# MACROGENICS INC

## FORM 10-K
(Annual Report)

Filed 03/03/15 for the Period Ending 12/31/14

| | |
|---|---|
| Address | 9640 MEDICAL CENTER DRIVE<br>Rockville, MD 20850 |
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| CIK | 0001125345 |
| Symbol | MGNX |
| SIC Code | 2834 - Pharmaceutical Preparations |
| Fiscal Year | 12/31 |

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# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# FORM 10-K

**(Mark One)**

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2014**

**OR**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from to**

**Commission File Number 001-36112**

# MACROGENICS, INC.

**(Exact name of registrant)**

| **Delaware** | **06-1591613** |
|---|---|
| **(State of organization)** | **(I.R.S. Employer Identification Number)** |

**9640 Medical Center Drive, Rockville, Maryland 20850**
**(Address of principal executive offices and zip code)**

**(301) 251-5172**
**(Registrant's telephone number)**

**Securities registered pursuant to Section 12(b) of the Act:**

| Title of Each Class | Name of Each Exchange on Which Registered |
|---|---|
| **Common stock, par value $0.01 per share** | **The NASDAQ Stock Market LLC** |

**Securities registered pursuant to Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act. Yes ☐ No ☒

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

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

| | | | |
|---|---|---|---|
| Large accelerated filer | ☐ | Accelerated filer | ☒ |
| Non-accelerated filer | ☐ | Smaller reporting company | ☐ |

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

The aggregate market value of the registrant's common stock, par value $0.01 per share, held by non-affiliates of the registrant on June 30, 2014, the last business day of the registrant's most recently completed second fiscal quarter, was approximately $437,213,185 based on the closing price of the registrant's common stock on the NASDAQ Global Select Market on that date. Exclusion of shares held by any person should not be construed to indicate that such person possesses the power, direct or indirect, to direct or cause the direction of management or policies of the registrant, or that such person is controlled by or under common control with the registrant.

The number of shares of the registrant's common stock outstanding on February 27, 2015 was 29,968,476.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of MacroGenics, Inc.'s definitive proxy statement for the 2015 annual meeting of stockholders are incorporated by reference into Part III of this Annual Report.

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## FORWARD-LOOKING STATEMENTS

This report includes forward-looking statements within the meaning of federal securities laws. Forward-looking statements include statements that may relate to our plans, objectives, goals, strategies, future events, future revenues or performance, capital expenditures, financing needs and other information that is not historical information. Many of these statements appear, in particular, under the headings “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations”. Forward-looking statements can often be identified by the use of terminology such as “subject to”, “believe”, “anticipate”, “plan”, “expect”, “intend”, “estimate”, “project”, “may”, “will”, “should”, “would”, “could”, “can”, the negatives thereof, variations thereon and similar expressions, or by discussions of strategy.

All forward-looking statements, including, without limitation, our examination of historical operating trends, are based upon our current expectations and various assumptions. We believe there is a reasonable basis for our expectations and beliefs, but they are inherently uncertain. We may not realize our expectations, and our beliefs may not prove correct. Actual results could differ materially from those described or implied by such forward-looking statements. The following uncertainties and factors, among others (including those set forth under “Risk Factors”), could affect future performance and cause actual results to differ materially from those matters expressed in or implied by forward-looking statements:

- our plans to develop and commercialize our product candidates;
- our ongoing and planned clinical trials;
- the timing of and our ability to obtain and maintain regulatory approvals for our product candidates;
- our estimates regarding expenses, future revenue, capital requirements and needs for additional financing;
- our ability to enter into new collaborations or to identify additional products or product candidates with significant commercial potential that are consistent with our commercial objectives;
- the rate and degree of market acceptance and clinical utility of our products;
- our commercialization, marketing and manufacturing capabilities and strategy;
- significant competition in our industry;
- costs of litigation and the failure to successfully defend lawsuits and other claims against us;
- economic, political and other risks associated with our international operations;
- our ability to receive research funding and achieve anticipated milestones under our collaborations;
- our intellectual property position;
- costs of compliance and our failure to comply with new and existing governmental regulations including, but not limited to, tax regulations;
- loss or retirement of key members of management;
- failure to successfully execute our growth strategy, including any delays in our planned future growth; and
- our failure to maintain effective internal controls.

Consequently, forward-looking statements should be regarded solely as our current plans, estimates and beliefs. You should not place undue reliance on forward-looking statements. We cannot guarantee future results, events, levels of activity, performance or achievements. We do not undertake and specifically decline any obligation to update, republish or revise forward-looking statements to reflect future events or circumstances or to reflect the occurrences of unanticipated events.

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## PART I

### ITEM 1. BUSINESS

*Except as otherwise indicated herein or as the context otherwise requires, references in this annual report on Form 10-K to "MacroGenics," the "company," "we," "us" and "our" refer to MacroGenics, Inc. and its consolidated subsidiaries. DART®, the phrase "Breakthrough Biologics, Life-Changing Medicines" and the MacroGenics logo are our registered trademarks. The other trademarks, trade names and service marks appearing in this report are the property of their respective owners.*

**Overview**

We are a biopharmaceutical company focused on discovering and developing innovative antibody-based therapeutics for the treatment of cancer, as well as various autoimmune disorders and infectious diseases. We currently have a pipeline of product candidates in human clinical testing, primarily against different types of cancers. These include two product candidates developed using our proprietary "Fc Optimization" platform, namely margetuximab, an antibody that we are developing for treatment of certain types of metastatic breast cancers and gastroesophageal cancers, and MGA271, an antibody that we believe has the potential for broad impact across a variety of different tumor types through multiple potential mechanisms of action. In addition, we created a number of product candidates based on our proprietary Dual-Affinity Re-Targeting, or DART, platform and several of these are currently in, or advancing into, human clinical development. For example, we initiated human clinical studies with DART product candidates MGD006, in patients with acute myeloid leukemia that is refractory to other known treatments, and MGD007, in patients with colorectal cancer. We also recently entered into a collaboration with Janssen Biotech, Inc., or Janssen, with respect to MGD011, a DART being developed for treatment of various hematological malignancies, and anticipate that this molecule will start clinical trials in 2015. We specifically designed these three DART product candidates with the goal of harnessing the power of the immune system to destroy cancerous cells. In contrast, the flexibility of the DART platform has also allowed us to create MGD010, a DART molecule designed to moderate the hyperactivity of the immune system seen in various autoimmune disorders, and we expect to start human clinical studies with that product candidate in 2015 as well.

We develop new therapeutic product candidates ourselves using our antibody-based technology platforms and also in partnership with other biopharmaceutical companies, when such a partnership is advantageous for strategic or financial reasons. These collaborations have allowed us to expand and accelerate the breadth of product candidates that can be developed and also have generated a significant portion of the funding we have received to date.

Our core scientific expertise is in the field of protein engineering and all of these product candidates have been created through our proprietary protein engineering platforms. These platforms are generally focused on the creation of antibodies, antibody derivatives, and antibody-like molecules for use as therapeutic agents. Antibodies are proteins produced by specialized cells of the body's immune system, usually in response to foreign substances such as bacteria and viruses, or to cancer cells, and they are the primary resource for our product candidates. Many of our cancer product candidates are derived from our library of over 2,000 purified antibodies and we continue to add new antibodies to that library. Our library of antibodies is targeted to more than 70 different antigens, or components of the foreign substance that induce the production of antibodies. While antibodies can have many different intended effects, the primary ones are to form a complex with, or bind to, an antigen with the effect of either activating or inactivating it, or to serve as a blocking agent to prevent another molecule from binding to it.

Our DART platform enables the creation of potential medicines comprised of a single molecule designed to simultaneously bind to two targets, each with antibody-like specificity, with the goal of creating a more significant biological effect than binding either one of the targets or even both of them separately. MGD006,

MGD007, MGD010 and MGD011 have all been generated from this platform and we have several additional DART molecules that are in earlier stages of research and development. To date, we have identified at least four different mechanistic applications of this platform:

- re-directing natural immune cells, such as T cells, to attack a particular target of interest, such as an antigen found on a specific cancer cell,
- modulating the effect of the body's immune cells by binding to two antigens that regulate the body's immune response, for example in various autoimmune inflammatory diseases,
- targeting specific immune regulatory control proteins referred to as "checkpoints"; checkpoints may contribute to the suppression of T cell function, and blocking these molecules may serve as an approach for treating patients with cancer and/or infectious disease, and
- attacking a virus or other pathogen with the goal of neutralizing the pathogen and/or increasing the likelihood that it can be recognized and destroyed by the body's immune system.

Our Fc Optimization platform relies on the modification of the constant, or Fc, region of therapeutic antibodies. This region of the antibody is generally well-recognized by the immune system and our proprietary technology is designed to enhance key characteristics of that recognition system. For example, certain modifications of the Fc region increase antibody-dependent cellular cytotoxicity, or ADCC, which is the ability of therapeutic antibodies and immune cells to cooperate and destroy targets such as tumor cells. Margetuximab and MGA271 are both antibodies that have been designed using our Fc Optimization platform.

In addition to generating new product candidates using the DART and Fc Optimization platforms, we continue to use our expertise in protein engineering to expand the existing platforms and develop new ones that may be used to create next-generation medicines. We also have a proprietary Cancer Stem-like Cell, or CSLC, technology that provides a unique discovery tool to identify cancer targets shared both by tumor-initiating cells and the differentiated cancer cells derived from them. The combination of these technology platforms allows us to customize antibodies, antibody-derived molecules and antibody-like molecules designed to treat a specific disease.

We continue to create new molecules designed for desired therapeutic effect and expect to continue to advance those programs, either directly or in collaboration with other biopharmaceutical companies.

## Our Strategy

### *Primary Objectives*

Our goal is to be a fully integrated biotechnology company leading in the discovery, development and commercialization of breakthrough biologics for the treatment of patients with cancer, as well as various autoimmune disorders and infectious diseases.

Key elements of our strategy are as follows:

- *Therapeutic focus, science driven.* We create therapeutic biological products primarily for various types of cancers, including both solid tumors and hematological malignancies. Our proprietary DART and Fc Optimization technology platforms are particularly useful for targeting and harnessing specific elements of the human immune system, allowing us to design molecules that (1) directly target cancer cells and enhance the ability of the immune system to destroy those cells, (2) re-direct effector cells to attack tumors, or (3) affect mechanisms that regulate the immune response to cancer, either by stimulating pathways that enhance this response or by blocking pathways that inhibit this response, including checkpoint molecules. This field of scientific discovery, broadly known as immuno-oncology, has been developing rapidly in the last few years, and most therapeutic products to date are largely focused on affecting individual biological pathways. We believe that cancers are sufficiently

complex that effective treatments must simultaneously affect more than one pathway. We believe that we are well-positioned, particularly through the adaptability of our DART platform, to be able to create and develop therapeutic molecules designed to simultaneously target more than one pathway.

This same flexibility in our platforms allows us to create therapeutic molecules that may be useful for other unmet medical needs beyond cancer, such as for autoimmune disorders and infectious diseases. Our core strategic focus is on development of cancer therapeutics, but we may also opportunistically pursue such possibilities when they arise.

- *Fully integrated with a deep pipeline.* Our objective is to be a fully integrated biotechnology company, in that we intend to continue to grow and establish all necessary functions from early-stage research through commercialization in at least the United States. At our current stage of development as a company, we have established early-stage discovery, process development, clinical development and clinical-stage manufacturing functions, and we intend to build commercial manufacturing as well as U.S.-based sales and marketing infrastructure as our development pipeline matures.

  We believe we have a broad portfolio of product candidates and we are not dependent upon the success of any one of them for the overall success of the company. We continue to augment that pipeline through the discovery and development of new product candidates, primarily through utilization of our internal scientific expertise and strategically seeking external collaborations that can augment our own skills. In 2014, we advanced two programs into clinical development and expect that we will advance at least two more into clinical development in 2015. Our goal is to continue at approximately that pace to ensure a robust pipeline and to replace product candidates that fail to progress.

- *Leveraging partnerships.* Throughout our company's history we have entered into collaborations with other biopharmaceutical companies and intend to continue to do so. We enter into collaborations when there is a strategic advantage to us to do so and when we believe the financial terms of the collaboration are favorable for meeting our short-term and long-term strategic objectives. We are not dependent upon any one of these collaborations, but in many cases we have the rights to significant financial payments if the product candidates that are the subjects of the collaborations achieve development milestones and sales. We have also used these collaborations to provide funding for research, to maintain a broader portfolio of product candidates, and to obtain rights to expand in the future, for example by securing co-promotion and profit-sharing rights under certain circumstances.

- *Investments in talent and culture.* One of our most valuable assets is the quality of our employee base. We invest significant effort in selecting and retaining high caliber, talented individuals who reflect our values of teamwork, initiative, innovation, corporate responsibility and integrity. As we continue to grow, we continue to seek and develop employees who are strongly committed to delivering life-changing medicines for unmet medical needs through a collaborative work environment.

## Core Therapeutic Areas We Target

### *Cancer*

Cancer is a broad group of diseases in which cells divide and grow in an uncontrolled fashion, forming malignancies that can invade other parts of the body. In normal tissues, the rates of new cell growth and cell death are tightly regulated and kept in balance. In cancerous tissues, this balance is disrupted as a result of mutations, causing unregulated cell growth that leads to tumor formation and growth. While tumors can grow slowly or rapidly, the dividing cells will nevertheless accumulate and the normal organization of the tissue will become disrupted. Cancers subsequently can spread throughout the body by processes known as invasion and metastasis. Once cancer spreads to sites beyond the primary tumor, it may be incurable. Cancer cells that arise in the lymphatic system and bone marrow are referred to as hematological malignancies. Cancer cells that arise in other tissues or organs are referred to as solid tumors. Cancer can arise in virtually any part of the body, with the most common types arising in the prostate gland, breast, lung, colon and skin. We believe that our platforms position us very well strategically to actively develop approaches for the treatment of both solid tumors and hematologic malignancies.

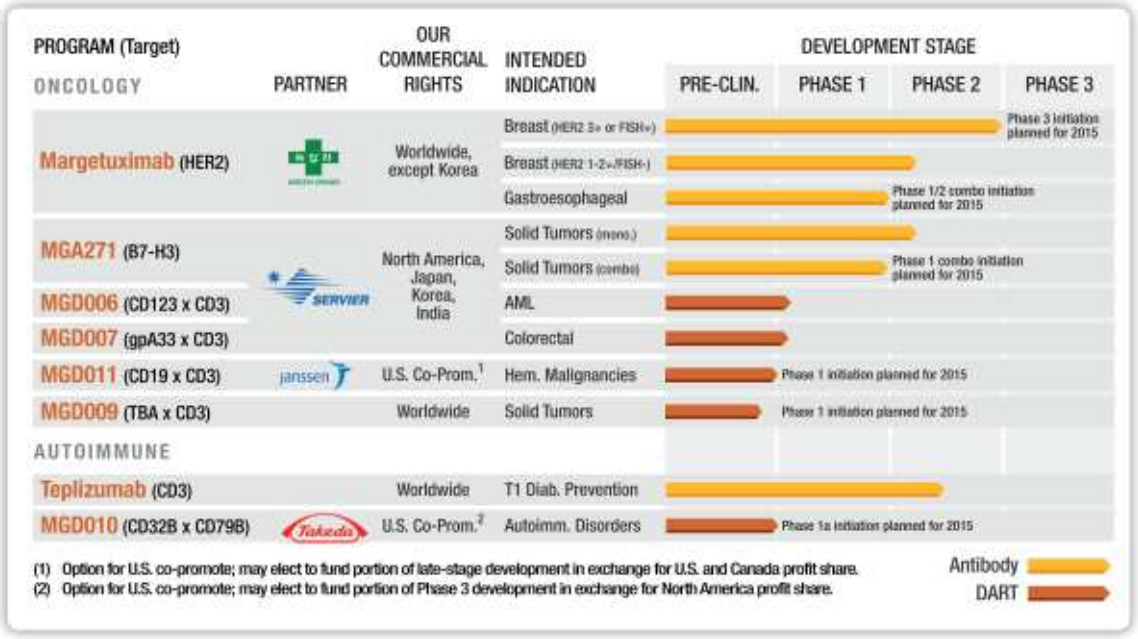
Cancer is the second leading cause of death in the United States, exceeded only by heart disease, and accounts for almost one of every four deaths. The American Cancer Society estimates that in 2015 there will be approximately 1.7 million new cases of cancer and approximately 590,000 deaths from cancer. The National Institutes of Health estimates that based on growth and aging of the U.S. population, medical expenditures for cancer in the year 2020 are projected to reach at least $158 billion (in 2010 dollars), representing an increase of 27% over 2010.

***Autoimmune Disorders***

Autoimmune disorders including rheumatoid arthritis, Crohn's disease, systemic lupus erythematosus, and multiple sclerosis, collectively affect more than 20 million people in the United States. Autoimmune disorders involve self-reactivity and destruction by T cells, B cells and antibodies due to a lack of self-tolerance. Anti-inflammatory therapies, such as TNF (tumor necrosis factor) inhibitors, have been able to improve diseases like rheumatoid arthritis. However, in addition to T cells, more evidence indicates that B cells play an important role in many common autoimmune and allergic disorders by initiating and amplifying the pathological disease processes. Current B cell targeted therapies either cause depletion of B cells, thus limiting their applicability due to the potential for infections (e.g., rituximab), or exhibit a delayed onset of action and limited efficacy across patient populations (e.g., belimumab).

**Our Product Candidates**

The table below depicts the current status of product candidates that are in or near human clinical development and for which we retain all or some commercial rights:




*Oncology*

- *Margetuximab* is an antibody that targets HER2-expressing tumors, including certain types of breast and gastroesophageal cancers. Human epidermal growth factor receptor 2, or HER2, is critical for the growth of many types of tumors. Using our Fc Optimization platform, we have engineered the constant region, or Fc region, of margetuximab to increase margetuximab's ability to kill tumor cells through an

Fc-dependent mechanism, including antibody dependent cell-mediated cytotoxicity, or ADCC. Our preliminary Phase 1 data for margetuximab demonstrated that anti-tumor activity had been observed at a range of doses tested, including the lowest dose level of margetuximab, even in patients who were heavily pre-treated (frequently with other anti-HER2 agents). In 2015, we plan to commence a Phase 3 potential registration clinical trial with margetuximab called "SOPHIA" in patients with metastatic breast cancer expressing HER2 at the 3+ level by immunohistochemistry (IHC) or 2+ level by IHC with gene amplification who have failed therapy with other HER2-directed therapeutic agents. We also plan to commence exploratory Phase 1/2 studies combining margetuximab with other therapeutic agents in patients with gastroesophageal cancer, and we are currently enrolling a Phase 2a clinical trial in patients with lower levels of HER2 expression.

- *MGA271* is an antibody that targets B7-H3, a member of the B7 family of molecules involved in immune regulation, and that is over-expressed on a wide variety of solid tumor types. Inhibition of certain members of the B7 family has been shown to have powerful anti-tumor effects in several solid tumor types. We engineered MGA271 to utilize the same Fc Optimization enhancements that we incorporated in margetuximab, and to target B7-H3 that is over-expressed on differentiated tumor cells and CSLCs, as well as on the supporting tumor vasculature and underlying tissues. MGA271 is designed to destroy all of these components of the cancer. We have initiated additional dose expansion cohorts using MGA271 as monotherapy in other tumor types, including patients with melanoma (who have failed prior therapy with checkpoint inhibitors), renal cell carcinoma, triple-negative breast carcinoma, squamous cell carcinoma of the head and neck and a cohort of patients with lung or bladder carcinoma that have particularly intense expression of B7-H3. In 2015, we also intend to initiate one clinical study combining MGA271 with ipilimumab and plan to initiate a second study combining MGA271 with another immuno-oncology agent. Under the terms of a collaboration, Les Laboratoires Servier and Institut de Recherches Servier, or collectively, Servier, has an option to obtain exclusive rights to develop and commercialize MGA271 in all countries other than the United States, Canada, Mexico, Japan, South Korea and India. If the option is exercised, MacroGenics would still retain exclusive rights in those countries.
- *MGD006* is a DART molecule that recognizes both CD123 and CD3. CD123, the Interleukin-3 receptor alpha chain, is expressed on leukemia and leukemic stem cells, but only at very low levels or not at all on normal hematopoietic stem cells. T cells, which express CD3, can destroy tumor cells. In pre-clinical studies, we have demonstrated the ability of MGD006 to recruit, activate, and expand T cell populations to eliminate leukemia cells. We are currently enrolling and dosing patients in the dose escalation portion of a Phase 1 clinical trial of MGD006. Under the terms of a collaboration, Servier has the exclusive right to develop and commercialize MGD006 in all countries other than the United States, Canada, Mexico, Japan, South Korea and India, and MacroGenics retains exclusive rights in those countries.
- *MGD007* is a DART molecule that recognizes both the glycoprotein A33 (gpA33) and CD3, and has an Fc domain, which allows for extended pharmacokinetic properties, and convenient intermittent dosing. gpA33 is expressed on gastrointestinal tumors, including more than 95% of human colon cancers. We have demonstrated that this molecule is able to mediate T cell killing of gpA33-expressing cancer cells and CSLCs in pre-clinical experiments. We are currently enrolling and dosing patients in the dose escalation portion of a Phase 1 clinical trial of MGD007. Under the terms of a collaboration, Servier has an option to obtain exclusive rights to develop and commercialize MGD007 in all countries other than the United States, Canada, Mexico, Japan, South Korea and India. If the option is exercised, MacroGenics would still retain exclusive rights in those countries.
- *MGD011* is a DART molecule that targets both CD19 and CD3 and is being developed for the treatment of B-cell hematological malignancies. CD19, a lymphocyte-specific marker expressed from early B-lymphocyte development through mature memory B cells, is highly represented in B-cell malignancies. This makes it attractive for targeted interventions. MGD011 is designed to redirect T cells, via their CD3 component, to eliminate CD19-expressing cells found in many hematological

malignancies. MGD011 has been engineered to address half-life challenges posed by other programs targeting CD19 and CD3. Like MGD007, this product candidate has an Fc domain, which allows for extended pharmacokinetic properties and convenient dosing at a once-a-week or longer interval. In addition, MGD011 and our other DART molecules that redirect T cells against cancer targets are manufactured using a conventional antibody platform without the complexity of having to genetically modify T cells from individual patients as required by approaches such as chimeric antigen receptor (CAR) T-cells. Under our recent collaboration and license agreement with Janssen, after we file the investigational new drug, or IND, application for MGD011, Janssen will develop the product candidate, subject to our options to co-promote the product in the United States and Canada and to invest in later-stage development in exchange for a United States and Canada profit-share. We anticipate that human clinical studies of MGD011 will begin in 2015.

- *MGD009* is a DART molecule that recognizes an undisclosed solid tumor antigen and CD3, and has an Fc domain, which allows for extended pharmacokinetic properties. We have demonstrated that this molecule is able to mediate T cell killing of cancer cells in pre-clinical experiments. We expect to submit an IND for MGD009 in 2015 and initiate a Phase 1 clinical study by year-end. MacroGenics retains worldwide development and commercialization rights to this molecule.

*Autoimmune Disorders*

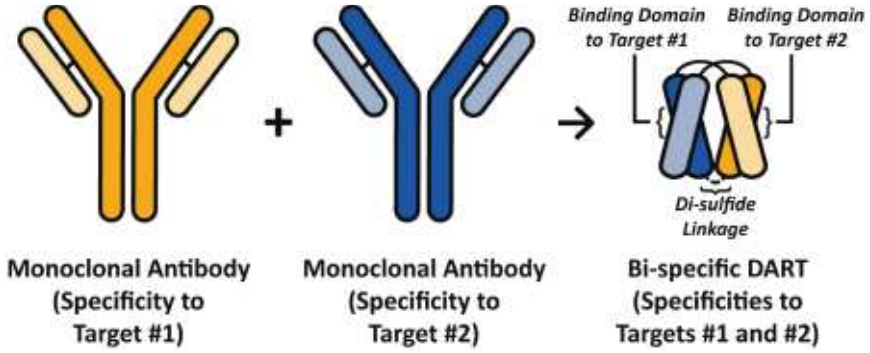
- *MGD010* is a DART molecule designed to address limitations of existing B cell-targeted therapies by binding to the CD32B and CD79B proteins found on human B cells. In pre-clinical studies, this DART molecule modulates the function of human B cells without B cell depletion. In normal conditions, B cells utilize CD32B as one of the key checkpoints or negative regulators to ensure that tolerance to self is maintained and autoimmune disease does not occur. MGD010 is designed to further exploit this mechanism by triggering this inhibitory “immune checkpoint” loop. We believe this molecule preferentially blocks those B cells that are activated to produce the pathogenic antibodies that promote the autoimmune process. We are planning to initiate a Phase 1a clinical trial with MGD010 in normal healthy volunteers in 2015. Under the terms of a collaboration agreement with respect to MGD010, Takeda Pharmaceutical Company Limited, or Takeda, has the option to further develop the program after completion of Phase 1a clinical development and, if that option is exercised, we would retain the right to co-promote the product in the United States and to invest in Phase 3 development in exchange for a North America profit-share.
- *Teplizumab* is an anti-CD3 monoclonal antibody being developed for the treatment of type 1 diabetes. Teplizumab has been engineered to alter the function of the T cells that mediate the destruction of the insulin-producing beta cells of the islets of the pancreas. Teplizumab potentially represents an advance in the treatment of type 1 diabetes by addressing the underlying disorder, rather than merely using insulin replacement therapy. Teplizumab is currently being evaluated in a Phase 2 clinical trial, called At-Risk, for the prevention or delay of onset of type 1 diabetes in patients determined to be at very high risk for developing the disease. This clinical trial is being sponsored by the National Institute of Diabetes and Digestive and Kidney Diseases. We are actively seeking a collaborator for further development of teplizumab.

**Our Platforms and Technology Expertise**

We apply our understanding of disease biology, immune-mediated mechanisms and next generation antibody technologies to design specifically targeted antibody-based product candidates based on our DART and Fc Optimization platforms. Through these platforms and utilization of our CSLC technology, we have designed antibody-based product candidates that have the potential to improve on standard treatments by having: (1) multiple specificities; (2) increased abilities to interact with the body’s immune system to fight tumors; (3) capacity to bind more avidly to antigen targets: (4) increased potency; (5) reduced immunogenicity; or (6) the ability to target cancer cells that are resistant to standard treatments. Moreover, these technology platforms are complementary and can be combined.

***DART Platform: Our Proprietary Approach to Engineer Bi-Specific Antibodies***

We use our DART platform to create derivatives of antibodies with the ability to bind to two distinct targets instead of a single one found in traditional monoclonal antibodies. DART product candidates are therefore bi-specific. An example of a bi-specific molecule is illustrated below:

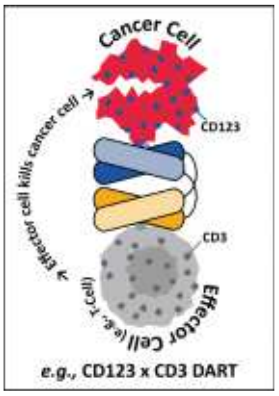



Because cancer cells have developed ways to escape the immune system, we have created DART molecules that improve upon the human immune system, by creating alternative antibody-like structures with more potent immune properties than the parent antibody molecules from which they are derived. The two variable regions of an antibody are mono-specific and are able to target only a single type structural component of an antigen. For many years, researchers have sought to create recombinant molecules that are capable of targeting two antigens or epitopes (i.e., specific part of an antigen bound by the antibody) within the same molecule. The challenges in creating such molecules have been the instability of the resulting bi-specific molecules and their inherent short half-lives, as well as the inefficiencies in manufacturing these compounds. We believe our DART platform has overcome these engineering challenges by incorporating proprietary covalent di-sulfide linkages and particular amino acid sequences that efficiently pair the chains of the DART molecule. This results in a structure with enhanced manufacturability, long-term structural stability, and the ability to tailor the half-lives of the DART molecules to their clinical needs. This engineered antibody-like protein has a compact and stable structure and enables the targeting of two different antigens with a single recombinant molecule.

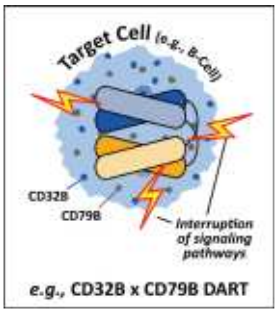
The DART platform has been specifically engineered to accommodate virtually any variable region sequence with predictable expression, folding, and antigen recognition. To date, we have produced over 100 different DART molecules and have completed numerous in vitro and in vivo proof-of-principle studies on many of these molecules.

We believe our DART platform may provide a significant advantage over current biological interventions in cancer, autoimmune disorders and infectious disease by enabling a range of modalities, including those described below.

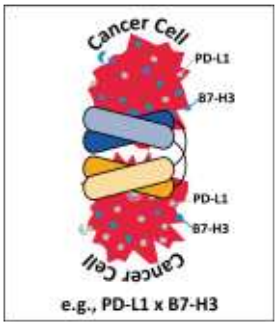
- *Redirected T cell activation and killing.* In this version of the DART molecule, we are enabling the cancer-fighting properties of the immune effector cells, such as T lymphocytes to: (1) recognize and bind to structures expressed on a cancer cell (e.g., CD123, the first specificity in the example on the right), (2) enable the recruitment of all types of cytotoxic, or cell killing, T cells, irrespective of their ability to recognize cancer cells (e.g., CD3, a common component of the T cell antigen receptor, is the second specificity in the example on the right), and (3) trigger T cell activation, expansion, and cell killing mechanisms to destroy a cancer cell. The outcome is that any of the body's T cells, in theory, could be recruited to destroy a cancer cell and thus, are not limited to the small numbers of specific T cells that might have been generated in response to cancer to kill tumor cells. Furthermore, since any T cell could be recruited for this killing process, only small amounts of a DART molecule are required to trigger this potent immune response. Additionally, the compact structure of the DART protein makes it well suited for maintaining cell-to-cell contact, apparently contributing to the high level of target cell killing.



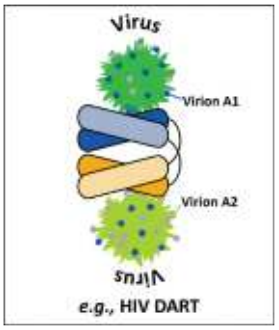

- *Modulation of receptor signaling* . In another configuration of the DART molecule, we have taken advantage of the two different specificities engineered in a DART structure to bind not only to particular cells involved in autoimmune processes, such as autoimmune B cells, but also to usurp the immune checkpoint signaling pathways programmed within the cells to impede the pathogenic autoimmune responses. Our MGD010 product candidate targets both CD32B, a co-inhibitory molecule, and CD79B, part of the B cell antigen receptor complex, two proteins expressed on the immune system's B cells. Using a single DART molecule, we attempt to promote the interaction of these two receptors, a step required to interrupt the B-cell activation and immune response that single antibodies directed against CD32B, CD79B, or both cannot accomplish independently.



- *Simultaneous targeting of multiple co-inhibitory receptors or checkpoints, such as those involved in inhibiting T cell responses and B cell responses.* The immune system generally prevents the development of autoimmune phenomena by regulating activated immune cells that have responded to non-self or foreign antigens. This negative feedback loop is triggered by the interactions of co-inhibitory receptors, or checkpoint molecules, expressed on the immune cells with ligands expressed by other cells, such as antigen-presenting cells. This phenomenon is exploited by cancer, whereby tumor cells express checkpoint ligands that block the development of an immune response against the tumor. Antibodies that block the interaction of checkpoint molecules with their ligands have been shown to significantly improve the clinical outcomes of patients with advanced cancers. Because of the diversity of immune checkpoint pathways, blockade of a single axis, while clinically significant, as shown in the case of the blockade of the PD-1/PD-L1 axis with pembrolizumab or nivolumab, will not benefit all patients. In fact, combinations of checkpoint inhibitors, such as nivolumab and ipilimumab, a CTLA-4 blocker, have resulted in significantly enhanced benefit compared to ipilimumab alone. We believe that DART molecules targeting two immunoregulatory pathways, such as two checkpoints in a single molecule, could afford the clinical benefit of the combination together with the potential for synergistic activity, as well as significant advantages in manufacturing, simplified clinical development, and enhanced patient convenience.




- *Targeting multiple epitopes on a pathogen for enhanced neutralization and/or clearance* . Infectious agents with slightly different genetic sequences or structures may perpetuate disease. Sometimes multiple variants may infect one individual and may evade the patient's normal immune responses. Creating DART molecules that neutralize multiple infectious variants of a virus or multiple toxins produced by a bacterium could be an advantage for prevention or treatment. Examples of this include targeting the major genetic and serological forms of dengue virus, the cause of a major viral disease transmitted by mosquitoes, quasi-species of HIV, or different bacterial toxins derived from pathogenic clostridium species.



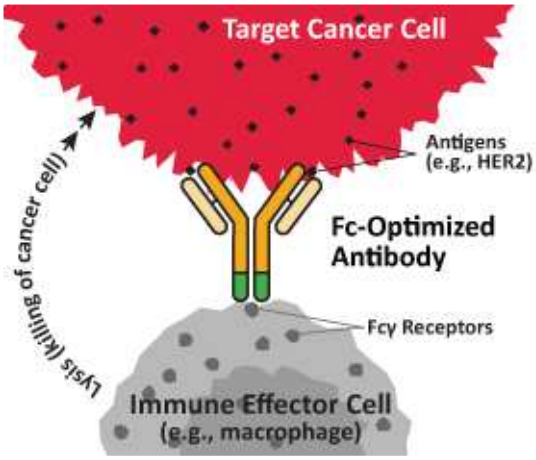

In addition, we have the ability to tailor a DART molecule's valency (number of binding sites), the strength by which the binding sites attach to their targets, and its half-life in the blood circulation, after delivery to a patient. Furthermore, when an Fc domain is coupled with a DART molecule, additional changes can be included that can modulate the DART molecule's engagement with different immune cells.

We have developed proof-of-concept pre-clinical data and are developing specific product candidates using this technology, including MGD006, MGD007, MGD010, MGD011 and MGD009, among others. We have been able to produce DART molecules in both bacterial and mammalian expression systems.

***Fc Optimization Platform: Our Proprietary Approach to Enhance Immune-Mediated Cancer Cell Killing***

To enhance the body's immune ability, we developed our Fc Optimization platform which introduces certain mutations into the Fc region of an antibody and is able to modulate antibody interaction with immune effector cells. Such interaction enhances the body's immune ability to mediate the killing of cancer cells through ADCC.

**ADCC**




The Fc region mediates the function of certain antibodies by binding to different activating and inhibitory receptors, referred to as Fc γ Rs, on immune effector cells found within the innate immune system. By engineering Fc regions to bind with an increased affinity to the activating Fc γ Rs and with a reduced affinity to the inhibitory Fc γ Rs, we have been able to impart a more effective immune response, and improve effector functions, such as ADCC. This is another example in which small changes in antibody structure can confer improvements on normal immune processes.

We have established a proprietary platform to engineer, screen, identify and test antibodies' Fc regions with customizable activity. In particular, we have licenses to use transgenic mice that express human Fc γ Rs. These mice can be used for in vivo testing of antibodies that incorporate Fc domain variants, including those antibodies intended for cancer therapy.

To date, we have successfully incorporated our Fc variants in two of our clinical-stage antibody product candidates, margetuximab and MGA271. We have pre-clinical data demonstrating that these Fc variants have substantially improved the therapeutic effects of these antibodies.

***Cancer Stem-like Cell Technology: Our Proprietary Approach to Discover Cancer Targets***

Our CSLC technology provides new approaches to discover and identify cancer targets that are not susceptible to current cancer therapies. Cancer stem cells represent important potential targets in oncology drug development because they are theorized to be the basis for tumor re-growth, metastasis and resistance to much standard chemotherapy. Therefore, the ability to specifically target and destroy cancer stem cells could potentially address an unmet medical need in many hard-to-treat cancers today. Using our CSLC technology, we can create antibodies that could target or kill cancer stem cells.

Building on our expertise in growing stem cells from normal tissues using proprietary media and culture conditions, we have produced CSLCs from a range of primary human tumor tissues, including those derived from the colon, lung and ovary. We analyze and characterize the CSLCs for the following stem-cell related

features: (a) ability for self-renewal, (b) ability to form tumors in vivo that differentiate with the expected histological characteristics, and (c) genetic and protein stem cell marker expression profiles. To date, we have created novel antibodies that target antigens on both CSLCs and the bulk differentiated tumor cells, which are derived from the CSLCs.

We have generated over 2,000 monoclonal antibodies that we have screened by IHC for lower-binding to normal, non-malignant tissues. Many of these antibodies have been characterized for binding to primary tumors and cancer cell lines and we are developing the most promising of these antibodies into product candidates. This collection of antibodies is selective for both validated and novel cancer targets.

**Our Collaborations**

We pursue a balanced approach between product candidates that we develop ourselves and those that we develop with our collaborators. Under our current strategic collaborations, we have received significant non-dilutive funding to date and continue to have rights to additional funding upon completion of certain research, achievement of key product development milestones, or royalties and other payments upon the commercial sale of products. Each of our collaborations has a unique set of terms and conditions, but in general, they fall into two categories:

- *MacroGenics-Created Programs* . We have a number of collaborations relating to product candidates that we have created from our internal research efforts. These include Janssen for MGD011; Servier for MGA271, MGD006 and MGD007; Takeda for MGD010; and Green Cross Corp., or Green Cross, for margetuximab. In the case of these product candidates, we have entered into collaborations when we believed that our partner could further enable development of the program or provide additional capabilities and funding to supplement MacroGenics' investment, or both. In all of these cases, we obtained financial terms that we believed were beneficial to us and retained commercial rights for multiple major markets or options to other commercial rights. For example, under the Janssen and Takeda agreements, we have the option to co-promote products in the United States as well as an option to share in profits in the United States (and Canada, as well, under the Janssen agreement) if we invest in the late-stage development. Under the Servier agreements, we retain full commercialization and development rights in the United States, Canada, Mexico, Japan, South Korea and India. Under the Green Cross agreement, we retain full commercialization rights worldwide except for South Korea.
- *Joint Research Programs.* We have several programs under which collaborators have sought to utilize some aspect of our protein engineering platforms with new product concepts that are jointly directed, and sometimes employing a collaborator's own proprietary technology. These collaborations give us the ability to expand the breadth of our potential products, develop greater scientific expertise, and obtain additional funding for research. We have entered into these types of programs with Pfizer, Inc., Boehringer Ingelheim GmbH, or Boehringer, and Gilead Sciences, Inc., or Gilead. With these collaborators we have more limited development or commercial rights related to the product candidates that may emerge from joint research programs.

