document storage vaults

Notwithstanding anything to the contrary in said Lease, Tenant shall be one hundred percent (100%) responsible for the maintenance, repair and replacement (if necessary) of said items noted above.

Exhibit C to Lease Agreement dated January 22, 2002

Abgenix **Estimated Chemical Inventory for B-6**

Hazard Class	Common Name	Chemical Name	CAS #	Extremely Hazardous?	Pure or Mixture	Solid, Gas or Liquid	Fed Haz Cat	Days on Site	Largest Container	Max. Amount	Avg Amount	Units (lbs, gal, cu ft)	Container	Pressure	Temp	NFPA		
																Health	Fire	Reactivity
TOX		10% Azide	26628-22-8	N	P	L	ACR	365	0.1	0.2	0.1	G	PB	A	A	3	1	3
FL		1-Propanol	71-23-B	N	P	L	CAF	365	1	1	1	G	GB	A	A	1	3	0
FL		2 Propanol	67-63-0	N	P	L	ACF	365	1	4	2	G	PB	A	A	2	3	0
IRR	Bleach	5% Sodium Hydrochlorite	7681-52-9	N	P	L	C	365	1	2	1	G	PB	A	A	2	0	1
COR		5% Sodium Hydroxide	1310-73-2	N	P	L	A	365	0.2	0.2	0.2	G	PB	A	A	3	0	1
COR	LancerAid	Acetic Acid	631-61-8	N	M	L	C	365	25	50	40	G	CB	A	A	t	1	0
COR		Acetic Acid	64-19-7	N	P	L	AR	365	0.2	1	0.5	G	GB	A	A	3	2	0
IRR		Acetic Acid Glacial	64-19-7	N	P	L	CA	365	0.2	0.2	0.2	G	GB	A	A	2	2	1
IRR		Acetic Acid Glacial	64-19-7	N	P	L	ACFR	365	0.3	0.3	0.3	G	GB	A	A	2	2	1
FL		Acetone	67-64-1	N	P	L	A/F	365	1	3	2	G	GB	A	A	2	3	0
FL		Acetone?	75-05-8	N	P	L	ACF	365	1	5	2.5	G	GB	A	A	3	3	0
NFG		Air Compressed	25635-88-5	N	P	G	P	365	250	5000	5000	CF	CY	G	A	0	0	0
NFG	Air	Air, Compressed	25635-88-5	N	P	G	P	365	233	466	466	cu ft	CYL	G	A	0	0	0
OHH		Aluminum Potassium Sulfate	7784-24-9	N	P	S	C	365	0.25	0.5	0.25	P	PB	A	A	1	0	0
OHH		Ammonium Bicarbonate	1066-33-7	N	P	S	C	365	0.5	1.00	0.50	P	PB	A	A	1	0	0

IRR		Ammonium Chloride	12125-02-9	N	P	S	A	365	0.1	0.1	0.1	P	PB	A	A	2	0	0
COR		Ammonium Hydroxide	1336-21-6	N	P	L	CIA	365	0.25	1	0.5	G	GB	A	A	3	1	0
OX		Ammonium Persulfate	7727-54-9	N	P	S	AR	365	0.1	0.25	0.1	P	GB	A	A	2	0	1
IRR		Ammonium Sulfate	7783-20-2	N	P	S	C	365	0.25	1	1	G	PB	A	A	2	0	0
IRR		Ammonium Chloride	12125-02-9	N	P	S	C	365	0.1	0.2	0.1	P	PB	A	A	2	0	0
MFG		Argon	7440-37-1	N	P	G	P	365	100	100	100	CF	CY	G	A	0	0	0
DHH		Aspartic Acid	617-45-8	N	P	S	C	365	0.2	0.4	0.2	P	PB	A	A	1	0	0
IRR		Butyric Acid	107-92-6	N	P	L	AF	365	0.1	0.1	0.1	G	PB	A	A	2	2	0
FS		Carbon Decolorizing	7440-44-0	N	P	S	CF	365	0.2	0.5	0.2	P	GB	A	A	3	3	0
CRY		Carbon dioxide, liquified	124-38-9	N	P	L	PA	365	40	120	120	GAL	DEW	G	L	3	0	0
TOX		Chloroform	67-66-3	N	P	L	A/C	365	0.2	0.20	0.20	G	GB	A	A	3	0	0
COR	Chronenge	Chromium Trioxide	1333-82-0	N	P	L	ACR	365	0.1	0.2	0.1	G	GB	A	A	3	0	2
IRR		Citric Acid	5949-29-1	N	P	S	C	365	0.25	1	1	P	GB	A	A	2	1	0

Hazard Class	Common Name	Chemical Name	CAS #	Extremely Hazardous?	Pure or Mixture	Solid, Gas or Liquid	Fed Haz Cat	Days on Site	Largest Container	Max. Amount	Avg Amount	Units (lbs, gal, cu ft)	Container	Pressure	Temp	NFPA		
																Health	Fire	Reactivity
OHH		D(+)- Glucose	50-99-7	N	P	S	C	365	500	500	300	P	FB	A	A	0	0	0
CL	Diesel	Diesel #2	68476-34-6	N	M	L	FAC	365	400	400	400	G	AT	A	A	0	2	0
FL	Starting Fluid	Diethyl ether	60-29-7	N	M	L	ACF	365	0.5	0.5	0.5	CUFT	CN	G	A	2	4	1
OHH		Diethylenetrismin-pentacetic acid	67-43-6	N	M	S	C	365	0.1	0.1	0.1	P	GB	A	A	1	0	0
FL	Acetone	Dimethyl Ketone	67-64-1	N	P	L	FA	365	1	2	2	G	PB	A	A	1	3	0
OHH		Dimethyl Polysifoxane	9016-00-6	N	P	L	C	365	0.5	0.5	0.5	G	GB	A	A	1	1	0
OHH		Dimethyl Sulfox	67-68-5	N	P	L	CA	365	0.1	0.20	0.1	L	GB	A	A	1	1	0
OHH		Dimethyl Sulphoxide	67-68-5	N	P	L	C	365	0.1	0.1	0.1	G	GB	A	A	1	1	0
OHH		Disodium Pyrophosphate	7722-88-5	N	P	S	C	365	0.25	0.5	0.25	P	PB	A	A	1	0	0
OHH		DMSO	67-68-5	N	P	L	C	365	0.1	0.1	0.1	G	GB	A	A	1	1	0
FL	Alcohol	Ethanol	64-17-5	N	P	L	FAC	365	1	2	1	G	PB	A	A	0	3	0
FL		Ethanol 70%	64-17-5	N	P	L	ACF	365	1	6	6	G	PB	A	A	0	3	0
FL	Gills III	Ethanol, Aluminus Sulfate	64-17-5	N	M	L	FC	365	0.25	0.25	0.25	G	PB	A	A	1	3	0
FL	Eosiny Stain	Ethanol, Aluminus Sulfate	64-17-5 631-61-8	N	M	L	FC	365	0.25	0.25	0.25	G	PB	A	A	0	3	0
FL	Reagent Alcohol	Ethanol, Methanol	64-17-5 57-56-1	N	M	L	CAF	365	0.25	4	4	G	GB	A	A	0	3	0
FL	Reagent Alcohol	Ethanol, methanol, isopropanol	64-17-5	N	M	L	F	365	1	10	6	G	PB	A	A	0	3	0
FL	REAGENT ALOCHOL	ETHANOL/METHONAL	64-17-5	N	P	L	CAF	365	1	3	2	G	PB	A	A	0	3	0
OHH		Ethanolamine	2002-24-6	N	P	S	AR	365	0.25	0.25	0.25	P	PB	A	A	1	0	1
COR/FLAM		Ethanolamine	141-43-5	N	P	L	CFA	365	0.26	1	0.5	G	GB	A	A	3	2	0
OHH		Ethylene Bromine	1239-49-8	N	P	L	C	365	10	0.10	10	G	GB	A	A	1	1	0
FL		Ethyl Alcohol	64-17-5	N	P	L	ACF	365	0.25	5	2.5	G	GB	A	A	2	3	0
OHH		Ethylenediamineletracelic Acid	60-00-4	N	P	S	C	365	0.1	0.25	0.1	P	PB	A	A	1	0	0
OHH		Ferrous Sulfate	7720-78-7	N	P	S	C	365	0.1	0.25	0.1	P	PB	A	A	1	1	0
IOX		Formaldehyde	50-08-0	Y	P	L	ACF	365	0.25	0.5	0.25	G	GB	A	A	3	2	0
CL		Formatin 4%	50-00-01	N	P	L	ACF	365	0.1	0.1	0.1	G	PB	A	A	3	2	0
COR		Formic Acid	64-18-6	N	P	L	AF	365	0.2	1	0.5	G	PB	A	A	3	2	0
COR		Formic Acid 1% IPR	64-18-6	N	M	L	ACF	365	0.1	0.5	0.25	G	GB	A	A	3	2	0

Hazard Class	Common Name	Chemical Name	CAS #	Extremely Hazardous?	Pure or Mixture	Solid, Gas or Liquid	Fed Haz Cat	Days on Site	Largest Container	Max. Amount	Avg Amount	Units (lbs, gal, cu ft)	Container	Pressure	Temp	NFPA		
																Health	Fire	Reactivity
OHH		Glutamic Acid	56-85-0	N	P	S	C	365	0.5	0.1	0.1	P	PB	A	A	0	0	0
OHH	Glycerol	Glycerin	56-81-5	N	P	L	C	365	0.2	0.25	0.2	G	PB	A	A	1	1	0
OHH		Glycerin	56-81-5	N	P	L	C	365	0.1	0.20	0.1	G	GB	A	A	1	1	0
OHH		Glycerol	56-81-5	N	P	L	C	365	1	3	1.5	G	GB	A	A	1	1	0
OHH		Glycine	58-40-6	N	P	S	C	365	0.1	0.25	0.25	P	PB	A	A	0	1	0
RAD	Tritium	H-3		N	P	S/L	C	365	1	10	2	mCi	GB	A	A			
NFG		Helium Compressed	7440-59-7	N	P	G	P	365	304	1250	1250	CF	CY	G	A	0	0	0
NFG		Helium Compressed	7440-59-7	N	P	G	C,P	365	291	291	291	CF	CYL	G	A	0	0	0
NFG		Helium, Compressed	7440-59-7	N	P	G	P	365	223	223	223	cuft	CY	G	A	0	0	0
COR		Hydrochloric Acid	7647-01-0	N	P	L	A	365	0.25	3	1.5	G	PB	A	A	3	0	0
OX		Hydrogen Peroxide	7722841	N	P	L	ACR	365	0.1	0.2	0.1	G	PB	A	A	3	0	1
OX		Hydrogen Peroxide 30%	7722-B4-1	N	P	L	AC	365	0.1	0.2	0.1	G	PB	A	A	3	0	1
OX		Hydrogen Peroxide 30%	7722-B4-1	N	P	L	A	365	0.1	0.1	0.1	G	PB	A	A	3	0	1
COR		Hydroxamine	5470-11-	N	P	L	ACR	365	0.1	0.2	0.1	P	GB	A	A	3	1	1