**Intellectual Property**

We strive to protect the proprietary technologies that we believe are important to our business, including seeking and maintaining patents intended to protect, for example, the composition of matter of our product candidates, their methods of use, the technology platforms used to generate them, related technologies and/or other aspects of the inventions that are important to our business. We also rely on trade secrets and careful monitoring of our proprietary information to protect aspects of our business that are not amenable to, or that we do not consider appropriate for, patent protection.

Our success will depend significantly on our ability to obtain and maintain patent and other proprietary protection for commercially important technology, inventions and know-how related to our business. In addition,

there is cost and risk to our business in defending and enforcing our patents, maintaining our licenses to use intellectual property owned by third parties, and preserving the confidentiality of our trade secrets and operate without infringing the valid and enforceable patents and other proprietary rights of third parties. We also rely on know-how, continuing technological innovation and in-licensing opportunities to develop, strengthen, and maintain our proprietary positions. We currently use multiple industry-standard patent monitoring systems to monitor new United States Patent and Trademark Office, or USPTO, filings for any applications by third parties that may infringe on our patents.

The patent positions of biopharmaceutical companies like us are generally uncertain and involve complex legal, scientific and factual questions. In addition, the coverage claimed in a patent application can be significantly reduced before the patent is issued, and its scope can be reinterpreted by the courts after issuance. Consequently, we do not know whether any of our product candidates will be protectable or remain protected by enforceable patents. We cannot predict whether the patent applications we are currently pursuing will issue as patents in any particular jurisdiction or whether the claims of any issued patents will provide sufficient proprietary protection from competitors. Any patents that we hold may be challenged, narrowed, circumvented or invalidated by third parties.

A third party may hold patents or other intellectual property rights that are important to or necessary for the development of our product candidates or use of our technology platforms. It may be necessary for us to use the patented or proprietary technology of third parties to commercialize our product candidates, in which case we would be required to obtain a license from these third parties on commercially reasonable terms, or our business could be harmed, possibly materially. For example, certain patents held by third parties cover Fc engineering methods and mutations in Fc regions to enhance the binding of Fc regions to Fc receptors on immune cells. Although we believe that these patents are invalid, if they cover margetuximab or MGA271 and we are unable to invalidate them, or if licenses for them are not available on commercially reasonable terms, our business could be harmed, perhaps materially.

Because patent applications in the United States and certain other jurisdictions can be maintained in secrecy for 18 months or potentially even longer, and because publication of discoveries in the scientific or patent literature often lags behind actual discoveries, we cannot be certain of the priority of inventions covered by pending patent applications. Moreover, we may have to participate in interference proceedings declared by the USPTO to determine priority of invention. From time to time, we may, in the ordinary course of business, participate in post-grant challenge proceedings, such as oppositions, that challenge the patentability of third party patents. Such proceedings could result in substantial cost, even if the eventual outcome is favorable to us.

***FDA Regulatory Review Process***

The Hatch-Waxman Act permits a patent term extension for FDA-approved drugs of up to five years beyond the expiration of the patent. The length of the patent term extension is related to the length of time the drug is under regulatory review. Patent extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval and only one patent applicable to an approved drug may be extended. Similar provisions are available in Europe and other jurisdictions to extend the term of a patent that covers an approved drug. In the future, if and when our pharmaceutical product candidates receive FDA approval, we expect to apply for patent term extensions on patents covering those products. We intend to seek patent term extensions to any of our issued patents in any jurisdiction where these are available, however there is no guarantee that the applicable authorities, including the FDA in the United States, will agree with our assessment of whether such extensions should be granted, and even if granted, the length of such extensions.

***Trade Secrets***

We also rely on trade secret protection for our confidential and proprietary information. Although we take steps to protect our proprietary information and trade secrets, including through contractual means with our

employees and consultants, third parties may independently develop substantially equivalent proprietary information and techniques or otherwise gain access to our trade secrets or disclose our technology. Thus, we may not be able to meaningfully protect our trade secrets. It is our policy to require our employees, consultants, outside scientific collaborators, sponsored researchers and other advisors to execute confidentiality agreements upon the commencement of employment or consulting relationships with us. These agreements provide that all confidential information concerning our business or financial affairs developed or made known to the individual during the course of the individual's relationship with us is to be kept confidential and not disclosed to third parties except in specific circumstances. In the case of employees, the agreements provide that all inventions conceived by the individual, and which are related to our current or planned business or research and development or made during normal working hours, on our premises or using our equipment or proprietary information, are our exclusive property. In many cases our confidentiality and other agreements with consultants, outside scientific collaborators, sponsored researchers and other advisors require them to assign or grant us licenses to inventions they invent as a result the work or services they render under such agreements or grant us an option to negotiate a license to use such inventions.

***In-Licensed Intellectual Property***

We have entered into patent and know-how license agreements that grant us the right to use a certain technology related to biological manufacturing for margetuximab and MGA271. We anticipate using this technology for future product candidates. This licensor has a business dedicated to licensing this technology and we anticipate that licenses to use the technology for our future products will be available. The licenses typically include an obligation to pay an upfront payment, yearly maintenance payments and sales royalties.

In establishing our Fc Optimization platform, we entered into patent license agreements which grant us the right to use technologies to generate mutant Fc regions. The licenses include obligations to pay a yearly maintenance payment, development milestones and sales royalties on products we develop and commercialize that include mutant Fc regions generated using the patented technologies.

**Manufacturing**

We currently have a manufacturing facility located in Rockville, Maryland. We intend to expand our capacity at this location later in 2015. For our Phase 3 clinical trials for our antibody product candidates and for commercial sale quantities of such candidates, we have supplemented our manufacturing capacity through contract manufacturing organizations and may need to expand further to be able to supply the quantities required. We intend to screen multiple manufacturers to provide the drug substance for commercial purposes for some of our product candidates prior to the filing of a biologics license application, or BLA. We currently rely on and will continue to rely on contract fill-finish service providers to fulfill our fill-finish needs for our current and future product candidates.

**Commercialization**

We have not yet established a sales, marketing or product distribution infrastructure because our lead product candidates are still in clinical development. We believe that it will be possible for us to access the United States oncology market through a targeted specialty sales force. Subject to receiving marketing approvals, we expect to commence commercialization activities by building a focused sales and marketing organization in the United States to sell our products. We believe that such an organization will be able to address the community of oncologists who are the key specialists in treating the patient populations for which our oncology product candidates are being developed. Outside the United States, we expect to enter into distribution and other marketing arrangements with third parties for any of our product candidates that obtain marketing approval.

**Competition**

There are a large number of companies developing or marketing treatments for cancer and autoimmune disorders, including many major pharmaceutical and biotechnology companies. These treatments consist both of small molecule drug products, as well as biologic therapeutics that work by using next-generation antibody technology platforms to address specific cancer targets. In addition, several companies are developing therapeutics that work by targeting multiple specificities using a single recombinant molecule. Amgen Inc. has obtained marketing approval for at least one product that works by targeting antigens both on immune effector cell populations and those expressed on certain cancer cells, and has other product candidates in development that use this mechanism. In addition, other companies are developing new treatments for cancer and autoimmune diseases that enhance the Fc regions of antibodies to create more potent antibodies, including F. Hoffmann -La Roche Ltd. and Xencor, Inc.

Many of our competitors have significantly greater financial, manufacturing, marketing, drug development, technical and human resources than we do. Mergers and acquisitions in the pharmaceutical, biotechnology and diagnostic industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller or early stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These competitors also compete with us in recruiting and retaining top qualified scientific and management personnel and establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

The key competitive factors affecting the success of all of our therapeutic product candidates, if approved, are likely to be their efficacy, safety, dosing convenience, price, the effectiveness of companion diagnostics in guiding the use of related therapeutics, the level of generic competition and the availability of reimbursement from government and other third party payors. In addition, the standard of medical care provided to cancer patients continues to evolve as more scientific and medical information becomes available. These changes in medical care relate to pharmaceutical products, but are also affected by other factors, and such changes can positively or negatively affect the prospects of our product candidates as well as those of our competitors.

Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are more effective, have fewer or less severe effects, are more convenient or are less expensive than any products that we may develop. Our competitors also may obtain FDA or other regulatory approval for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market. In addition, our ability to compete may be affected in many cases by insurers or other third party payors seeking to encourage the use of biosimilar products. Biosimilar products are expected to become available over the coming years. For example, certain products that are trastuzumab biosimilars may be approved in the U.S. prior to margetuximab, if approved.

The most common methods of treating patients with cancer are surgery, radiation and drug therapy. There are a variety of available drug therapies marketed for cancer. In many cases, these drugs are administered in combination to enhance efficacy. While our product candidates may compete with many existing drug and other therapies, to the extent they are ultimately used in combination with or as an adjunct to these therapies, our product candidates will not be competitive with them. Some of the currently approved drug therapies are branded and subject to patent protection, and others are available on a generic basis. Many of these approved drugs are well established therapies and are widely accepted by physicians, patients and third party payors.

In addition to currently marketed therapies, there are also a number of products in late stage clinical development to treat cancer. These product candidates in development may provide efficacy, safety, dosing convenience and other benefits that are not provided by currently marketed therapies. As a result, they may provide significant competition for any of our product candidates for which we obtain marketing approval.

## Government Regulation and Product Approval

Government authorities in the United States, at the federal, state and local level, and in other countries extensively regulate, among other things, the research, development, testing, manufacture, packaging, storage, recordkeeping, labeling, advertising, promotion, distribution, marketing, import and export of pharmaceutical products such as those we are developing. The processes for obtaining regulatory approvals in the United States and in foreign countries, along with subsequent compliance with applicable statutes and regulations, require the expenditure of substantial time and financial resources.

### *FDA Approval Process*

All of our current product candidates are subject to regulation in the United States by the FDA as biological products, or biologics. The FDA subjects biologics to extensive pre- and post-market regulation. The Public Health Service Act, the Federal Food, Drug, and Cosmetic Act and other federal and state statutes and regulations, govern, among other things, the research, development, testing, manufacture, storage, recordkeeping, approval, labeling, promotion and marketing, distribution, post-approval monitoring and reporting, sampling, and import and export of biologics. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as FDA refusal to approve pending BLAs, withdrawal of approvals, clinical holds, warning letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties, or criminal penalties.

### *Other Healthcare Laws and Compliance Requirements*

In the United States, our activities are potentially subject to regulation by federal, state, and local authorities in addition to the FDA, including the Centers for Medicare and Medicaid Services, other divisions of the U.S. Department of Health and Human Services (e.g., the Office of Inspector General), the U.S. Department of Justice and individual U.S. Attorney offices within the Department of Justice, and state and local governments.

### *International Regulation*

In addition to regulations in the United States, a variety of foreign regulations govern clinical trials, commercial sales, and distribution of product candidates. The approval process varies from country to country and the time to approval may be longer or shorter than that required for FDA approval.

### *Pharmaceutical Coverage, Pricing, and Reimbursement*

In the United States and other countries, sales of any products for which we receive regulatory approval for commercial sale will depend in part on the availability of reimbursement from third-party payors, including government health administrative authorities, managed care providers, private health insurers, and other organizations. Third-party payors are increasingly examining the medical necessity and cost effectiveness of medical products and services in addition to safety and efficacy and, accordingly, significant uncertainty exists as to the reimbursement status of newly approved therapeutics. Third-party reimbursement adequate to enable us to realize an appropriate return on our investment in research and product development may not be available for our products.

## Facilities

Our headquarters are located in Rockville, Maryland, where we occupy office and laboratory space under two leases that each expire on January 31, 2020, and each of those leases may be extended for a five-year term. Our manufacturing facility is also located in Rockville under lease from the same landlord. The lease for a portion of that facility expires on March 31, 2018 and may be extended for a five-year term, and the lease for the remainder of that facility expires on December 31, 2019. We also lease office and laboratory space in South San Francisco under a lease that expires on February 28, 2018.

**Employees**

As of February 27, 2015, we had 211 full-time employees, 180 of whom were primarily engaged in research and development activities and 43 of whom had an M.D. or Ph.D. degree.

**Legal Proceedings**

From time to time we may be involved in various disputes and litigation matters that arise in the ordinary course of business. We are not currently a party to any material legal proceedings.

**Available Information**

Our website address is www.macrogenics.com. We post links to our website to the following filings as soon as reasonably practicable after they are electronically filed with or furnished to the Securities and Exchange Commission, or the SEC: Annual Reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements, and any amendments to those reports filed or furnished pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended. All such filings are available through our website free of charge. Our filings may also be read and copied at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. Information on the operation of the Public Reference Room may be obtained by calling the SEC at 1-800-SEC-0330. The SEC also maintains an internet site at www.sec.gov that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC.

## ITEM 1A. RISK FACTORS

*Our business and results of operations are subject to numerous risks, uncertainties and other factors that you should be aware of, some of which are described below. The risks, uncertainties and other factors described below are not the only ones facing our company. Additional risks, uncertainties and other factors not presently known to us or that we currently deem immaterial may also impair our business operations.*

*Any of the risks, uncertainties and other factors could have a materially adverse effect on our business, financial condition or results of operations and could cause the trading price of our common stock to decline substantially.*

### Risks Related to Our Business and the Development and Commercialization of Our Product Candidates.

***All of our product candidates are in pre-clinical or clinical development. Clinical drug development is expensive, time consuming and uncertain and we may ultimately not be able to obtain regulatory approvals for the commercialization of some or all of our product candidates.***

The research, testing, manufacturing, labeling, approval, selling, marketing and distribution of drug products are subject to extensive regulation by the U.S. Food and Drug Administration, or FDA, and non-U.S. regulatory authorities, which regulations differ from country to country. We are not permitted to market our product candidates in the United States or in other countries until we receive approval of a Biologics License Application, or BLA, from the FDA or marketing approval from applicable regulatory authorities outside the United States. Our product candidates are in various stages of development and are subject to the risks of failure inherent in drug development. We have not submitted an application for or received marketing approval for any of our product candidates. We have limited experience in conducting and managing the clinical trials necessary to obtain regulatory approvals, including approval by the FDA. Obtaining approval of a BLA can be a lengthy, expensive and uncertain process. In addition, failure to comply with FDA and non-U.S. regulatory requirements may, either before or after product approval, if any, subject our company to administrative or judicially imposed sanctions, including:

- restrictions on our ability to conduct clinical trials, including full or partial clinical holds on ongoing or planned trials;
- restrictions on the products, manufacturers or manufacturing process;
- warning letters;
- civil and criminal penalties;
- injunctions;
- suspension or withdrawal of regulatory approvals;
- product seizures, detentions or import bans;
- voluntary or mandatory product recalls and publicity requirements;
- total or partial suspension of production;
- imposition of restrictions on operations, including costly new manufacturing requirements; and
- refusal to approve pending BLAs or supplements to approved BLAs.

The FDA and foreign regulatory authorities also have substantial discretion in the drug approval process. The number of pre-clinical studies and clinical trials that will be required for regulatory approval varies depending on the product candidate, the disease or condition that the product candidate is designed to address,

and the regulations applicable to any particular drug candidate. Regulatory agencies can delay, limit or deny approval of a product candidate for many reasons, including:

- a product candidate may not be deemed safe or effective;
- the results may not confirm the positive results from earlier pre-clinical studies or clinical trials;
- regulatory agencies may not find the data from pre-clinical studies and clinical trials sufficient;
- regulatory agencies might not approve or might require changes to our manufacturing processes or facilities; or
- regulatory agencies may change their approval policies or adopt new regulations.

Any delay in obtaining or failure to obtain required approvals could materially adversely affect our ability to generate revenue from the particular product candidate, which likely would result in significant harm to our financial position and adversely impact our stock price. Furthermore, any regulatory approval to market a product may be subject to limitations on the indicated uses for which we may market the product. These limitations may limit the size of the market for the product.

***If clinical trials for our product candidates are prolonged, delayed or stopped, we may be unable to obtain regulatory approval and commercialize our product candidates on a timely basis, which would require us to incur additional costs and delay our receipt of any product revenue.***

We are currently enrolling patients in clinical trials for margetuximab, MGA271, MGD006 and MGD007, and anticipate initiating or continuing clinical trials for these product candidates and others in 2015. The commencement of new clinical trials could be substantially delayed or prevented by several factors, including:

- further discussions with the FDA or other regulatory agencies regarding the scope or design of our clinical trials;
- the limited number of, and competition for, suitable sites to conduct our clinical trials, many of which may already be engaged in other clinical trial programs, including some that may be for the same indication as our product candidates;
- any delay or failure to obtain regulatory approval or agreement to commence a clinical trial in any of the countries where enrollment is planned;
- inability to obtain sufficient funds required for a clinical trial;
- clinical holds on, or other regulatory objections to, a new or ongoing clinical trial;
- delay or failure to manufacture sufficient supplies of the product candidate for our clinical trials;
- delay or failure to reach agreement on acceptable clinical trial agreement terms or clinical trial protocols with prospective sites or clinical research organizations, or CROs, the terms of which can be subject to extensive negotiation and may vary significantly among different sites or CROs; and
- delay or failure to obtain institutional review board, or IRB, approval to conduct a clinical trial at a prospective site.

The completion of our clinical trials could also be substantially delayed or prevented by several factors, including:

- slower than expected rates of patient recruitment and enrollment;
- failure of patients to complete the clinical trial;
- unforeseen safety issues, including severe or unexpected drug-related adverse effects experienced by patients, including possible deaths;

- lack of efficacy during clinical trials;
- termination of our clinical trials by one or more clinical trial sites;
- inability or unwillingness of patients or clinical investigators to follow our clinical trial protocols;
- inability to monitor patients adequately during or after treatment by us and/or our CROs; and
- the need to repeat or terminate clinical trials as a result of inconclusive or negative results or unforeseen complications in testing.

Changes in regulatory requirements and guidance may also occur and we may need to significantly amend clinical trial protocols to reflect these changes with appropriate regulatory authorities. Amendments may require us to renegotiate terms with CROs or resubmit clinical trial protocols to IRBs for re-examination, which may impact the costs, timing or successful completion of a clinical trial. Our clinical trials may be suspended or terminated at any time by the FDA, other regulatory authorities, the IRB overseeing the clinical trial at issue, any of our clinical trial sites with respect to that site, or us, due to a number of factors, including:

- failure to conduct the clinical trial in accordance with regulatory requirements or our clinical protocols;
- unforeseen safety issues or any determination that a clinical trial presents unacceptable health risks;
- lack of adequate funding to continue the clinical trial due to unforeseen costs or other business decisions; and
- upon a breach or pursuant to the terms of any agreement with, or for any other reason by, current or future collaborators that have responsibility for the clinical development of any of our product candidates.

Any failure or significant delay in completing clinical trials for our product candidates would adversely affect our ability to obtain regulatory approval and our commercial prospects and ability to generate product revenue will be diminished.

***The results of previous clinical trials may not be predictive of future results, and the results of our current and planned clinical trials may not satisfy the requirements of the FDA or non-U.S. regulatory authorities.***

We currently have no products approved for sale, and we cannot guarantee that we will ever have marketable products. Clinical failure can occur at any stage of clinical development. Clinical trials may produce negative or inconclusive results, and we or any of our current and future collaborators may decide, or regulators may require us, to conduct additional clinical or pre-clinical testing. We will be required to demonstrate with substantial evidence through well-controlled clinical trials that our product candidates are safe and effective for use in a diverse population before we can seek regulatory approvals for their commercial sale. Success in early clinical trials does not mean that future larger registration clinical trials will be successful because product candidates in later-stage clinical trials may fail to demonstrate sufficient safety and efficacy to the satisfaction of the FDA and non-U.S. regulatory authorities despite having progressed through initial clinical trials. Product candidates that have shown promising results in early clinical trials may still suffer significant setbacks in subsequent registration clinical trials. Similarly, the outcome of pre-clinical testing and early clinical trials may not be predictive of the success of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. A number of companies in the pharmaceutical industry, including those with greater resources and experience than us, have suffered significant setbacks in advanced clinical trials, even after obtaining promising results in earlier clinical trials.

In addition, the design of a clinical trial can determine whether its results will support approval of a product and flaws in the design of a clinical trial may not become apparent until the clinical trial is well advanced. We may be unable to design and execute a clinical trial to support regulatory approval.

In some instances, there can be significant variability in safety and/or efficacy results between different trials of the same product candidate due to numerous factors, including changes in trial protocols, differences in size and type of the patient populations, adherence to the dosing regimen and other trial protocols and the rate of dropout among clinical trial participants. We do not know whether any Phase 2, Phase 3 or other clinical trials we or any of our collaborators may conduct will demonstrate consistent or adequate efficacy and safety to obtain regulatory approval to market our product candidates.

Further, our product candidates may not be approved even if they achieve their primary endpoints in Phase 3 clinical trials or registration trials. The FDA or other non-U.S. regulatory authorities may disagree with our trial design and our interpretation of data from pre-clinical studies and clinical trials. In addition, any of these regulatory authorities may change requirements for the approval of a product candidate even after reviewing and providing comments or advice on a protocol for a pivotal Phase 3 clinical trial that has the potential to result in FDA or other agencies' approval. In addition, any of these regulatory authorities may also approve a product candidate for fewer or more limited indications than we request or may grant approval contingent on the performance of costly post-marketing clinical trials. The FDA or other non-U.S. regulatory authorities may not approve the labeling claims that we believe would be necessary or desirable for the successful commercialization of our product candidates.

***We use new technologies in the development of our product candidates and the FDA and other regulatory authorities have not approved products that utilize these technologies.***

Our products in development are based on new technologies, such as Fc Optimization, DART molecules and CSLCs. Given the novelty of our technologies, we intend to work closely with FDA and other regulatory authorities to perform the requisite scientific analyses and evaluation of our methods to obtain regulatory approval for our product candidates. It is possible that the validation process may take time and resources, require independent third-party analyses or not be accepted by the FDA and other regulatory authorities. For some of our product candidates that are based on these technology platforms, the regulatory approval path and requirements may not be clear or evolve as more data becomes available for this product candidates, which could add significant delay and expense. Delays or failure to obtain regulatory approval of any of the product candidates that we develop would adversely affect our business.

***We may not be successful in our efforts to use and expand our technology platforms to build a pipeline of product candidates.***

A key element of our strategy is to use and expand our technology platforms to build a pipeline of product candidates and progress these product candidates through clinical development for the treatment of a variety of different types of diseases. Although our research and development efforts to date have resulted in a pipeline of product candidates directed at various cancers, as well as autoimmune disorders and infectious diseases, we may not be able to develop product candidates that are safe and effective. Even if we are successful in continuing to build our pipeline, the potential product candidates that we identify may not be suitable for clinical development, including as a result of being shown to have harmful side effects or other characteristics that indicate that they are unlikely to be products that will receive marketing approval and achieve market acceptance. If we do not continue to successfully develop and begin to commercialize product candidates, we will face difficulty in obtaining product revenues in future periods, which could result in significant harm to our financial position and adversely affect our stock price.

***We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial and managerial resources, we focus on research programs and product candidates that we identify for specific indications. As a result, we may forego or delay pursuit of opportunities

with other product candidates or for other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable products. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through collaboration, licensing or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights.

***Even if we obtain FDA approval of any of our product candidates, we may never obtain approval or commercialize our products outside of the United States, which would limit our ability to realize their full market potential.***

In order to market any products outside of the United States, we must establish and comply with numerous and varying regulatory requirements of other countries regarding safety and efficacy. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries, and regulatory approval in one country does not mean that regulatory approval will be obtained in any other country. Approval procedures vary among countries and can involve additional product testing and validation and additional administrative review periods. Seeking foreign regulatory approvals could result in significant delays, difficulties and costs for us and may require additional pre-clinical studies or clinical trials which would be costly and time consuming. Regulatory requirements can vary widely from country to country and could delay or prevent the introduction of our products in those countries. Satisfying these and other regulatory requirements is costly, time consuming, uncertain and subject to unanticipated delays. In addition, our failure to obtain regulatory approval in any country may delay or have negative effects on the process for regulatory approval in other countries. We do not have any product candidates approved for sale in any jurisdiction, including international markets, and we do not have experience in obtaining regulatory approval in international markets. If we fail to comply with regulatory requirements in international markets or to obtain and maintain required approvals, our target market will be reduced and our ability to realize the full market potential of our products will be harmed.

***We may seek fast-track designation for some of our product candidates. There is no assurance that the FDA will grant such designation and, even if it does, that designation may not actually lead to a faster development or regulatory review or approval process and it does not increase the likelihood that our product candidates will receive marketing approval in the United States.***

We may seek fast-track designation and review for some of our product candidates. If a drug is intended for the treatment of a serious or life-threatening condition or disease and has an unmet medical need, the drug sponsor may apply for FDA fast track designation. The FDA has broad discretion whether or not to grant this designation, so even if we believe a particular product candidate is eligible for this designation, we cannot provide assurance that the FDA would decide to grant it. Moreover, even if we do receive fast track designation, we may not experience a faster development process, review or approval compared to conventional FDA procedures. In addition, the FDA may withdraw fast track designation if it believes that the designation is no longer supported by data from our clinical development program.

***We may seek breakthrough therapy designation by the FDA for any of our product candidates but that is not assured and may not, in any event, lead to a faster development or regulatory review or approval process, and it does not increase the likelihood that our product candidates will receive marketing approval in the United States.***

We may apply for breakthrough therapy designation for some of our product candidates. The FDA is authorized to designate a product candidate as a breakthrough therapy if it finds that the product is intended, alone or in combination with one or more other drugs, to treat a serious or life-threatening disease or condition, and preliminary clinical evidence indicates that the product may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed

early in clinical development. For products designated as breakthrough therapies, interaction and communication between the FDA and the sponsor of the trial can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens.

Designation as a breakthrough therapy is within the discretion of the FDA. Accordingly, even if we believe one of our product candidates meets the criteria for designation as a breakthrough therapy, the FDA may disagree and instead determine not to make such designation. In any event, the receipt of a breakthrough therapy designation for a product candidate may not result in a faster development process, review or approval compared to product candidates considered for approval under conventional FDA procedures and, in any event, does not assure ultimate approval by the FDA. In addition, even if one or more of our product candidates qualify as breakthrough therapies, the FDA may later decide that the product candidates no longer meet the conditions for qualification or decide that the time period for FDA review or approval will not be shortened.

***We may be unable to obtain orphan product designation or exclusivity for some or all of our product candidates. If our competitors are able to obtain orphan product exclusivity for their products that are the same as our product candidates, we may not be able to have competing products approved by the applicable regulatory authority for a significant period of time.***

Regulatory authorities in some jurisdictions, including the United States and Europe, may designate drugs for relatively small patient populations as orphan drugs. Under the Orphan Drug Act, FDA may designate a product candidate as an orphan drug if it is a drug intended to treat a rare disease or condition, which is generally defined as a patient population of fewer than 200,000 individuals annually in the United States.

Generally, if a product candidate with an orphan drug designation subsequently receives the first marketing approval for the indication for which it has such designation, the product is entitled to a period of marketing exclusivity, which precludes the European Medicines Agency, or EMA, or the FDA from approving another marketing application for the same drug for that time period. The applicable period is seven years in the United States, although this may be as long as twelve years if the applicable reference product has a longer period of exclusivity, and ten years in Europe. The European exclusivity period can be reduced to six years if a product no longer meets the criteria for orphan drug designation or if the product is sufficiently profitable so that market exclusivity is no longer justified. Orphan drug exclusivity may be lost if the FDA or EMA determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantity of the product to meet the needs of patients with the rare disease or condition.

Even if we obtain orphan drug exclusivity for a product, that exclusivity may not effectively protect the product from competition because different drugs can be approved for the same condition. In the United States, even after an orphan drug is approved, the FDA can subsequently approve the same drug for the same condition if the FDA concludes that the later drug is clinically superior in that it is shown to be safer, more effective or makes a major contribution to patient care.

***Our product candidates may have undesirable side effects which may delay or prevent marketing approval, or, if approval is received, require them to be taken off the market, require them to include safety warnings or otherwise limit their sales.***

Although all of our product candidates have undergone or will undergo safety testing, not all adverse effects of drugs can be predicted or anticipated. Unforeseen side effects from any of our product candidates could arise either during clinical development or, if approved by regulatory authorities, after the approved product has been marketed. All of our product candidates are still in clinical or pre-clinical development. While our clinical trials for our initial product candidates to date have demonstrated a favorable safety profile, the results from future trials may not support this conclusion. The results of future clinical trials may show that our product candidates cause undesirable or unacceptable side effects, which could interrupt, delay or halt clinical trials, and result in delay of, or failure to obtain, marketing approval from the FDA and other regulatory authorities, or result in

marketing approval from the FDA and other regulatory authorities with restrictive label warnings or potential product liability claims.

If any of our product candidates receives marketing approval and we or others later identify undesirable or unacceptable side effects caused by such products:

- regulatory authorities may require us to take our approved product off the market;
- regulatory authorities may require the addition of labeling statements, specific warnings, a contraindication or field alerts to physicians and pharmacies;
- we may be required to change the way the product is administered, conduct additional clinical trials or change the labeling of the product;
- we may be subject to limitations on how we may promote the product;
- sales of the product may decrease significantly;
- we may be subject to litigation or product liability claims; and
- our reputation may suffer.

Any of these events could prevent us, our collaborators or our potential future partners from achieving or maintaining market acceptance of the affected product or could substantially increase commercialization costs and expenses, which in turn could delay or prevent us from generating significant revenue from the sale of our products.

***Even if approved, if any of our product candidates do not achieve broad market acceptance among physicians, patients, the medical community, and third-party payors our revenue generated from their sales will be limited.***

The commercial success of our product candidates will depend upon their acceptance among physicians, patients and the medical community. The degree of market acceptance of our product candidates will depend on a number of factors, including:

- limitations or warnings contained in the approved labeling for a product candidate;
- changes in the standard of care for the targeted indications for any of our product candidates;
- limitations in the approved clinical indications for our product candidates;
- demonstrated clinical safety and efficacy compared to other products;
- lack of significant adverse side effects;
- sales, marketing and distribution support;
- availability and extent of reimbursement from managed care plans and other third-party payors;
- timing of market introduction and perceived effectiveness of competitive products;
- the degree of cost-effectiveness of our product candidates;
- availability of alternative therapies at similar or lower cost, including generic and over-the-counter products;
- the extent to which the product candidate is approved for inclusion on formularies of hospitals and managed care organizations;
- whether the product is designated under physician treatment guidelines as a first-line therapy or as a second- or third-line therapy for particular diseases;

- adverse publicity about our product candidates or favorable publicity about competitive products;
- convenience and ease of administration of our products; and
- potential product liability claims.

If any of our product candidates are approved, but do not achieve an adequate level of acceptance by physicians, patients and the medical community, we may not generate sufficient revenue from these products, and we may not become or remain profitable. In addition, efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may never be successful.

***We are subject to a multitude of manufacturing risks, any of which could substantially increase our costs and limit supply of our products.***

The process of manufacturing our product candidates is complex, highly regulated and subject to several risks, including:

- The process of manufacturing our product candidates is extremely susceptible to product loss due to contamination, equipment failure or improper installation or operation of equipment, vendor or operator error, contamination and inconsistency in yields, variability in product characteristics, and difficulties in scaling the production process. Even minor deviations from normal manufacturing processes could result in reduced production yields, product defects and other supply disruptions. If microbial, viral or other contaminations are discovered in our product candidates or in the manufacturing facilities in which our product candidates are made, such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the contamination.
- The manufacturing facilities in which our product candidates are made could be adversely affected by equipment failures, labor shortages, natural disasters, power failures and numerous other factors.
- We must comply with the FDA's current Good Manufacturing Practice, or cGMP, regulations and guidelines. We may encounter difficulties in achieving quality control and quality assurance and may experience shortages in qualified personnel. We are subject to inspections by the FDA and comparable agencies in other jurisdictions to confirm compliance with applicable regulatory requirements. Any failure to follow cGMP or other regulatory requirements or delay, interruption or other issues that arise in the manufacture, fill-finish, packaging, or storage of our product candidates as a result of a failure of our facilities or the facilities or operations of third parties to comply with regulatory requirements or pass any regulatory authority inspection could significantly impair our ability to develop and commercialize our product candidates, including leading to significant delays in the availability of drug product for our clinical trials or the termination or hold on a clinical trial, or the delay or prevention of a filing or approval of marketing applications for our product candidates. Significant noncompliance could also result in the imposition of sanctions, including fines, injunctions, civil penalties, failure of regulatory authorities to grant marketing approvals for our product candidates, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products, operating restrictions and criminal prosecutions, any of which could damage our reputation. If we are not able to maintain regulatory compliance, we may not be permitted to market our product candidates and/or may be subject to product recalls, seizures, injunctions, or criminal prosecution.
- Any adverse developments affecting manufacturing operations for our product candidates, if any are approved, may result in shipment delays, inventory shortages, lot failures, product withdrawals or recalls, or other interruptions in the supply of our products. We may also have to take inventory write-offs and incur other charges and expenses for products that fail to meet specifications, undertake costly remediation efforts or seek more costly manufacturing alternatives.

***We currently have no marketing, sales or distribution infrastructure. If we are unable to develop sales, marketing and distribution capabilities on our own or through collaborations, we will not be successful in commercializing our product candidates.***

We currently have no marketing, sales and distribution capabilities and we have no sales or marketing experience within our organization. If any of our product candidates are approved, we intend either to establish a sales and marketing organization with technical expertise and supporting distribution capabilities to commercialize our product candidates, or to outsource this function to a third party. Either of these options would be expensive and time consuming. These costs may be incurred in advance of any approval of our product candidates. In addition, we may not be able to hire a sales force in the United States that is sufficient in size or has adequate expertise in the medical markets that we intend to target. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of our products.

With respect to certain of our existing and future product candidates, we have entered into collaboration or other licensing arrangements with third party collaborators that have direct sales forces and established distribution systems. To the extent that we enter into additional collaboration agreements, our product revenue may be lower than if we directly marketed or sold any approved products. In addition, any revenue we receive will depend in whole or in part upon the efforts of these third party collaborators, which may not be successful and are generally not within our control. If we are unable to enter into these arrangements on acceptable terms or at all, we may not be able to successfully commercialize any approved products. If we are not successful in commercializing any approved products, either on our own or through collaborations with one or more third parties, our future product revenue will suffer and we may incur significant additional losses.

***We face significant competition and if our competitors develop and market products that are more effective, safer or less expensive than our product candidates, our commercial opportunities will be negatively impacted.***

The life sciences industry is highly competitive and subject to rapid and significant technological change. We are currently developing therapeutics that will compete with other drugs and therapies that currently exist or are being developed. Products we may develop in the future are also likely to face competition from other drugs and therapies, some of which we may not currently be aware. We have competitors both in the United States and internationally, including major multinational pharmaceutical companies, established biotechnology companies, specialty pharmaceutical companies, universities and other research institutions. Many of our competitors have significantly greater financial, manufacturing, marketing, drug development, technical and human resources than we do. Large pharmaceutical companies, in particular, have extensive experience in clinical testing, obtaining regulatory approvals, recruiting patients and manufacturing pharmaceutical products. These companies also have significantly greater research and marketing capabilities than we do and may also have products that have been approved or are in late stages of development, and collaborative arrangements in our target markets with leading companies and research institutions. Established pharmaceutical companies may also invest heavily to accelerate discovery and development of novel compounds or to in-license novel compounds that could make the product candidates that we develop obsolete. As a result of all of these factors, our competitors may succeed in obtaining patent protection and/or FDA approval or discovering, developing and commercializing products in our field before we do.

Specifically, there are a large number of companies developing or marketing treatments for cancer and autoimmune disorders, including many major pharmaceutical and biotechnology companies. These treatments consist both of small molecule drug products, as well as biologic therapeutics that work by using next-generation antibody technology platforms to address specific cancer targets. In addition, several companies are developing therapeutics that work by targeting multiple specificities using a single recombinant molecule. Amgen, Inc. has obtained marketing approval for one cancer product candidate that works by targeting antigens both on immune effector cell populations and those expressed on certain cancer cells, and has other product candidates using this mechanism in development. In addition, other companies are developing new treatments for cancer and

autoimmune diseases that enhance the Fc regions of antibodies to create more potent antibodies, including F. Hoffmann-La Roche Ltd. and Xencor, Inc.

Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe effects, are more convenient or are less expensive than any products that we may develop. Our competitors also may obtain FDA or other regulatory approval for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market. In addition, our ability to compete may be affected in many cases by insurers or other third party payors seeking to encourage the use of biosimilar products. Biosimilar products are expected to become available over the coming years. For example, certain HER2 biosimilar products are approved in certain countries and others may be approved prior to margetuximab. Even if our product candidates achieve marketing approval, they may be priced at a significant premium over competitive biosimilar products if any have been approved by then.

The Patient Protection and Affordable Care Act, as amended by the Healthcare and Education Affordability Reconciliation Act, collectively the ACA, created a regulatory scheme authorizing the FDA to approve biosimilars. Under the ACA, a manufacturer may submit an application for licensure of a biologic product that is "biosimilar to" or "interchangeable with" a previously approved biological product or "reference product." Under this new statutory scheme, an application for a biosimilar product may not be submitted to the FDA until four years following approval of the reference product. The FDA may not approve a biosimilar product until 12 years from the date on which the reference product was approved. Even if a product is considered to be a reference product eligible for exclusivity, another company could market a competing version of that product if the FDA approves a full BLA for such product containing the sponsor's own pre-clinical data and data from adequate and well-controlled clinical trials to demonstrate the safety, purity and potency of their product. Furthermore, recent legislation has proposed that the 12 year exclusivity period for each a reference product may be reduced to seven years.

Smaller and other early stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These third parties compete with us in recruiting and retaining qualified scientific and management personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs. In addition, the biopharmaceutical industry is characterized by rapid technological change. If we fail to stay at the forefront of technological change, we may be unable to compete effectively. Technological advances or products developed by our competitors may render our technologies or product candidates obsolete, less competitive or not economical.

***Reimbursement decisions by third-party payors may have an adverse effect on pricing and market acceptance. If there is not sufficient reimbursement for our products, it is less likely that our products will be widely used.***

Even if our product candidates are approved for sale by the appropriate regulatory authorities, market acceptance and sales of these products will depend on reimbursement policies and may be affected by future healthcare reform measures. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, decide which drugs they will reimburse and establish payment levels. We cannot be certain that reimbursement will be available for any products that we develop. Also, we cannot be certain that reimbursement policies will not reduce the demand for, or the price paid for, our products. If reimbursement is not available or is available on a limited basis, we may not be able to successfully commercialize any of our approved products.

In the United States, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, also called the Medicare Modernization Act or MMA, changed the way Medicare covers and pays for pharmaceutical products. The legislation established Medicare Part D, which expanded Medicare coverage for outpatient prescription drug purchases by the elderly but provided authority for limiting the number of drugs that will be

covered in any therapeutic class. The MMA also introduced a new reimbursement methodology based on average sales prices for physician-administered drugs.

The United States and several foreign jurisdictions are considering, or have already enacted, a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell any of our future approved products profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and/or expanding access to healthcare. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives. We expect to experience pricing pressures in connection with the sale of any products that we develop, due to the trend toward managed healthcare, the increasing influence of health maintenance organizations and additional legislative proposals.

In March 2010, the ACA became law in the United States. The goal of ACA is to reduce the cost of health care and substantially change the way health care is financed by both governmental and private insurers. While we cannot predict what impact on federal reimbursement policies this legislation will have in general or on our business specifically, the ACA may result in downward pressure on pharmaceutical reimbursement, which could negatively affect market acceptance of, and the price we may charge for, any products we develop that receive regulatory approval. We also cannot predict the impact of ACA on our business or financial condition as many of the ACA reforms require the promulgation of detailed regulations implementing the statutory provisions, which has not yet occurred.

***If any product liability lawsuits are successfully brought against us or any of our collaborators, we may incur substantial liabilities and may be required to limit commercialization of our product candidates.***

We face an inherent risk of product liability lawsuits related to the testing of our product candidates in seriously ill patients, and will face an even greater risk if product candidates are approved by regulatory authorities and introduced commercially. Product liability claims may be brought against us or our collaborators by participants enrolled in our clinical trials, patients, health care providers or others using, administering or selling any of our future approved products. If we cannot successfully defend ourselves against any such claims, we may incur substantial liabilities. Regardless of their merit or eventual outcome, liability claims may result in:

- decreased demand for our future approved products;
- injury to our reputation;
- withdrawal of clinical trial participants;
- termination of clinical trial sites or entire trial programs;
- increased regulatory scrutiny;
- significant litigation costs;
- substantial monetary awards to or costly settlement with patients or other claimants;
- product recalls or a change in the indications for which they may be used;
- loss of revenue;
- diversion of management and scientific resources from our business operations; and
- the inability to commercialize our product candidates.

If any of our product candidates are approved for commercial sale, we will be highly dependent upon consumer perceptions of us and the safety and quality of our products. We could be adversely affected if we are subject to negative publicity. We could also be adversely affected if any of our products or any similar products

distributed by other companies prove to be, or are asserted to be, harmful to patients. Because of our dependence upon consumer perceptions, any adverse publicity associated with illness or other adverse effects resulting from patients' use or misuse of our products or any similar products distributed by other companies could have a material adverse impact on our financial condition or results of operations.

We currently hold $15 million in product liability insurance coverage in the aggregate, with a per incident limit of $15 million, which may not be adequate to cover all liabilities that we may incur. We may need to increase our insurance coverage when we begin the commercialization of our product candidates. Insurance coverage is becoming increasingly expensive. As a result, we may be unable to maintain or obtain sufficient insurance at a reasonable cost to protect us against losses that could have a material adverse effect on our business. A successful product liability claim or series of claims brought against us, particularly if judgments exceed any insurance coverage we may have, could decrease our cash resources and adversely affect our business, financial condition and results of operation.

***Our business may become subject to economic, political, regulatory and other risks associated with international operations.***

Our business is subject to risks associated with conducting business internationally. Some of our suppliers and collaborative and clinical trial relationships are located outside the United States. Accordingly, our future results could be harmed by a variety of factors, including:

- economic weakness, including inflation, or political instability in particular foreign economies and markets;
- differing regulatory requirements for drug approvals in foreign countries;
- potentially reduced protection for intellectual property rights;
- difficulties in compliance with non-U.S. laws and regulations;
- changes in non-U.S. regulations and customs, tariffs and trade barriers;
- changes in non-U.S. currency exchange rates and currency controls;
- changes in a specific country's or region's political or economic environment;
- trade protection measures, import or export licensing requirements or other restrictive actions by U.S. or non-U.S. governments;
- negative consequences from changes in tax laws;
- compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;
- workforce uncertainty in countries where labor unrest is more common than in the United States;
- difficulties associated with staffing and managing foreign operations, including differing labor relations;
- production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad; and
- business interruptions resulting from geo-political actions, including war and terrorism, or natural disasters including earthquakes, typhoons, floods and fires.

## Risks Related to Our Financial Position and Need for Additional Capital

***We have incurred significant losses since inception and anticipate that we will continue to incur losses for the foreseeable future. We have no products approved for commercial sale, and to date we have not generated any revenue or profit from product sales. We may never achieve or sustain profitability.***

We are a clinical-stage biopharmaceutical company. We have incurred significant losses since our inception. As of December 31, 2014, our accumulated deficit was approximately $214.0 million. We expect to continue to incur losses for the foreseeable future, and we expect these losses to increase as we continue our research and development of, and seek regulatory approvals for, our product candidates, prepare for and begin to commercialize any approved products, and add infrastructure and personnel to support our product development efforts and operations as a public company. The net losses and negative cash flows incurred to date, together with expected future losses, have had, and likely will continue to have, an adverse effect on our stockholders' deficit and working capital. The amount of future net losses will depend, in part, on the rate of future growth of our expenses and our ability to generate revenue.

Because of the numerous risks and uncertainties associated with pharmaceutical product development, we are unable to accurately predict the timing or amount of increased expenses or when, or if, we will be able to achieve profitability. For example, our expenses could increase if we are required by the FDA to perform trials in addition to those that we currently expect to perform, or if there are any delays in completing our currently planned clinical trials or in the development of any of our product candidates.

To become and remain profitable, we must succeed in developing and commercializing products with significant market potential. This will require us to be successful in a range of challenging activities for which we are only in the preliminary stages, including developing product candidates, obtaining regulatory approval for them, and manufacturing, marketing and selling those products for which we may obtain regulatory approval. We may never succeed in these activities and may never generate revenue from product sales that is significant enough to achieve profitability. Even if we achieve profitability in the future, we may not be able to sustain profitability in subsequent periods. Our failure to become or remain profitable would depress our market value and could impair our ability to raise capital, expand our business, develop other product candidates, or continue our operations. A decline in the value of our company could also cause you to lose all or part of your investment.

***We will require substantial additional funding, which may not be available to us on acceptable terms, or at all, and, if not available, may require us to delay, scale back, or cease our product development programs or operations.***

We are advancing our product candidates through clinical development. Developing pharmaceutical products, including conducting pre-clinical studies and clinical trials, is expensive. In order to obtain such regulatory approval, we will be required to conduct clinical trials for each indication for each of our product candidates. We will continue to require additional funding beyond what was raised in our public offerings and through our collaborations and license agreements to complete the development and commercialization of our product candidates and to continue to advance the development of our other product candidates, and such funding may not be available on acceptable terms or at all. Although it is difficult to predict our funding requirements, based upon our current operating plan, we anticipate that our cash and cash equivalents as of December 31, 2014, combined with the proceeds from our collaboration with Janssen Biotech and the investment in our common stock by its affiliates, as well as collaboration payments we anticipate receiving, will enable us to fund our operations into 2018, assuming all of our collaboration programs advance as currently contemplated. Because successful development of our product candidates is uncertain, we are unable to estimate the actual funds we will require to complete research and development and to commercialize our product candidates.

Our future funding requirements will depend on many factors, including but not limited to:

- the number and characteristics of other product candidates that we pursue;
- the scope, progress, timing, cost and results of research, pre-clinical development, and clinical trials;

- the costs, timing and outcome of seeking and obtaining FDA and non-U.S. regulatory approvals;
- the costs associated with manufacturing our product candidates and establishing sales, marketing, and distribution capabilities;
- our ability to maintain, expand, and defend the scope of our intellectual property portfolio, including the amount and timing of any payments we may be required to make in connection with the licensing, filing, defense and enforcement of any patents or other intellectual property rights;
- our need and ability to hire additional management, scientific, and medical personnel;
- the effect of competing products that may limit market penetration of our product candidates;
- our need to implement additional internal systems and infrastructure, including financial and reporting systems; and
- the economic and other terms, timing of and success of our existing collaborations, and any collaboration, licensing, or other arrangements into which we may enter in the future, including the timing of receipt of any milestone or royalty payments under these agreements.

Until we can generate a sufficient amount of product revenue to finance our cash requirements, which we may never do, we expect to finance future cash needs primarily through a combination of public or private equity offerings, debt financings, strategic collaborations, and grant funding. If sufficient funds on acceptable terms are not available when needed, or at all, we could be forced to significantly reduce operating expenses and delay, scale back or eliminate one or more of our development programs or our business operations.

***Raising additional capital may cause dilution to our stockholders, restrict our operations or require us to relinquish substantial rights.***

To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms of these new securities may include liquidation or other preferences that adversely affect your rights as a common stockholder. Debt financing, if available at all, may involve agreements that include covenants limiting or restricting our ability to take specific actions such as incurring additional debt, making capital expenditures, or declaring dividends. If we raise additional funds through collaborations, strategic alliances, or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, product candidates, or future revenue streams, or grant licenses on terms that are not favorable to us. We cannot assure you that we will be able to obtain additional funding if and when necessary. If we are unable to obtain adequate financing on a timely basis, we could be required to delay, scale back or eliminate one or more of our development programs or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

***We have broad discretion in the use of the net proceeds from our IPO and follow-on offering and may not use them effectively.***

Our management has broad discretion to use our cash and cash equivalents to fund our operations and could spend these funds in ways that do not improve our results of operations or enhance the value of our common stock. The failure by our management to apply these funds effectively could result in financial losses that could have a material adverse effect on our business, cause the price of our common stock to decline and delay the development of our product candidates. Pending their use to fund operations, we may invest our cash and cash equivalents in a manner that does not produce income or that loses value.

***Our ability to use our net operating loss carryforwards and other tax attributes may be limited.***

Our ability to utilize our federal net operating losses, or NOLs, and federal tax credits is currently limited, and may be limited further, under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended. The

limitations apply if an ownership change, as defined by Section 382, occurs. Generally, an ownership change occurs when certain shareholders increase their aggregate ownership by more than 50 percentage points over their lowest ownership percentage in a testing period, which is typically three years or since the last ownership change. We are already subject to Section 382 limitations due to acquisitions we made in 2002 and 2008. As of December 31, 2014, we had federal NOL carryforwards of $158.9 million, state NOL carryforwards of $103.4 million and research and development tax credit carryforwards of $26.3 million available. Future changes in stock ownership may also trigger an ownership change and, consequently, another Section 382 limitation. Any limitation may result in expiration of a portion of the net operating loss or tax credit carryforwards before utilization which would reduce our gross deferred income tax assets and corresponding valuation allowance. As a result, if we earn net taxable income, our ability to use our pre-change net operating loss carryforwards and tax credit carryforwards to reduce United States federal income tax may be subject to limitations, which could potentially result in increased future cash tax liability to us.

**Risks Related to Our Dependence on Third Parties**

***Our existing therapeutic collaborations are important to our business, and future collaborations may also be important to us. If we are unable to maintain any of these collaborations, or if these collaborations are not successful, our business could be adversely affected.***

We have limited capabilities for drug development and do not yet have any capability for sales, marketing or distribution. We have entered into collaborations with other companies that we believe can provide such capabilities, including our collaboration and license agreements with Janssen Biotech, Inc., or Janssen, Takeda Pharmaceutical Company Ltd., or Takeda, Les Laboratoires Servier and Institut de Recherches Servier, or collectively Servier, Gilead Sciences, Inc., or Gilead, Boehringer Ingelheim GmbH, or Boehringer, Pfizer, Inc., or Pfizer, and Green Cross Corp., or Green Cross. These collaborations also have provided us with important funding for our development programs and technology platforms and we expect to receive additional funding under these collaborations in the future. Our existing therapeutic collaborations, and any future collaborations we enter into, may pose a number of risks, including the following:

- collaborators have significant discretion in determining the efforts and resources that they will apply to these collaborations;
- collaborators may not perform their obligations as expected;
- collaborators may not pursue development and commercialization of any product candidates that achieve regulatory approval or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus or available funding, or external factors, such as an acquisition, that divert resources or create competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our products or product candidates if the collaborators believe that competitive products are more likely to be successfully developed or can be commercialized under terms that are more economically attractive than ours;
- product candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own product candidates or products, which may cause collaborators to cease to devote resources to the commercialization of our product candidates;
- a collaborator with marketing and distribution rights to one or more of our product candidates that achieve regulatory approval may not commit sufficient resources to the marketing and distribution of such product or products;

- disagreements with collaborators, including disagreements over proprietary rights, contract interpretation or the preferred course of development, might cause delays or termination of the research, development or commercialization of product candidates, might lead to additional responsibilities for us with respect to product candidates, or might result in litigation or arbitration, any of which would be time-consuming and expensive;
- collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential litigation;
- collaborators may infringe the intellectual property rights of third parties, which may expose us to litigation and potential liability; and
- collaborations may be terminated for the convenience of the collaborator and, if terminated, we could be required to raise additional capital to pursue further development or commercialization of the applicable product candidates. For example, each of our collaboration and license agreements with Janssen, Takeda, Servier, Gilead, and Boehringer may be terminated for convenience upon the completion of a specified notice period.

If our therapeutic collaborations do not result in the successful development and commercialization of products or if one of our collaborators terminates its agreement with us, we may not receive any future research funding or milestone or royalty payments under the collaboration. If we do not receive the funding we expect under these agreements, our development of our technology platforms and product candidates could be delayed and we may need additional resources to develop product candidates and our technology platforms. All of the risks relating to product development, regulatory approval and commercialization described in this report also apply to the activities of our program collaborators.

Additionally, subject to its contractual obligations to us, if one of our collaborators is involved in a business combination, the collaborator might deemphasize or terminate the development or commercialization of any product candidate licensed to it by us. If one of our collaborators terminates its agreement with us, we may find it more difficult to attract new collaborators.

For some of our product candidates, we may in the future determine to collaborate with additional pharmaceutical and biotechnology companies for development and potential commercialization of therapeutic products. We face significant competition in seeking appropriate collaborators. Our ability to reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator’s resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator’s evaluation of a number of factors. These factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to patients, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such a collaboration could be more attractive than the one with us for our product candidate.

Collaborations are complex and time-consuming to negotiate and document. In addition, there have been a significant number of recent business combinations among large pharmaceutical companies that have resulted in a reduced number of potential future collaborators. If we are unable to reach agreements with suitable collaborators on a timely basis, on acceptable terms, or at all, we may have to curtail the development of a product candidate, reduce or delay one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to fund and undertake

development or commercialization activities on our own, we may need to obtain additional expertise and additional capital, which may not be available to us on acceptable terms or at all. If we fail to enter into collaborations and do not have sufficient funds or expertise to undertake the necessary development and commercialization activities, we may not be able to further develop our product candidates or bring them to market or continue to develop our technology platforms and our business may be materially and adversely affected.

We may also be restricted under existing collaboration agreements from entering into future agreements on certain terms with potential collaborators. Aside from our agreement with Green Cross, subject to certain specified exceptions, each of our existing therapeutic collaborations contains a restriction on our engaging in activities that are the subject of the collaboration with third parties for specified periods of time.

***Independent clinical investigators and CROs that we engage to conduct our clinical trials may not devote sufficient time or attention to our clinical trials or be able to repeat their past success.***

We expect to continue to depend on independent clinical investigators and CROs to conduct our clinical trials. CROs may also assist us in the collection and analysis of data. There is a limited number of third-party service providers that specialize or have the expertise required to achieve our business objectives. Identifying, qualifying and managing performance of third-party service providers can be difficult, time consuming and cause delays in our development programs. These investigators and CROs will not be our employees and we will not be able to control, other than by contract, the amount of resources, including time, which they devote to our product candidates and clinical trials. If independent investigators or CROs fail to devote sufficient resources to the development of our product candidates, or if their performance is substandard, it may delay or compromise the prospects for approval and commercialization of any product candidates that we develop. In addition, the use of third-party service providers requires us to disclose our proprietary information to these parties, which could increase the risk that this information will be misappropriated. Further, the FDA requires that we comply with standards, commonly referred to as current Good Clinical Practice, or GCP, for conducting, recording and reporting clinical trials to assure that data and reported results are credible and accurate and that the rights, integrity and confidentiality of trial subjects are protected. Failure of clinical investigators or CROs to meet their obligations to us or comply with GCP procedures could adversely affect the clinical development of our product candidates and harm our business.

***Failure of our third party contractors to successfully develop and commercialize companion diagnostics for use with our product candidates could harm our ability to commercialize our product candidates.***

We plan to develop companion diagnostics for our product candidates where appropriate. Companion diagnostics are used to identify patients who could potentially benefit from our therapeutic product candidates or for safety reasons to identify patients who might be at increased risk for a potential side effect. We expect that, at least in some cases, the FDA and similar regulatory authorities outside the United States may require the development and regulatory approval of a companion diagnostic as a condition to approving our product candidates. We do not have experience or capabilities in developing or commercializing diagnostics and plan to rely in large part on third parties to perform these functions.

In most cases, we will likely outsource the development, production and commercialization of companion diagnostics to third parties. By outsourcing these companion diagnostics to third parties, we become dependent on the efforts of our third party contractors to successfully develop and commercialize these companion diagnostics. Our contractors:

- may not perform their obligations as expected;
- may encounter production difficulties that could constrain the supply of the companion diagnostic;
- may have difficulties gaining acceptance of the use of the companion diagnostic in the clinical community;

- may not commit sufficient resources to the marketing and distribution of such product; and
- may terminate their relationship with us.

If any companion diagnostic for use with one of our product candidates fails to gain market acceptance, our ability to derive revenues from sales of such product candidate could be harmed. If our third party contractors fail to commercialize such companion diagnostic, we may not be able to enter into arrangements with another diagnostic company to obtain supplies of an alternative diagnostic test for use in connection with such product candidate or do so on commercially reasonable terms, which could adversely affect and delay the development or commercialization of such product candidate.

***We expect to contract with third parties for the manufacture of our product candidates for clinical testing in the future and expect to continue to do so for commercialization. This reliance on third parties increases the risk that we will not have sufficient quantities of our product candidates or products or such quantities at an acceptable cost, which could delay, prevent or impair our development or commercialization efforts.***

We currently have a manufacturing facility located in Rockville, Maryland. We manufacture drug substance at this facility that we use for research and development purposes and for clinical trials of our product candidates. We believe we currently have capacity to produce Phase 2 material for our antibody product candidates and clinical material for our DART therapeutics, but our current facility will be insufficient to support our needs for our Phase 3 clinical trials for our antibody product candidates and for commercial quantities of such candidates. We do not have experience in manufacturing products at commercial scale.

We have entered into agreements with contract manufacturing organizations to supplement our clinical supply and internal capacity as we advance our product candidate pipeline. We expect to use third parties for the manufacture of certain of our product candidates for clinical testing, as well as for commercial manufacture of some of our product candidates that receive marketing approval and that are not manufactured by one of our third party collaborators. We plan eventually to enter into long term supply agreements with several manufacturers for commercial supplies. We may be unable to reach agreement with any of these contract manufacturers, or to identify and reach arrangements on satisfactory terms with other contract manufacturers, to manufacture any of our product candidates. Additionally, the facilities used by any contract manufacturer to manufacture any of our product candidates must be the subject of a satisfactory inspection before the FDA and other regulatory authorities approve a BLA or marketing authorization for the product candidate manufactured at that facility. We will depend on these third-party manufacturing partners for compliance with the FDA's requirements for the manufacture of our finished products. If our manufacturers cannot successfully manufacture material that conforms to our specifications and the FDA and other regulatory authorities' cGMP requirements, our product candidates will not be approved or, if already approved, may be subject to recalls.

Reliance on third-party manufacturers entails risks to which we would not be subject if we manufactured the product candidates ourselves, including:

- the possibility of a breach of the manufacturing agreements by the third parties because of factors beyond our control;
- the possibility of termination or nonrenewal of the agreements by the third parties before we are able to arrange for a qualified replacement third-party manufacturer; and
- the possibility that we may not be able to secure a manufacturer or manufacturing capacity in a timely manner and on satisfactory terms in order to meet our manufacturing needs.

Any of these factors could cause the delay of approval or commercialization of our product candidates, cause us to incur higher costs or prevent us from commercializing our product candidates successfully. Furthermore, if any of our product candidates are approved and contract manufacturers fail to deliver the required commercial quantities of finished product on a timely basis and at commercially reasonable prices, and

we are unable to find one or more replacement manufacturers capable of production at a substantially equivalent cost, in substantially equivalent volumes and quality and on a timely basis, we would likely be unable to meet demand for our products and could lose potential revenue. It may take several years to establish an alternative source of supply for our product candidates and to have any such new source approved by the FDA or any other relevant regulatory authorities.

## Risks Related to Our Intellectual Property

***If we are unable to obtain and enforce patent protection for our product candidates and related technology, our business could be materially harmed.***

Issued patents may be challenged, narrowed, invalidated or circumvented. In addition, court decisions may introduce uncertainty in the enforceability or scope of patents owned by biotechnology companies. The legal systems of certain countries do not favor the aggressive enforcement of patents, and the laws of foreign countries may not allow us to protect our inventions with patents to the same extent as the laws of the United States. Because patent applications in the United States and many foreign jurisdictions are typically not published until 18 months after filing, or in some cases not at all, and because publications of discoveries in scientific literature lag behind actual discoveries, we cannot be certain that we were the first to make the inventions claimed in our issued patents or pending patent applications, or that we were the first to file for protection of the inventions set forth in our patents or patent applications. As a result, we may not be able to obtain or maintain protection for certain inventions. Therefore, the enforceability and scope of our patents in the United States and in foreign countries cannot be predicted with certainty and, as a result, any patents that we own or license may not provide sufficient protection against competitors. We may not be able to obtain or maintain patent protection from our pending patent applications, from those we may file in the future, or from those we may license from third parties. Moreover, even if we are able to obtain patent protection, such patent protection may be of insufficient scope to achieve our business objectives.

Our strategy depends on our ability to identify and seek patent protection for our discoveries. This process is expensive and time consuming, and we may not be able to file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner or in all jurisdictions where protection may be commercially advantageous. Despite our efforts to protect our proprietary rights, unauthorized parties may be able to obtain and use information that we regard as proprietary. The issuance of a patent does not ensure that it is valid or enforceable, so even if we obtain patents, they may not be valid or enforceable against third parties. In addition, the issuance of a patent does not give us the right to practice the patented invention. Third parties may have blocking patents that could prevent us from marketing our own patented product and practicing our own patented technology. Third parties may also seek to market biosimilar versions of any approved products. Alternatively, third parties may seek approval to market their own products similar to or otherwise competitive with our products. In these circumstances, we may need to defend and/or assert our patents, including by filing lawsuits alleging patent infringement. In any of these types of proceedings, a court or agency with jurisdiction may find our patents invalid and/or unenforceable. Even if we have valid and enforceable patents, these patents still may not provide protection against competing products or processes sufficient to achieve our business objectives.

The patent position of pharmaceutical or biotechnology companies, including ours, is generally uncertain and involves complex legal and factual considerations. The standards which the United States Patent and Trademark Office, or USPTO, and its foreign counterparts use to grant patents are not always applied predictably or uniformly and can change. There is also no uniform, worldwide policy regarding the subject matter and scope of claims granted or allowable in pharmaceutical or biotechnology patents. The laws of some foreign countries do not protect proprietary information to the same extent as the laws of the United States, and many companies have encountered significant problems and costs in protecting their proprietary information in these foreign countries. Outside the United States, patent protection must be sought in individual jurisdictions, further adding to the cost and uncertainty of obtaining adequate patent protection outside of the United States. Accordingly, we

cannot predict whether additional patents protecting our technology will issue in the United States or in foreign jurisdictions, or whether any patents that do issue will have claims of adequate scope to provide competitive advantage. Moreover, we cannot predict whether third parties will be able to successfully obtain claims or the breadth of such claims. The allowance of broader claims may increase the incidence and cost of patent interference proceedings, opposition proceedings, and/or reexamination proceedings, the risk of infringement litigation, and the vulnerability of the claims to challenge. On the other hand, the allowance of narrower claims does not eliminate the potential for adversarial proceedings, and may fail to provide a competitive advantage. Our issued patents may not contain claims sufficiently broad to protect us against third parties with similar technologies or products, or provide us with any competitive advantage.

***We may become involved in lawsuits to protect or enforce our patents, which could be expensive, time consuming and unsuccessful.***

Even after they have issued, our patents and any patents which we license may be challenged, narrowed, invalidated or circumvented. If our patents are invalidated or otherwise limited or will expire prior to the commercialization of our product candidates, other companies may be better able to develop products that compete with ours, which could adversely affect our competitive business position, business prospects and financial condition.

The following are examples of litigation and other adversarial proceedings or disputes that we could become a party to involving our patents or patents licensed to us:

- we or our collaborators may initiate litigation or other proceedings against third parties to enforce our patent rights;
- third parties may initiate litigation or other proceedings seeking to invalidate patents owned by or licensed to us or to obtain a declaratory judgment that their product or technology does not infringe our patents or patents licensed to us;
- third parties may initiate opposition or reexamination proceedings challenging the validity or scope of our patent rights, requiring us or our collaborators and/or licensors to participate in such proceedings to defend the validity and scope of our patents;
- there may be a challenge or dispute regarding inventorship or ownership of patents currently identified as being owned by or licensed to us;
- the U.S. Patent and Trademark Office may initiate an interference between patents or patent applications owned by or licensed to us and those of our competitors, requiring us or our collaborators and/or licensors to participate in an interference proceeding to determine the priority of invention, which could jeopardize our patent rights; or
- third parties may seek approval to market biosimilar versions of our future approved products prior to expiration of relevant patents owned by or licensed to us, requiring us to defend our patents, including by filing lawsuits alleging patent infringement.

These lawsuits and proceedings would be costly and could affect our results of operations and divert the attention of our managerial and scientific personnel. There is a risk that a court or administrative body would decide that our patents are invalid or not infringed by a third party’s activities, or that the scope of certain issued claims must be further limited. An adverse outcome in a litigation or proceeding involving our own patents could limit our ability to assert our patents against these or other competitors, affect our ability to receive royalties or other licensing consideration from our licensees, and may curtail or preclude our ability to exclude third parties from making, using and selling similar or competitive products. Any of these occurrences could adversely affect our competitive business position, business prospects and financial condition.

The degree of future protection for our proprietary rights is uncertain because legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- others may be able to develop a platform that is similar to, or better than, ours in a way that is not covered by the claims of our patents;
- others may be able to make compounds that are similar to our product candidates but that are not covered by the claims of our patents;
- we might not have been the first to make the inventions covered by patents or pending patent applications;
- we might not have been the first to file patent applications for these inventions;
- any patents that we obtain may not provide us with any competitive advantages or may ultimately be found invalid or unenforceable; or
- we may not develop additional proprietary technologies that are patentable.

***Our commercial success depends significantly on our ability to operate without infringing the patents and other proprietary rights of third parties.***

Our success will depend in part on our ability to operate without infringing the proprietary rights of third parties. Other entities may have or obtain patents or proprietary rights that could limit our ability to make, use, sell, offer for sale or import our future approved products or impair our competitive position. For example, certain patents held by third parties cover Fc engineering methods and mutations in Fc regions to enhance the binding of Fc regions to Fc receptors on immune cells. Although we believe that these patents are invalid, if they cover margetuximab or MGA271 and we are unable to invalidate their patents, or if licenses for them are not available on commercially reasonable terms, our business could be harmed, perhaps materially.

Patents that we may ultimately be found to infringe could be issued to third parties. Third parties may have or obtain valid and enforceable patents or proprietary rights that could block us from developing product candidates using our technology. Our failure to obtain a license to any technology that we require may materially harm our business, financial condition and results of operations. Moreover, our failure to maintain a license to any technology that we require may also materially harm our business, financial condition, and results of operations. Furthermore, we would be exposed to a threat of litigation.

In the pharmaceutical industry, significant litigation and other proceedings regarding patents, patent applications, trademarks and other intellectual property rights have become commonplace. The types of situations in which we may become a party to such litigation or proceedings include:

- we or our collaborators may initiate litigation or other proceedings against third parties seeking to invalidate the patents held by those third parties or to obtain a judgment that our products or processes do not infringe those third parties' patents;
- if our competitors file patent applications that claim technology also claimed by us or our licensors, we or our licensors may be required to participate in interference or opposition proceedings to determine the priority of invention, which could jeopardize our patent rights and potentially provide a third party with a dominant patent position;
- if third parties initiate litigation claiming that our processes or products infringe their patent or other intellectual property rights, we and our collaborators will need to defend against such proceedings; and
- if a license to necessary technology is terminated, the licensor may initiate litigation claiming that our processes or products infringe or misappropriate their patent or other intellectual property rights and/or that we breached our obligations under the license agreement, and we and our collaborators would need to defend against such proceedings.

These lawsuits would be costly and could affect our results of operations and divert the attention of our management and scientific personnel. There is a risk that a court would decide that we or our collaborators are infringing the third party's patents and would order us or our collaborators to stop the activities covered by the patents. In that event, we or our collaborators may not have a viable alternative to the technology protected by the patent and may need to halt work on the affected product candidate or cease commercialization of an approved product. In addition, there is a risk that a court will order us or our collaborators to pay the other party damages. An adverse outcome in any litigation or other proceeding could subject us to significant liabilities to third parties and require us to cease using the technology that is at issue or to license the technology from third parties. We may not be able to obtain any required licenses on commercially acceptable terms or at all. Any of these outcomes could have a material adverse effect on our business.

The pharmaceutical and biotechnology industries have produced a significant number of patents, and it may not always be clear to industry participants, including us, which patents cover various types of products or methods of use. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform or predictable. If we are sued for patent infringement, we would need to demonstrate that our products or methods either do not infringe the patent claims of the relevant patent or that the patent claims are invalid, and we may not be able to do this. Proving invalidity is difficult. For example, in the United States, proving invalidity requires a showing of clear and convincing evidence to overcome the presumption of validity enjoyed by issued patents. Even if we are successful in these proceedings, we may incur substantial costs and divert management's time and attention in pursuing these proceedings, which could have a material adverse effect on us. If we are unable to avoid infringing the patent rights of others, we may be required to seek a license, defend an infringement action or challenge the validity of the patents in court. Patent litigation is costly and time consuming. We may not have sufficient resources to bring these actions to a successful conclusion. In addition, if we do not obtain a license, develop or obtain non-infringing technology, fail to defend an infringement action successfully or have infringed patents declared invalid, we may incur substantial monetary damages, encounter significant delays in bringing our product candidates to market and be precluded from manufacturing or selling our product candidates.

The cost of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. Some of our competitors may be able to sustain the cost of such litigation and proceedings more effectively than we can because of their substantially greater resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Patent litigation and other proceedings may also absorb significant management time.

***If we fail to comply with our obligations under our intellectual property licenses with third parties, we could lose license rights that are important to our business.***

We are currently party to various intellectual property license agreements. These license agreements impose, and we expect that future license agreements may impose, various diligence, milestone payment, royalty, insurance and other obligations on us. For example, we have entered into patent and know-how license agreements which grant us the right to use a certain technology related to biological manufacturing to manufacture margetuximab and MGA271. These licenses typically include an obligation to pay an upfront payment, yearly maintenance payments and royalties on sales. If we fail to comply with our obligations under the licenses, the licensors may have the right to terminate their respective license agreements, in which event we might not be able to market any product that is covered by the agreements. Termination of the license agreements or reduction or elimination of our licensed rights may result in our having to negotiate new or reinstated licenses with less favorable terms, which could adversely affect our competitive business position and harm our business.

***If we are unable to protect the confidentiality of our proprietary information, the value of our technology and products could be adversely affected.***

In addition to patent protection, we also rely on other proprietary rights, including protection of trade secrets, and other proprietary information. To maintain the confidentiality of trade secrets and proprietary information, we enter into confidentiality agreements with our employees, consultants, collaborators and others upon the commencement of their relationships with us. These agreements require that all confidential information developed by the individual or made known to the individual by us during the course of the individual's relationship with us be kept confidential and not disclosed to third parties. Our agreements with employees and our personnel policies also provide that any inventions conceived by the individual in the course of rendering services to us shall be our exclusive property. However, we may not obtain these agreements in all circumstances, and individuals with whom we have these agreements may not comply with their terms. Thus, despite such agreement, such inventions may become assigned to third parties. In the event of unauthorized use or disclosure of our trade secrets or proprietary information, these agreements, even if obtained, may not provide meaningful protection, particularly for our trade secrets or other confidential information. To the extent that our employees, consultants or contractors use technology or know-how owned by third parties in their work for us, disputes may arise between us and those third parties as to the rights in related inventions. To the extent that an individual who is not obligated to assign rights in intellectual property to us is rightfully an inventor of intellectual property, we may need to obtain an assignment or a license to that intellectual property from that individual, or a third party or from that individual's assignee. Such assignment or license may not be available on commercially reasonable terms or at all.

Adequate remedies may not exist in the event of unauthorized use or disclosure of our proprietary information. The disclosure of our trade secrets would impair our competitive position and may materially harm our business, financial condition and results of operations. Costly and time consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to maintain trade secret protection could adversely affect our competitive business position. In addition, others may independently discover or develop our trade secrets and proprietary information, and the existence of our own trade secrets affords no protection against such independent discovery.

As is common in the biotechnology and pharmaceutical industries, we employ individuals who were previously or concurrently employed at research institutions and/or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees, or we, have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers, or that patents and applications we have filed to protect inventions of these employees, even those related to one or more of our product candidates, are rightfully owned by their former or concurrent employer. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, documentary, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.***

Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and/or applications will be due to the USPTO and various foreign patent offices at various points over the lifetime of our patents and/or applications. We have systems in place to remind us to pay these fees, and we rely on our outside counsel to pay these fees when due. Additionally, the USPTO and various foreign patent offices require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. We employ reputable law firms and other professionals to help us comply, and in many cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with rules applicable to the particular jurisdiction. However, there are situations in which noncompliance can result in

abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. If such an event were to occur, it could have a material adverse effect on our business. In addition, we are responsible for the payment of patent fees for patent rights that we have licensed from other parties. If any licensor of these patents does not itself elect to make these payments, and we fail to do so, we may be liable to the licensor for any costs and consequences of any resulting loss of patent rights.

***If we do not obtain protection under the Hatch-Waxman Amendments and similar foreign legislation for extending the term of patents covering each of our product candidates, our business may be materially harmed.***

Depending upon the timing, duration and conditions of FDA marketing approval of our product candidates, one or more of our U.S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments. The Hatch-Waxman Amendments permit a patent term extension of up to five years for a patent covering an approved product as compensation for effective patent term lost during product development and the FDA regulatory review process. However, we may not receive an extension if we fail to apply within applicable deadlines, fail to apply prior to expiration of relevant patents or otherwise fail to satisfy applicable requirements. Moreover, the length of the extension could be less than we request. If we are unable to obtain patent term extension or the term of any such extension is less than we request, the period during which we can enforce our patent rights for that product will be shortened and our competitors may obtain approval to market competing products sooner. As a result, our revenue from applicable products could be reduced, possibly materially.

**Risks Related to Legal Compliance Matters**

***If we do not comply with laws regulating the protection of the environment and health and human safety, our business could be adversely affected.***

Our research and development involves, and may in the future involve, the use of potentially hazardous materials and chemicals. Our operations may produce hazardous waste products. Although we believe that our safety procedures for handling and disposing of these materials comply with the standards mandated by local, state and federal laws and regulations, the risk of accidental contamination or injury from these materials cannot be eliminated. If an accident occurs, we could be held liable for resulting damages, which could be substantial. We are also subject to numerous environmental, health and workplace safety laws and regulations and fire and building codes, including those governing laboratory procedures, exposure to blood-borne pathogens, use and storage of flammable agents and the handling of biohazardous materials. Although we maintain workers' compensation insurance as prescribed by the States of Maryland and California to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of these materials, this insurance may not provide adequate coverage against potential liabilities. We do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us. Additional federal, state and local laws and regulations affecting our operations may be adopted in the future. We may incur substantial costs to comply with, and substantial fines or penalties if we violate, any of these laws or regulations.