		Hydrochloride	1																
RAD		I-125		N	P	S/L	C	365	1	10	2	mCi	GB	A	A				
FL	2-Propanol	Isopropanol	E7-63-0	N	P	L	CAF	365	1	15	5	G	GB	A	A	2	3	0	
IRR		Karamycin	25369-94-0	N	P	S	C	365	0.1	0.1	0.1	P	PB	A	A	2	0	0	
CL	Charcoal Starter	Kerosene	8008-20-6	N	M	L	F	365	0.1	0.2	0.1	G	PB	A	A	1	2	0	
OHH		Lauryl Sulfate	151-21-3	N	P	S	C	365	0.25	0.5	0.25	P	PB	A	A	1	0	0	
CRY		Liquid Nitrogen	7727-37-9	N	P	L	PA	365	40	160	120	GAL	DEW	G	L	3	0	0	
CRY		Liquid Nitrogen	7727-37-9	N	P	L	PA	365	40	300	240	G	DEW	G	L	3	0	0	
OHH		L-Protine	147-85-3	N	P	S	C	365	0.1	0.1	0.1	P	PB	A	A	1	0	0	
FL	Reagent grade alcohol	Methanol	64-17-5	N	P	L	F	365	1	6	4	G	PB	A	A	0	3	0	
FL		Methanol	67-58-1	N	P	L	A/C	365	1	8	1	G	GB	A	A	1	3	0	
CL	10% buffered	methanol, formaldehyde	50-00-0	N	M	L	FAC	365	1	1	2	G	PB	A	A	2	2	0	
FL	Methanol	Methyl Alcohol	67-56-1	N	P	L	FA	365	1	2	1	G	GB	A	A	1	3	0	
FL	Paint	Methyl ethyl ketone	78-86-4	N	M	L	F	365	0.1	0.1	0.1	G	CN	G	A	1	3	0	
TOX		Methylene Chloride	75-09-2	N	P	L	A/C	365	0.25	0.5	0.25	G	GB	A	A	3	1	0	
OHH		Mineral Oil	8012-95-1	N	P	L	C	365	0.25	0.20	0.25	G	PB	A	A	0	1	0	

Hazard Class	Common Name	Chemical Name	CAS #	Extremely Hazardous?	Pure or Mixture	Solid, Gas or Liquid	Fed Haz Cat	Days on Site	Largest Container	Max. Amount	Avg Amount	Units (lbs, gal, cu ft)	Container	Pressure	Temp	NFPA		
																Health	Fire	Reactivity
IRR		N,N- Dimethyl Formamide	6B-12-2	N	P	S	AF	365	1	1	1	P	PB	A	A	2	2	0
CL		N,N-Dimethyl Formamide	6B-12-2	N	P	L	CAF	365	0.2	0.25	0.2	G	GB	A	A	1	2	0
OX		Nitric Acid	7697-37-2	N	P	L	ACR	365	0.1	0.1	0.1	G	GB	A	A	3	0	1
CRG		Nitrogen	7727-37-9	N	P	G	A	365	50	400	350	cuft	DEW	G	L	3	0	0
NFG		Nitrogen Compressed	7727-37-9	N	P	G	P	365	291	291	600	CF	CY	G	A	0	0	0
CRG		Nitrogen Compressed	7727-37-9	N	P	G	A	365	304	304	304	cuft	CY	G	L	3	0	0
NFG		Nitrogen Compressed	7727-37-9	N	P	G	A P	365	304	304	304	CF	CYL	G	A	0	0	0
IRR	Hapes	N-LZ Hydroxyethy Piperazine N- Ether	17365-45-9	N	P	S	C	365	0.1	0.25	0.1	P	PB	A	A	1	1	0
OXY		Oxygen 50%/CO2 50%	7782-44-7	N	M	G	PF	365	117	117	117	CF	CY	G	A	1	0	0
OXY		Oxygen 50%/Nitrogen 50%	7782-44-7	N	M	G	PF	365	250	1250	1250	CF	CY	G	A	1	0	0
RAD		P-32		N	P	S/L	C	365	1	10	2	mCi	GB	A	A			
TOX		Paraformaldehyde 16%	3052S-89-4	Y	M	L	AC	365	0.05	0.1	0.1	G	GB	A	A	3	1	0
IRR		Perchloric Acid	7601-90-3	N	P	L	CA	365	0.1	0.2	0.2	G	GB	A	A	2	0	0
TOX		Phenol	108-95-2	Y	P	L	ACF	365	0.25	0.25	0.25	G	GB	A	A	4	2	0
TOX		Phenol	108-95-2	N	P	L	A	365	0.1	0.1	0.1	G	GB	A	A	4	2	0
TOX		Phenol Chloroform	67-66-3	Y	P	L	CA	365	0.1	0.1	0.1	G	GB	A	A	3	0	1
CCH		Phenylmethy Sulfuryl	329-98-6	N	P	S	A/C	365	0.25	0.25	0.25	P	GB	A	A	3	0	1
COR/TOX		Phenylmethylsulfuryl Fluoride	329-98-6	N	P	S	A	365	0.5	5.00	2.5	P	GB	A	A	3	0	1
COR		Phosphoric Acid	766-38-2	N	P	L	A	365	0.2	0.25	0.2	G	GB	A	A	3	0	0
COR		Phosphoric Acid	766-38-2	N	P	L	A	365	0.1	0.5	0.25	G	GB	A	A	3	0	0
IRR		Polyoxyethylene Sorbitan	9005-64-5	N	M	L	C	365	0.1	0.20	0.1	G	PB	A	A	1	0	0
OHH		Potassium Chloride	7447-40-7	N	P	L	C	365	0.2	0.25	0.2	G	GB	A	A	1	0	0
COR		Potassium Hydroxide	1310-58-3	N	P	L	ACR	365	0.25	0.5	0.25	G	PB	A	A	3	0	1
IRR		Pyruvic Acid	127-17-3	N	0	S	C	365	0.25	0.5	0.25	P	PB	A	A	2	1	0
FL		Rossville Alcohol 200 Proof	64-17-5	N	P	L	CAF	365	1	10	0	G	GB	A	A	1	3	0
OHH	Salt	Salt	7647-14-5	N	P	S	C	365	23	500	500	P	Bag	A	A	1	0	0
OX		Silver Nitrate	7761-88-98	N	P	L	A R	365	0.1	0.10	0.1	P	PB	A	A	4	0	0
OYR	Fixer	Silver Nitrate (0.1%)	7761-88-8	N	M	L	C	365	10	20	10	G	PB	A	A	1	0	0
OHH		Sodium Heparin	9D41-D8-1	N	P	S	A	365	0.1	0.10	0.10	P	GB	A	A	1	1	0