***If we market products in a manner that violates healthcare fraud and abuse laws, or if we violate government price reporting laws, we may be subject to civil or criminal penalties.***

In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal healthcare laws commonly referred to as "fraud and abuse" laws have been applied in recent years to restrict certain marketing practices in the pharmaceutical industry. These laws include false claims and anti-kickback statutes.

Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, or causing to be made, a false statement to

get a false claim paid. The federal healthcare program anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce, or in return for, purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid or other federally financed healthcare programs. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers and formulary managers on the other. Although there are several statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchasing or recommending may be subject to scrutiny if they do not qualify for an exemption or safe harbor. Most states also have statutes or regulations similar to the federal anti-kickback law and federal false claims laws, which may apply to items such as pharmaceutical products and services reimbursed by private insurers. Administrative, civil and criminal sanctions may be imposed under these federal and state laws.

Over the past few years, a number of pharmaceutical and other healthcare companies have been prosecuted under these laws for a variety of promotional and marketing activities, such as: providing free trips, free goods, sham consulting fees and grants and other monetary benefits to prescribers; reporting to pricing services inflated average wholesale prices that were then used by federal programs to set reimbursement rates; engaging in off-label promotion; and submitting inflated best price information to the Medicaid Rebate Program to reduce liability for Medicaid rebates. At such time, if ever, as we market any of our future approved products and these products are paid for by governmental programs, it is possible that some of our business activities could also be subject to challenge under one or more of these “fraud and abuse” laws.

***Our employees may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements and insider trading.***

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees could include intentional failures to comply with FDA regulations, to provide accurate information to the FDA, to comply with federal and state health care fraud and abuse laws and regulations, to report financial information or data accurately or to disclose unauthorized activities to us. In particular, sales, marketing and business arrangements in the health care industry are subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Employee misconduct could also involve the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. We have adopted a code of conduct, but it is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with these laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant fines or other sanctions.

**Risks Relating to Employee Matters and Managing Growth**

***Our future success depends on our ability to retain key executives and to attract, retain and motivate qualified personnel.***

We are highly dependent on the research and development, clinical and business development expertise of Scott Koenig, M.D., Ph.D., our President and Chief Executive Officer, as well as the other members of our senior management, scientific and clinical team. Although we have entered into employment agreements with certain of our executive officers, each of them may terminate their employment with us at any time. The loss of the services of our executive officers or other key employees could impede the achievement of our research, development and commercialization objectives and seriously harm our ability to successfully implement our business strategy.

Recruiting and retaining qualified scientific, clinical, manufacturing and sales and marketing personnel will also be critical to our success. In addition, we will need to expand and effectively manage our managerial, operational, financial, development and other resources in order to successfully pursue our research, development and commercialization efforts for our existing and future product candidates. Furthermore, replacing executive officers and key employees may be difficult and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to successfully develop, gain regulatory approval of and commercialize products. Competition to hire from this limited pool is intense, and we may be unable to hire, train, retain or motivate these key personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for the hiring of scientific and clinical personnel from universities and research institutions. In addition, we rely on consultants and advisors, including scientific and clinical advisors, to assist us in formulating our research and development and commercialization strategy. Our consultants and advisors may be employed by employers other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us. If we are unable to continue to attract and retain high quality personnel, our ability to pursue our growth strategy will be limited.

***We will need to grow our organization, and we may experience difficulties in managing this growth, which could disrupt our operations.***

As of February 27, 2015, we had 211 full-time employees. As our development and commercialization plans and strategies develop, we expect to expand our employee base for managerial, operational, sales, marketing, financial and other resources. Future growth would impose significant added responsibilities on members of management, including the need to identify, recruit, maintain, motivate and integrate additional employees. Also, our management may need to divert a disproportionate amount of their attention away from our day-to-day activities and devote a substantial amount of time to managing these growth activities. We may not be able to effectively manage the expansion of our operations which may result in weaknesses in our infrastructure, give rise to operational errors, loss of business opportunities, loss of employees and reduced productivity among remaining employees. Our expected growth could require significant capital expenditures and may divert financial resources from other projects, such as the development of existing and additional product candidates. If our management is unable to effectively manage our expected growth, our expenses may increase more than expected, our ability to generate and/or grow revenue could be reduced and we may not be able to implement our business strategy. Our future financial performance and our ability to commercialize our product candidates and compete effectively with others in our industry will depend, in part, on our ability to effectively manage any future growth.

**Risks Relating to Our Common Stock**

***Our stock price may be volatile and fluctuate substantially.***

Our stock price is likely to be volatile. The stock market has experienced significant volatility, particularly with respect to pharmaceutical, biotechnology, and other life sciences company stocks. The volatility of pharmaceutical, biotechnology, and other life sciences company stocks often does not relate to the operating performance of the companies represented by the stock. Some of the factors that may cause the market price of our common stock to fluctuate include:

- results and timing of our clinical trials and clinical trials of our competitors' products;
- failure or discontinuation of any of our development programs;
- issues in manufacturing our product candidates or future approved products;
- regulatory developments or enforcement in the United States and foreign countries with respect to our product candidates or our competitors' products;
- competition from existing products or new products that may emerge;

- developments or disputes concerning patents or other proprietary rights;
- introduction of technological innovations or new commercial products by us or our competitors;
- announcements by us, our collaborators or our competitors of significant acquisitions, strategic partnerships, joint ventures, collaborations or capital commitments;
- changes in estimates or recommendations by securities analysts, if any cover our common stock;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- public concern over our product candidates or any future approved products;
- litigation;
- future sales of our common stock;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our shares;
- additions or departures of key personnel;
- changes in the structure of health care payment systems in the United States or overseas;
- failure of any of our product candidates, if approved, to achieve commercial success;
- economic and other external factors or other disasters or crises;
- period-to-period fluctuations in our financial condition and results of operations, including the timing of receipt of any milestone or other payments under commercialization or licensing agreements;
- general market conditions and market conditions for biopharmaceutical stocks; and
- overall fluctuations in U.S. equity markets.

In addition, in the past, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit and divert the time and attention of our management, which could seriously harm our business.

***An active trading market for our common stock may not be sustained.***

In October 2013, we completed our IPO. Prior to the IPO, there was no public market for our common stock. Although we have completed our IPO as well as a follow-on offering and shares of our common stock are listed and trading on The NASDAQ Global Select Market, an active trading market for our shares may not be sustained. If an active market for our common stock does not continue, it may be difficult for our stockholders to sell their shares without depressing the market price for the shares or sell their shares at or above the prices at which they acquired their shares or sell their shares at the time they would like to sell. Any inactive trading market for our common stock may also impair our ability to raise capital to continue to fund our operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

***We are an "emerging growth company" and as a result of the reduced disclosure requirements applicable to emerging growth companies, our common stock may be less attractive to investors.***

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and

shareholder approval of any golden parachute payments not previously approved. In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. We cannot predict whether investors will find our common stock less attractive because we will rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. We may take advantage of these reporting exemptions until we are no longer an "emerging growth company." We could remain an "emerging growth company" until the earliest to occur of the following:

- the last day of the fiscal year in which we have total annual gross revenue of $1 billion or more;
- the last day of our fiscal year following the fifth anniversary of the date of the first sale of common equity securities pursuant to the prospectus filed with the Securities and Exchange Commission on October 11, 2013;
- the date on which we have issued more than $1 billion in non-convertible debt during the previous three years; or
- the date on which we are deemed to be a "large accelerated filer" under SEC rules and regulations.

***We incur significantly increased costs as a result of operating as a public company, and our management is required to devote substantial time to corporate governance standards.***

As a public company, we incur significant legal, accounting and other expenses that we did not incur as a private company. In addition, our administrative staff will be required to perform additional tasks. For example, we are in the process of adopting additional internal controls and disclosure controls and procedures. As a public company, we bear all of the internal and external costs of preparing and distributing periodic public reports in compliance with our obligations under the securities laws.

In addition, regulations and standards relating to corporate governance and public disclosure, including the Sarbanes-Oxley Act and related regulations implemented by the Securities and Exchange Commission and the NASDAQ Global Select Market, have increased legal and financial compliance costs that make some compliance activities more time consuming. We cannot predict or estimate the amount of additional costs we will continue to incur or the timing of such costs. We must invest resources to comply with evolving laws, regulations and standards, and this investment will result in increased general and administrative expenses and may divert management's time and attention from our other business activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed. In connection with our IPO, we increased our directors' and officers' insurance coverage which will increase our insurance cost. In the future, it may be more expensive or more difficult for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

Under the corporate governance standards of the NASDAQ Global Select Market, a majority of our board of directors and each member of our audit committee must be an independent director no later than the first anniversary of the completion of our IPO. We may encounter difficulty in attracting qualified persons to serve on our board of directors and the audit committee, and our board of directors and management may be required to divert significant time and attention and resources away from our business to identify qualified directors. If we fail to attract and retain the required number of independent directors, we may be subject to the delisting of our common stock from the NASDAQ Global Select Market.

***Provisions of our charter, bylaws, and Delaware law may make an acquisition of us or a change in our management more difficult.***

Certain provisions of our restated certificate of incorporation and amended and restated bylaws that became effective upon the completion of our IPO could discourage, delay, or prevent a merger, acquisition, or other change in control that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions also could limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. Stockholders who wish to participate in these transactions may not have the opportunity to do so. Furthermore, since our board of directors is responsible for appointing the members of our management team, these provisions could prevent or frustrate attempts by our stockholders to replace or remove our management by making it more difficult for stockholders to replace members of our board of directors. These provisions:

- allow the authorized number of directors to be changed only by resolution of our board of directors;
- establish a classified board of directors, providing that not all members of the board of directors be elected at one time;
- authorize our board of directors to issue without stockholder approval blank check preferred stock that, if issued, could operate as a "poison pill" to dilute the stock ownership of a potential hostile acquirer to prevent an acquisition that is not approved by our board of directors;
- require that stockholder actions must be effected at a duly called stockholder meeting and prohibit stockholder action by written consent;
- establish advance notice requirements for stockholder nominations to our board of directors or for stockholder proposals that can be acted on at stockholder meetings;
- limit who may call stockholder meetings; and
- require the approval of the holders of 75% of the outstanding shares of our capital stock entitled to vote in order to amend certain provisions of our restated certificate of incorporation and restated bylaws.

In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may, unless certain criteria are met, prohibit large stockholders, in particular those owning 15% or more of our outstanding voting stock, from merging or combining with us for a prescribed period of time. This provision could have the effect of delaying or preventing a change of control, whether or not it is desired by or beneficial to our stockholders.

***We do not anticipate paying cash dividends, and accordingly, stockholders must rely on stock appreciation for any return on their investment.***

We currently intend to retain our future earnings, if any, to fund the development and growth of our businesses. As a result, capital appreciation, if any, of our common stock will be your sole source of gain on your investment for the foreseeable future. Investors seeking cash dividends should not invest in our common stock.

***Future issuances of our common stock or rights to purchase common stock pursuant to our equity incentive plans or outstanding warrants could result in additional dilution of the percentage ownership of our stockholders and could cause our share price to fall.***

As of December 31, 2014, we had options to purchase 3,572,116 shares outstanding under our equity compensation plans. We are also authorized to grant equity awards, including stock options, to our employees, directors and consultants, covering up to 1,403,572 shares of our common stock, pursuant to our equity compensation plans. We plan to register the number of shares available for issuance or subject to outstanding awards under our equity compensation plans.

***If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our share price and trading volume could decline.***

The trading market for our common stock will depend on the research and reports that securities or industry analysts publish about us or our business. We do not have any control over these analysts. We cannot assure you that analysts will cover us or provide favorable coverage. If one or more of the analysts who cover us downgrade our stock or change their opinion of our stock, our share price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

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## ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

## ITEM 2. PROPERTIES

| Property Location | Approximate Square Footage | Use | Lease Expiration Date |
|---|---|---|---|
| Rockville, MD | 14,597 | Manufacturing | 3/31/2018(A) |
| Rockville, MD | 15,180 | Manufacturing | 12/31/2019 |
| Rockville, MD | 9,416 | Office space | 1/31/2020(A)(B) |
| Rockville, MD | 46,267 | Office and laboratory space | 1/31/2020(A) |
| South San Francisco, CA | 66,127 | Office and laboratory space | 2/28/2018 |

(A) Lease includes one renewal option of 5 years

(B) Lease executed in 2014; lease term begins in 2015

We believe that our properties are generally in good condition, well maintained, suitable and adequate to carry on our business. We believe our capital resources are sufficient to lease any additional facilities required to meet our expected growth needs.

## ITEM 3. LEGAL PROCEEDINGS

In the ordinary course of business, we are involved in various legal proceedings, including, among others, patent oppositions, patent revocations, patent infringement litigation and other matters incidental to our business. We are not currently a party to any material legal proceedings.

## ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

## PART II

## ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

### Market Information

Our common stock has been listed on the NASDAQ Global Select Market under the symbol "MGNX" since October 10, 2013. Prior to that date, there was no public trading market for our common stock. Shares sold in our initial public offering, or IPO, on October 9, 2013 were priced at $16.00 per share.

On February 27, 2015, the closing price for our common stock as reported on the NASDAQ Global Select Market was $34.57. The following table sets forth the high and low intra-day sale prices per share of our common stock as reported on the NASDAQ Global Select Market for the periods indicated.

| | High | Low |
|---|---|---|
| **2014** | | |
| First Quarter | $ 41.00 | $27.06 |
| Second Quarter | $ 31.11 | $17.96 |
| Third Quarter | $ 22.90 | $18.25 |
| Fourth Quarter | $ 39.90 | $17.31 |
| **2013** | | |
| Fourth Quarter (from October 10, 2013) | $ 30.25 | $21.50 |

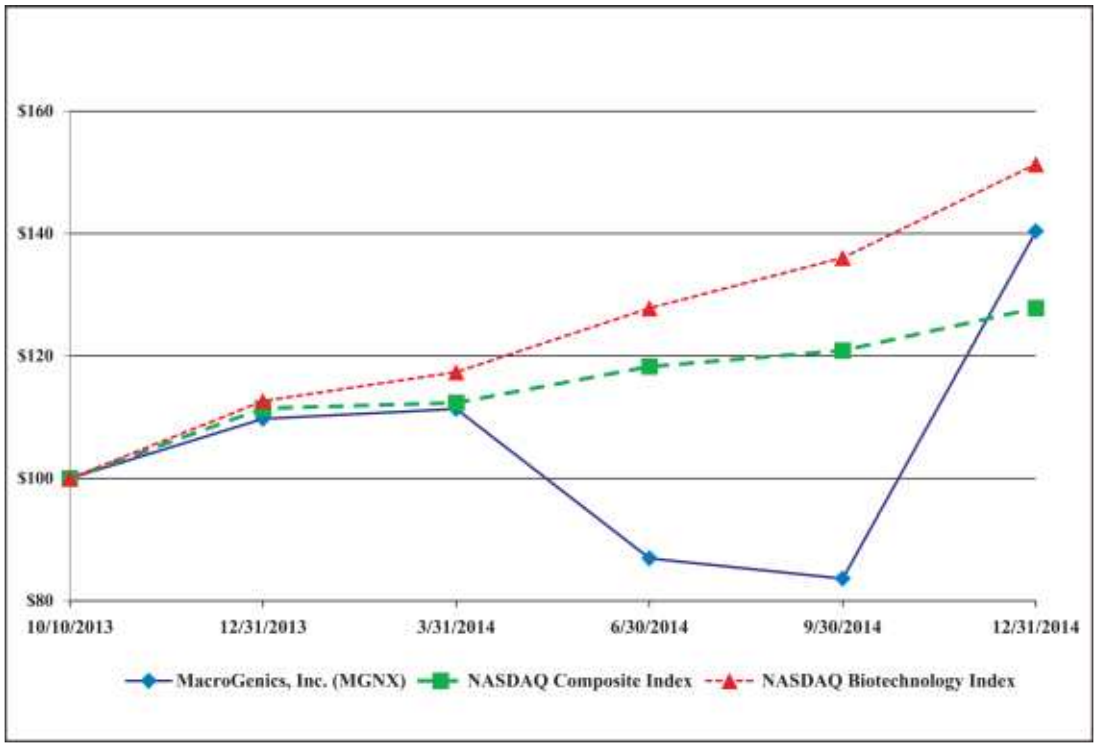
### Shareholders

As of February 27, 2015, we had 29,968,476 shares of common stock outstanding held by approximately 123 holders of record, which include shares held by a broker, bank or other nominee. We have never declared or paid any cash dividends. We do not anticipate declaring or paying cash dividends for the foreseeable future. Instead, we will retain our earnings, if any, for the future operation and expansion of our business.

**Performance Graph**

The following graph compares the performance of our common stock to the performance of the NASDAQ Composite Index (U.S.) and the NASDAQ Biotechnology Index since October 10, 2013 (the first date that shares of our common stock were publicly traded). The comparison assumes a $100 investment on October 10, 2013 in our common stock, the stocks comprising the NASDAQ Composite Index, and the stocks comprising the NASDAQ Biotechnology Index, and assumes reinvestment of the full amount of all dividends, if any. Historical stockholder return is not necessarily indicative of the performance to be expected for any future periods.

**Comparison of Cumulative Total Return**
**Among MacroGenics, Inc., the NASDAQ Composite Index and the NASDAQ Biotechnology Index**




The performance graph shall not be deemed to be incorporated by reference by means of any general statement incorporating by reference this Form 10-K into any filing under the Securities Act of 1933, as amended or the Exchange Act, except to the extent that we specifically incorporate such information by reference, and shall not otherwise be deemed filed under such acts.

**Unregistered Sales of Equity Securities**

As previously disclosed, in connection with our collaboration and license agreement with Janssen, Johnson & Johnson Innovation – JJDC, Inc. agreed to purchase 1,923,077 shares of our common stock at a price of $39.00 per share for aggregate consideration of $75.0 million. In January 2015, the transaction closed and we completed the sale of the shares in a transaction exempt from registration pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended.

**Use of Proceeds from Registered Securities**

On October 16, 2013, we completed our IPO of 5,750,000 shares of our common stock, including 750,000 shares of common stock sold pursuant to the underwriters' full exercise of their option to purchase additional shares at a public offering price of $16.00 per share, for aggregate gross proceeds of $92.0 million. All of the shares issued and sold in the IPO were registered under the Securities Act pursuant to a Registration Statement on Form S-1 (File No. 333-190994), which was declared effective by the Securities and Exchange Commission (SEC) on October 9, 2013. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Leerink Swann LLC acted as representatives of the several underwriters. The offering commenced on October 10, 2013 and did not terminate until the sale of all of the shares offered.

We received net proceeds from the offering of $83.8 million, after deducting approximately $6.4 million of underwriting discounts and commissions, and approximately $1.9 million of offering expenses payable by us. None of the underwriting discounts and commissions or other offering expenses were incurred or paid to our directors or officers or their associates or to persons owning 10 percent or more of our common stock.

There has been no material change in our planned use of the net proceeds from the offering as described in our final prospectus filed with the SEC pursuant to Rule 424(b) under the Securities Act on October 11, 2013. We have broad discretion in the use of the net proceeds from our initial public offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our stock.

## ITEM 6. SELECTED FINANCIAL DATA

The consolidated statement of operations and comprehensive income (loss) data for the years ended December 31, 2014, 2013 and 2012 and the consolidated balance sheet data as of December 31, 2014 and 2013 presented below have been derived from our audited consolidated financial statements and footnotes included elsewhere in this Annual Report on Form 10-K. The consolidated statement of operations and comprehensive income (loss) data for the year ended December 31, 2011and the consolidated balance sheet data as of December 31, 2012 and 2011 have been derived from our audited consolidated financial statements which are not included herein. Historical results are not necessarily indicative of future results. The following data should be read in conjunction with Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K.

| | Year Ended December 31, | | | |
|---|---|---|---|---|
| | 2014 | 2013 | 2012 | 2011 |
| | (in thousands, except share and per share data) | | | |
| **Consolidated Statement of Operations and Comprehensive Income (Loss):** | | | | |
| Total revenues | $ 47,797 | $ 58,035 | $ 63,826 | $ 57,207 |
| Cost and expenses: | | | | |
| Research and development | 70,186 | 46,582 | 45,433 | 41,089 |
| General and administrative | 15,926 | 11,087 | 10,188 | 10,869 |
| Total costs and expenses | 86,112 | 57,669 | 55,621 | 51,958 |
| Income (loss) from operations | (38,315) | 366 | 8,205 | 5,249 |
| Other income (expense) | 2 | (627) | 157 | 1,467 |
| Net income (loss) | $ (38,313) | $ (261) | $ 8,362 | $ 6,716 |
| Basic and diluted net income (loss) per common share | $ (1.40) | $ (0.04) | $ 0.00 | $ 0.00 |
| Basic and diluted weighted average number of common shares | 27,384,990 | 6,847,697 | 1,083,276 | 1,025,602 |

| | As of December 31, | | | |
|---|---|---|---|---|
| | 2014 | 2013 | 2012 | 2011 |
| | (in thousands) | | | |
| **Consolidated Balance Sheet Data:** | | | | |
| Cash and cash equivalents | $157,591 | $116,481 | $47,743 | $ 55,218 |
| Total assets | 173,886 | 125,782 | 53,747 | 62,681 |
| Deferred revenue | 30,720 | 27,403 | 44,080 | 54,890 |
| Convertible preferred stock | — | — | 2,947 | 2,947 |
| Total stockholders' equity (deficit) | 121,286 | 78,914 | (8,237) | (17,484) |

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*The following discussion of our financial condition and results of operations should be read together with our selected consolidated financial data and the consolidated financial statements and related notes included elsewhere herein. This discussion contains forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under the section entitled "Risk Factors", "Forward-Looking Statements" and elsewhere herein, our actual results may differ materially from those anticipated in these forward-looking statements.*

### Overview

We are a biopharmaceutical company focused on discovering and developing innovative antibody-based therapeutics for the treatment of cancer, as well as various autoimmune disorders and infectious diseases. We currently have a pipeline of product candidates in human clinical testing, primarily against different types of cancers. These include two product candidates developed using our proprietary "Fc Optimization" platform, namely margetuximab, an antibody that we are developing for treatment of certain types of metastatic breast cancers and gastroesophageal cancers, and MGA271, an antibody that we believe has the potential for broad impact across a variety of different tumor types through multiple potential mechanisms of action. In addition, we created a number of product candidates based on our proprietary Dual-Affinity Re-Targeting, or DART®, platform and several of these are currently in, or advancing into, human clinical development. For example, we initiated human clinical studies with DART product candidates MGD006, in patients with acute myeloid leukemia that is refractory to other known treatments, and MGD007, in patients with colorectal cancer. We also recently entered into a collaboration with Janssen Biotech, Inc. (Janssen) with respect to MGD011, a DART being developed for treatment of various hematological malignancies, and anticipate that this molecule will start clinical trials in 2015. We specifically designed these three DART product candidates with the goal of harnessing the power of the immune system to destroy cancerous cells. In contrast, the flexibility of the DART platform has also allowed us to create MGD010, a DART molecule designed to moderate the hyperactivity of the immune system seen in various autoimmune disorders, and we expect to start human clinical studies with that product candidate in 2015 as well.

We develop new therapeutic product candidates ourselves using our antibody-based technology platforms and also in partnership with other biopharmaceutical companies, when such a partnership is advantageous for strategic or financial reasons. These collaborations have allowed us to expand and accelerate the breadth of product candidates that can be developed and also have generated a significant portion of the funding we have received to date.

Key ongoing programs include:

- *Margetuximab* is an antibody that targets HER2-expressing tumors, including certain types of breast and gastroesophageal cancers. HER2, or human epidermal growth factor receptor 2, is critical for the growth of many types of tumors. In 2015 we plan to commence a Phase 3 potential registration clinical trial with margetuximab in patients with metastatic breast cancer expressing HER2 who have failed therapy with other HER2 therapeutic agents. We also plan to commence exploratory Phase 1/2 studies combining margetuximab with other therapeutic agents in patients with gastroesophegeal cancer, and we are currently enrolling a Phase 2a clinical trial in patients with lower levels of expressed HER2.
- *MGA271* is an antibody that targets B7-H3, a member of the B7 family of molecules that are involved in immune regulation and that is over-expressed on a wide variety of solid tumor types. We have initiated additional dose expansion cohorts using MGA271 as monotherapy in other tumor types. In 2015, we also intend to initiate one clinical study combining MGA271 with ipilimumab and plan to initiate a second study combining MGA271 with another immuno-oncology agent.

- *MGD006* is a DART molecule that recognizes both CD123 and CD3. CD123, the Interleukin-3 receptor alpha chain, is expressed on leukemia and leukemic stem cells, but only at very low levels or not at all on normal hematopoietic stem cells. T cells, which express CD3, can destroy tumor cells. In pre-clinical studies, we have demonstrated the ability of MGD006 to recruit, activate, and expand T cell populations to eliminate leukemia cells. We are currently enrolling and dosing patients in the dose escalation portion of a Phase 1 clinical trial of MGD006.
- *MGD007* is a DART molecule that recognizes both the glycoprotein A33, or gpA33, and CD3. MGD007 has an Fc domain, which allows for extended pharmacokinetic properties and convenient intermittent dosing. gpA33 is expressed on gastrointestinal tumors, including more than 95% of human colon cancers. We have demonstrated that this molecule is able to mediate T cell killing of gpA33-expressing cancer cells and CSLCs in pre-clinical experiments. We are currently enrolling and dosing patients in the dose escalation portion of a Phase 1 clinical trial of MGD007.
- *MGD010* is a DART molecule designed to address limitations of existing B cell-targeted therapies by binding to the CD32B and CD79B proteins found on human B cells. In pre-clinical studies, this DART molecule modulates the function of human B cells without B cell depletion. In normal conditions, B cells utilize CD32B as one of the key checkpoints or negative regulators to ensure that tolerance to self is maintained and autoimmune disease does not occur. MGD010 is designed to further exploit this mechanism by triggering this inhibitory “immune checkpoint” loop. We believe this molecule preferentially blocks those B cells that are activated to produce the pathogenic antibodies that promote the autoimmune process. We are planning to initiate a Phase 1a clinical trial with MGD010 in normal healthy volunteers in 2015.
- *MGD011* is a DART molecule that targets both CD19 and CD3 and is being developed for the treatment of B-cell hematological malignancies. CD19, a lymphocyte-specific marker expressed from early B-lymphocyte development through mature memory B cells, is highly represented in B-cell malignancies. This makes it attractive for targeted interventions. MGD011 is designed to redirect T cells, via their CD3 component, to eliminate CD19-expressing cells found in many hematological malignancies. MGD011 has been engineered to address half-life challenges posed by other programs targeting CD19 and CD3. Under our recent collaboration and license agreement with Janssen, after we file the investigational new drug (IND) application for MGD011, Janssen will develop the product candidate, subject to our options to co-promote the product in the United States and Canada and to invest in later-stage development in exchange for a profit-share. We anticipate that human clinical studies of MGD011 will begin in 2015.
- *MGD009* is a DART molecule that recognizes an undisclosed solid tumor antigen and CD3, and has an Fc domain, which allows for extended pharmacokinetic properties. We have demonstrated that this molecule is able to mediate T cell killing of cancer cells in pre-clinical experiments. We expect to submit an IND for MGD009 in 2015 and initiate a Phase 1 clinical study by year-end. MacroGenics retains worldwide development and commercialization rights to this molecule.

We commenced active operations in 2000, and have since devoted substantially all of our resources to staffing our company, business planning, raising capital, developing our technology platforms, identifying potential product candidates, undertaking pre-clinical studies and conducting clinical trials. We have not generated any revenues from the sale of any products to date. We have financed our operations primarily through the private placements of convertible preferred stock, the public offerings of our common stock, collaborations, and government grants and contracts. From inception through December 31, 2014, we received $151.3 million from the sale of convertible preferred stock and warrants. We raised $83.8 million net of expenses in October 2013 through the sale of common stock in connection with our Initial Public Offering (IPO) and exercise by the underwriters of their over-allotment option. We raised an additional $76.7 million net of expenses through a follow-on public offering of our common stock and full exercise by the underwriters of their over-allotment option in February 2014. In addition, we have received significant non-equity capital from our collaborators in the form of upfront fees, milestone payments, annual maintenance payments and license option fees as well as

reimbursement payments through our collaborations and government grants and contracts. Although it is difficult to predict our funding requirements, based upon our current operating plan, we anticipate that our cash and cash equivalents as of December 31, 2014, combined with the proceeds from Janssen and its affiliate, as well as other collaboration payments we anticipate receiving, will enable us to fund our operations into 2018, assuming all of our collaboration programs advance as currently contemplated.

Through December 31, 2014, we had an accumulated deficit of $214.0 million. We expect that over the next several years we will increase our expenditures in research and development in connection with our ongoing activities with several clinical trials.

**Strategic Collaborations and Licenses**

We have entered into several strategic collaborations which provide us with significant additional funding in order to continue development of our pipeline and to extend our technology platforms and on-going programs. Our collaborations have allowed us to accelerate the progress of our on-going pre-clinical and clinical stage programs. Our most significant strategic collaborations include the following:

- *Janssen* . In December 2014, we entered into a collaboration and license agreement with Janssen for the development and commercialization of MGD011, a product candidate that incorporates our proprietary DART technology to simultaneously target CD19 and CD3 for the potential treatment of B-cell malignancies. We contemporaneously entered into a stock purchase agreement and investor agreement, each with Johnson & Johnson Innovation—JJDC, Inc. (JJDC), an affiliate of Janssen, under which JJDC agreed to purchase 1,923,077 new shares of our common stock at a price of $39.00 per share, representing proceeds of $75.0 million. The effectiveness of these agreements was subject to the early termination or expiration of any applicable waiting periods under Hart-Scott-Rodino Antitrust Improvements Act of 1976, which occurred in January 2015. Upon closing, we received a $50.0 million upfront payment from Janssen as well as the $75.0 million investment in our common stock. Janssen will be fully responsible for developing MGD011 following submission of the IND, which is planned for 2015. Assuming successful development and commercialization, we could receive up to an additional $575.0 million in clinical, regulatory and commercialization milestone payments. We may elect to fund a portion of late-stage clinical development in exchange for a profit share in the U.S. and Canada. If commercialized, we would be eligible to receive double-digit royalties on any global net sales and have the option to co-promote the molecule with Janssen in the U.S.
- *Takeda*. In May 2014, we entered into a license and option agreement with Takeda Pharmaceutical Company Limited (Takeda) for the development and commercialization of MGD010, a product candidate that incorporates our proprietary DART technology to simultaneously engage CD32B and CD79B, which are two B-cell surface proteins. MGD010 is currently in pre-clinical development for the treatment of autoimmune disorders, and we plan to initiate clinical testing of MGD010 in 2015. Upon execution of the agreement, Takeda made a non-refundable payment of $15.0 million to us. Takeda has an option to obtain an exclusive worldwide license for MGD010 following the completion of a pre-defined Phase 1a study. We will lead all product development activities until that time. If Takeda exercises its option, it will assume responsibility for future development and pay us a license option fee that, when combined with an early development milestone, would total $18.0 million. Assuming successful development and commercialization of MGD010, we are eligible to receive up to an additional $468.5 million in development, regulatory and sales milestone payments. If commercialized, we would receive double-digit royalties on any global net sales and have the option to co-promote MGD010 with Takeda in the United States. Finally, we may elect to fund a portion of Phase 3 clinical development in exchange for a North American profit share.

  In September 2014, we entered into a research collaboration and license option agreement with Takeda for an initial research compound and up to three additional compounds. Under the terms of this agreement, Takeda received an option to obtain an exclusive worldwide license for each of four product candidates and will fund all research and development activities related to the programs,

including reimbursement of our expenses. Assuming successful development and commercialization by Takeda, we could receive up to approximately $400.0 million in program initiation, pre-clinical, clinical, regulatory and commercialization milestone payments for each of the four potential product candidates. If commercialized, we would receive double-digit royalties on any global net sales and have the option to co-promote each product candidate with Takeda in the United States. Finally, we may elect to fund a portion of Phase 3 clinical development of each product candidate in exchange for a North American profit share.

- *Servier*. In November 2011, we entered into a collaboration agreement with Les Laboratoires Servier and Institut de Recherches Servier (collectively, Servier) under which we granted Servier an option to obtain an exclusive license to develop and commercialize MGA271 in all countries other than the United States, Canada, Mexico, Japan, South Korea and India. Through December 31, 2014, we have received a $20.0 million option grant fee and a $10.0 million milestone payment. We may be eligible to receive up to approximately $415.0 million in license fees and clinical, development, regulatory and sales milestone payments. In the event Servier exercises its option, Servier must pay a license fee, which we estimate to be $30.0 million, based on the number of different indications represented within the planned Phase 1 patient population.

  In September 2012, we entered into a second agreement with Servier and granted it options to obtain three separate exclusive licenses to develop and commercialize DART molecules, consisting of those designated by us as MGD006 and MGD007, as well as a third DART molecule, in all countries other than the United States, Canada, Mexico, Japan, South Korea and India. We received a $20.0 million upfront option fee. In addition, we became eligible to receive up to approximately $1.0 billion in additional license fees, and clinical, development, regulatory and sales milestone payments if Servier exercises all three of its options and successfully develops, obtains regulatory approval for, and commercializes a product under each license.

  In February 2014, Servier exercised its option to develop and commercialize MGD006, for which we received a $15.0 million license option fee. We also received two $5.0 million milestone payments from Servier in connection with the IND applications for MGD006 and MGD007 clearing the 30-day review period by the U.S. Food and Drug Administration (FDA).

  Additionally, under both agreements, and assuming exercise of the applicable options, Servier may share Phase 2 and Phase 3 development costs and would be obligated to pay us low- to mid-double digit royalties on product sales in its territories.

- *Boehringer* . In October 2010, we entered into an agreement with Boehringer Ingelheim International GmbH (Boehringer) to discover, develop and commercialize up to ten DART molecules which may span multiple therapeutic areas. We granted Boehringer an exclusive worldwide, royalty-bearing license and received an upfront payment of $15.0 million. During 2014, Boehringer nominated a lead candidate generated by our DART technology for pre-clinical development. This formal selection of a development candidate triggered a $2.0 million milestone payment to us under the agreement. We have the potential to earn development, regulatory and sales milestone payments that can reach up to approximately $210.0 million for each of the DART programs under this agreement. Boehringer provides funding for our internal and external research costs and is required to pay us mid-single digit royalties on product sales.

**Financial Operations Overview**

***Revenues***

Our revenue consists primarily of collaboration revenue, including amounts recognized relating to upfront nonrefundable payments for licenses or options to obtain future licenses, research and development funding and milestone payments earned under our collaboration and license agreement with our strategic collaborators, including Takeda, Servier, Gilead, Boehringer, Pfizer and Green Cross. In addition, we have earned revenues

through several grants and/or contracts with the U.S. government and other research institutions on behalf of the U.S. government, primarily with respect to research and development activities related to infectious disease product candidates.

***Research and Development Expense***

Research and development expenses consist of expenses incurred in performing research and development activities. These expenses include conducting pre-clinical experiments and studies, clinical trials, manufacturing efforts and regulatory filings for all product candidates, and other indirect expenses in support of our research and development activities. We capture research and development expense on a program-by-program basis for our product candidates that are in clinical development and recognize these expenses as they are incurred. The following are items we include in research and development expenses:

- Employee-related expenses such as salaries and benefits;
- Employee-related overhead expenses such as facilities and other allocated items;
- Stock-based compensation expense to employees and consultants engaged in research and development activities;
- Depreciation of laboratory equipment, computers and leasehold improvements;
- Fees paid to consultants, subcontractors, clinical research organizations (CROs) and other third party vendors for work performed under our pre-clinical and clinical trials including but not limited to investigator grants, laboratory work and analysis, database management, statistical analysis, and other items;
- Amounts paid to vendors and suppliers for laboratory supplies;
- Costs related to manufacturing clinical trial materials, including vialing, packaging and testing;
- License fees and other third party vendor payments related to in-licensed product candidates and technology; and
- Costs related to compliance with regulatory requirements.

It is difficult to determine with certainty the duration and completion costs of our current or future pre-clinical programs and clinical trials of our product candidates, or if, when or to what extent we will generate revenues from the commercialization and sale of any of our product candidates that obtain regulatory approval. We may never succeed in achieving regulatory approval for any of our product candidates. The duration, costs and timing of clinical trials and development of our product candidates will depend on a variety of factors, including the uncertainties of future clinical trials and pre-clinical studies, uncertainties in clinical trial enrollment rate and significant and changing government regulation. In addition, the probability of success for each product candidate will depend on numerous factors, including competition, manufacturing capability and commercial viability. We will determine which programs to pursue and how much to fund each program in response to the scientific and clinical success of each product candidate, as well as an assessment of each product candidate’s commercial potential.

***General and Administrative Expense***

General and administrative expenses consist of salaries and related benefit costs for employees in our executive, finance, legal and intellectual property, business development, human resources and other support functions, travel expenses and other legal and professional fees.

***Other Income (Expense)***

Other income (expense) consists of interest income earned on our cash and cash equivalents, offset by other expenses, including changes in the fair market value of the preferred stock warrant liability.

**Critical Accounting Policies and Significant Judgments and Estimates**

Our management's discussion and analysis of financial conditions and results of operations is based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these consolidated financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the balance sheets and the reported amount of the revenue and expenses recorded during the reporting period. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable. We review and evaluate these estimates on an on-going basis. These assumptions and estimates form the basis for making judgments about the carrying values of assets and liabilities and amounts that have been recorded as revenues and expenses. Actual results and experiences may differ from these estimates. The results of any material revisions would be reflected in the consolidated financial statements prospectively from the date of the change in estimate.

While a summary of significant accounting policies is described fully in Note 2 in our consolidated financial statements, we believe that the following accounting policies are the most critical to assist you in fully understanding and evaluating our financial results and any affect the estimates and judgments we used in preparing our consolidated financial statements.

***Revenue Recognition***

We enter into collaboration and license agreements with collaborators for the development of monoclonal antibody-based therapeutics to treat cancer and other complex diseases. The terms of these agreements contain multiple deliverables which may include (i) licenses, or options to obtain licenses, to our technological platforms, such as our Fc engineering and DART technologies, (ii) rights to future technological improvements, (iii) research and development activities to be performed on behalf of the collaborative partner or as part of the collaboration, and (iv) the manufacture of pre-clinical or clinical materials for the collaborative partner. Payments to us under these agreements may include nonrefundable license fees, option fees, exercise fees, payments for research and development activities, payments for the manufacture of pre-clinical or clinical materials, license maintenance payments, payments based upon the achievement of certain milestones and royalties on product sales. Other benefits to us from these agreements include the right to sell products resulting from the collaborative efforts of the parties in specific geographic territories. We follow the provisions of the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 605-25, *Revenue Recognition–Multiple-Element Arrangements,* and ASC Topic 605-28, *Revenue Recognition–Milestone Method* , in accounting for these agreements. In order to account for these agreements, we must identify the deliverables included within the agreement and evaluate which deliverables represent separate units of accounting based on the achievement of certain criteria, including whether the delivered element has stand-alone value to the collaborator. The consideration received is allocated among the separate units of accounting, and the applicable revenue recognition criteria are applied to each of the separate units.

As of December 31, 2014, we had two types of agreements: 1) exclusive development and commercialization licenses to use our technology and/or certain other intellectual property to develop compounds against specified targets, which we refer to as exclusive licenses; and 2) option/research agreements to secure on established terms development and commercialization licenses to therapeutic product candidates to collaborator-selected targets developed by us during an option period, which we refer to as right-to-develop agreements.

***Exclusive Licenses***

The deliverables under an exclusive license agreement generally include the exclusive license to our technology with respect to a specified antigen target, and may also include deliverables related to rights to future technological improvements, research and pre-clinical development activities to be performed on behalf of the collaborator. In some cases we may have an option to participate in the co-development of product candidates that result from such agreements.

Generally, exclusive license agreements contain nonrefundable terms for payments and, depending on the terms of the agreement, provide that we will (i) at the collaborator's request, provide research and pre-clinical development services at negotiated prices which are generally consistent with what other third parties would charge, (ii) earn payments upon the achievement of certain milestones, (iii) earn royalty payments, and (iv) in some cases grant us an option to participate in the development and commercialization of products that result from such agreements. Royalty rates may vary over the royalty term depending on our intellectual property rights and whether we exercise any co-development and co-commercialization rights. We may provide technical assistance and share any technology improvements with our collaborators during the term of the collaboration agreements.

We do not directly control when any collaborator will achieve milestones or become liable for royalty payments.

In determining the separate units of accounting, management evaluates whether the exclusive license has stand-alone value from the undelivered elements to the collaborator based on the consideration of the relevant facts and circumstances for each arrangement. Factors considered in this determination include the research and development capabilities of the collaborator and the availability of technology platform and product research expertise in the general marketplace. In addition, we consider whether or not (i) the collaborator could use the license for its intended purpose without the receipt of the remaining deliverables, (ii) the value of the license was dependent on the undelivered items and (iii) the collaborator or other vendors could provide the undelivered items. If we conclude that the license has stand-alone value and therefore will be accounted for as a separate unit of accounting, we then determine the estimated selling prices of the license and all other units of accounting based on market conditions, similar arrangements entered into by third parties, and entity-specific factors such as the terms of our previous collaboration agreements, recent pre-clinical and clinical testing results of therapeutic product candidates that use our technology platforms, our pricing practices and pricing objectives, the likelihood that technological improvements will be made, the likelihood that technological improvements made will be used by our collaborators and the nature of the research services to be performed on behalf of our collaborators and market rates for similar services. The upfront payment is recognized upon delivery of the license if facts and circumstances dictate that the license has stand-alone value from the undelivered elements.

Upfront payments on exclusive licenses are deferred if facts and circumstances dictate that the license does not have stand-alone value, and revenue is then recognized throughout the period of performance. We reassess the period of performance over which we recognize deferred upfront license fees and make adjustments as appropriate. In the event a collaborator elects to discontinue development of a specific product candidate under a single target license, but retains its right to use our technology to develop an alternative product candidate to the same target or a target substitute, we would cease amortization of any remaining portion of the upfront fee until there is substantial pre-clinical activity on another product candidate and its remaining period of substantial involvement can be estimated. In the event that a single target license were to be terminated, we would recognize as revenue any portion of the upfront fee that had not previously been recorded as revenue, but was classified as deferred revenue, at the date of such termination or through the remaining substantial involvement in the wind down of the agreement.

We recognize revenue related to research and pre-clinical development services that represent separate units of accounting as they are performed, as long as there is persuasive evidence of an arrangement, the fee is fixed or determinable, and collection of the related receivable is probable. We recognize revenue related to the rights to future technological improvements over the estimated term of the applicable license.

We typically perform research activities and pre-clinical development services, including generating and engineering product candidates, on behalf of our licensees during the early evaluation and pre-clinical testing stages of drug development under our exclusive licenses. We record amounts received for research materials produced or services performed as revenue from collaborative research.

Our license agreements have milestone payments which for reporting purposes are aggregated into three categories: (i) development milestones, (ii) regulatory milestones, and (iii) sales milestones. Development milestones are typically payable when a product candidate initiates or advances into different clinical trial phases. Regulatory milestones are typically payable upon submission for marketing approval with the FDA or other countries' regulatory authorities or on receipt of actual marketing approvals for the compound or for additional indications. Sales milestones are typically payable when annual sales reach certain levels.

At the inception of each agreement that includes milestone payments, we evaluate whether each milestone is substantive and at risk to both parties on the basis of the contingent nature of the milestone. This evaluation includes an assessment of whether (a) the consideration is commensurate with either (1) our performance to achieve the milestone, or (2) the enhancement of the value of the delivered item(s) as a result of a specific outcome resulting from our performance to achieve the milestone, (b) the consideration relates solely to past performance and (c) the consideration is reasonable relative to all of the deliverables and payment terms within the arrangement. We evaluate factors such as the scientific, regulatory, commercial and other risks that must be overcome to achieve the respective milestone, the level of effort and investment required to achieve the respective milestone and whether the milestone consideration is reasonable relative to all deliverables and payment terms in the arrangement in making this assessment.

Non-refundable development and regulatory milestones that are expected to be achieved as a result of our efforts during the period of substantial involvement are considered substantive and are recognized as revenue upon the achievement of the milestone, assuming all other revenue recognition criteria are met. Milestones that are not considered substantive because we did not contribute effort to the achievement of such milestones are generally achieved after the period of substantial involvement and are recognized as revenue upon achievement of the milestone, as there are no undelivered elements remaining and no continuing performance obligations, assuming all other revenue recognition criteria are met.

***Right-to-Develop Agreements***

Our right-to-develop agreements provide collaborators with an exclusive option to obtain licenses to develop and commercialize in specified geographic territories product candidates developed by us under agreed upon research and pre-clinical development programs. The product candidates resulting from each program are all directed to a specific target selected by the collaborator. Under these agreements, fees may be due to us (i) at the inception of the arrangement (referred to as "upfront" fees or payments), (ii) upon the selection of a target for a program, (iii) upon the exercise of an option to acquire a development and commercialization license, referred to as exercise fee, for a program, or (iv) some combination of all of these fees.

The accounting for right-to-develop agreements is dependent on the nature of the options granted to the collaborative partner. Options are considered substantive if, at the inception of a right-to-develop agreement, we are at risk as to whether the collaborative partner will choose to exercise the options to secure development and commercialization licenses. Factors that are considered in evaluating whether options are substantive include the overall objective of the arrangement, the benefit the collaborator might obtain from the agreement without exercising the options, the cost to exercise the options relative to the total upfront consideration, and the additional financial commitments imposed on the collaborator as a result of exercising the options.

For right-to-develop agreements where the options to secure development and commercialization licenses to a product program are considered substantive, we do not consider the development and commercialization licenses to be a deliverable at the inception of the agreement. For those right-to-develop agreements where the

options to secure development and commercialization licenses are considered substantive, we have deferred the upfront payments received and recognize this revenue over the period during which the collaborator could elect to exercise options for development and commercialization licenses. These periods are specific to each collaboration agreement. If a collaborator selects a target for a product program, any substantive option fee is deferred and recognized over the life of the option. If a collaborator exercises an option and acquires a development and commercialization license to a product program, we attribute the exercise fee to the development and commercialization license.

Upon exercise of an option to acquire a development and commercialization license, we would also attribute any remaining deferred option fee, in addition to the consideration received for the license upon exercise of the option, to the development and commercialization license. We then apply the multiple-element revenue recognition criteria to the development and commercialization license and other deliverables, if any, to determine the appropriate revenue recognition method. This method is consistent with our accounting policy for upfront payments on exclusive licenses (discussed above). In the event a right-to-develop agreement were to be terminated, we would recognize as revenue any portion of the upfront fee that had not previously been recorded as revenue, but was classified as deferred revenue, at the date of such termination.

For right-to-develop agreements where the options to secure development and commercialization licenses to product programs are not considered substantive, we consider the development and commercialization licenses to be a deliverable at the inception of the agreement and apply the multiple-element revenue recognition criteria to determine the appropriate revenue recognition. All of our right-to-develop agreements have been determined to contain substantive options. We do not directly control when any collaborator will exercise its options for development and commercialization licenses.

***Research and Development Expense and related Accrued Expenses***

As part of the process of preparing our consolidated financial statements, we may be required to estimate accrued expenses. In order to obtain reasonable estimates, we review open contracts and purchase orders. In addition, we communicate with applicable personnel in order to identify services that have been performed, but for which we have not yet been invoiced. In most cases, our vendors provide us with monthly invoices in arrears for services performed. We confirm our estimates with these vendors and make adjustments as needed. The following are examples of our accrued expenses:

- Fees paid to CROs for services performed on clinical trials;
- Fees paid to investigator sites for performance on clinical trials; and
- Fees paid for professional services.

The majority of expenses related to clinical trials performed by our CROs are dependent on the successful enrollment of patients. These expenses can vary from site to site and contract to contract. We base our estimated accruals on the time period over which the services are to be performed and the level of effort to be expended in each period based on the estimated enrollment of patients in each trial. We will adjust accordingly should the estimates vary from the actual expenses. However, we do not anticipate that our payment of actual expenses will differ materially from our estimates.

***Income Taxes***

Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax basis of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income in the period that such tax rate changes are enacted. The measurement of a deferred tax asset is reduced, if necessary, by a valuation allowance if it is more likely than not that some portion

or all of the deferred tax asset will not be realized. Financial statement recognition of a tax position taken or expected to be taken in a tax return is determined based on a more-likely-than-not threshold of that position being sustained. If the tax position meets this threshold, the benefit to be recognized is measured as the largest amount that is more than 50% likely to be realized upon ultimate settlement. Our policy is to record interest and penalties related to uncertain tax positions as a component of income tax expense.

We recorded net deferred tax assets of $94.3 million as of December 31, 2014, which have been fully offset by a valuation allowance due to uncertainties surrounding our ability to realize these tax benefits. The deferred tax assets are primarily comprised of federal and state tax net operating loss (NOL) carryforwards and research and development tax credit carryforwards. As of December 31, 2014, we had federal NOL carryforwards of $158.9 million, state NOL carryforwards of $103.4 million and research and development tax credit carryforwards of $26.3 million available. The federal NOL carryforwards will begin to expire at various dates starting in 2020. We are already subject to Section 382 limitations due to acquisitions we made in 2002 and 2008. Future changes in stock ownership may also trigger an ownership change and, consequently, another Section 382 limitation. Any limitation may result in expiration of a portion of the net operating loss or tax credit carryforwards before utilization which would reduce our gross deferred income tax assets and corresponding valuation allowance. As a result, if we earn net taxable income, our ability to use our pre-change net operating loss carryforwards and tax credit carryforwards to reduce United States federal income tax may be subject to limitations, which could potentially result in increased future cash tax liability to us.

***Stock-Based Compensation***

We recognize stock-based compensation expense in accordance with the provisions of ASC Topic 718, *Compensation—Stock Compensation* . The fair value of stock-based payments is estimated, on the date of grant, using a Black-Scholes model. The resulting fair value is recognized on a straight-line basis over the requisite service period, which is generally the vesting period of the option. The use of a Black-Scholes model requires us to apply judgment and make assumptions and estimates that include the following:

- *Fair Value of Common Stock* **—** Before our entry into the public market on October 10, 2013, our Board of Directors determined the fair value of the common stock. The Board of Directors made determinations of fair value based, in part, upon contemporaneous valuations to determine fair value. The contemporaneous valuations were performed in accordance with applicable methodologies, approaches and assumptions of the technical practice-aid issued by the American Institute of Certified Public Accountants Practice Aid entitled *Valuation of Privately-Held Company Equity Securities Issued as Compensation* .
- *Expected Volatility* —Volatility is a measure of the amount by which a financial variable such as a share price has fluctuated (historical volatility) or is expected to fluctuate (expected volatility) during a period. As we do not yet have sufficient history of our own volatility, we have identified several public entities of similar size, complexity and stage of development and estimate volatility based on the volatility of these companies.
- *Expected Dividend Yield* —We have never declared or paid dividends and have no plans to do so in the foreseeable future.
- *Risk-Free Interest Rate* —This is the U.S. Treasury rate for the week of each option grant during the year, having a term that most closely resembles the expected life of the option.
- *Expected Term* —This is the period of time that the options granted are expected to remain unexercised. Options granted have a maximum term of ten years and we have estimated the expected life of the option term to be 6.25 years. We use a simplified method to calculate the average expected term.
- *Expected Forfeiture Rate* —The forfeiture rate is the estimated percentage of options granted that is expected to be forfeited or canceled on an annual basis before becoming fully vested. We estimate the forfeiture rate based on turnover data with further consideration given to the class of the employees to whom the options were granted.

**Results of Operations for the Years Ended December 31, 2014 and 2013**

***Revenue***

The following represents a comparison of our research and development revenue for the years ended December 31, 2014 and 2013:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2014 | 2013 | | |
| | (dollars in millions) | | | |
| Revenue from collaborative research | $ 47.3 | $ 56.7 | $ (9.4) | (17)% |
| Grant revenue | 0.5 | 1.3 | (0.8) | (59)% |
| **Total revenue** | **$ 47.8** | **$ 58.0** | **$(10.2)** | **(18)%** |

The decrease in collaboration revenue of $9.4 million for the year ended December 31, 2014 compared to 2013 is primarily due to a decrease in revenue recognition related to the Servier MGA271 agreement as the revenue related to the upfront fee was substantially recognized prior to 2014 and a decrease in revenue recognition related to the Servier DART agreement as the estimated development period, and therefore the revenue recognition period of previously deferred revenues, was extended. Additionally, we received less reimbursement under the Gilead agreement as the research and development period ended in 2014, and we recognized revenue under the Pfizer agreement in 2013, but the development period, and therefore the related revenue recognition period, was completed in January 2014. These decreases were partially offset by the addition of our collaborations with Takeda, which resulted in $8.0 million in revenue recognized in 2014.

Grant revenue decreased in the year ended December 31, 2014 compared to 2013 due to less activity on the Dengue virus grant.

***Research and Development Expense***

The following represents a comparison of our research and development expense for the years ended December 31, 2014 and 2013:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2014 | 2013 | | |
| | (dollars in millions) | | | |
| Margetuximab | $ 19.3 | $ 6.2 | $13.1 | 211% |
| MGA271 | 13.6 | 7.1 | 6.5 | 92% |
| MGD006 | 3.5 | 8.7 | (5.2) | (60%) |
| MGD007 | 4.0 | 3.5 | 0.5 | 14% |
| MGD010 | 3.9 | 2.6 | 1.3 | 50% |
| MGD011 | 5.1 | 3.5 | 1.6 | 46% |
| Other pre-clinical and clinical programs, collectively | 20.8 | 15.0 | 5.8 | 39% |
| **Total research and development expense** | **$ 70.2** | **$ 46.6** | **$23.6** | **51%** |

During the year ended December 31, 2014 our research and development expense increased by $23.6 million compared to 2013. This increase was due primarily to the initiation of clinical manufacturing activities for two product candidates, preparations for the margetuximab Phase 3 study, expansion of the MGA271 Phase 1 study and preparations for the MGD007 Phase 1 study. These increases were partially offset by decreased manufacturing costs for MGD006 and reimbursement from Servier for MGD006 which is recorded as a reduction in research and development expense.

***General and Administrative Expense***

The following represents a comparison of our general and administrative expense for the years ended December 31, 2014 and 2013:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2014 | 2013 | | |
| | (dollars in millions) | | | |
| General and administrative expense | $ 15.9 | $ 11.1 | $4.8 | 44% |

General and administrative expense increased for the year ended December 31, 2014 by $4.8 million compared to 2013 primarily due to an increase in stock-based compensation expense and increased insurance, professional fees and other costs associated with public company operations in 2014.

***Other Income (Expense)***

The change to other income for the year ended December 31, 2014 from other expense of $626,813 for the year ended December 31, 2013 is primarily due to the change in the fair market value of the preferred stock warrant liability in 2013 (which was settled in connection with the Company's IPO).

**Results of Operations for the Years Ended December 31, 2013 and 2012**

***Revenue***

The following represents a comparison of our research and development revenue for the years ended December 31, 2013 and 2012:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2013 | 2012 | | |
| | (dollars in millions) | | | |
| Revenue from collaborative research | $ 56.7 | $ 59.6 | $(2.9) | (5)% |
| Grant revenue | 1.3 | 4.2 | (2.9) | (69)% |
| **Total revenue** | **$ 58.0** | **$ 63.8** | **$(5.8)** | **(9)%** |

The decrease in collaboration revenue of $2.9 million for the year ended December 31, 2013 compared to 2012 is primarily due to the conclusion of teplizumab clinical trial-related reimbursement revenue from our former collaborator, Eli Lilly. Aside from reimbursing us for the continued monitoring expense of one on-going trial, Eli Lilly's participation in the development of teplizumab concluded in the first quarter of 2013. This decrease is partially offset by the receipt of a $10.0 million milestone payment under our agreement with Servier, a $5.0 million milestone payment from Boehringer, and the addition of our collaboration with Gilead.

Grant revenue decreased in the year ended December 31, 2013 compared to 2012 due primarily to the completion of grants to study H5N1 influenza virus, smallpox and West Nile virus.

***Research and Development Expense***

The following represents a comparison of our research and development expense for the years ended December 31, 2013 and 2012:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2013 | 2012 | | |
| | (dollars in millions) | | | |
| Margetuximab | $ 6.2 | $ 5.6 | $ 0.6 | 11% |
| MGA271 | 7.1 | 6.2 | 0.9 | 15% |
| MGD006 | 8.7 | 4.9 | 3.8 | 78% |
| MGD007 | 3.5 | — * | 3.5 | N/A |
| MGD010 | 2.6 | 0.8 | 1.8 | 225% |
| MGD011 | 3.5 | — | 3.5 | N/A |
| Other pre-clinical and clinical programs, collectively | 15.0 | 27.9 | (12.9) | (46%) |
| **Total research and development expense** | **$ 46.6** | **$ 45.4** | **$ 1.2** | **3%** |

* MGD007 costs were included in other pre-clinical and clinical programs in 2012.

During the year ended December 31, 2013 our research and development expense increased by $1.2 million compared to 2012 due to an increase in spending on DART-based product candidates, offset by the reduction in spending on teplizumab-related clinical development as we ended trial enrollment and began closing down the trials.

***General and Administrative Expense***

The following represents a comparison of our general and administrative expense for the years ended December 31, 2013 and 2012:

| | Year Ended December 31, | | Increase/(Decrease) | |
|---|---|---|---|---|
| | 2013 | 2012 | | |
| | (dollars in millions) | | | |
| General and administrative expense | $ 11.1 | $ 10.2 | $ 0.9 | 9% |

General and administrative expense increased for the year ended December 31, 2013 by $0.9 million compared to 2012 primarily due to an increase in professional fees and other costs associated with preparations for public company operations.

***Other Income (Expense)***

The change to other expense of $626,813 for the year ended December 31, 2013 from other income of $156,445 for the year ended December 31, 2012 is primarily due to the change in the fair market value of the preferred stock warrant liability (which was settled in connection with the Company's IPO).

***Cash Flows***

The following table represents a summary of our cash flows for the years ended December 31, 2014, 2013 and 2012:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| | (dollars in millions) | | |
| **Net cash provided by (used in):** | | | |
| Operating activities | $ (32.8) | $ (14.2) | $ (6.6) |
| Investing activities | (3.6) | (3.0) | (0.9) |
| Financing activities | 77.4 | 85.9 | 0.0 |
| **Net increase (decrease) in cash and cash equivalents** | **$ 41.1** | **$ 68.7** | **$ (7.5)** |

*Operating Activities*

Net cash used in operating activities reflects, among other things, the amounts used to run our clinical trials and pre-clinical activities, including toxicology studies. The difference between net cash used in operating activities during the years ended December 31, 2014 and 2013 was primarily due to the initiation of clinical manufacturing activities for two product candidates, preparations for the margetuximab Phase 3 study and expansion of the MGA271 Phase 1 study. The difference between net cash used in operating activities during the years ended December 31, 2013 and 2012 was primarily due to less teplizumab clinical trial-related reimbursement revenue from our former collaborator, Eli Lilly, and higher general and administrative expenses, offset by receipt of a $10.0 million milestone from Servier and a $5.0 million milestone from Boehringer.

*Investing Activities*

Net cash used in investing activities in each of the years ended December 31, 2014, 2013, and 2012 is primarily due to the acquisition of additional lab equipment needed to further our research and development activities.

*Financing Activities*

Net cash provided by financing activities for the year ended December 31, 2014 includes net proceeds from the follow-on equity offering and cash from stock option exercises. Net cash provided by financing activities for the year ended December 31, 2013 includes net proceeds from our IPO and cash from stock option exercises.

**Liquidity and Capital Resources**

We have financed our operations primarily through the private placements of convertible preferred stock, the public offerings of our common stock, upfront fees, milestone payments, annual maintenance payments and license option fees from collaborators and reimbursement through government grants and contracts. As of December 31, 2014, we had $157.6 million in cash and cash equivalents.

On October 16, 2013, we completed the IPO of our common stock, which resulted in the sale of 5,750,000 shares, including all additional shares available to cover over-allotments, at a price of $16.00 per share. We raised $85.6 million ($83.8 million net of expenses and deferred financing costs). In connection with the closing of the IPO, all of our outstanding convertible preferred stock automatically converted to common stock at various ratios as disclosed in Note 4 to the financial statements.

On February 18, 2014, we completed a follow-on public offering of our common stock, in which we sold 1,800,000 shares of common stock, at a price of $36.50 per share. Additionally, the underwriters of the offering exercised the full amount of their over-allotment option resulting in the sale of an additional 450,000 shares of our common stock at a price of $36.50 per share. We received net proceeds of $76.7 million from the offering, net of underwriting discounts and commissions and other estimated offering expenses.

In addition to our existing cash and cash equivalents, we are eligible to continue to receive additional reimbursement from our collaborators for research and development services rendered, additional milestone and opt-in payments and grant revenue. However, our ability to receive these milestone payments is dependent upon our ability to successfully complete specified research and development activities and is therefore uncertain at this time.

***Funding Requirements***

We have not generated any revenue from product sales to date and do not expect to do so until such time as we obtain regulatory approval of and commercialize one or more of our product candidates. As we are currently in the clinical trial stage of development, it will be some time before we expect to achieve this and it is uncertain that we ever will. We expect that we will continue to increase our operating expenses in connection with ongoing as well as additional clinical trials and pre-clinical development of product candidates in our pipeline. We expect to continue our collaboration arrangements and will look for additional collaboration opportunities. We also expect to continue our efforts to pursue additional grants and contracts from the U.S. government in order to further our research and development. Although it is difficult to predict our funding requirements, based upon our current operating plan, we anticipate that our existing cash and cash equivalents as of December 31, 2014, combined with the proceeds from Janssen and its affiliate, as well as other collaboration payments we anticipate receiving, will enable us to fund our operations into 2018, assuming all of our programs advance as currently contemplated.

**Contractual Obligations and Contingent Liabilities**

The following table represents future minimum operating lease payments under non-cancelable operating leases as of December 31, 2014:

| | Total | Less than 1 year | 1 to 3 years | 3 to 5 years | More than 5 years |
|---|---|---|---|---|---|
| | | | (in millions) | | |
| Operating Leases | $19.2 | $ 3.9 | $ 8.9 | $ 6.3 | $ 0.1 |

Our current obligations and contingent liabilities are limited to the operating leases at our facilities in Rockville, Maryland and South San Francisco, California.

In connection with an Asset Purchase Agreement with Tolerance Therapeutics, Inc. (Tolerance) entered into in June 2005, we may be required to give Tolerance additional consideration as follows: (i) a maximum of $10.9 million if certain milestones are met, including the initiation of Phase 3 trials and the filing of various regulatory product license applications; (ii) 36,135 shares of our common stock; and (iii) royalty payments between 1.75% and 4.0% of net sales of products acquired from or patented by Tolerance or other product fees earned by us.

In July 2008, we acquired Raven Biotechnologies (Raven). The Raven purchase agreement provides for certain contingent payments that are based on the achievement of development and commercialization activities for product candidates derived from the acquired Raven technology. We are required to make a onetime payment of $5.0 million to the former Raven stockholders upon the initiation of patient dosing in the first Phase 2 clinical trial of any product derived from the Raven cancer stem cell program. No payment shall be made if the Phase 2

trial start date has not occurred on or before July 15, 2018. Other consideration includes a percentage of revenue (excluding consideration for research and development, equity and certain cost reimbursements) we may receive for each license of a product candidate derived from the Raven cancer stem cell program. The revenue percentage in each case is based upon the execution date of the subject license. No consideration is owed for licenses executed after July 16, 2018. There is additional contingent consideration of one time payments of $8.0 million and $12.0 million, which depend upon the achievement of a specified level of sales of a product derived from the Raven cancer stem cell program. At our sole discretion, each payment can be made in cash, common stock or a combination thereof.

The contractual obligations table does not include any potential future payments we may be required to make under our Asset Purchase Agreement with Tolerance or the purchase agreement with Raven. Due to the uncertainty of the achievement and timing of the events requiring payment under that agreement, the amounts to be paid by us are not fixed or determinable at this time.

### Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements, as defined under the rules and regulations of the Securities and Exchange Commission.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our primary objective when considering our investment activities is to preserve capital in order to fund our operations. Our primary exposure to market risk is related to changes in interest rates. Our current investment policy is to invest principally in deposits and securities issued by the U.S. government and its agencies, Government Sponsored Enterprise agency debt obligations, corporate debt obligations and money market instruments. As of December 31, 2014, we had cash and cash equivalents of $157.6 million, of which $26.0 million was invested in money market funds and the remainder was in our corporate operating account. We do not believe that our cash and cash equivalents have significant risk.

## ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information required by this item is set forth on pages F-1—F-33.

## ITEM 9. CHANGES AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## ITEM 9A. CONTROLS AND PROCEDURES

### Disclosure Controls and Procedures

Our management, including our principal executive and principal financial officers, has evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2014. Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed in this annual report on Form 10-K has been appropriately recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms, and that such information is accumulated and communicated to our management, including our principal executive and principal financial officers, to allow timely decisions regarding required disclosure. Based on that evaluation, our principal executive and principal financial officers have concluded that our disclosure controls and procedures are effective at the reasonable assurance level.

**Changes in Internal Control**

Our management, including our principal executive and principal financial officers, has evaluated any changes in our internal control over financial reporting that occurred during the quarterly period ended December 31, 2014, and has concluded that there was no change that occurred during the quarterly period ended December 31, 2014 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Management Report on Internal Control over Financial Reporting**

The management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rule 13a-15(f) or 15d-15(f) promulgated under the Securities Exchange Act of 1934, as amended, as a process designed by, or under the supervision of, the Company's principal executive and principal financial officers and effected by the Company's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

- pertain to the management of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

The Company's management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2014. In making this assessment, the Company's management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (COSO) in Internal Control-Integrated Framework.

Based on our assessment, management believes that, as of December 31, 2014, the Company's internal control over financial reporting is effective based on those criteria.

**ITEM 9B. OTHER INFORMATION**

None.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

We incorporate herein by reference the relevant information concerning directors, executive officers and corporate governance to be included in our definitive proxy statement for the 2015 annual meeting of stockholders (the "2015 Proxy Statement").

### ITEM 11. EXECUTIVE COMPENSATION

We incorporate herein by reference the relevant information concerning executive compensation to be included in the 2015 Proxy Statement.

### ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

We incorporate herein by reference the relevant information concerning security ownership of certain beneficial owners and management to be included in the 2015 Proxy Statement.

### ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

We incorporate herein by reference the relevant information concerning certain other relationships and related transactions to be included in the 2015 Proxy Statement.

### ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

We incorporate herein by reference the relevant information concerning principal accounting fees and services to be included in the 2015 Proxy Statement.

## PART IV

## ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Consolidated Financial Statements:



(2) Financial Statement Schedules:

All financial statement schedules have been omitted because they are not applicable, not required or the information required is shown in the financial statements or the notes thereto.

(3) Exhibits

The exhibits filed as part of this Annual Report on Form 10-K are set forth on the Exhibit Index immediately following our consolidated financial statements. The Exhibit Index is incorporated herein by reference.

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## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized:

MACROGENICS, INC.

By: /s/ Scott Koenig
Scott Koenig, M.D., Ph.D.
*President and CEO and Director*

Pursuant to the requirements of the Securities Act of 1934, as amended, this Report has been signed by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

| Signature | Title | Date |
|---|---|---|
| /s/ Scott Koenig<br>Scott Koenig, M.D., Ph.D. | President and CEO and Director (Principal Executive Officer) | March 3, 2015 |
| /s/ James Karrels<br>James Karrels | Senior Vice President, Chief Financial Officer and Secretary (Principal Financial Officer) | March 3, 2015 |
| /s/ Lynn Cilinski<br>Lynn Cilinski | Vice President, Controller and Treasurer (Principal Accounting Officer) | March 3, 2015 |
| /s/ Paulo Costa<br>Paulo Costa | Director | March 3, 2015 |
| /s/ Matthew Fust<br>Matthew Fust | Director | March 3, 2015 |
| /s/ Kenneth Galbraith<br>Kenneth Galbraith | Director | March 3, 2015 |
| /s/ Edward Hurwitz<br>Edward Hurwitz | Director | March 3, 2015 |
| /s/ David Stump, M.D.<br>David Stump, M.D. | Director | March 3, 2015 |

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## INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

## Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
MacroGenics, Inc.

We have audited the accompanying consolidated balance sheets of MacroGenics, Inc. as of December 31, 2014 and 2013, and the related consolidated statements of operations and comprehensive income (loss), stockholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2014. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of MacroGenics, Inc. at December 31, 2014 and 2013, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2014, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

McLean, Virginia
March 3, 2015

**MACROGENICS, INC.**
**CONSOLIDATED BALANCE SHEETS**
**(In thousands, except share and per share data)**

| | December 31, 2014 | December 31, 2013 |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 157,591 | $ 116,481 |
| Accounts receivable | 2,935 | 2,004 |
| Prepaid expenses | 4,211 | 972 |
| Total current assets | 164,737 | 119,457 |
| Restricted cash | 300 | 405 |
| Property and equipment, net | 6,785 | 5,035 |
| Other assets | 2,064 | 885 |
| Total assets | $ 173,886 | $ 125,782 |
| **Liabilities and stockholders' equity** | | |
| Current liabilities: | | |
| Accounts payable | $ 1,669 | $ 3,169 |
| Accrued expenses | 7,930 | 3,584 |
| Lease exit liability | 1,642 | 1,439 |
| Deferred revenue | 14,248 | 20,267 |
| Other liabilities | 1,605 | 363 |
| Total current liabilities | 27,094 | 28,822 |
| Lease exit liability, net of current portion | 6,364 | 8,006 |
| Deferred rent liability | 2,670 | 2,904 |
| Deferred revenue, net of current portion | 16,472 | 7,136 |
| Total liabilities | 52,600 | 46,868 |
| Stockholders' equity: | | |
| Common stock, $0.01 par value—125,000,000 shares authorized, 27,995,638 and 25,177,597 shares outstanding at December 31, 2014 and 2013, respectively | 280 | 252 |
| Treasury stock, at cost; 865 and 14,381 shares at December 31, 2014 and 2013, respectively | (19) | (58) |
| Additional paid-in capital | 335,071 | 254,453 |
| Accumulated deficit | (214,046) | (175,733) |
| Total stockholders' equity | 121,286 | 78,914 |
| Total liabilities and stockholders' equity | $ 173,886 | $ 125,782 |

*See accompanying notes.*

**MACROGENICS, INC.**
**CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**
**(In thousands, except share and per share data)**

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Revenues: | | | |
| Revenue from collaborative research | $ 47,264 | $ 56,753 | $ 59,646 |
| Grant revenue | 533 | 1,282 | 4,180 |
| Total revenues | 47,797 | 58,035 | 63,826 |
| Costs and expenses: | | | |
| Research and development | 70,186 | 46,582 | 45,433 |
| General and administrative | 15,926 | 11,087 | 10,188 |
| Total costs and expenses | 86,112 | 57,669 | 55,621 |
| Income (loss) from operations | (38,315) | 366 | 8,205 |
| Other income (expense) | 2 | (627) | 157 |
| Net comprehensive income (loss) | $ (38,313) | $ (261) | $ 8,362 |
| Basic and diluted net income (loss) per common share | $ (1.40) | $ (0.04) | $ 0.00 |
| Basic and diluted weighted average number of common shares | 27,384,990 | 6,847,697 | 1,083,276 |

*See accompanying notes.*

# MACROGENICS, INC.
# CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
# (In thousands, except share amounts)

| | Series A-1 Convertible Preferred Stock | | Series A-2 Convertible Preferred Stock | | Series B Convertible Preferred Stock | | Series C Convertible Preferred Stock | | Series D Convertible Preferred Stock | | Series D-2 Convertible Preferred Stock | | Common Stock | | Treasury Stock | | Additional Paid-In Capital | Accumulated Deficit | Total Stockholders' Equity (Deficit) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Shares | Amount | Shares | Amount | Shares | Amount | Shares | Amount | Shares | Amount | Shares | Amount | Shares | Amount | Shares | Amount | | | |
| Balance, December 31, 2011 | 26,874,792 | $ 269 | 7,364,582 | $ 74 | 71,401,237 | $ 714 | 110,952,217 | $ 1,110 | 14,446,227 | $ 144 | 63,681,176 | $ 637 | 1,049,030 | $ 10 | 14,381 | $ (58) | $ 163,450 | $ (183,834) | $ (17,484) |
| Share-based compensation | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | 838 | — | 838 |
| Stock option exercises | — | — | — | — | — | — | — | — | — | — | — | — | 49,884 | — | — | — | 46 | — | 46 |
| Net income | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | 8,362 | 8,362 |
| Balance, December 31, 2012 | 26,874,792 | 269 | 7,364,582 | 74 | 71,401,237 | 714 | 110,952,217 | 1,110 | 14,446,227 | 144 | 63,681,176 | 637 | 1,098,914 | 10 | 14,381 | (58) | 164,334 | (175,472) | (8,238) |
| Share-based compensation | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | 862 | — | 862 |
| Issuance of common stock, net of offering costs | — | — | — | — | — | — | — | — | — | — | — | — | 5,750,000 | 58 | — | — | 83,565 | — | 83,623 |
| Conversion of preferred stock to common stock | (26,874,792) | (269) | (7,364,582) | (74) | (71,401,237) | (714) | (110,952,217) | (1,110) | (14,446,227) | (144) | (63,681,176) | (637) | 17,060,634 | 171 | — | — | 4,637 | — | 1,860 |
| Stock option exercises | — | — | — | — | — | — | — | — | — | — | — | — | 1,268,049 | 13 | — | — | 1,055 | — | 1,068 |
| Net loss | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | (261) | (261) |
| Balance, December 31, 2013 | — | — | — | — | — | — | — | — | — | — | — | — | 25,177,597 | 252 | 14,381 | (58) | 254,453 | (175,733) | 78,914 |
| Share-based compensation | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | 3,244 | — | 3,244 |
| Issuance of common stock, net of offering costs | — | — | — | — | — | — | — | — | — | — | — | — | 2,250,000 | 22 | — | — | 76,694 | — | 76,716 |
| Stock plan related activity | — | — | — | — | — | — | — | — | — | — | — | — | 568,041 | 6 | 865 | (19) | 738 | — | 725 |
| Retirement of treasury stock | — | — | — | — | — | — | — | — | — | — | — | — | — | — | (14,381) | 58 | (58) | — | — |
| Net income (loss) | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | (38,313) | (38,313) |
| Balance, December 31, 2014 | — | $ — | — | $ — | — | $ — | — | $ — | — | $ — | — | $ — | 27,995,638 | $ 280 | 865 | $ (19) | $ 335,071 | $ (214,046) | $ 121,286 |

*See accompanying notes.*

**MACROGENICS, INC.**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**
**(In thousands)**

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| **Operating activities** | | | |
| Net income (loss) | $ (38,313) | $ (261) | $ 8,362 |
| Adjustments to reconcile net income (loss) to net cash used in operating activities: | | | |
| Depreciation expense | 1,822 | 1,193 | 960 |
| Share-based compensation | 3,244 | 862 | 838 |
| Fair value adjustment of warrant liability | — | 626 | (151) |
| Changes in operating assets and liabilities: | | | |
| Accounts receivable | (931) | 42 | 1,352 |
| Prepaid expenses | (3,239) | (834) | (91) |
| Restricted cash | 105 | — | 177 |
| Other assets | (1,179) | (375) | 1 |
| Accounts payable | (1,500) | (570) | (7,312) |
| Accrued expenses | 4,346 | 2,347 | 185 |
| Lease exit liability | (1,439) | (629) | (534) |
| Deferred revenue | 3,317 | (16,676) | (10,810) |
| Deferred rent | (234) | 103 | 441 |
| Other liabilities | 1,242 | — | — |
| Net cash used in operating activities | (32,759) | (14,172) | (6,582) |
| **Cash flows from investing activities** | | | |
| Purchases of property and equipment | (3,572) | (2,961) | (940) |
| Net cash used in investing activities | (3,572) | (2,961) | (940) |
| **Cash flows from financing activities** | | | |
| Proceeds from issuance of common stock, net of offering costs | 76,716 | 84,771 | — |
| Proceeds from stock option exercises | 744 | 1,100 | 47 |
| Purchase of treasury stock | (19) | — | — |
| Net cash provided by financing activities | 77,441 | 85,871 | 47 |
| Net change in cash and cash equivalents | 41,110 | 68,738 | (7,475) |
| Cash and cash equivalents at beginning of period | 116,481 | 47,743 | 55,218 |
| Cash and cash equivalents at end of period | $157,591 | $116,481 | $ 47,743 |
| **Noncash financing activities:** | | | |
| Conversion of preferred stock | $ — | $ 2,947 | $ — |

*See accompanying notes.*

**MACROGENICS, INC.**
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## 1. Organization and Nature of Operations

MacroGenics, Inc. (the "Company") was incorporated in Delaware on August 14, 2000. The Company is a clinical-stage biopharmaceutical company focused on discovering and developing innovative monoclonal antibody-based therapeutics for the treatment of cancer, as well as various autoimmune disorders and infectious diseases. The Company generates its pipeline of product candidates from its proprietary suite of next-generation antibody technology platforms which it believes improve the performance of monoclonal antibodies and antibody-derived molecules. These product candidates, which the Company has identified through its understanding of disease biology and immune-mediated mechanisms, may address disease-specific challenges which are not currently being met by existing therapies.