Hazard Class	Common Name	Chemical Name	CAS #	Extremely Hazardous?	Pure or Mixture	Solid, Gas or Liquid	Fed Haz Cat	Days on Site	Largest Container	Max. Amount	Avg Amount	Units (lbs, gal, cu ft)	Container	Pressure	Temp	NFPA		
																Health	Fire	Reactivity
TOX		Sodium Azide	26528-22-0	Y	P	S	ACR	365	0.25	0.5	0.25	P	GB	A	A	3	1	3
DVR	Developer	Sodium Bissulfate (0.5%)	7601-38-1	N	M	L	C	365	10	20	10	G	PB	A	A	1	0	0
OHH		Sodium Chloride	7647-14-5	N	P	S	C	365	0.5	0.1	0.5	P	PB	A	A	1	0	0
OHH	TRYPAN BLUE SOLUTION	SODIUM CHLORIDE	75-57-1	N	M	L	C	365	0.1	0.2	0.1	G	PB	A	A	1	0	0
COR	Luminey	Sodium Chloride Sodium Phosphate	7647-14-5	N	M	L	C	365	5	10	5	G	GB	A	A	1	0	0

			7722-88-5															
COR		Sodium Hydroxide	1310-73-2	N	P	L	A/C	365	2.5	20	10	G	PB	A	A	3	0	1
IRR	Bleach	Sodium Hypochloride	7681-52-9	N	P	L	A	365	1	20	10	G	PR	A	A	2	0	1
IRR		Sodium Orthorariadate	13721-39-6	N	P	S	A	365	0.25	0.50	0.25	P	PB	A	A	2	0	0
OX		Sodium Perchlorate	1791-07-3	N	P	S	AR	365	0.1	0.25	0.1	P	PB	A	A	2	0	1
HTOX		Sodium Selenite	10102-18-8	Y	P	S	C/A	365	0.1	0.1	0.1	P	BOX	A	A	3	0	0
CL	WD 40	Standard Solvent	8052-41-3	N	M	L	C	365	0.5	0.5	0.5	CUFT	CA	G	A	1	2	0
COR		Sulfuric Acid	7684-93-9	Y	P	L	AR	365	0.2	0.5	0.2	G	GB	A	A	3	0	2
IRR		Tetraethylammonium Chloride Hydrate	56-34-8	N	P	S	C	365	0.25	0.5	0.25	P	GB	A	A	2	0	0
FL	Permount	Toluene, piocolyte	108-08-33	N	M	L	AF	365	0.1	0.2	0.1	G	GB	A	A	2	3	0
COR		Trichloracelic Acid	76-02-9	N	P	S	C	365	0.5	1.00	1.00	P	GB	A	A	3	0	0
FL		Tilethytamine	121-44-8	N	P	L	CAF	365	0.2	0.20	0.2	G	GB	A	A	2	3	0
FL		Tilethytamine	121-44-8	N	P	L	ACF	365	0.1	0.1	0.1	G	GB	A	A	3	3	0
COR		Telfluoroacetic Acid	76-05-1	N	P	L	A	365	0.1	0.5	0.1	G	GB	A	A	3	0	0
IRR		Tris Hyrdoxymethyl	77-86-1	N	P	S	C	365	2.2	2.2	2.2	P	PB	A	A	1	1	0
IRR		Trion-x-100	9002-98-1	N	M	L	C	365	0.25	0.50	0.25	G	GB	A	A	2	1	0
OHH		Trypan Blue Solution	72-57-1	N	P	L	A/C	365	0.2	0.1	0.1	G	PB	A	A	1	0	0
IRR		Tween	9005-64-5	N	M	L	C	365	0.2	0.20	0.1	G	GB	A	A	1	0	0
OHH		Urea	57-13-6	N	P	S	C	365	0.5	1.00	0.50	P	PB	A	A	1	0	0