## 2. Summary of Significant Accounting Policies

### *Basis of Presentation and Principles of Consolidation*

The consolidated financial statements include the accounts of MacroGenics, Inc. and its wholly owned subsidiaries, MacroGenics UK Limited and MacroGenics West, Inc. Effective December 22, 2014, MacroGenics West, Inc. was merged with and into MacroGenics, Inc. All intercompany accounts and transactions have been eliminated in consolidation. The Company currently operates in one operating segment. Operating segments are defined as components of an enterprise about which separate discrete information is available for the chief operating decision maker, or decision making group, in deciding how to allocate resources and assessing performance. The Company views its operations and manages its business in one segment, which is developing monoclonal antibody-based therapeutics for cancer, autoimmune and infectious diseases.

### *Use of Estimates*

The preparation of the financial statements in accordance with generally accepted accounting principles (GAAP) requires the Company to make estimates and judgments in certain circumstances that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. In preparing these consolidated financial statements, management has made its best estimates and judgments of certain amounts included in the financial statements, giving due consideration to materiality. On an ongoing basis, the Company evaluates its estimates, including those related to revenue recognition, fair values of assets, stock-based compensation, preferred stock warrant liability, income taxes, pre-clinical study and clinical trial accruals and other contingencies. Management bases its estimates on historical experience or on various other assumptions that it believes to be reasonable under the circumstances. Actual results could differ from these estimates.

In addition, prior to the Company's IPO in October 2013, the Company utilized estimates and assumptions in determining the fair value of its common stock. The Company granted stock options at exercise prices not less than the fair value of its common stock as determined by the Board of Directors, with input from management. Management used contemporaneous valuations in estimating the fair value of its common stock. The board of directors determined the estimated fair value of the common stock based on a number of objective and subjective factors, including external market considerations affecting the biotechnology industry and the historic prices at which the Company sold shares of its preferred stock.

### *Cash and Cash Equivalents*

The Company considers all investments in highly liquid financial instruments with an original maturity of three months or less at the date of purchase to be cash equivalents. Cash and cash equivalents consist of

certificates of deposit and investments in money market funds with commercial banks and financial institutions. Cash equivalents are stated at amortized cost, plus accrued interest, which approximates fair value.

***Accounts Receivable***

Accounts receivable that management has the intent and ability to collect are reported in the consolidated balance sheets at outstanding amounts, less an allowance for doubtful accounts. The Company writes off uncollectible receivables when the likelihood of collection is remote.

The Company evaluates the collectability of accounts receivable on a regular basis. The allowance, if any, is based upon various factors including the financial condition and payment history of customers, an overall review of collections experience on other accounts and economic factors or events expected to affect future collections experience. No allowance was recorded as of December 31, 2014 or 2013, as the Company has a history of collecting on all outstanding accounts.

***Restricted Cash***

The Company is required to maintain certificates of deposit that serve as collateral for various operating leases and corporate credit card accounts. Amounts classified as restricted cash on the consolidated balance sheets are $300,000 and $405,000 at December 31, 2014 and 2013, respectively.

***Fair Value of Financial Instruments***

The fair market values of the financial instruments included in the financial statements, which include cash equivalents and money market accounts, approximate their carrying values at December 31, 2014 and 2013, due to their short-term maturities. The Company accounts for recurring and non-recurring fair value measurements in accordance with the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 820, *Fair Value Measurements and Disclosures* (ASC 820). ASC 820 defines fair value, establishes a fair value hierarchy for assets and liabilities measured at fair value, and requires expanded disclosures about fair value measurements. The ASC 820 hierarchy ranks the quality of reliability of inputs, or assumptions, used in the determination of fair value and requires assets and liabilities carried at fair value to be classified and disclosed in one of the following three categories:

- Level 1—Fair value is determined by using unadjusted quoted prices that are available in active markets for identical assets and liabilities.
- Level 2—Fair value is determined by using inputs other than Level 1 quoted prices that are directly or indirectly observable. Inputs can include quoted prices for similar assets and liabilities in active markets or quoted prices for identical assets and liabilities in inactive markets. Related inputs can also include those used in valuation or other pricing models, such as interest rates and yield curves that can be corroborated by observable market data.
- Level 3—Fair value is determined by inputs that are unobservable and not corroborated by market data. Use of these inputs involves significant and subjective judgments to be made by a reporting entity – e.g., determining an appropriate adjustment to a discount factor for illiquidity associated with a given security.

The Company evaluates financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level at which to classify them each reporting period. This determination requires the Company to make subjective judgments as to the significance of inputs used in determining fair value and where such inputs lie within the ASC 820 hierarchy.

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**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Financial assets and liabilities subject to fair value measurements were as follows (in thousands):

| | Fair Value Measurements at December 31, 2014 | | | |
|---|---|---|---|---|
| | Total | Quoted Prices in Active Markets for Identical Assets Level 1 | Significant Other Observable Inputs Level 2 | Significant Unobservable Inputs Level 3 |
| Assets: | | | | |
| Cash and cash equivalents | $131,545 | $ 131,545 | $ — | $ — |
| Money market funds | 26,046 | 26,046 | — | — |
| Restricted cash | 300 | 300 | — | — |
| Total Assets | $157,891 | $ 157,891 | $ — | $ — |

| | Fair Value Measurements at December 31, 2013 | | | |
|---|---|---|---|---|
| | Total | Quoted Prices in Active Markets for Identical Assets Level 1 | Significant Other Observable Inputs Level 2 | Significant Unobservable Inputs Level 3 |
| Assets: | | | | |
| Cash and cash equivalents | $ 90,434 | $ 90,434 | $ — | $ — |
| Money market funds | 26,047 | 26,047 | — | — |
| Restricted cash | 405 | 405 | — | — |
| Total Assets | $116,886 | $ 116,886 | $ — | $ — |

The Company's Level 1 securities primarily consist of restricted cash, cash equivalents and money market funds. The Company determines the estimated fair value for its Level 1 securities using quoted (unadjusted) prices for identical assets or liabilities in active markets.

***Concentration of Credit Risk***

Substantially all of the Company's cash and cash equivalents are maintained with major financial institutions in the United States. Deposits held with banks may exceed the amount of insurance provided on such deposits. Generally, these deposits may be redeemed upon demand and, therefore, bear minimal risk.

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents, and accounts receivable. The counterparties are various corporations, financial institutions and government agencies of high credit standing.

For the years ended December 31, 2014, 2013 and 2012, the Company's collaboration revenue relates to agreements with Takeda Pharmaceutical Company Limited (Takeda), Les Laboratoires Servier and Institut de Recherches Servier (collectively, Servier), Gilead Sciences, Inc. (Gilead), Boehringer Ingelheim GmbH (Boehringer), Pfizer, Inc. (Pfizer), Eli Lilly & Co. (Eli Lilly) and Green Cross Corp. (Green Cross). Grant revenue is related to contracts and research grants received from U.S. government agencies. The majority of the outstanding receivables are due from the Company's collaborators and U.S. government agencies.

**MACROGENICS, INC.**
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The following table includes those collaborators that represent more than 10% of total revenue earned in the periods indicated:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Servier | 36.4% | 51.6% | 17.3% |
| Boehringer | 28.6% | 24.8% | 18.4% |
| Takeda | 16.8% | — | — |
| Gilead | 11.4% | 13.8% | — |
| Eli Lilly | 0.9% | 1.4% | 48.9% |

The following table includes those collaborators that represent more than 10% of accounts receivable at the date indicated:

| | December 31, | |
|---|---|---|
| | 2014 | 2013 |
| Servier | 33.3% | 6.4% |
| Boehringer | 21.2% | 12.2% |
| Green Cross | 17.9% | — |
| Gilead | — | 53.4% |
| Pfizer | — | 12.3% |

***Property and Equipment***

Property and equipment are stated at cost. Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation are removed from the accounts and any resulting gain or loss is credited or charged to operations. Repairs and maintenance costs are expensed as incurred. Depreciation is computed using the straight-line method over the following estimated useful lives:

| | |
|---|---|
| Computer equipment | 3 years |
| Software | 3 years |
| Furniture | 10 years |
| Laboratory and office equipment | 5 years |
| Leasehold improvements | Shorter of lease term or useful life |

***Impairment of Long-Lived Assets***

The Company assesses the recoverability of its long-lived assets in accordance with the provisions of ASC 360, *Property, Plant and Equipment* . ASC 360 requires that long-lived assets be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of the long-lived asset is measured by a comparison of the carrying amount of the asset to future undiscounted net cash flows expected to be generated by the asset or asset group. If carrying value exceeds the sum of undiscounted cash flows, the Company then determines the fair value of the underlying asset group. Any impairment to be recognized is measured by the amount by which the carrying amount of the asset group exceeds the estimated fair value of the asset group. Assets to be disposed of are reported at the lower of the carrying amount or fair value, less costs to sell. As of December 31, 2014 and 2013, the Company determined that there were no impaired assets and had no assets held-for-sale.

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***Income Taxes***

Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax basis of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income in the period that such tax rate changes are enacted. The measurement of a deferred tax asset is reduced, if necessary, by a valuation allowance if it is more likely than not that some portion or all of the deferred tax asset will not be realized. Financial statement recognition of a tax position taken or expected to be taken in a tax return is determined based on a more-likely-than-not threshold of that position being sustained. If the tax position meets this threshold, the benefit to be recognized is measured as the largest amount that is more likely than not to be realized upon ultimate settlement. The Company's policy is to record interest and penalties related to uncertain tax positions as a component of income tax expense.

***Revenues***

*Revenue Recognition*

The Company enters into collaboration and license agreements with collaborators for the development of monoclonal antibody-based therapeutics to treat cancer and other complex diseases. The terms of these agreements contain multiple deliverables which may include (i) licenses, or options to obtain licenses, to the Company's technological platforms, such as its Fc Optimization and Dual-Affinity Re-Targeting (DART) technologies, (ii) rights to future technological improvements, (iii) research and development activities to be performed on behalf of the collaborator or as part of the collaboration, and (iv) the manufacture of pre-clinical or clinical materials for the collaborator. Payments to the Company under these agreements may include nonrefundable license fees, option fees, exercise fees, payments for research and development activities, payments for the manufacture of pre-clinical or clinical materials, license maintenance payments, payments based upon the achievement of certain milestones and royalties on product sales. Other benefits to the Company of these agreements include the right to sell products resulting from the collaborative efforts of the parties in specific geographic territories. The Company follows the provisions of the FASB ASC Topic 605-25, *Revenue Recognition—Multiple-Element Arrangements* , and ASC Topic 605-28, *Revenue Recognition—Milestone Method* , in accounting for these agreements. In order to account for these agreements, the Company must identify the deliverables included within the agreement and evaluate which deliverables represent separate units of accounting based on the achievement of certain criteria, including whether the delivered element has stand-alone value to the collaborator. The consideration received is allocated among the separate units of accounting, and the applicable revenue recognition criteria are applied to each of the separate units.

For the periods presented, the Company had the following two types of agreements: 1) exclusive development and commercialization licenses to use the Company's technology and/or certain other intellectual property to develop compounds against specified targets (referred to herein as exclusive licenses); and 2) Option/research agreements to secure on established terms, development and commercialization licenses to therapeutic product candidates to collaborator-selected targets developed by the Company during an option period (referred to herein as right-to-develop agreements).

There are no performance, cancellation, termination or refund provisions in any of the arrangements that contain material financial consequences to the Company.

*Exclusive Licenses*

The deliverables under an exclusive license agreement generally include the exclusive license to the Company's DART technology with respect to a specified antigen target, and may also include deliverables

related to rights to future technological improvements, research and pre-clinical development activities to be performed on behalf of the collaborator. In some cases the Company may have an option to participate in the co-development of product candidates that result from such agreements.

Generally, exclusive license agreements contain nonrefundable terms for payments and, depending on the terms of the agreement, provide that the Company will (i) at the collaborator's request, provide research and pre-clinical development services at negotiated prices which are generally consistent with what other third parties would charge, (ii) earn payments upon the achievement of certain milestones, (iii) earn royalty payments, and (iv) in some cases grant the Company an option to participate in the development and commercialization of products that result from such agreements. Royalty rates may vary over the royalty term depending on the Company's intellectual property rights and whether the Company exercises any co-development and co-commercialization rights. The Company may provide technical assistance and share any technology improvements with its collaborators during the term of the collaboration agreements.

The Company does not directly control when any collaborator will achieve milestones or become liable for royalty payments.

When entering into a new collaboration arrangement or materially modifying an existing arrangement, the Company must identify the deliverables included within the agreement and evaluate which deliverables represent separate units of accounting based on the achievement of certain criteria, including whether the delivered element has stand-alone value to the collaborator. The selling prices of deliverables under an arrangement may be derived using third-party evidence (TPE), or a best estimate of selling price (BESP), if vendor specific objective evidence (VSOE) is not available. The objective of BESP is to determine the price at which the Company would transact a sale if the element within the license agreement was sold on a standalone basis. Establishing BESP involves management's judgment and considers multiple factors, including market conditions and company-specific factors, including those factors contemplated in negotiating the agreements, as well as internally developed models that include assumptions related to market opportunity, discounted cash flows, estimated development costs, probability of success and the time needed to commercialize a product candidate pursuant to the license. In validating the BESP, management considers whether changes in key assumptions used to determine the BESP will have a significant effect on the allocation of the arrangement consideration between the multiple deliverables. Deliverables under the arrangement are separate units of accounting if (i) the delivered item has value to the customer on a standalone basis and (ii) if the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item is considered probable and substantially within the Company's control. The arrangement consideration that is fixed or determinable at the inception of the arrangement is allocated to the separate units of accounting based on their relative selling prices. The appropriate revenue recognition model is applied to each element and revenue is accordingly recognized as each element is delivered. Management exercises significant judgment in determining whether a deliverable is a separate unit of accounting.

In determining the separate units of accounting, the Company evaluates whether the exclusive license has standalone value to the collaborator based on consideration of the relevant facts and circumstances for each arrangement. Factors considered in this determination include the research and development capabilities of the collaborator and the availability of relevant research expertise in the marketplace. In addition, the Company considers whether or not (i) the collaborator could use the license for its intended purpose without the receipt of the remaining deliverables, (ii) the value of the license was dependent on the undelivered items and (iii) the collaborator or other vendors could provide the undelivered items. If the Company concludes that the license has stand-alone value and therefore will be accounted for as a separate unit of accounting, the Company then determines the estimated selling prices of the license and all other units of accounting based on market conditions, similar arrangements entered into by third parties, and entity-specific factors such as the terms of the

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Company's previous collaboration agreements, recent pre-clinical and clinical testing results of therapeutic product candidates that use the Company's technology platforms, the Company's pricing practices and pricing objectives, the likelihood that technological improvements will be made, the likelihood that technological improvements made will be used by the Company's collaborators and the nature of the research services to be performed on behalf of its collaborators and market rates for similar services. Total arrangement consideration is then allocated to each of the units of accounting using the relative-selling-price method. If facts and circumstances dictate that the exclusive license does not have stand-alone value, then the related payments are deferred and revenue is recognized throughout the period of performance.

Management reassesses the period of performance over which the Company recognizes deferred upfront license fees and makes adjustments as appropriate in the period in which a change in the estimated period of performance is identified. In the event a collaborator elects to discontinue development of a specific product candidate under a single target license, but retains its right to use the Company's technology to develop an alternative product candidate to the same target or a target substitute, the Company would cease amortization of any remaining portion of the upfront fee until there is substantial pre-clinical activity on another product candidate and its remaining period of substantial involvement can be estimated. In the event that a single target license were to be terminated, the Company would recognize as revenue any portion of the upfront fee that had not previously been recorded as revenue, but was classified as deferred revenue, at the date of such termination or through the remaining substantial involvement in the wind down of the agreement.

Upfront payments on exclusive licenses may be recognized upon delivery of the license if facts and circumstances dictate that the license has stand-alone value from the undelivered elements, which generally include rights to future technological improvements, research services and the manufacture of pre-clinical and clinical materials.

The Company recognizes revenue related to research and pre-clinical development services that represent separate units of accounting as they are performed, as long as there is persuasive evidence of an arrangement, the fee is fixed or determinable, and collection of the related receivable is probable. The Company recognizes revenue related to the rights to future technological improvements over the estimated term of the applicable license.

The Company typically performs research activities and pre-clinical development services, including generating and engineering product candidates, on behalf of its licensees during the early evaluation and pre-clinical testing stages of drug development under its exclusive licenses. The Company records amounts received for research materials produced or services performed as revenue from collaborative research.

The Company's license agreements have milestone payments which for reporting purposes are aggregated into three categories: (i) development milestones, (ii) regulatory milestones, and (iii) sales milestones. Development milestones are typically payable when a product candidate initiates or advances into different clinical trial phases. Regulatory milestones are typically payable upon submission for marketing approval with the U.S. Food and Drug Administration (FDA) or other countries' regulatory authorities or on receipt of actual marketing approvals for the compound or for additional indications. Sales milestones are typically payable when annual sales reach certain levels.

At the inception of each agreement that includes milestone payments, the Company evaluates whether each milestone is substantive and at risk to both parties on the basis of the contingent nature of the milestone. This evaluation includes an assessment of whether (i) the consideration is commensurate with either (a) the entity's performance to achieve the milestone, or (b) the enhancement of the value of the delivered item(s) as a result of a specific outcome resulting from the entity's performance to achieve the milestone, (ii) the consideration relates

solely to past performance and (iii) the consideration is reasonable relative to all of the deliverables and payment terms within the arrangement. The Company evaluates factors such as the scientific, regulatory, commercial and other risks that must be overcome to achieve the respective milestone, the level of effort and investment required to achieve the respective milestone and whether the milestone consideration is reasonable relative to all deliverables and payment terms in the arrangement in making this assessment.

Non-refundable development and regulatory milestones that are expected to be achieved as a result of the Company's efforts during the period of substantial involvement are considered substantive and are recognized as revenue upon the achievement of the milestone, assuming all other revenue recognition criteria are met. Milestones that are not considered substantive because the Company does not contribute effort to the achievement of such milestones are generally achieved after the period of substantial involvement and are recognized as revenue upon achievement of the milestone, as there are no undelivered elements remaining and no continuing performance obligations, assuming all other revenue recognition criteria are met.

*Right-to-Develop Agreements*

The Company's right-to-develop agreements provide collaborators with an exclusive option to obtain licenses to develop and commercialize in specified geographic territories product candidates developed by the Company under agreed upon research and pre-clinical development product programs. The product candidates resulting from each program are all directed to a specific target selected by the collaborator. Under these agreements, fees may be due to the Company (i) at the inception of the arrangement (referred to as "upfront" fees or payments), (ii) the selection of a target for a program, (iii) upon the exercise of an option to acquire a development and commercialization license (referred to as exercise fees or payments earned) for a program, or (iv) some combination of all of these fees.

The accounting for right-to-develop agreements is dependent on the nature of the options granted to the collaborator. Options are considered substantive if, at the inception of a right-to-develop agreement, the Company is at risk as to whether the collaborator will choose to exercise the options to secure development and commercialization licenses. Factors that are considered in evaluating whether options are substantive include the overall objective of the arrangement, the benefit the collaborator might obtain from the agreement without exercising the options, the cost to exercise the options relative to the total upfront consideration, and the additional financial commitments imposed on the collaborator as a result of exercising the options.

For right-to-develop agreements where the options to secure development and commercialization licenses to a product program are considered substantive, the Company does not consider the development and commercialization licenses to be a deliverable at the inception of the agreement, and therefore defers any upfront payments received and recognizes this revenue over the period during which the collaborator could elect to exercise options for development and commercialization licenses. These periods are specific to each collaboration agreement. If a collaborator selects a target for a product program, any substantive option fee is deferred and recognized over the life of the option. For right-to-develop agreements that include multiple deliverables, the Company determines the selling prices of deliverables under the arrangement using TPE or a BESP, if VSOE is not available. The objective of BESP is to determine the price at which the Company would transact a sale if the element within the right-to-develop agreement was sold on a standalone basis. Establishing BESP involves management's judgment and considers multiple factors, including market conditions and company-specific factors, including those factors contemplated in negotiating the agreements, as well as internally developed models that include assumptions related to market opportunity, discounted cash flows, estimated development costs, probability of success and the time needed to commercialize a product candidate pursuant to the right-to-develop agreement. In validating the BESP, management considers whether changes in key assumptions used to determine the BESP will have a significant effect on the allocation of the arrangement

consideration between the multiple deliverables. Deliverables under the arrangement are separate units of accounting if (i) the delivered item has value to the customer on a standalone basis and (ii) if the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item is considered probable and substantially within the Company's control. The arrangement consideration that is fixed or determinable at the inception of the arrangement is allocated to the separate units of accounting based on their relative selling prices. The appropriate revenue recognition model is applied to each element and revenue is accordingly recognized as each element is delivered. Management exercises significant judgment in determining whether a deliverable is a separate unit of accounting.

If a collaborator exercises an option and acquires a development and commercialization license to a product program, the Company attributes the exercise fee to the development and commercialization license. The Company determines the selling price of the option license, upon exercise, through management's best estimate using the process for an exclusive license as described above.

Upon exercise of an option to acquire a development and commercialization license, the Company would also attribute any remaining deferred option fee, in addition to the consideration received for the license upon exercise of the option, to the development and commercialization license. The Company then applies the multiple-element revenue recognition criteria to the development and commercialization license and other deliverables, if any, to determine the appropriate revenue recognition method. This model is consistent with the Company's accounting policy for upfront payments on exclusive licenses (discussed above). In the event a right-to-develop agreement were to be terminated, the Company would recognize as revenue any portion of the upfront fee that had not previously been recorded as revenue, but was classified as deferred revenue, at the date of such termination. The Company's right-to-develop agreements have been determined to contain substantive options.

For right-to-develop agreements where the options to secure development and commercialization licenses to product programs are not considered substantive, the Company considers the development and commercialization licenses to be a deliverable at the inception of the agreement and applies the multiple-element revenue recognition criteria to determine the appropriate revenue recognition. The Company does not directly control when any collaborator will exercise its options for development and commercialization licenses.

***Research and Development Costs***

Research and development expenditures are expensed as incurred. Research and development costs primarily consist of employee related expenses, including salaries and benefits, expenses incurred under agreements with contract research organizations, investigative sites and consultants that conduct the Company's clinical trials, the cost of acquiring and manufacturing clinical trial materials and other allocated expenses, license fees for and milestone payments related to in-licensed products and technologies, stock-based compensation expense, and costs associated with non-clinical activities and regulatory approvals.

***Comprehensive Income (Loss)***

Comprehensive income (loss) is comprised of the net income (loss) and other changes in equity that are excluded from net income (loss). Comprehensive income (loss) equals net income (loss) for the years ended December 31, 2014, 2013 and 2012.

***Stock-based Compensation***

Stock-based payments are accounted for in accordance with the provisions of ASC 718, *Compensation—Stock Compensation* . The fair value of stock-based payments is estimated, on the date of grant, using the Black-

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Scholes model. The resulting fair value is recognized ratably over the requisite service period, which is generally the vesting period of the option.

For all time-vesting awards granted, expense is amortized using the straight-line attribution method. For awards that contain a performance condition, expense is amortized using the accelerated attribution method. Recognition of stock-based compensation expense is based on the value of the portion of stock-based awards that is ultimately expected to vest during the period.

The Company utilizes the Black-Scholes model for estimating fair value of its stock options granted. Option valuation models, including the Black-Scholes model, require the input of highly subjective assumptions, and changes in the assumptions used can materially affect the grant-date fair value of an award. These assumptions include the risk-free rate of interest, expected dividend yield, expected volatility and the expected life of the award.

***Net Income (Loss) Per Share***

Basic income (loss) per common share is determined by dividing income (loss) attributable to common stockholders by the weighted-average number of common shares outstanding during the period, without consideration of common stock equivalents. Diluted income (loss) per share is computed by dividing the earnings (loss) attributable to common stockholders by the weighted-average number of common share equivalents outstanding for the period. The treasury stock method is used to determine the dilutive effect of the Company's stock option grants, potential Employee Stock Purchase Plan awards and warrants and the if-converted method is used to determine the dilutive effect of the Company's preferred stock.

For the year ended December 31, 2012, net income (loss) per share was calculated under the two-class method under which all earnings (distributed and undistributed) are allocated to each class of common stock and participating securities based on their respective rights to receive dividends. In the event that the Board of Directors declared a dividend payable in cash or other property on the then-outstanding shares of common stock, the holders of the Series A-1, A-2, B, C, D, and D-2 convertible preferred stock would be entitled to receive the amount of dividends per share of preferred stock that would be payable on the largest number of whole shares of common stock into which each share of preferred stock could then be converted. Therefore, the Series A-1, A-2, B, C, D and D-2 are participating securities. All of the outstanding shares of Series A-1, A-2, B, C, D, and D-2 convertible preferred stock converted to common stock upon the consummation of the Company's IPO in October 2013.

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Basic and diluted income (loss) per common share is computed as follows (in thousands except share and per share data):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Net income (loss) | $ (38,313) | $ (261) | $ 8,362 |
| Less: undistributed earnings allocated to participating securities | — | — | (8,362) |
| Net income (loss) allocable to common shares | $ (38,313) | $ (261) | $ — |
| Basic weighted average common shares outstanding | 27,384,990 | 6,847,697 | 1,083,276 |
| Basic income (loss) per common share | $ (1.40) | $ (0.04) | $ 0.00 |
| Net income (loss) | $ (38,313) | $ (261) | $ 8,362 |
| Less: undistributed earnings allocated to participating securities and other add-backs to net income (loss) | — | — | (8,362) |
| Net income (loss) allocable to common shares | $ (38,313) | $ (261) | $ — |
| Basic weighted average common shares outstanding | 27,384,990 | 6,847,697 | 1,083,276 |
| Effect of dilutive securities | — | — | — |
| Diluted weighted average common shares outstanding | 27,384,990 | 6,847,697 | 1,083,276 |
| Diluted income (loss) per common share | $ (1.40) | $ (0.04) | $ 0.00 |

The following common stock equivalents were excluded from the calculation of diluted net income (loss) per share because their effect would be anti-dilutive:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Series A-1 Preferred Stock | — | — | 2,156,114 |
| Series A-2 Preferred Stock | — | — | 392,274 |
| Series B Preferred Stock | — | — | 4,336,037 |
| Series C Preferred Stock | — | — | 5,909,906 |
| Series D Preferred Stock | — | — | 769,468 |
| Series D-2 Preferred Stock | — | — | 3,391,991 |
| Effect of Converted Preferred Stock | — | 13,189,920 | — |
| Warrants to purchase Series D-2 Preferred Stock | — | — | 180,784 |
| Stock Options | 2,094,904 | 2,313,970 | 3,249,702 |

***Recently Issued Accounting Standards***

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers* (ASU 2014-09). ASU 2014-09 will eliminate transaction- and industry-specific revenue recognition guidance under current GAAP and replace it with a principle-based approach for determining revenue recognition. ASU 2014-09 will require that companies recognize revenue based on the value of transferred goods or services as they occur in the contract. The ASU also will require additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in judgments and assets recognized from costs incurred to obtain or fulfill a contract. ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2016. Early adoption is not permitted. Entities can transition to the standard either retrospectively or as a cumulative effect adjustment as of the date of adoption.

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Management is currently assessing what effect the adoption of ASU 2014-09 will have on the Company's consolidated financial statements and accompanying notes.

In July 2013, the FASB issued ASU No. 2013-11, which amended ASC Topic 740 regarding presentation of an unrecognized tax benefit when a net operating loss (NOL) carryforward, a similar tax loss, or a tax credit carryforward exists. The amendments in ASU No. 2013-11 require an entity to present an unrecognized tax benefit as a reduction of a deferred tax asset for an NOL carryforward, or similar tax loss or tax credit carryforward, rather than as a liability when (1) the uncertain tax position would reduce the NOL or other carryforward under the tax law of the applicable jurisdiction and (2) the entity intends to use the deferred tax asset for that purpose. The ASU does not require new recurring disclosures. This amendment was effective prospectively for fiscal years beginning after December 15, 2013, and did not have a material impact on the Company's financial statements.

The Company has evaluated all other ASUs issued through the date the consolidated financials were issued and believes that the adoption of these will not have a material impact on the Company's consolidated financial statements.

### 3. Property and Equipment

Property and equipment consists of the following (in thousands):

| | December 31, | |
|---|---|---|
| | 2014 | 2013 |
| Computer equipment | $ 2,596 | $ 2,379 |
| Software | 1,683 | 1,477 |
| Furniture and office equipment | 751 | 651 |
| Lab equipment | 13,917 | 11,166 |
| Leasehold improvements | 5,193 | 4,894 |
| Property and equipment | 24,140 | 20,567 |
| Less accumulated depreciation | (17,355) | (15,532) |
| Property and equipment, net | $ 6,785 | $ 5,035 |

Depreciation expense for the years ended December 31, 2014, 2013 and 2012 was $1.8 million, $1.2 million and $1.0 million, respectively.

### 4. Stockholders' Equity

During 2002 and 2003, the Company issued a total of 34,239,374 shares of Series A-1 and Series A-2 convertible preferred stock (Series A preferred stock) for $1.00 per share resulting in net proceeds of approximately $34.0 million.

In October 2004, the Company entered into a series of transactions raising $30.3 million, net of related offering costs of approximately $238,000, from the sale of 71,401,237 shares of its Series B convertible preferred stock (Series B preferred stock). In connection with the Series B preferred stock offering, 13,604,016 shares of common stock were allocated to holders of Series A-1 preferred stock as an anti-dilution measure.

In May 2006, the Company raised $44.9 million, net of related offering costs of $101,246, from the sale of 110,952,217 shares of its Series C convertible preferred stock (Series C preferred stock). In connection with the

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Series C preferred stock offering, 10,003,300 shares of common stock were allocated to holders of Series B preferred stock as an anti-dilution measure.

In July 2008, the Company issued 12,466,039 shares of its Series D convertible preferred stock (Series D preferred stock) in exchange for all of the outstanding capital stock and convertible notes payable of Raven Biotechnologies, Inc. (Raven). Subsequently, in March 2011 a settlement was reached with the former Raven stockholders bringing the total Series D preferred stock issued in connection with the Raven acquisition to 14,446,227 shares.

In September 2008, the Company raised $24.8 million, net of related offering costs of $156,788 from the sale of 38,337,678 shares of its Series D-2 convertible preferred stock (Series D-2 preferred stock). The Company also issued preferred stock warrants for the purchase of 2,875,327 shares of Series D-2 preferred stock. The preferred stock warrants were exercisable at any time prior to September 2018, but expired upon an IPO, and had a stated exercise price of $0.65 per warrant. On May 16, 2010, the Company exercised a put notice to Eli Lilly in accordance with the Series D-2 preferred stock purchase agreement, resulting in the issuance of 6,916,110 shares of Series D-2 preferred stock and a warrant to purchase 518,708 additional shares of Series D-2 preferred stock. On January 11, 2011, the Company raised gross proceeds of $12.0 million from the sale of 18,427,388 shares of its Series D-2 preferred stock.

Due to certain provisions in the Series D-2 convertible preferred stock warrant agreement, these warrants were required to be classified as a liability. Management believed that the circumstances requiring cash settlement of the award were remote. The Series D-2 preferred stock warrant liability was recorded at fair value and has been adjusted to fair value at the end of each reporting period using the Option-Pricing Method, with changes in value recorded as “Other income (expense)” in the accompanying consolidated statements of operations and comprehensive income (loss). Prior to the Company’s IPO in October 2013, all the preferred stock warrants were exercised and subsequently were converted into shares of common stock in connection with the IPO.

Dividends were noncumulative and accrued on the Series A, Series B, Series C, Series D and Series D-2 preferred stock at a rate of $0.08, $0.0341, $0.0324 and $0.0522 per annum, respectively, and were payable when and as declared by the Board of Directors. Dividends had to be declared so that the Series A, Series B, Series C and Series D preferred stock were paid in like-kind and participated equally to those of the Series D-2 preferred and common stock. No dividends had been declared prior to the conversion of the preferred stock to common stock in connection with the IPO.

The Company’s Series A-1, Series A-2, Series B, Series C, Series D and Series D-2 preferred stock were initially convertible into 1.506, 1.00, 1.14, 1.00, 1.00 and 1.00 shares, respectively, of common stock at the option of the holder. The conversion ratio of certain series of preferred stock was subject to change in the event specified dilutive transactions occurred, which included the Company’s IPO. There were no anti-dilution protections for the Series A-2 preferred stock and no adjustment to the Series A-1 preferred stock conversion price was to be made if a common stock issuance was at a price per share greater than the conversion price of the Series C preferred stock. Upon consummation of the Company’s IPO in October 2013, all outstanding shares of preferred stock automatically converted to shares of the Company’s common stock at the applicable conversion ratios then in effect. The conversion price was $12.39, $18.77, $6.95, $7.70, $12.20 and $12.20 for each share of Series A-1, A-2, Series B, Series C, Series D and Series D-2 convertible preferred stock, respectively.

On October 16, 2013, the Company completed its IPO, in which 5,000,000 shares of the Company’s common stock were sold at a price of $16.00 per share. Additionally, the underwriters of the Company’s IPO exercised the full amount of their over-allotment option resulting in the sale of an additional 750,000 shares of

the Company's common stock at a price of $16.00 per share. The Company received proceeds of $83.8 million from the IPO, net of underwriting discounts and commissions and other offering expenses. Upon consummation of the IPO, all outstanding shares of preferred stock automatically converted to common stock at the applicable conversion ratios then in effect.

In connection with preparing for its IPO in October 2013, the Company's Board of Directors and stockholders approved a 1-for-18.7739 reverse stock split of the Company's common stock. The reverse stock split became effective on September 26, 2013. All share and per share amounts in the consolidated financial statements and notes thereto have been retroactively adjusted for all periods presented to give effect to this reverse stock split, including reclassifying an amount equal to the reduction in par value of common stock to additional paid-in capital. In addition, in September 2013, the Company's Board of Directors and stockholders approved an amendment of the Company's certificate of incorporation to, among other things, change the definition of a designated public offering to remove the per share price requirement. The amended and restated certificate of incorporation also changed the authorized number of shares of common stock from 425,000,000 to 125,000,000, and authorized 5,000,000 shares of undesignated preferred stock with a par value of $0.01 per share. There were no shares of undesignated preferred stock issued or outstanding as of December 31, 2014 or 2013.

In February 2014, the Company completed a follow-on equity offering, in which the Company sold 1.8 million shares of its common stock at a price of $36.50 per share. Additionally, the underwriters of the offering exercised the full amount of their over-allotment option resulting in the sale of an additional 450,000 shares of the Company's common stock at a price of $36.50 per share. The Company received proceeds of $76.7 million from this offering, net of underwriting discounts and commissions and other offering expenses.

**5. Stock-based Compensation**

The Company's 2000 Stock Option and Incentive Plan (2000 Plan) allowed for the grant of awards in respect of an aggregate of 130,725 shares, which was increased to 150,297 shares, of the Company's common stock in the form of incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock and restricted stock units and other performance awards. As of December 31, 2014, under the 2000 Plan, there were options to purchase an aggregate of 19,705 shares of common stock outstanding at a weighted average exercise price of $0.81 per share. The 2000 Plan has expired, and no further awards may be issued under the plan. Any shares of common stock subject to awards under the 2000 Plan that expire, terminate, or are otherwise surrendered, canceled, forfeited or repurchased without having been fully exercised, or resulting in any common stock being issued, will become available for issuance under the 2013 Stock Incentive Plan (2013 Plan) up to a specified number of shares.