EXHIBIT D **TO LEASE AGREEMENT DATED JANUARY 22, 2002 BETWEEN THE JOHN ARRILLAGA SURVIVOR'S TRUST AND THE RICHARD T. PEERY SEPARATE PROPERTY TRUST, AS LANDLORD, AND ABGENIX, INC., AS TENANT**
HAZARDOUS MATERIALS REPORTS
PROVIDED TO TENANT

1) Preliminary Environmental Assessment and Soil Testing for Ardenwood Corporate Commons: prepared for Bedford Properties on August 10, 1988 by Kaldveer Associates;

2) Preliminary Environmental Assessment and Soil Testing for Ardenwood Corporate Commons Lots 1 through 27; prepared for Bedford Properties on June 13, 1989 by Kaldveer Associates;

3) Phase I Site Assessment for Ardenwood Corporate Commons; prepared for Bedford Properties in July 1991 by Mittelhauser Corporation.

EXHIBIT B
APPROVED HAZARDOUS OR TOXIC MATERIALS

HAZARD CLASS	CHEMICAL NAME	CAS	EHS? Y or N	PURE OR MIXTURE?	SOLID, LIQUID, OR GAS	FEDERAL HAZ. CAT. (A,C,F,R,P)	DAYS ON SITE	LARGEST CONTAINER	CONVERSION FACTOR	NO. OF CONT.	MAX. AMOUNT	AVG. AMOUNT	UNIT (Lbs., Gal., Cu.Ft.)	STORAGE CONTAINER	STORAGE PRESSURE	STORAGE TEMP.	H	F	R
TOX	2-Mercaptobenzothiazole, (2-Mercaptoethanol)	60-24-2	N	P	L	C	365	100 ml	0.026	1	0.026	0.026	gal	GB	A	A	2	2	0
FL	Accustain (methyl alcohol), (Methanol)	67-56-1	N	M	L	A, C	365	500 ml	0.132	1	0.132	0.132	gal	PB	A	A	2	3	0
FL	Acetone	67-64-1	N	P	L	F	365	500 ml	0.132	5	0.660	0.660	gal	GB	A	A	1	3	0
FL	Acetone	67-64-1	N	P	L	F	365	1 L	0.264	3	0.792	0.792	gal	PB	A	A	1	3	0
FL	Acetone	67-64-1	N	P	L	F	365	4L	1.0568	1	1.057	1.057	gal	GB	A	A	1	3	0
FL	Alcohol blend (Ethanol, Methanol, 2-Propanol, Water	64-17-5	N	M	L	A, C, F	365	4L	1.0568	9	9.511	9.511	gal	GB	A	A	1	3	0
COR	Coverage plus	None	N	M	L	A	365	1 gal	1	1	1.000	1.000	gal	PB	A	A	1	0	0
FL	Cytoseal XYL-Xylene based	None	N	M	L	A	365	200 ml	0.053	1	0.053	0.053	gal	PB	A	A	2	3	0
CL	Dimethyl Formamide, (N,N-dimethyl formamide)	68-12-2	N	P	L	A	365	100ml	0.026	1	0.026	0.026	gal	PB	A	A	2	2	0
CL, IRR	Dimethyl sulfoxide (DMSO)	67-68-5	N	P	L	A	365	100 ml	0.026	2	0.053	0.053	gal	GB	A	A	1	1	0
IRR	Eosin Yellowish Solution	17372-87-1	N	M	L	A	365	500 ml	0.132	1	0.132	0.132	gal	GB	A	A	1	0	0
IRR	Eosin Yellowish Solution	17372-87-1	N	M	L	A	365	500 ml	0.132	1	0.132	0.132	gal	PB	A	A	1	0	0
FL	Ethyl alcohol (100%), (ethanol)	64-17-5	N	P	L	F	365	1 pt	0.125	3	0.375	0.375	gal	GB	A	A	1	3	0
TOX, OHH, CL	Formaldehyde	50-00-0	N	P	L	F	365	500 ml	0.132	1	0.132	0.132	gal	GB	A	A	3	2	0
TOX, OHH, CL	FORMALDEHYDE (4%); (FORMALIN)	50-00-0	N	M	L	A, C	365	4L	1.0568	1	1.057	1.057	gal	PB	A	A	3	2	0
TOX	Hematoxylin	None	N	P	L	A	365	500 ml	0.132	2	0.264	0.264	gal	PB	A	A	2	0	0
TOX	Hematoxylin	None	N	P	L	A	365	1L	0.528	2	1.056	1.056	gal	PB	A	A	2	0	0
CL	Histo Clear - (Orange terpines), (d-limonene), (Hemo-DL), (butylatedhydroxanisole)	5989-27-5	N	M	L	A	365	1 gal	1	3	3.000	3.000	gal	PB	A	A	3	1	0
FL	Methal butane	78-78-4	N	P	L	A, F	365	2L	0.5284	2	1.057	1.057	gal	GB	A	A	2	3	0
FL	Methanol, (methyl alcohol)	67-56-1	N	P	L	F	365	1 L	0.264	3	0.792	0.792	gal	GB	A	A	1	3	0