Effective February 2003, the Company implemented the 2003 Equity Incentive Plan (2003 Plan), and it was amended and approved by the Company's stockholders in 2005. The 2003 Plan originally allowed for the grant of awards in respect of an aggregate of 2,051,644 shares of the Company's common stock. Between 2006 and 2010 the maximum number of shares of common stock authorized to be issued by the Company under the 2003 Plan was increased by 1,739,116 shares to 3,790,760. During the year ended December 31, 2012, the maximum number of shares of common stock authorized to be issued by the Company under the 2003 Plan was increased by 545,970 shares to 4,336,730. Stock options granted under the 2003 Plan may be either incentive stock options as defined by the Internal Revenue Code (IRC), or non-qualified stock options.

As of December 31, 2014, under the 2003 Plan, there were options to purchase an aggregate of 2,008,474 shares of common stock outstanding at a weighted average exercise price of $1.64 per share. Upon the completion of the IPO, the 2003 Plan was terminated, and no further awards may be issued under the plan. Any

shares of common stock subject to awards under the 2003 Plan that expire, terminate, or are otherwise surrendered, canceled, forfeited or repurchased without having been fully exercised, or resulting in any common stock being issued, will become available for issuance under the 2013 Plan, up to a specified number of shares.

In October 2013, the Company implemented the 2013 Plan. The 2013 Plan provides for the grant of stock options and other stock-based awards, as well as cash-based performance awards. The aggregate number of shares of common stock initially available for issuance pursuant to awards under the 2013 Plan is 1,960,168 shares. The number of shares of common stock reserved for issuance will automatically increase on January 1 of each year from January 1, 2014 through and including January 1, 2023, by the lesser of (a) 1,960,168 shares, (b) 4.0% of the total number of shares of common stock outstanding on December 31 of the preceding calendar year, or (c) the number of shares of common stock determined by the Board of Directors. During the year ended December 31, 2014, the maximum number of shares of common stock authorized to be issued by the Company under the 2013 Plan was increased to 2,967,272. If an option expires or terminates for any reason without having been fully exercised, if any shares of restricted stock are forfeited, or if any award terminates, expires or is settled without all or a portion of the shares of common stock covered by the award being issued, such shares are available for the grant of additional awards. However, any shares that are withheld (or delivered) to pay withholding taxes or to pay the exercise price of an option are not available for the grant of additional awards. As of December 31, 2014, under the 2013 Plan, there were options to purchase an aggregate of 1,543,937 shares of common stock outstanding at a weighted average exercise price of $24.22 per share.

The following stock-based compensation amounts were recognized for the periods indicated (in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Research and development | $1,562 | $507 | $472 |
| General and administrative | 1,682 | 355 | 366 |
| Total stock-based compensation expense | $3,244 | $862 | $838 |

*Employee Stock Options*

The fair value of each option award is estimated on the date of grant using the Black-Scholes option-pricing model using the assumptions in the following table:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Expected dividend yield | 0% | 0% | 0% |
| Expected volatility | 67% | 53% - 67% | 51% |
| Risk-free interest rate | 1.8% - 2.3% | 1.2% - 2.2% | 1.2% |
| Expected term. | 6.25 years | 7 years | 7 years |

**Expected Dividend Yield** —The Company has never declared or paid dividends and has no plans to do so in the foreseeable future.

**Expected Volatility** —Volatility is a measure of the amount by which a financial variable such as a share price has fluctuated (historical volatility) or is expected to fluctuate (expected volatility) during a period. As the Company does not yet have sufficient history of its own volatility, the Company has identified several public entities of similar size, complexity and stage of development and estimates volatility based on the volatility of these companies.

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**Risk-Free Interest Rate** —This is the U.S. Treasury rate for the week of each option grant during the year, having a term that most closely resembles the expected life of the option.

**Expected Term** —This is the period of time that the options granted are expected to remain unexercised. Options granted have a maximum term of ten years. The Company estimates the expected life of the option term to be 6.25 years. The Company uses a simplified method to calculate the average expected term.

In addition to the assumptions above, the Company estimates the forfeiture rate based on turnover data with further consideration given to the class of the employees to whom the options were granted. The forfeiture rate is the estimated percentage of options granted that is expected to be forfeited or canceled on an annual basis before becoming fully vested.

The following table summarizes stock option and restricted stock unit (RSU) activity for 2014:

| | Shares | Weighted-Average Exercise Price | Weighted-Average Remaining Contractual Term (Years) | Aggregate Intrinsic Value (in thousands) |
|---|---|---|---|---|
| Outstanding, December 31, 2013 | 3,200,958 | $ 4.90 | 6.9 | |
| Granted | 976,869 | 27.06 | | |
| Exercised | (568,906) | 1.31 | | |
| Forfeited or expired | (36,805) | 9.76 | | |
| Outstanding, December 31, 2014 | 3,572,116 | 11.40 | 7.3 | $ 84,515 |
| December 31, 2014: | | | | |
| Exercisable | 1,668,962 | 3.24 | 5.3 | 53,122 |
| Vested and expected to vest | 3,341,192 | 11.03 | 7.2 | 80,323 |

During 2014, 2013 and 2012 the Company issued 568,906, 1,268,049 and 863,176 net shares of common stock, respectively, in conjunction with stock option exercises and RSU lapses. The Company received cash proceeds from the exercise of stock options of approximately $0.7 million, $1.1 million and $47,000 during 2014, 2013 and 2012, respectively.

The weighted-average grant-date fair value of options granted during 2014, 2013 and 2012 was $17.41, $6.91 and $0.94 per share, respectively. The total intrinsic value of options exercised during 2014, 2013 and 2012 was approximately $14.5 million, $5.4 million and $271,929, respectively. The total fair value of stock options which vested during 2014, 2013 and 2012 was $3.0 million, $487,603 and $879,024, respectively. As of December 31, 2014, the total unrecognized compensation expense related to non-vested stock options and RSUs, net of related forfeiture estimates, was $19.6 million, which the Company expects to recognize over a weighted-average period of approximately four years.

## 6. Income Taxes

For the years ended December 31, 2014, 2013 and 2012 there was no current provision for federal or state income taxes due to the taxable losses which resulted or use of legacy NOL carryforwards.

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The significant components of the Company's deferred income tax assets (liabilities) were as follows (in thousands):

| | December 31, | |
|---|---|---|
| | 2014 | 2013 |
| Deferred income tax assets: | | |
| Federal U.S. net operating loss carryforward | $ 55,358 | $ 36,561 |
| State net operating loss carryforward | 3,723 | 3,316 |
| Research and development credit, net | 7,177 | 3,786 |
| Orphan drug credit, net | 19,287 | 19,883 |
| Deferred rent | 4,069 | 5,132 |
| Deferred revenue | 3,989 | 8,217 |
| Depreciation | 1,337 | 1,438 |
| Other | 962 | 1,439 |
| Gross deferred income tax assets | 95,902 | 79,772 |
| Valuation allowance | (94,297) | (79,377) |
| Net deferred income tax assets | 1,605 | 395 |
| Deferred income tax liabilities: | | |
| Prepaid expenditures | (1,605) | (395) |
| Gross deferred income tax liabilities | (1,605) | (395) |
| Net deferred income tax asset/(liability) | $ — | $ — |

The Company recognizes valuation allowances to reduce deferred tax assets to the amount that is more likely than not to be realized. In assessing the likelihood of realization, management considers (i) future reversals of existing taxable temporary differences; (ii) future taxable income exclusive of reversing temporary difference and carryforwards; (iii) taxable income in prior carryback years if carryback is permitted under applicable tax law; and (iv) tax planning strategies. The Company's net deferred income tax asset is not more likely than not to be utilized due to the lack of sufficient sources of future taxable income and cumulative book losses which have resulted over the years. The net increase in the valuation allowance in 2014 is due to the fact the Company generated research and development and orphan drug credits and NOL carryforwards which increased the net deferred tax asset. The increase in the credits and NOL carryforwards were offset by the decrease in deferred revenue and resulted in a net current year increase to the valuation allowance.

As of December 31, 2014, the Company had U.S. federal NOL carryforwards of approximately $158.9 million and approximately $103.4 million for state that will expire in various years beginning in 2020 through 2034. In addition, the Company has U.S. federal tax credits of $26.3 million which will expire in various years beginning in 2020 through 2034.

The use of the Company's U.S. federal NOL and tax credit carryforwards in future years are restricted due to changes in the Company's ownership and tax attributes acquired through the Company's acquisitions. As of December 31, 2014, $7.1 million of the Company's US Federal NOLs are limited for use over the years 2015-2027 in which a range of such amounts could be utilized on an annual basis of $0.2 million to $1.4 million. The remaining $151.8 million of NOLs is not limited and can be offset against future taxable income. Additionally, approximately $7.7 million of NOLs will be recognized as a benefit through additional-paid-in-capital when realized. Further, despite the NOL and credit carryforwards, the Company may have a future tax liability due to an alternative minimum tax or state tax requirements in which net operating losses do not exist.

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Furthermore, the Company recorded $1.6 million of current deferred tax liability and $1.6 million of noncurrent deferred tax asset as a result of the requirement to allocate its valuation allowance against gross deferred tax assets. As such the balance sheet was grossed up but nets to zero deferred income tax assets/(liabilities).

The reconciliation of the reported estimated income tax benefit to the amount that would result by applying the U.S. federal statutory tax rate to the net income is as follows (in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| United States federal tax at statutory rate | $(13,410) | $ (91) | $ 2,927 |
| State taxes (net of federal benefit) | (1,608) | 609 | 1,460 |
| Deferred income tax adjustments | — | (855) | (512) |
| Deferred state blended rate adjustments | 3,034 | (344) | — |
| Research credit, net | (2,228) | (226) | — |
| Transaction cost deduction | (379) | — | — |
| Transaction cost deduction—prior year adjustment | (564) | — | — |
| Orphan drug credit, net | (139) | (843) | (4,896) |
| Other permanent items | (382) | 3 | 8 |
| Equity-based compensation | 756 | 241 | 279 |
| Fair value adjustment of preferred stock warrant liability | — | 219 | (53) |
| Change in valuation allowance | 14,920 | 1,287 | 787 |
| Income tax expense/(benefit) | $ — | $ — | $ — |

A reconciliation of the beginning and ending amount of gross unrecognized tax benefits is as follows (in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| Beginning balance | $1,708 | $1,592 | $1,534 |
| Increases/(decreases) for current year tax positions | 242 | 116 | 58 |
| Increases/(decreases) for prior year tax positions | 97 | — | — |
| Decreases as a result of expiration of statute of limitations | — | — | — |
| Ending balance | $2,047 | $1,708 | $1,592 |

As of December 31, 2014 and 2013, of the total gross unrecognized tax benefits, approximately $1.7 million and $1.3 million would favorably impact the Company's effective income tax rate, respectively. Although, due to the Company's determination that the deferred income tax asset would not more likely than not be realized, a valuation allowance would be recorded, therefore, zero net impact would result within the Company's effective income tax rate. The Company's uncertain income tax position liability has been recorded to deferred income taxes to offset the tax attribute carryforward amounts.

For the years ended December 31, 2014, 2013 and 2012, the Company has not recognized any interest or penalties related to the uncertain income tax positions due to the fact such position is related to tax attribute carryforwards which have not yet been utilized. The Company does not expect its unrecognized income tax position to significantly decrease within the next twelve months.

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The Company's U.S. Federal and state income tax returns from 2001 to 2014 remain subject to examination by the tax authorities. The Company's 2001 through 2010 years remain open for examination, even though the statute of limitations has expired, due to the net operating losses and credits carried forward for use in prospective years.

**7. Lease Exit Liability**

On July 16, 2008, the Company acquired Raven Biotechnologies, Inc. (Raven), a private South San Francisco-based company focused on the development of monoclonal antibody therapeutics for treating cancer. Raven was considered a development-stage enterprise as defined in ASC 915, *Development Stage Entities* . In connection with the acquisition, the Company issued 12,466,039 shares of its Series D convertible preferred stock in exchange for all of the outstanding capital stock and convertible notes payable of Raven.

The Company undertook restructuring activities related to the acquisition of Raven. These restructuring activities included reductions in staffing levels and the intended exit of leased facilities. All severance-related payments were completed in the year ended December 31, 2009.

In connection with these restructuring activities, as part of the cost of acquisition, the Company established a restructuring liability attributed to an existing operating lease. The terms of the operating lease extend through 2018.

Changes in the lease exit liability are as follows (in thousands):

| | |
|---|---|
| Accrual balance at December 31, 2012. | $ 10,074 |
| Principal payments | (629) |
| Accrual balance at December 31, 2013 | 9,445 |
| Principal payments | (1,439) |
| Accrual balance at December 31, 2014 | $ 8,006 |

Future principal payments to be made under the lease agreement as of December 31, 2014 are as follows (in thousands):

| | |
|---|---|
| 2015 | $1,642 |
| 2016 | 1,866 |
| 2017 | 2,113 |
| 2018 | 2,385 |
| | $8,006 |

The purchase agreement provides for a specified total of certain contingent milestones that are based on the achievement of certain product sales derived from the acquired Raven technology. Also, a onetime payment of $5.0 million will be made to the Raven stockholders upon the initiation of patient dosing in the first Phase 2 clinical trial of any product derived from the Raven "Cancer Stem Cell Program." No payment shall be made if the Phase 2 trial start date has not occurred on or before July 15, 2018. Other consideration includes a percentage of revenue (excluding consideration for research and development and equity) received by the Company for license of a product derived from the Raven "Cancer Stem Cell Program" and a onetime payment ranging from $8.0 million to $12.0 million dependent upon a specified level of sales of products derived from the Raven "Cancer Stem Cell Program."

The contingent consideration will be accounted for as additional purchase price and recorded as incremental in-process research and development expense when it is deemed probable that the contingencies will be attained. No additional amounts have been recorded during the years ended December 31, 2014, 2013 and 2012.

## 8. Collaboration and License Agreements

***Janssen Biotech, Inc.***

In December 2014, the Company entered into a collaboration and license agreement with Janssen Biotech, Inc. (Janssen) for the development and commercialization of MGD011, a product candidate that incorporates the Company's proprietary DART technology to simultaneously target CD19 and CD3 for the potential treatment of B-cell malignancies. The Company contemporaneously entered into a stock purchase agreement and investor agreement, each with Johnson & Johnson Innovation—JJDC, Inc. (JJDC), an affiliate of Janssen, under which JJDC agreed to purchase 1,923,077 new shares of the Company's common stock at a price of $39.00 per share, representing proceeds of $75.0 million. The effectiveness of these agreements was subject to the early termination or expiration of any applicable waiting periods under Hart-Scott-Rodino Antitrust Improvements Act of 1976, which occurred in January 2015 (see Note 13). The Company is eligible to receive a $50.0 million upfront payment from Janssen after the collaboration and license agreement becomes effective. Janssen will be fully responsible for developing MGD011 following submission of the Investigational New Drug Application (IND), which is planned for 2015. Assuming successful development and commercialization, the Company could receive up to an additional $575.0 million in clinical, regulatory and commercialization milestone payments. The Company may elect to fund a portion of late-stage clinical development in exchange for a profit share in the U.S. and Canada. If commercialized, the Company would be eligible to receive double-digit royalties on any global net sales and has the option to co-promote the molecule with Janssen in the U.S.

No revenue was recognized during the year ended December 31, 2014 under this agreement, and no related deferred revenue was recorded as of December 31, 2014.

***Takeda***

In May 2014, the Company entered into a license and option agreement with Takeda for the development and commercialization of MGD010, a product candidate that incorporates the Company's proprietary DART technology to simultaneously engage CD32B and CD79B, which are two B-cell surface proteins. MGD010 is currently in pre-clinical development for the treatment of autoimmune diseases. Upon execution of the agreement, Takeda made a non-refundable payment of $15.0 million to the Company. Takeda has an option to obtain an exclusive worldwide license for MGD010 following the completion of a pre-defined Phase 1a study. The Company will lead all product development activities until that time. If Takeda exercises its option, it will assume responsibility for future development and pay the Company a license option fee that, along with an early development milestone, will total $18.0 million. Assuming successful development and commercialization of MGD010, the Company is eligible to receive up to an additional $468.5 million in development, regulatory and sales milestone payments. If commercialized, the Company would receive double-digit royalties on any global net sales and has the option to co-promote MGD010 with Takeda in the United States. Finally, the Company may elect to fund a portion of Phase 3 clinical development in exchange for a North American profit share.

The Company evaluated the license and option agreement with Takeda and has determined that it is a revenue arrangement with multiple deliverables, or performance obligations. The Company's substantive performance obligations under the license and option agreement include exclusivity, research and development services through the Phase 1a study and delivery of a future license for an initial research compound. The Company concluded that the MGD010 option is substantive and that the license fee payable upon exercise of the option is not a deliverable at the inception of the arrangement as there is considerable uncertainty that the option

would be exercised. The Company has determined that each potential future development and regulatory milestone is substantive. Although sales milestones are not considered substantive, they are still recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. The Company determined that these performance obligations represent a single unit of accounting, because the exclusivity clause does not have stand-alone value to Takeda without the Company's technical expertise and development through the pre-defined Phase 1a study.

After identifying the deliverables included within the arrangement, the Company determined its best estimate of selling price. The Company allocated $10.0 million to the exclusivity clause to its technology and the research and development services and $5.0 million to the exclusive license for the initial research compound. The Company's determination of best estimate of selling price for the research and development services relied upon other similar transactions. The Company relied upon the income approach (e.g., future cash flows) to determine the value of the license of the to-be-delivered compound along with other similar license transactions with differing indications but similar stage of development. The portion of the up-front fee allocated to the MGD010 option is being recognized over an initial 24-month period, which represents the expected period of development through the completion of a pre-defined Phase 1a study. The portion of the up-front fee allocated to the license for the initial research compound was deferred until the research collaboration and license option agreement was executed and the license delivered.

The Company recognized revenue of approximately $3.0 million under the MGD010 agreement during the year ended December 31, 2014. At December 31, 2014, $7.1 million of revenue was deferred under this agreement, $5.0 million of which was current and $2.1 million of which was non-current.

In September 2014, the Company and Takeda executed a research collaboration and license option agreement, which formalized the license for the initial research compound. Under the terms of the agreement, Takeda may identify up to three additional compounds, which will be subject to separate research and development plans. The Company determined that it could recognize the entire license fee as (1) the executed contract constituted persuasive evidence of an arrangement, (2) the delivery of the license occurred and the Company had no current or future performance obligations, (3) the total consideration for the license was fixed and known at the time of its execution and there were not any extended payment terms or rights of return, and (4) the cash was received. Therefore, the Company recognized $5.0 million in revenue during the year ended December 31, 2014 under this agreement. The Company is also entitled to receive reimbursements for research and development services provided to Takeda with respect to the initial research compound, subject to the execution of a separate research plan.

***Gilead***

In January 2013, the Company entered into an agreement with Gilead for Gilead to obtain exclusive worldwide rights for the research, development and commercialization of up to four DART molecules. For each molecule Gilead chooses to develop, the Company is entitled to receive a license grant fee of $7.5 million and is further eligible to receive up to an additional $20.0 million to $25.0 million in pre-clinical milestones and up to $240.0 million to $250.0 million in additional clinical, regulatory and sales milestones. Upon execution of the arrangement, Gilead identified one molecule to develop for which the Company granted Gilead a license in exchange for consideration of $7.5 million.

The Company determined that any remaining licenses are conditional deliverables, which are substantive options that were not granted with a substantial discount. The Company has determined that each potential future clinical, development and regulatory milestone is substantive. Although sales milestones are not considered

substantive, they are still recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. Gilead also provides funding for the Company's internal and external research costs under the agreement. Additionally, Gilead would be obligated to pay the Company high single digit to low double digit royalties on product sales.

The Company evaluated the research collaboration agreement with Gilead and has determined that it is a revenue arrangement with multiple deliverables, or performance obligations. The Company's substantive performance obligations under this research collaboration include a license to its technology and research and development services. The Company concluded that the deliverables do not have stand alone value and therefore, represent a combined single unit of accounting. Due to the lack of standalone value for the license and research and development services, the combined unit of accounting (the upfront payment and the expected research and development reimbursements) was recognized ratably over a period of 21 months, which represented the expected development period.

The Company and Gilead have also agreed to establish a joint research committee to facilitate the governance and oversight of the parties' activities under the agreements. Management considered whether participation on the joint committee may be a deliverable and determined that it was not a deliverable. Had management considered participation on the joint committee as a deliverable, it would not have had a material impact on the accounting for the arrangement.

The Company recognized revenues of approximately $5.5 million and $8.0 million under this agreement for the years ended December 31, 2014 and 2013, respectively. No milestones have been achieved under this agreement.

At December 31, 2013, $3.6 million of revenue was deferred under this agreement, all of which was current. As of December 31, 2014, there was no remaining deferred revenue under this agreement.

***Servier***

In November 2011, the Company entered into a right-to-develop collaboration agreement with Servier for the development and commercialization of MGA271 in all countries other than the United States, Canada, Mexico, Japan, South Korea and India.

Upon execution of the agreement, Servier made a nonrefundable payment of $20.0 million to the Company. The Company is eligible to receive up to $30.0 million in license grant fees, $47.0 million in clinical milestone payments, $140.0 million in regulatory milestone payments and $208.0 million in sales milestone payments if Servier exercises the option, obtains regulatory approval for and successfully commercializes MGA271. The Company concluded that the license option fees are not deliverables at the inception of the arrangement. The Company has determined that each potential future clinical, development and regulatory milestone is substantive. Although sales milestones are not considered substantive, they are still recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. In the event Servier exercises its option to continue development of MGA271, Servier must pay a license option fee. Under this agreement, Servier would be obligated to pay the Company from low double digit to mid-teen royalties on product sales in its territories.

The Company evaluated the research collaboration agreement with Servier and has determined that it is a revenue arrangement with multiple deliverables, or performance obligations. The Company concluded that the option is substantive and that the license fees for this option is not a deliverable at the inception of the

arrangement as there is considerable uncertainty that the option would be exercised and the additional fee to be paid upon exercise of the option represents its estimated selling price (i.e. no substantial discount was given). The Company's substantive performance obligations under this research collaboration include an exclusivity clause to its technology, technical, scientific and intellectual property support to the research plan and participation on an executive committee and a research and development committee. The Company determined that these performance obligations represent a single unit of accounting, since the license does not have stand-alone value to Servier without the Company's technical expertise and committee participation. As such, the initial upfront payment was deferred and was being recognized ratably over the initial 27-month period, which represented the expected period of development and the Company's participation on the research and development committee. During 2014, the Company determined that the development period will last longer than originally estimated, and prospectively adjusted its period of recognition of the upfront payment to a 42-month period.

During the years ended December 31, 2014, 2013 and 2012 the Company recognized revenue of $0.7 million, $21.3 million and $9.1 million, respectively, under this agreement. Revenue recognized in the year ended December 31, 2013 included a $10.0 million substantive milestone payment received upon dosing the first patient in a Phase 1 dose expansion cohort trial of MGA271.

At December 31, 2014 and 2013, $0.1 million and $0.9 million of revenue remained deferred under this agreement, respectively, all of which was current.

In September 2012, the Company entered into a second right-to-develop collaboration agreement with Servier and granted it options to obtain three separate exclusive licenses to develop and commercialize DART-based molecules, consisting of those designated by the Company as MGD006 and MGD007, as well as a third DART molecule, in all countries other than the United States, Canada, Mexico, Japan, South Korea and India.

Upon execution of the agreement, Servier made a nonrefundable payment of $20.0 million to the Company. In addition, the Company will be eligible to receive up to $65.0 million in license grant fees, $98.0 million in clinical milestone payments, including $5.0 million upon IND acceptance for each of MGD006, MGD007 and a third DART molecule, $300.0 million in regulatory milestone payments and $630.0 million in sales milestone payments if Servier exercises all of the options and successfully develops, obtains regulatory approval for, and commercializes a product under each license. In addition to these milestones, the Company and Servier will share Phase 2 and Phase 3 development costs. The Company has determined that each potential future clinical, development and regulatory milestone is substantive. Although sales milestones are not considered substantive, they are still recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. Under this agreement, Servier would be obligated to pay the Company between high-single digit and mid-teen royalties on net product sales in its territories.

The Company evaluated the research collaboration agreement with Servier and has determined that it is a revenue arrangement with multiple deliverables, or performance obligations. The Company concluded that each option is substantive and that the license fees for each option are not deliverables at the inception of the arrangement and were not issued with a substantial discount. The Company's substantive performance obligations under this research collaboration include an exclusivity clause to its technology, technical, scientific and intellectual property support to the research plan during the first year of the agreement and participation on an executive committee and a research and development committee. The Company determined that the performance obligations with respect to the pre-clinical development represent a single unit of accounting, since the license does not have stand-alone value to Servier without the Company's technical expertise and committee participation. As such, the initial upfront license payment was deferred and initially recognized ratably over a 29-month period, which represented the expected development period. During 2014, the Company and Servier

further refined the research plan related to the three DARTs and as such, the development period was extended. Based on this revised development period, the Company prospectively adjusted its period of recognition of the upfront payment to a 75-month period. The impact of this change in accounting estimate reduced revenue that would have been recognized in 2014 by $3.7 million.

During the year ended December 31, 2014, Servier exercised its exclusive option to develop and commercialize MGD006. As a result of the exercise, the Company received a $15.0 million payment from Servier for its license to develop and commercialize MGD006 in its territories. Upon exercise of the option, the Company evaluated its performance obligations with respect to the license for MGD006. The Company's substantive performance obligations under this research collaboration include an exclusive license to its technology, technical, scientific and intellectual property support to the research plan and participation on an executive committee and a research and development committee. The Company determined that the performance obligations with respect to the clinical development represent a single unit of accounting, since the license does not have stand-alone value to Servier without the Company's technical expertise and committee participation. As such, the $15.0 million license fee was deferred and is being recognized ratably over a period of 82 months, which represents the expected development period for MGD006. In accordance with the agreement, the Company and Servier will share costs incurred to develop MGD006. Reimbursement of research and development expenses received in connection with this collaborative cost-sharing agreement is recorded as a reduction to research and development expense. During the year ended December 31, 2014 the Company recorded approximately $1.0 million as an offset to research and development costs under this collaboration arrangement. No such offset was recorded in 2013 or 2012. As of December 31, 2014 the Company has a corresponding collaboration receivable, which is included in accounts receivable on the consolidated balance sheet, of $0.8 million.

During the years ended December 31, 2014, 2013 and 2012 the Company recognized revenue of $16.7 million, $8.6 million, and $2.0 million, respectively, under this agreement. Revenue during the year ended December 31, 2014 includes two $5.0 million milestone payments from Servier upon the achievement of clinical milestones related to the IND applications for MGD006 and MGD007 clearing the 30-day review period by the U.S. FDA. No milestones were recognized under this agreement during the years ended December 31, 2013 or 2012.

At December 31, 2014, $17.7 million of revenue was deferred under this agreement, $3.3 million of which was current and $14.4 million of which was long-term. At December 31, 2013, $9.4 million of revenue was deferred under this agreement, $8.6 million of which was current and $0.8 million of which was long-term.

***Boehringer***

In October 2010 the Company entered into a collaboration and license agreement with Boehringer to discover, develop and commercialize up to ten DART-based molecules which span multiple therapeutic areas. Under the terms of the agreement, the Company granted Boehringer an exclusive, worldwide, royalty-bearing, license under its intellectual property to research, develop, and market DARTs generated under the agreement throughout the world.

Upon execution of the agreement, the Company received an upfront payment of $15.0 million. The Company subsequently received three annual maintenance payments. These maintenance payments are being recognized over the estimated period of development. The Company has the potential to earn milestone payments of approximately $41.0 million related to pre-clinical and clinical development, $89.0 million related to regulatory milestones and $83.0 million related to sales milestones for each of the DART programs under this agreement in the case of full commercial success of multiple DART products. The Company has determined that

each potential future clinical, development and regulatory milestone is substantive. Although sales milestones are not considered substantive, they are still recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. Boehringer also provides funding for the Company's internal and external research costs and is required to pay the Company mid-single digit royalties on product sales.

The Company determined that the deliverables under the Boehringer agreement include the license, the research and development services to be performed by the Company, and the co-promotion/manufacturing services. The Company concluded that the co-promotional activities were optional and were subject to further negotiation upon reaching regulatory approval. As such, the co-promotional period is not included in the expected obligation period to perform services.

The Company concluded that the undelivered element of research and development services had fair value. The Company concluded that the license does not have value on a standalone basis (e.g. absent the provision of the research and development services) and therefore does not represent a separate unit of accounting. The Company concluded that because the drug candidate has not yet been developed, the license is of no value to Boehringer without the ensuing research and development activities using the DART technology, which is proprietary to the Company. Likewise, Boehringer could not sell the license to another party (without the Company agreeing to provide the research and development activities for the other party). Therefore, the upfront license fee and research and development services were treated as a combined unit of accounting and recognized over the expected obligation period associated with the research and development services through September 2015, which represents the estimated period of development.

The Company and Boehringer have also agreed to establish a joint research committee to facilitate the governance and oversight of the parties' activities under the agreements. Management considered whether participation on the joint committee may be a deliverable and determined that it was not a deliverable. However, had management considered participation on the joint committee as a deliverable, it would not have had a material impact on the accounting for the arrangement as the period of participation in this committee matched the obligation period for the research and development services.

The Company recognized revenues of approximately $13.7 million, $14.4 million and $11.7 million during the years ended December 31, 2014, 2013 and 2012, respectively, under this agreement. Revenue recognized in the years ended December 31, 2014, 2013 and 2012 included milestone payments of $2.0 million, $5.0 million and $2.0 million, respectively, for the achievement of clinical milestones. At December 31, 2014, $5.8 million of revenue was deferred under this agreement, all of which was current. At December 31, 2013, $12.8 million of revenue was deferred under this agreement, $7.0 million of which was current and $5.8 million of which was long-term.

***Pfizer***

In October 2010, the Company entered into a three year agreement with Pfizer to discover, develop and commercialize up to two DART-based molecules. The Company granted Pfizer a non-exclusive worldwide, royalty-bearing license and received an upfront payment of $5.0 million and has received milestone payments and funding for the Company's internal and external research costs under the agreement.

The Company is eligible to receive milestone payments of approximately $17.0 million related to pre-clinical and clinical development and $195.0 million related to commercialization and sales milestones for each DART program under this agreement. The Company has determined that each potential future technical and development milestone is substantive. Although sales milestones are not considered substantive, they are still

recognized upon achievement of the milestone (assuming all other revenue recognition criteria have been met) because there are no undelivered elements that would preclude revenue recognition at that time. Pfizer is responsible for all pre-clinical and clinical development costs for the program. In addition, Pfizer is required to pay the Company mid-single digit to low-teen royalties on product sales. Under this collaboration, one DART program is currently being pursued and the Company completed its research obligations under this program in January 2014.

The Company has evaluated the research collaboration agreement with Pfizer and has determined that it is a revenue arrangement with multiple deliverables, or performance obligations. The Company's substantive performance obligations under this research collaboration include an exclusive license to its technology, research and development services and manufacturing services. The Company concluded that the manufacturing services were optional and were subject to further negotiation upon reaching regulatory approval. As such, the manufacturing services are not included in the expected obligation period to perform services.

The Company determined that it had fair value of the undelivered element of the research and development services. However, the Company concluded that the license does not have value on a standalone basis (e.g. absent the provision of the research and development services) and therefore does not represent a separate unit of accounting. Facts that were considered included the development of the candidate noting that because the drug candidate has not yet been developed, the license is of no value to Pfizer without the ensuing research and development activities using the DART technology, which is proprietary to the Company. Likewise, Pfizer could not sell the license to another party (without the Company agreeing to provide the research and development activities for the other party). Therefore, the upfront license fee and research and development services were treated as a combined unit of accounting and recognized over the expected obligation period associated with the research and development services through January 2014, which represents the estimated period of development.

The $5.0 million upfront payment received by the Company is non-refundable; therefore, there is no right of return for the license. The Company recognized revenue associated with this non-refundable up-front license fee through the expected obligation period associated with the research and development services, which ended in January 2014.

The Company and Pfizer have also agreed to establish a joint research committee to facilitate the governance and oversight of the parties' activities under the agreements. Management considered whether participation on the joint committee may be a deliverable and determined that it was not a deliverable because it is a participating right and not an obligation of the Company. However, had management considered participation on the joint committee as a deliverable, it would not have had a material impact on the accounting for the arrangement.

The Company recognized revenues of approximately $0.1 million, $3.5 million and $5.5 million during the years ended December 31, 2014, 2013 and 2012, respectively. Included in the 2012 revenues are milestone payments totaling $0.5 million. No additional milestones have been achieved under this agreement through December 31, 2014.

At December 31, 2013, deferred revenue under this agreement was approximately $7,000. As of December 31, 2014, there was no remaining deferred revenue under this agreement.

***Green Cross***

In June 2010, the Company entered into a collaboration agreement with Green Cross for the development of the Company's anti-HER2 antibody margetuximab. This arrangement grants Green Cross an exclusive license to

conduct specified Phase 1 and Phase 2 clinical trials and commercialize margetuximab in South Korea. In March 2014, the Company and Green Cross entered into an amendment to the original agreement, causing the terms of the original agreement to be materially modified.

Upon execution of the amendment, the Company became eligible to receive reimbursement for costs incurred for Phase 2 and Phase 3 clinical trials up to $5.5 million as well as clinical development and commercial milestone payments of up to $2.5 million. The Company has determined that each potential clinical development and commercial milestone is substantive. The Company is also entitled to receive royalties on net sales of margetuximab in South Korea. The Company and Green Cross have formed a joint steering committee to coordinate and oversee activities on which the companies collaborate under the agreement.

The Company has evaluated the collaboration agreement with Green Cross and has determined that it is a revenue arrangement with multiple deliverables or performance obligations. As a result of the material modification to the arrangement in March 2014, the Company reassessed the entire arrangement in accordance with the guidance provided by ASC 605-25, *Multiple Element Arrangements (Revenue Recognition)* as the original agreement was accounted for prior to adopting ASU 2009-13 . The Company's substantive performance obligations under this agreement include an exclusive license to its technologies, research and development services, and participation in a joint steering committee. The Company concluded that the license and the reimbursements for research and development services do not have value on a standalone basis and therefore do not represent a separate unit of accounting.

The initial $1.0 million upfront payment received by the Company upon execution of the original agreement is non-refundable; as such, there is no right of return for the license. Therefore, the upfront license fee and participation on the joint steering committee were treated as a combined unit of accounting and will be recognized over the term of the agreement through June 2020. Further, due to the fact the research and development services are not deemed to have stand-alone value, revenue for those services should be recognized over the entire term of the agreement (through June 2020). As a result of reassessing the arrangement in accordance with ASC 605-25, the Company was required to record an adjustment on the date of the material modification to reflect the revenue that would have resulted had the entity applied the requirements of ASC 605-25 from the inception of the agreement. As a result, the Company recorded an additional $1.3 million of revenue during 2014.

The Company recognized revenues of approximately $1.7 million and $100,000 under this agreement during the years ended December 31, 2014 and 2013, respectively. No milestones were achieved under this agreement during the years ended December 31, 2014 and 2013.

At December 31, 2014, there was a $525,000 unbilled receivable balance under this agreement, which is included in other assets on the consolidated balance sheet. At December 31, 2013, $650,000 of revenue was deferred under this agreement, $100,000 of which was current and $550,000 of which was non-current.

***Eli Lilly***

In October 2007, the Company entered into an exclusive license and collaboration agreement (together, the Agreements) with Eli Lilly to jointly develop and commercialize teplizumab, a humanized anti-CD3 monoclonal antibody. As part of the Agreements, Eli Lilly acquired the exclusive rights to the molecule.

Upon execution of the Agreements, Eli Lilly made a nonrefundable payment of $41.0 million to the Company. In May 2008, Eli Lilly paid the Company a milestone payment of $50.0 million and in May 2010, Eli Lilly paid an additional milestone of $5.0 million.

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On October 28, 2010, Lilly notified the Company of its decision to terminate the agreement after review of one year of clinical data from the Protégé trial in Type 1 diabetes patients treated with teplizumab. Such data failed to support the primary efficacy end point in the study. In February 2011, the Company reacquired the commercial rights to the molecule from Eli Lilly. During the year ended December 31, 2012, Eli Lilly satisfied its obligation related to the cost of monitoring patients under the Protégé and Encore trials. The Company's obligations continued through September 2012, which represented the follow up period for enrolled patients and the Company's final reporting of the trial's results. There is no additional clinical trial activity under the Eli Lilly Agreements as it relates to such trials. However, Eli Lilly continues to reimburse the Company for monitoring patients in one currently active trial.

During the years ended December 2014, 2013 and 2012, the Company recognized revenue of $0.4 million, $0.8 million and $31.2 million, respectively, under this agreement. No milestones were achieved under this agreement during the three years ended December 31, 2014.

## 9. Commitments and Contingencies

***Operating Leases***

The Company leases office and laboratory space for its headquarters in Rockville, Maryland. In 2014, that lease was amended to extend its term from March 31, 2018 to January 31, 2020. In addition, in 2014, the Company leased additional office space adjacent to its headquarters, also through January 31, 2020. The Company has an option under each lease to continue the respective lease for five years under the same terms.

The Company leases a manufacturing facility in Rockville under a lease that originally expired on December 31, 2014. During 2014, the Company exercised its 5-year renewal option on the manufacturing facility. The Company also entered into a new four-year lease for additional space in the manufacturing facility effective April 1, 2014. This lease also has an option to continue the lease for five years under the same terms.

The Company also leases office and laboratory space in South San Francisco under a lease that expires on February 28, 2018.