FL	Methanol, (methyl alcohol)	67-56-1	N	P	L	F	365	4L	1.0568	2	2.114	2.114	gal	GB	A	A	1	3	0
IRR	Polyethylene glycol octyphenol ether (Triton x100)	9036-91-5	N	M	L	A	365	4 L	1.056	1	1.056	1.056	gal	GB	A	A	2	1	0
COR	Sodium hydroxide, (NaOH)	1310-73-2	N	M	L	A	365	1 L	0.264	1	0.264	0.264	gal	PB	A	A	3	0	1
OX	Sodium Hypochlorite (6.5%), (Chlorox Bleach)	7681-52-9	N	M	L	A	365	1 Quart	0.25	6	1.500	1.500	gal	PB	A	A	1	0	1
FL	Xylene	108-38-3	N	M	L	A, C, F	365	4 L	1.056	1	1.056	1.056	gal	GB	A	A	3	2	0
FL	Ethanol, (ethyl alcohol)	64-17-5	N	P	L	F	365	1gal	1	1	1.000	1.000	gal	GB	A	A	1	3	0
TOX	2-Mercaptobenzothiazole, (2-Mercaptoethanol)	60-24-2	N	P	L	A	365	50 ml	0.013	1	0.013	0.013	gal	GB	A	A	2	2	0
COR	Coverage plus	None	N	M	L	A	365	1 gal	1	1	1.000	1.000	gal	PB	A	A	1	0	0
OX	Sodium Hypochlorite (6.5%), (Chlorox Bleach)	7681-52-9	N	M	L	A	365	1 gal	1	1	1.000	1.000	gal	PB	A	A	1	0	1
CRY	Nitrogen	7727-37-9	N	P	L	P	365	42 gal	42	2	42	42	gal	CY	G	L	3	0	0
IRR	Ammonium Chloride	12125-02-9	N	P	S	A	365	100g	0.22	1	0.220	0.220	lb	PB	A	A	2	0	0
OHH	Ammonium Sulfate	7783-20-2	N	P	S	A	365	5kg	11	2	22.000	22.000	lb	PB	A	A	2	0	0
IRR	Citric Acid	5949-29-1	N	P	S	A	365	500g	1.1	2	2.200	2.200	lb	GB	A	A	2	0	1
FL	Ethanol, (ethyl alcohol)	64-17-5	N	M	L	F	365	1 gal	1	2	2.000	2.000	gal	SD	A	A	1	3	0
COR	Ethylenediaminetetra acetic acid	107-15-3	N	P	S	A	365	100g	0.22	1	0.220	0.220	lb	PB	A	A	3	2	0
COR	HCl, H2SO4, OPD, TMB - Waste	Mix	N	M	L	A, C	365	2.5 gal	2.5	1	2.500	2.500	gal	PB	A	A	2	1	0
COR	HCl, H2SO4, OPD, TMB - Waste	Mix	N	M	S	A, C	365	5 lb	5	2	10.000	10.000	lb	PB	A	A	2	1	0
COR	Hydrochloric Acid, (Hydrogen chloride)	7647-01-0	N	P	L	A	365	500 ml	0.132	5	0.660	0.660	gal	GB	A	A	3	0	0
FL	Methanol, (methyl alcohol)	67-56-1	N	P	L	F	365	4L	1.0568	4	4.227	4.227	gal	PB	A	A	1	3	0
FL	Methanol, (methyl alcohol)	67-56-1	N	P	L	F	365	2L	0.5284	1	0.528	0.528	gal	GB	A	A	1	3	0
COR	NaOH (Sodium hydroxide)	1310-73-2	N	P	S	A	365	500g	1.1	1	1.100	1.100	lb	PB	A	A	3	0	1
TOX, OHH	o-Phenylenediamine (OPD)	615-28-1	N	P	S	A, C	365	100 g	0.22	2	0.440	0.440	lb	CN	A	L	3	0	0
TOX	Paraformaldehyde	30525-89-4	N	P	S	A	365	500 g	1.1	1	1.100	1.100	lb	PB	A	A	3	1	0
OHH	Potassium Carbonate	584-08-7	N	P	S	A	365	250g	0.55	1	0.550	0.550	lb	PB	A	A	2	0	0
IRR	Potassium phosphate monobasic	7778-77-0	N	P	S	A	365	500g	1.1	2	2.200	2.200	lb	PB	A	A	1	0	0
HTOX, UR	Sodium Azide	26628-22-8	Y	P	S	A, C, R	365	100g	0.22	1	0.220	0.220	lb	PB	A	A	3	1	3
IRR	Sodium borate	1303-96-4	N	P	S	A	365	500 g	1.1	1	1.100	1.100	lb	PB	A	A	1	0	0
OHH	Sodium Carbonate anhydrous	497-19-8	N	P	S	A	365	500g	1.1	2	2.200	2.200	lb	PB	A	A	2	0	0
OHH	Sodium Chloride	7647-14-5	N	P	S	A	365	2.5kg	5.5	3	16.500	16.500	lb	PB	A	A	1	0	0
OX	Sodium Hypochlorite (6.5%), (Chlorox Bleach)	7681-52-9	N	M	L	A	365	1 gal	1	1	1.000	1.000	gal	PB	A	A	1	0	1
IRR	Sodium Phosphate dibasic, anhydrous	7558-79-4	N	P	S	A	365	500g	1.1	2	2.200	2.200	lb	GB	A	A	1	0	0
IRR	Sodium Phosphate dibasic, anhydrous	7558-79-4	N	P	S	A	365	500g	1.1	1	1.100	1.100	lb	PB	A	A	1	0	0
IRR	Sodium Phosphate Monobasic	10049-21-5	N	P	S	A	365	125g	0.275	1	0.275	0.275	lb	PB	A	A	1	0	0
OX	Sodium-m-periodate (Sodium periodate)	7790-28-5	N	P	S	A, R	365	25g	0.055	1	0.055	0.055	lb	GB	A	A	1	0	3
OX	Sodium-m-periodate (Sodium periodate)	7790-28-5	N	P	S	A, R	365	100g	0.22	1	0.220	0.220	lb	GB	A	A	1	0	3
COR	Sulfuric acid, (H2SO4)	7664-93-9	Y	M	L	A	365	500mL	0.132	1	0.132	0.132	gal	GB	A	A	3	0	2
IRR	Tetramethyl Benzidine (TMB)	54827-17-7	N	M	L	A	365	100mL	0.026	3	0.079	0.079	gal	PB	A	L	1	0	0
OHH	Triton X-100	9002-93-1	N	M	L	A	365	100mL	0.026	2	0.053	0.053	gal	PB	A	A	2	1	0
IRR	TRIZMA Hydrochloride	1185-53-1	N	M	S	A	365	500g	1.1	2	2.200	2.200	lb	PB	A	A	1	1	0
IRR	Trizma, {TRIS (Aminomethane)}, {Tris (hydroxymethyl) amino methane}, {Trizma base (TRIS)}	77-86-1	N	M	S	A	365	500 g	1.1	1	1.100	1.100	lb	PB	A	A	1	1	0
IRR	Trizma, {TRIS (Aminomethane)}, {Tris (hydroxymethyl) amino methane}, {Trizma base (TRIS)}	77-86-1	N	M	S	A	365	100 g	0.22	1	0.220	0.220	lb	PB	A	A	1	1	0
OHH	Sodium acetate, anhydrous	127-09-3	N	P	S	A	365	500g	1.1	2	2.200	2.200	lb	PB	A	A	1	1	0
HTOX	Thimerasal	54-64-8	N	P	S	A, C	365	10g	0.022	1	0.022	0.022	lb	GB	A	A	4	0	0
IRR	Hydrogen peroxide 30%	7722-84-1	N	M	L	A	365	100 ml	0.026	3	0.079	0.079	gal	PB	A	L	0	0	1

EXHIBIT C

PERSONAL PROPERTY

All furniture currently in each of the 54 private offices
52 cubicles measuring 8 feet by 8 feet
Tables and chairs situated in each of four conference rooms
7 lunch room tables and 50 lunch room chairs
bookcases and file cabinets in one file room
approximately 15 cubicles of Teknion furniture located in the north side of the Building.

SECOND AMENDMENT TO SUBLEASE
Early Termination of the Entire Premises

This Second Amendment effective October 1, 2003, (the "Second Amendment") is to the Sublease effective March 7, 2000, as amended September 3, 2002, (the "Sublease") by and between FibroGen, Inc. ("Sublessor") and EOS Biotechnology, Inc. (the "Sublessee") (collectively, the "Parties"). Unless otherwise defined herein, any capitalized terms shall have the meaning ascribed to them in the Sublease.

Sublessee wishes to early terminate the Sublease with respect to all Premises (as defined in the Sublease) effective November 30, 2003.

If Sublessor is successful in negotiating with any third party ("Subsequent Tenant") to occupy any of the space contained in the Premises ("Re-subleased Area") prior to March 31, 2004, FibroGen will provide Sublessee with a rebate for a pro rata portion of the fixed charges that would have been due for the entire premises and a portion of the rent corresponding to that Re-Subleased Area between the time the Subsequent Tenant commences a sublease with Sublessor ("Start Date") and March 31, 2004.

The Parties for good and valuable consideration, receipt of which is hereby acknowledged, agree as follows:

(1) Section 1.2.4 of the Sublease shall be amended and restated in its entirety to read as follows:

> "The Term for the Premises shall expire on November 30, 2003."

(2) In accordance with the requirements of Paragraph 1.6 of the Sublease, Sublessee shall surrender the Premises and perform the following no later than November 30, 2003:

- Certify that the Premises are not contaminated with any hazardous biological or chemical residues;
- Certify that the labs in the Premises have been properly decommissioned in compliance with regulations of the State of California;
- Negotiate in good faith the timely completion of the repair of the items specified in Exhibit A, attached hereto and incorporated herein;
- Supply drawings of telephone and computer network cabling for the entire Premises; and
- Provide a representation that the patch panels located in the EOS server rooms on the Premises have not been disturbed.

(3) Sublessee shall assign to Sublessor complete ownership interest in any furniture located on the Premises that it does not intend to remove no later than October 31, 2003. Any such assignment shall include documentation indicating Sublessee's title to such

---

furniture free from any encumbrance as well as any documentation necessary to perfect the assignment. Effective upon assignment, the disposition of the assigned furniture shall be Sublessor's sole responsibility. Sublessee will identify any furniture and equipment that it will not assign to Sublessor no later than October 31, 2003, and remove any such furniture and equipment by November 15, 2003. Sublessor shall have the right to charge to Sublessee all costs associated with disposing of furniture and equipment to which Sublessee does not transfer title to Sublessor by November 15, 2003.

(4) On December 1, 2003, Sublessee shall pay to Sublessor a lump sum payment comprising rent and fixed charges due for the Premises between December 1, 2003, and March 31, 2004. That amount is calculated to be $684,935.45. If the Parties agree that all the conditions have been met under this Second Amendment and the Sublease, then Sublessee's deposits totaling $339,618.94 shall be applied against the lump sum payment and fixed charges due so that the revised payment due Sublessor shall be $345,316.51.

(5) Sublessee shall allow Sublessor and the Subsequent Tenant, and any of their agents and contractors access to the Premises to make improvements subject to Article 16 of the Master Lease between FibroGen and Britannia Gateway II Limited Partnership. Sublessor agrees to indemnify Sublessor against all claims, damages, and liabilities (including attorneys' fees and costs) that may arise from such access.

(6) In the event that Sublessor enters into a sublease with a Subsequent Tenant, for each Re-Subleased Area the Sublessor shall perform the following:

> (a) At least 30 days prior to the Start Date, Sublessor shall notify Sublessee in writing of the actual Start Date and the area comprising the Re-subleased Area.
>
> (b) Sublessor shall refund to Sublessee a pro rata share of the fixed Service charges based on the square footage (defined as those charges for Security and Hazardous Materials Storage) that would have been due for the Re-subleased Area during the period beginning on that Start Date and ending on March 31, 2004.
>
> (c) Thirty (30) days after the Start Date of any Re-subleased Area Sublessor shall refund to Sublessee the following amount calculated by multiplying two dollars and thirty cents ($2.30) per square foot per month (or proportional fraction thereof) for the period beginning on the Start Date of a given Re-subleased Area and ending March 31, 2004, multiplied by the actual area comprising that Re-subleased Area*. The $2.30 per square foot per month rebate is computed for a specific Subsequent Tenant and would need to be re-computed if a new

---

* For example, if the total area to be subleased by a Subsequent Tenant is 7,000 square feet and the sublease with that Subsequent Tenant begins on December 1, 2003, then Sublessor would pay Sublessee $64,400.00 calculated by multiplying $2.30 per square foot per month by 7,000 square feet by 4 months. In addition, Sublessor would pay Sublessee a pro rata share of the fixed service charges for the Re-subleased Premises due between December 1, 2003 and March 31, 2004.

Subsequent Tenant were to negotiate for space. The amount of the rebate is net of Sublessor's cost to secure the new Subsequent Tenant.

(7) Except as otherwise provided herein, the Sublease has not been modified or amended and remains in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the dates indicated below:

FIBROGEN

By: _____

Wilbert Lee
Chief Financial Officer

Date: _____

EOS BIOTECHNOLOGY, INC.

By: _____

Pat Caldwell
VP, Finance & Controller

Date: _____

Exhibit A

Build #	Room #	Project Description
201	1012	FB #6 VCT was installed instead of carpet during construction
201	1013	FB #6 VCT was installed instead of carpet during construction
201	1021	FB #3 Power drops may need to be removed
201	1024	Replace damaged floor tile in room 1024 as well as in the main hallway
201	1026	FB #3 Case work added along the wall may need to be removed
201	1051	FB #3 Power drops may need to be removed
201		Obtain drawings and specification for the phone and data cables
201		Identify areas that need repairs associated with the removal of equipment to property such as holes in the walls, damage to the floor under equipment, ceiling damage
225	123	Review the electrical configuration, drops may need to be removed
225	124	Review the electrical configuration, drops may need to be removed
225	136	Animal area. There may be exhausts that need to be removed
225	213	Confirm that plumbing has not been removed, this room was setup to be a GW area
225	214	Chemistry hood in this room may have been removed or disabled
225	219	Remove the carpet in room 219 and make sure that the tile is in acceptable condition
225	215	Remove the carpet in room 215 and make sure that the tile is in acceptable condition
225	215	Conference Room. Cooling may not be adjusted properly.
225	218	Telecom room, there may need to be some conversion done to bring it back to a regular room
225	218	EOS didn't want a sink in the room and agreed to pay to install it at the end of the lease
225	216	Rear door added to the room, it may need to be removed and a solid wall installed
225	216	Walled area added in this room, it may need to be removed
225	204	Changed the plan to offices from labs, cash agreed upon comp $2.1k or $4.9k at end of lease
225		Identify areas that need repairs associated with the removal of equipment property such as holes in the walls, damage to the floor under equipment, ceiling damage
225		Confirm the electrical drawings are updated and identify any needed changes to the system to remove EOS only wire and make the space acceptable for general use.
225		All hoods should be inspected to make sure that they are certified and in good working order
225		Above ceiling penetrations that may have been done by EOS that are not calked for FD Code
225		Obtain drawings and specification for the phone and data cables
225		Return of keys including master keys to Dave and Shari.

EXHIBIT 31.1

CERTIFICATIONS

I, Mark McDade, certify that:

1. I have reviewed this quarterly report on Form 10Q of Protein Design Labs, Inc.;

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

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

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

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

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

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

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

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

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

Date: November 3, 2003

/s/ Mark McDade

Mark McDade
Chief Executive Officer

EXHIBIT 31.2

CERTIFICATIONS

I, Glen Sato, certify that:

1. I have reviewed this quarterly report on Form 10Q of Protein Design Labs, Inc.;

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

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

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

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

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

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

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

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

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

Date: November 3, 2003

/s/ Glen Sato
Glen Sato
Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION

Mark McDade, Chief Executive Officer and Glen Sato, Chief Financial Officer of Protein Design Labs, Inc. (the "Registrant"), do hereby certify in accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, based on my knowledge:

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

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

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

Dated: November 3, 2003

By:

/s/ Mark McDade
Mark McDade
Chief Executive Officer

/s/ Glen Sato
Glen Sato
Chief Financial Officer