All of the leases contain rent escalation clauses and certain leases contain rent abatements. For financial reporting purposes, rent expense is charged to operations on a straight-line basis over the term of the lease. As of December 31, 2014 and 2013, the Company had recorded a deferred rent liability of $2.7 million and $2.9 million, respectively. Rent expense for the years ended December 31, 2014, 2013 and 2012 was $2.0 million, $2.7 million and $2.7 million, respectively.

Future minimum lease payments under noncancelable operating leases as of December 31, 2014 are as follows (in thousands):

| | |
|---|---|
| 2015 | $ 3,945 |
| 2016 | 4,364 |
| 2017 | 4,495 |
| 2018 | 4,396 |
| 2019 | 1,873 |
| Thereafter | 116 |
| | $19,189 |

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***Contingencies***

From time to time, the Company may be subject to various litigation and related matters arising in the ordinary course of business. The Company does not believe it is currently subject to any material matters where there is at least a reasonable possibility that a material loss may be incurred.

**10. Product Milestone Payments and Royalty Agreements**

In connection with an Asset Purchase Agreement with Tolerance Therapeutics, Inc. (Tolerance) entered into during June 2005, the Company may be required to issue Tolerance additional consideration as follows: (i) $10,950,000 if certain milestones are met, including the initiation of Phase 3 trials and filing of various regulatory product license applications; (ii) 36,135 shares of common stock; and (iii) royalty payments between 1.75% and 4.0% of net sales of products acquired from or patented by Tolerance or other product fees earned by the Company. Any additional consideration required to be paid under the Asset Purchase Agreement will be recorded as research and development expense when incurred. No payments related to the additional consideration have occurred during the three years ended December 31, 2014. Additionally, certain agreements require the Company to pay royalties. Currently, the Company is not obligated to pay royalties, as no revenue from product sales is being generated by the Company.

**11. Employee Benefit Plan**

On September 25, 2002, the Company established the MacroGenics 401(k) Plan (the Plan) for its employees under Section 401(k) of the IRC. Under this Plan, all employees at least 21 years of age are eligible to participate in the Plan, starting on the first day of each month. Employees may contribute up to 100% of their salary, subject to government maximums.

Employees are 100% vested in their contributions to the Plan. The Company's contribution to the Plan, as determined by the Board of Directors, is discretionary. The Company's contributions to the Plan totaled $318,390, $252,930 and $225,195 for the years ended December 31, 2014, 2013 and 2012, respectively.

**12. Quarterly Financial Information (unaudited)**

| | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|---|
| | (in thousands, except per share data) | | | |
| **2014** | | | | |
| Revenue | $14,719 | $ 9,220 | $18,382 | $ 5,476 |
| Net loss | (3,108) | (12,259) | (3,928) | (19,018) |
| Net loss per share, basic and diluted | $ (0.12) | $ (0.44) | $ (0.14) | $ (0.68) |
| **2013** | | | | |
| Revenue | $10,598 | $ 12,299 | $20,232 | $ 14,906 |
| Net income (loss) | (3,366) | (294) | 6,604 | (3,205) |
| Net income (loss) per share, basic | $ (2.93) | $ (0.24) | $ 0.14 | $ (0.14) |
| Net income (loss) per share, diluted | $ (2.93) | $ (0.24) | $ 0.01 | $ (0.14) |

Net income (loss) per share includes the effects of income allocated to participating securities.

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## 13. Subsequent Event

In January 2015, the Federal Trade Commission granted early termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 with respect to the collaboration and license agreement with Janssen and the stock purchase agreement and investor agreement with JJDC (as described in Note 8). Accordingly, the Company issued 1,923,077 shares of common stock to JJDC and received $75.0 million from JJDC under the stock purchase agreement and received the $50.0 million upfront payment from Janssen under the collaboration and license agreement.

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## EXHIBIT INDEX

| Exhibit No. | Description |
|---|---|
| 3.1 | Restated Certificate of Incorporation of Company (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on October 18, 2013) |
| 3.2 | Amended and Restated By-Laws of the Company (incorporated by reference to Exhibit 3.4 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 3.3 | Certificate of Correction to the Restated Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.3 to the Company's Current Report on Form 8-K filed on October 18, 2013) |
| 4.1 | Fifth Amended and Restated Registration Rights Agreement by and among the Company, the Founders, and the Investors, dated February 3, 2014 (incorporated by reference to Exhibit 4.1 to Amendment No. 1 to the Registration Statement on Form S-1 (File No. 333-193648) filed by the Company on February 10, 2014) |
| 4.2 | Specimen Stock Certificate (incorporated by reference to Exhibit 4.2 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 9, 2013) |
| 4.3* | Investor Agreement by and between Johnson and Johnson Innovation-JJDC, Inc. and the Company, dated December 19, 2014 |
| 10.1+ | Company 2000 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.1 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.2+ | Form of Incentive Stock Option Agreement under 2000 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.3+ | Company 2003 Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.4+ | Form of Incentive Stock Option Agreement under 2003 Equity Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.5+ | Company 2013 Equity Incentive Plan (incorporated by reference to Exhibit 10.5 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.6+ | Form of Incentive Stock Option Agreement under 2013 Equity Incentive Plan (incorporated by reference to Exhibit 10.6 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.7+ | Form of Nonstatutory Stock Option Agreement under 2013 Equity Incentive Plan (incorporated by reference to Exhibit 10.7 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.8 | Lease Agreement by and between Red Gate III LLC and the Company, dated May 31, 2011 (incorporated by reference to Exhibit 10.8 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.9 | Amendment to Lease Agreement by and between Red Gate III LLC and the Company, dated March 26, 2013 (incorporated by reference to Exhibit 10.9 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.10 | Second Amendment to Lease Agreement by and between Red Gate III LLC and the Company, dated November 6, 2014 |

| | |
|---|---|
| 10.11 | Lease Agreement by and between W. M. Rickman Construction Co. LLC and the Company, dated December 2, 2004 (incorporated by reference to Exhibit 10.10 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.12 | Amendment to Lease Agreement by and between W. M. Rickman Construction Co. LLC and the Company, dated January 31, 2006 (incorporated by reference to Exhibit 10.11 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.13 | Second Amendment to Lease Agreement by and between W. M. Rickman Construction Co. LLC and the Company, dated June 1, 2011 (incorporated by reference to Exhibit 10.12 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on September 4, 2013) |
| 10.14 | Lease Agreement by and between Britannia Biotech Gateway LP and Raven biotechnologies, Inc., dated November 21, 2006 |
| 10.15 | Lease Agreement by and between W. M. Rickman Construction Co. LLC and the Company, dated March 31, 2014 |
| 10.16 | Lease Agreement by and between Red Gate III LLC and the Company, dated November 6, 2014 |
| 10.17 | Form of Indemnification Agreement (incorporated by reference to Exhibit 10.14 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.18† | Collaboration and License Agreement by and between Boehringer Ingelheim International GmbH and the Company, dated October 18, 2010 (incorporated by reference to Exhibit 10.15 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 4, 2013) |
| 10.19† | Option for a License Agreement by and between the Company and Les Laboratoires Servier and Institut de Recherches Servier, dated September 19, 2012 (incorporated by reference to Exhibit 10.20 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 4, 2013) |
| 10.20† | Option for a License Agreement by and between the Company and Les Laboratoires Servier and Institut de Recherches Servier, dated November 24, 2011 (incorporated by reference to Exhibit 10.21 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 4, 2013) |
| 10.21+ | Form of Employment Agreement between the Company and Scott Koenig, M.D., Ph.D. (incorporated by reference to Exhibit 10.25 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.22+ | 2013 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.27 to the Registration Statement on Form S-1 (File No. 333-190994) filed by the Company on October 1, 2013) |
| 10.23+ | Form of Employment Agreement between the Company and James Karrels (incorporated by reference to Exhibit 10.27 to the Registration Statement on Form S-1 (File No. 333-193648) filed by the Company on January 30, 2014) |
| 10.24† | License and Option Agreement, by and between Takeda Pharmaceutical Company Limited and the Company, dated May 22, 2014 (incorporated by reference to Exhibit 10.28 to Form 10-Q filed by the Company on August 5, 2014) |
| 10.25* | Collaboration and License Agreement by and between Janssen Biotech, Inc. and the Company, dated December 19, 2014 |
| 10.26 | Stock Purchase Agreement by and between Johnson and Johnson Innovation-JJDC, Inc. and the Company, dated December 19, 2014 |
| 21.1 | Subsidiaries of Company |
| 23.1 | Consent of Ernst & Young, LLP, Independent Registered Public Accounting Firm |

| | |
|---|---|
| 31.1 | Rule 13a-14(a) Certification of Principal Executive Officer |
| 31.2 | Rule 13a-14(a) Certification of Principal Financial Officer |
| 32.1 | Section 1350 Certification of Principal Executive Officer |
| 32.2 | Section 1350 Certification of Principal Financial Officer |
| 101.INS | XBRL Instance Document |
| 101.SCH | XBRL Schema Document |
| 101.CAL | XBRL Calculation Linkbase Document |
| 101.DEF | XBRL Definition Linkbase Document |
| 101.LAB | XBRL Labels Linkbase Document |
| 101.PRE | XBRL Presentation Linkbase Document |

† Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment granted by the SEC.
* Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request to the SEC for confidential treatment.
+ Indicates management contract or compensatory plan.

**Exhibit 4.3**

***Execution Version***

***Confidential Materials omitted and filed separately with the Securities and Exchange Commission. Triple asterisks denote omissions.***

# INVESTOR AGREEMENT

**By and Between**

**JOHNSON & JOHNSON INNOVATION-JJDC, INC.**

**AND**

**MACROGENICS, INC.**

**Dated as of December 19, 2014**

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**INVESTOR AGREEMENT**

THIS INVESTOR AGREEMENT (this " **Agreement** ") is made as of December 19, 2014, by and among Johnson & Johnson Innovation-JJDC, Inc., a New Jersey corporation with its principal place of business at 410 George Street, New Brunswick, New Jersey 08901 (" **Investor** ") and MacroGenics, Inc. (the " **Company** "), a Delaware corporation with its principal place of business at 9640 Medical Center Drive, Rockville, MD 20850.

WHEREAS, the Stock Purchase Agreement, dated as of December 19, 2014, by and between the Investor and the Company (the " **Purchase Agreement** ") provides for the issuance and sale by the Company to the Investor, and the purchase by the Investor, of a number of shares (such shares, the " **Purchased Shares** ") of the Company's common stock, par value $0.01 per share (the " **Common Stock** ");

WHEREAS, as a condition to consummating the transactions contemplated by the Purchase Agreement, the Investor and the Company have agreed upon certain rights and restrictions as set forth herein with respect to the Purchased Shares and other securities of the Company beneficially owned by the Investor and its Affiliates, and it is a condition to the closing under the Purchase Agreement that this Agreement be executed and delivered by the Investor and the Company; and

WHEREAS, simultaneously with the execution of the Purchase Agreement, the Company and Janssen Biotech, Inc. (" **Janssen** "), an Affiliate of the Investor, entered into the Collaboration Agreement.

NOW, THEREFORE, in consideration of the premises and mutual agreements hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions . As used in this Agreement, the following terms shall have the following meanings:

(a) " **Affiliate** " shall mean, with respect to any Person, another Person that controls, is controlled by or is under common control with such Person; provided , that with respect to the Investor, "Affiliate" shall mean the Investor's subsidiaries that are wholly-owned directly or indirectly, by the Investor and any Person that wholly-owns, directly or indirectly, the Investor; provided further , that with respect to the Investor, the term "Affiliate" shall not include any employee benefit plan of the Investor. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. Without limiting the generality of the foregoing, a Person shall be deemed to control another Person if any of the following conditions is met: (i) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares having the right to vote for the election of directors, and (ii) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50%) of the equity interest with the power to direct the management and policies of such non-corporate entities. For the purposes of this Agreement, in no event shall the Investor or any of its Affiliates be deemed Affiliates of the Company or any of its Affiliates, nor shall the Company or any of its Affiliates be deemed Affiliates of the Investor or any of its Affiliates.

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(b) " **Agreement** " shall have the meaning set forth in the Preamble to this Agreement, including all Exhibits attached hereto.

(c) " **beneficial owner** ," " **beneficially owns** ," " **beneficial ownership** " and terms of similar import used in this Agreement shall, with respect to a Person, have the meaning set forth in Rule 13d-3 under the Exchange Act (i) assuming the full conversion into, and exercise and exchange for, shares of Common Stock of all Common Stock Equivalents beneficially owned by such Person and (ii) determined without regard for the number of days in which such Person has the right to acquire such beneficial ownership.

(d) " **Business Day** " shall mean a day other than Saturday, Sunday or any other day that is designated as a J&J holiday in the J&J Universal Calendar (a copy of which for the years 2014 and 2015 is attached as Exhibit E to the Collaboration Agreement and a copy of which prior to the beginning of each such year for succeeding years shall be provided to the Company).

(e) " **Change of Control** " shall occur if: (a) any Third Party acquires directly or indirectly the beneficial ownership of any voting security of the Company, or if the percentage ownership of such person or entity in the voting securities of the Company is increased through stock redemption, cancellation or other recapitalization, and immediately after such acquisition or increase such Third Party is, directly or indirectly, the beneficial owner of voting securities representing more than fifty percent (50%) of the total voting power of all of the then outstanding voting securities of the Company; (b) a merger, consolidation, recapitalization, or reorganization of the Company is consummated, other than any such transaction, which would result in stockholders or equity holders of the Party immediately prior to such transaction, owning at least fifty percent (50%) of the outstanding securities of the surviving entity (or its parent entity) immediately following such transaction; (c) the stockholders or equity holders of the Company approve a plan of complete liquidation of the Company, or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets, other than pursuant to the transaction described above or to an Affiliate; (d) individuals who, as of the date hereof, constitute the Board of Directors of the Company (the " **Incumbent Board** ") cease for any reason to constitute at least a majority of the Board of Directors of the Company ( provided , however , that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company's shareholders, was recommended or approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board of Directors of the Company); or (e) the sale or transfer to a Third Party of (i) all or substantially all of the Company's assets taken as a whole or (ii) a majority of the Company's assets which relate to the Collaboration Agreement, is effected.



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(f) " **Closing Date** " shall have the meaning set forth in the Purchase Agreement.

(g) " **Collaboration Agreement** " shall mean the Collaboration and License Agreement, of even date herewith, between the Janssen and the Company.

(h) " **Common Stock** " shall have the meaning set forth in the Preamble to this Agreement.

(i) " **Common Stock Equivalents** " shall mean any options, warrants or other securities or rights convertible into or exercisable or exchangeable for, whether directly or following conversion into or exercise or exchange for other options, warrants or other securities or rights, shares of Common Stock or any swap, hedge or similar agreement or arrangement that transfers in whole or in part, the economic risk of ownership of, or voting or other rights of, the Common Stock.

(j) " **Company** " shall have the meaning set forth in the Preamble to this Agreement.

(k) " **Demand Request** " shall have the meaning set forth in Section 2.1.

(l) " **Disposition** " or " **Dispose of** " shall mean any (i) pledge, sale, contract to sell, sale of any option or contract to purchase, purchase of any option or contract to sell, grant of any option, right or warrant for the sale of, or other disposition of or transfer of any shares of Common Stock, or any Common Stock Equivalents, including, without limitation, any "short sale" or similar arrangement, or (ii) swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of shares of Common Stock, whether any such swap or transaction is to be settled by delivery of securities, in cash or otherwise.

(m) " **Exchange Act** " shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

(n) " **Existing Registration Rights Agreement** " shall mean that certain Fifth Amended and Restated Registration Rights Agreement dated February 3, 2014 by and among the Company, the Founders, and the Investors (as such terms are defined therein).

(o) " **Extraordinary Matter** " shall have the meaning set forth in Section 5.2.



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(p) " **Filing Date** " shall mean (i) with respect to any Registration Statement to be filed on Form S-1 (or any applicable successor form), sixty (60) days after receipt by the Company of a Demand Request for such Registration Statement and (ii) with respect to any Registration Statement to be filed on Form S-3 (or any applicable successor form), thirty (30) days after receipt by the Company of a Demand Request for such Registration Statement.

(q) " **Governmental Authority** " shall mean any court, agency, authority, department, regulatory body or other instrumentality of any government or country or of any national, federal, state, provincial, regional, county, city or other political subdivision of any such government or country or any supranational organization of which any such country is a member.

(r) " **Holders** " shall mean (but, in each case, only for so long as such Person remains an Affiliate of the Investor) the Investor and any Permitted Transferee thereof, if any, in accordance with Section 2.12.

(s) " **Initiating Holder** " shall have the meaning set forth in Section 2.3.

(t) " **Interference** " shall have the meaning set forth in Section 2.5.

(u) " **Investor** " shall have the meaning set forth in the Preamble to this Agreement.

(v) " **Irrevocable Proxy** " shall have the meaning set forth in Section 5.1.

(w) " **Law** " or " **Laws** " shall mean all laws, statutes, rules, regulations, orders, judgments, injunctions and/or ordinances of any Governmental Authority.

(x) " **Lock-Up Securities** " shall have the meaning set forth in Section 4.1.

(y) " **Lock-Up Term** " shall mean the period from and after the date of this Agreement until the occurrence of any event set forth in Section 6.3.

(z) " **Modified Clause** " shall have the meaning set forth in Section 7.7.

(aa) " **Offeror** " shall have the meaning set forth in Section 6.2.

(bb) " **Other Holders** " shall mean any Person having rights to participate in a registration of the Company's securities.



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(cc) " **Permitted Transferee** " shall mean (i) a controlled Affiliate of the Investor that is wholly owned, directly or indirectly, by the Investor, or (ii) a controlling Affiliate of the Investor (or any controlled Affiliate of such controlling Affiliate) that wholly owns, directly or indirectly, the Investor, or the acquiring Person in the case of a Change of Control of the Investor; it being understood that for purposes of this definition "wholly owned" shall mean an Affiliate in which the Investor owns, or an Affiliate that owns, as applicable, directly or indirectly, at least ninety-nine percent (99%) of the outstanding capital stock of such Affiliate or the Investor, as applicable.

(dd) " **Permitted Transferee Irrevocable Proxy** " shall have the meaning set forth in Section 5.1.

(ee) " **Person** " shall mean any individual, limited liability company, partnership, firm, corporation, association, trust, unincorporated organization, government or any department or agency thereof or other entity, as well as any syndicate or group that would be deemed to be a Person under Section 13(d)(3) of the Exchange Act.

(ff) " **Prospectus** " shall mean the prospectus forming a part of any Registration Statement, as supplemented by any and all prospectus supplements and as amended by any and all amendments (including post-effective amendments) and including all material incorporated by reference or explicitly deemed to be incorporated by reference in such prospectus.

(gg) " **Purchase Agreement** " shall have the meaning set forth in the Preamble to this Agreement, and shall include all Exhibits attached thereto.

(hh) " **Purchased Shares** " shall have the meaning set forth in the Preamble to this Agreement, and shall be adjusted for (i) any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization and (ii) any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the Purchased Shares.

(ii) " **registers** ," " **registered** ," and " **registration** " refer to a registration effected by preparing and filing a Registration Statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such Registration Statement or document by the SEC.

(jj) " **Registrable Securities** " shall mean (i) the Purchased Shares, together with any shares of Common Stock issued in respect thereof as a result of any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization and (ii) any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the shares of Common Stock described in clause (i) of this definition, excluding



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in all cases, however, (A) any Registrable Securities if and after they have been transferred to a Permitted Transferee in a transaction in connection with which registration rights granted hereunder are not assigned, (B) any Registrable Securities sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction, or (C) if the Investor and its Affiliates together own less than five percent (5%) of the Shares of Then Outstanding Common Stock, Purchased Shares eligible for resale pursuant to Rule 144(b)(1)(i) under the Securities Act.

(kk) " **Registration Expenses** " shall mean all expenses incurred by the Company in connection with any Required Registration pursuant to Section 2.1 or the Company's compliance with Section 2.7, including, without limitation, all registration and filing fees, fees and expenses of compliance with securities or blue sky Laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications of any Registrable Securities), expenses of printing (i) certificates for any Registrable Securities in a form eligible for deposit with the Depository Trust Company or (ii) Prospectuses if the printing of Prospectuses is requested by Holders, messenger and delivery expenses, fees and disbursements of counsel for the Company and its independent certified public accountants (including the expenses of any management review, cold comfort letters or any special audits required by or incident to such performance and compliance), Securities Act liability insurance (if the Company elects to obtain such insurance), the reasonable fees and expenses of any special experts retained by the Company in connection with such registration, fees and expenses of other Persons retained by the Company and the reasonable fees and expenses (such fees and expenses not to exceed [***] for the Holders of Registrable Securities in each Required Registration, selected by the Holders of a majority of the Registrable Securities to be included in such Required Registration. In addition, the Company will pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Purchased Shares to be registered on each securities exchange, if any, on which equity securities issued by the Company are then listed or the quotation of such securities on any national securities exchange on which equity securities issued by the Company are then quoted.

(ll) " **Registration Notice** " shall have the meaning set forth in Section 2.2

(mm) " **Registration Rights Term** " shall mean the period from and after the expiration of the Lock-Up Term until the occurrence of any event set forth in Section 6.1.

(nn) " **Registration Statement** " shall mean any registration statement of the Company under the Securities Act that covers any of the Registrable Securities pursuant to the provisions of this Agreement, including the related Prospectus, all amendments and supplements to such registration statement (including post-effective amendments), and all exhibits and all materials incorporated by reference or explicitly deemed to be incorporated by reference in such Registration Statement.



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(oo) " **Required Period** " with respect to a Required Registration shall mean the earlier of (i) the date on which all Registrable Securities covered by such Required Registration are sold pursuant thereto and (ii) [***] following the first day of effectiveness of the Registration Statement for such Required Registration, in each case subject to extension as set forth herein; provided, however, that in no event will the Required Period expire prior to the expiration of the applicable period referred to in Section 4(3) of the Securities Act and Rule 174 promulgated thereunder; provided, further, however, that (i) such [***] to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, such one hundred twenty (120) day period shall be extended, if necessary, to keep the Registration Statement effective until the earlier of (A) such time as all such Registrable Securities registered on such Registration Statement are sold or (B) all such Registrable Securities on such Registration Statement may be sold in any three month period pursuant to Rule 144.

(pp) " **Required Registration** " shall have the meaning set forth in Section 2.1.

(qq) " **SEC** " shall mean the United States Securities and Exchange Commission.

(rr) " **Securities Act** " shall mean the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

(ss) " **Selling Expenses** " shall mean all underwriting discounts and selling commissions applicable to the sale of Registrable Securities pursuant to this Agreement.

(tt) " **Shares of Then Outstanding Common Stock** " shall mean, at any time, the issued and outstanding shares of Common Stock at such time, as well as all capital stock issued and outstanding as a result of any stock split, stock dividend, or reclassification of Common Stock distributable, on a pro rata basis, to all holders of Common Stock.

(uu) " **Standstill Parties** " shall have the meaning set forth in Section 3.1.

(vv) " **Standstill Term** " shall mean the period from and after the date of this Agreement until the occurrence of any event set forth in Section 6.2.

(ww) " **Third Party** " shall mean any Person (other than a Governmental Authority) other than the Investor, the Company or any of their respective Affiliates.



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(xx) " **Underwritten Registration** " or " **Underwritten Offering** " shall mean a registration in which Registrable Securities are sold to an underwriter for reoffering to the public.

(yy) " **Violation** " shall have the meaning set forth in Section 2.10(a).

(zz) " **Voting Agreement Term** " shall mean the period from and after the date of this Agreement until the occurrence of any event set forth in Section 6.4.

2. Registration Rights .

2.1 Required Registration . If, during the Registration Rights Term, the Company receives from any Holder or Holders a written request or requests (each, a " **Demand Request** ") that the Company file a Registration Statement under the Securities Act to effect the registration (a " **Required Registration** ") of Registrable Securities, the Company shall use all reasonable efforts to file a Registration Statement covering such Holders' Registrable Securities as soon as practicable (and by the applicable Filing Date) and shall use all reasonable efforts to, as soon as practicable thereafter, effect the registration of the Registrable Securities to permit or facilitate the sale and distribution in an Underwritten Offering of all or such portion of such Holder's or Holders' Registrable Securities as are specified in such Demand Request, subject however, to the conditions and limitations set forth herein; provided , however , that the Company shall not be obligated to effect any registration of Registrable Securities upon receipt of a Demand Request pursuant to this Section 2.1 if:

(a) [***];

(b) (i) in the event that the market value of all Registrable Securities outstanding is equal to or greater than [***], the market value of the Registrable Securities proposed to be included in the registration, based on the average closing price during the [***] consecutive trading days period prior to the making of the Demand Request, is less than [***] or (ii) in the event that the market value of all Registrable Securities outstanding is less than [***], the market value of the Registrable Securities proposed to be included in the registration, based on the average closing price during the ten (10) consecutive trading days period prior to the making of the Demand Request, is less than the lesser of (x) [***] or (y) the total market value of Registrable Securities outstanding;

(c) the Company furnishes to the Holders a certificate signed by an authorized officer of the Company stating that (i) within sixty (60) days of receipt of the Demand Request under this Section 2.1, the Company expects to file a registration statement for the public offering of securities for the account of the Company (other than a registration of securities (x) issuable pursuant to an employee stock option, stock purchase or similar plan, (y) issuable pursuant to a merger, exchange offer or a transaction of the type specified in Rule 145(a) under the Securities Act or (z) in which the only securities being registered are securities



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issuable upon conversion of debt securities which are also being registered), provided, that the Company is actively employing good faith efforts to cause such registration statement to become effective, or (ii) the Company is engaged in a material transaction or has an undisclosed material corporate development, in either case, which would be required to be disclosed in the Registration Statement, and in the good faith judgment of the Company's Board of Directors, such disclosure would be materially detrimental to the Company and its stockholders at such time (in which case, the Company shall disclose the matter as promptly as reasonably practicable and thereafter file the Registration Statement, and each Holder agrees not to disclose any information about such material transaction to Third Parties until such disclosure has occurred or such information has entered the public domain other than through breach of this provision by such Holder), provided, however, that the Company shall have the right to only defer the filing of the Registration Statement pursuant to this subsection [***] in any twelve (12) month period and, such deferral may not exceed a period of more than one hundred and twenty (120) days after receipt of a Demand Request;

(d) the Company has, within the twelve (12) month period preceding the date of the Demand Request, already effected one (1) Required Registration for any Holder pursuant to this Section 2.1; or

(e) at any time during the period between the Company's receipt of the Demand Request and the completion of the Required Registration, any Holder is in breach of or has failed to cause its Affiliates to comply with the obligations and restrictions of Sections 3, 4 or 5 of this Agreement, the Company has provided notice of such breach to a Holder and such breach or failure is ongoing and has not been remedied; it being understood that (i) a one-time, inadvertent and de minimis breach of Section 4 shall not be deemed to be a breach of the obligations and restrictions under Section 4 for purposes of this Section 2.1(e) and (ii) a de minimis breach of Section 3.1(a) hereof, or an inadvertent breach of Section 3.1(g) hereof arising from informal discussions covering general corporate or other business matters the purpose of which is not intended to effectuate or lead to any of the actions referred to in paragraphs (a) through (e) of Section 3.1, shall not be deemed to be a breach of the obligations and restrictions under Section 3.1 for purposes of this Section 2.1(e).

2.2 Company Registration . Effective from the expiration of the Lock-Up Term until the [***] of such expiration, the Company shall notify the Holders in writing at least ten (10) business days prior to the filing of any registration statement (other than the Company's existing registration statement on Form S-3, SEC File No. 333-200092 and any related Prospectus, amendments or supplements thereto) (" **Registration Notice** ") and will afford each Holder an opportunity, subject to the terms and conditions of this Agreement, to include in such registration statement the number of Registrable Securities then held by such Holder that such Holder wishes to include in such registration statement. Each Holder desiring to include in any such registration statement all or any part of the Registrable Securities held by such Holder shall, within five (5) business days after receipt of the Registration Notice, so notify the Company in



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writing, and in such notification, inform the Company of the number of Registrable Securities such Holder wishes to include in such registration statement. If a Holder decides not to include Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities (either by the Company or by its stockholders), all upon the terms and conditions set forth herein. Each Holder shall keep confidential and not disclose to any third party (i) its receipt of any Registration Notice and (ii) any information regarding the proposed offering as to which such notice is delivered, except as required by law, regulation or as compelled by subpoena. If a registration pursuant to this Section 2.2 is an Underwritten Offering, the right of any such Holder to include Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. The Company and all Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 2 and subject to the prior rights of the parties to the Existing Registration Rights Agreement, if the managing underwriter for the Underwritten Offering determines in good faith that marketing factors require a limitation of the number of shares of Registrable Securities to be included in such Underwritten Offering and advises the Holders of such determination in writing, such Underwritten Offering shall include (i) first, the shares held by the parties to the Existing Registration Rights Agreement, (ii) second, all Registrable Securities of the Holders allocated, if the amount is less than all the Registrable Securities requested to be sold, *pro rata* on the basis of the total number of Registrable Securities held by such Holders; and (ii) third, as many other securities proposed to be included in the Underwritten Offering by the Company and any Other Holders, allocated *pro rata* among the Company and such Other Holders, on the basis of the amount of securities requested to be included therein by the Company and each such Other Holder so that the total amount of securities to be included in such Underwritten Offering is the full amount that, in the written opinion of such managing underwriter, can be sold without materially and adversely affecting the success of such Underwritten Offering. Notwithstanding the foregoing, the Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.2 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration.

2.3 Underwritten Registration; Priority in Underwritten Offering . If, pursuant to Section 2.1, the Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, the Holders shall so advise the Company as a part of their request made pursuant to Section 2.1. The underwriter(s) will be selected by the Company, subject to approval by a majority in interest of the Holders initiating the Required Registration hereunder (such Holder(s) initiating the registration request, the " **Initiating Holders** "), which approval shall not be unreasonably withheld or delayed. With respect to any Required Registration of Registrable Securities requested pursuant to Section 2.1 that is an Underwritten Offering, the



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Company may also (i) propose to sell shares of Common Stock on its own behalf and (ii) provide written notice of such Required Registration to Other Holders (including, without limitation the parties to the Existing Registration Rights Agreement) and permit all such Other Holders who request to be included in the Required Registration to include any or all Company securities held by such Other Holders in such Required Registration on the same terms and conditions as the Registrable Securities. If a registration pursuant to Section 2.1 is an Underwritten Offering, the right of any Holder to include its Registrable Securities in the Underwritten Offering shall be conditioned upon such Holder's participation in such Underwritten Offering and the inclusion of such Holder's Registrable Securities to the extent provided herein. All Holders requesting the inclusion of their Registrable Securities in such Underwritten Offering shall (together with the Company as provided in Section 2.7(h)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such Underwritten Offering. Notwithstanding any other provision of this Section 2 and subject to the prior rights of the parties to the Existing Registration Rights Agreement, if the managing underwriter for such Underwritten Offering determines in good faith that marketing factors require a limitation of the number of shares of Registrable Securities to be included in such Underwritten Offering and advises the Initiating Holders of such determination in writing, then the Company shall so advise all Holders which requested inclusion of their Registrable Securities in such Underwritten Offering, and such Underwritten Offering shall include (i) first, the shares held by the parties to the Existing Registration Rights Agreement, (ii) second, all Registrable Securities of the Holders allocated, if the amount is less than all the Registrable Securities requested to be sold, *pro rata* on the basis of the total number of Registrable Securities held by such Holders; and (ii) third, as many other securities proposed to be included in the Underwritten Offering by the Company and any Other Holders, allocated *pro rata* among the Company and such Other Holders, on the basis of the amount of securities requested to be included therein by the Company and each such Other Holder so that the total amount of securities to be included in such Underwritten Offering is the full amount that, in the written opinion of such managing underwriter, can be sold without materially and adversely affecting the success of such Underwritten Offering; provided, however, that the number of shares of Registrable Securities to be included in such Underwritten Offering shall not be reduced unless all other securities (other than those held by the parties to the Existing Registration Rights Agreement) are first entirely excluded from such Underwritten Offering. In the event the Company advises the Holders of its intent to decrease the total number of Registrable Securities that may be included by the Holders in such Required Registration such that the number of Registrable Securities included in such Required Registration would be less than [***] of all Registrable Securities which the Holders requested be included in such Required Registration, then Holders representing a majority of the Registrable Securities requested to be included in such Required Registration will have the right to withdraw, on behalf of all Holders of all Registrable Securities requested to be so included, such Required Registration, in which case, such Required Registration will not count as a Required Registration for the purposes of Section 2.1(a), and the Company shall bear all Registration Expenses in connection therewith; provided , that , the right to withdraw a registration and have it not count as a Required Registration may only be exercised once by the Holders (taken collectively).



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2.4 Revocation of Required Registration . With respect to one (1) Required Registration only, the Holders of at least a majority of the Registrable Securities to be included in a Registration Statement with respect to such Required Registration may, at any time prior to the effective date of such Registration Statement, on behalf of all Holders of all Registrable Securities requested to be included therein, revoke the request to have Registrable Securities included therein and revoke the request for such Required Registration by providing a written notice to the Company, in which case such Required Registration that has been revoked will be deemed not to have been effected and will not count as a Required Registration for purposes of Section 2.1(i) if, and only if, the Holders of Registrable Securities which had requested inclusion of Registrable Securities in such Required Registration promptly reimburse the Company for all Registration Expenses incurred by the Company in connection with such Required Registration. Notwithstanding the foregoing sentence, the parties agree and acknowledge that the Holders may revoke any Required Registration (without any obligation to reimburse the Company for Registration Expenses incurred in connection therewith) if such revocation is based on (i) a material adverse change in circumstances with respect to the Company and its subsidiaries, taken as a whole, caused by an act or failure to act by the Company or any of its subsidiaries and not known to any Holder at the time the Required Registration was first made or (ii) the Company's failure to comply in any material respect with its obligations hereunder, and any such revocation based on an event described in (i) or (ii) above shall be exercisable at any time and shall not be counted as the one (1) revocation of a Required Registration permitted by the first sentence of this Section 2.4.

2.5 Effective Required Registrations . A Required Registration will not be deemed to be effected for purposes of Section 2.1(a) if the Registration Statement for such Required Registration has (a) not been declared effective by the SEC or (b) become effective in accordance with the Securities Act and the rules and regulations thereunder and not been kept effective for the Required Period. In addition, if after such Registration Statement has been declared or becomes effective, (i) the offering of Registrable Securities pursuant to such Registration Statement is interfered with by any stop order, injunction, or other order or requirement of the SEC or other governmental agency or court such that the continued offer and sale of Registrable Securities being offered pursuant to such Registration Statement would violate applicable Law and such stop order, injunction or other order or requirement of the SEC or other governmental agency or court does not result from any act or omission of any Holder whose Registrable Securities are registered pursuant to such Registration Statement (an " **Interference** ") and (ii) any such Interference is not cured within sixty (60) days thereof, such Required Registration will be deemed not to have been effected and will not count as a Required Registration. In the event such Interference occurs and is cured, the Required Period relating to such Registration Statement will be extended by the number of days of such Interference, including the date such Interference is cured.



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2.6 Continuous Effectiveness of Registration Statement . The Company will use all reasonable efforts to cause each Registration Statement filed pursuant to this Section 2 to be declared effective by the SEC or to become effective under the Securities Act as promptly as practicable and to keep each such Registration Statement that has been declared or becomes effective continuously effective for the Required Period.

2.7 Obligations of the Company . Whenever required under Section 2.1 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a Registration Statement with respect to such Registrable Securities sought to be included therein; provided that at least five (5) Business Days prior to filing any Registration Statement or Prospectus or any amendments or supplements thereto, the Company shall furnish to the Holders of the Registrable Securities covered by such Registration Statement, their counsel and the managing underwriter copies of all such documents proposed to be filed, and any such Holder shall have the opportunity to comment on any information pertaining solely to such Holder and its plan of distribution that is contained therein and the Company shall make the corrections reasonably requested by such Holder or the managing underwriter with respect to such information prior to filing any such Registration Statement or amendment;

(b) prepare and file with the SEC such amendments and post-effective amendments to any Registration Statement and any Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for the Required Period, and cause the Prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act, to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such registration statement for the Required Period; provided that at least five (5) Business Days prior to filing any such amendments and post effective amendments or supplements thereto, the Company shall furnish to the Holders of the Registrable Securities covered by such Registration Statement, their counsel and the managing underwriter copies of all such documents proposed to be filed, and any such Holder or managing underwriter shall have the opportunity to comment on any information pertaining solely to such Holder and its plan of distribution that is contained therein and the Company shall make the corrections reasonably requested by such Holder and the managing underwriter with respect to such information prior to filing any such Registration Statement or amendment;

(c) furnish to the Holders of Registrable Securities covered by such Registration Statement and the managing underwriter such numbers of copies of such Registration Statement, each amendment and supplement thereto, the Prospectus included in such Registration Statement (including each preliminary prospectus or free writing prospectus) in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them;



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(d) notify the Holders of Registrable Securities covered by such Registration Statement, promptly after the Company shall receive notice thereof, of the time when such Registration Statement becomes or is declared effective or when any amendment or supplement or any Prospectus forming a part of such Registration Statement has been filed;

(e) notify the Holders of Registrable Securities covered by such Registration Statement promptly of any request by the SEC for the amending or supplementing of such Registration Statement or Prospectus or for additional information and promptly deliver to such Holders copies of any comments received from the SEC;

(f) notify the Holders promptly of any stop order suspending the effectiveness of such Registration Statement or Prospectus or the initiation of any proceedings for that purpose, and use all reasonable efforts to obtain the withdrawal of any such order or the termination of such proceedings;

(g) use all reasonable efforts to register and qualify the Registrable Securities covered by such Registration Statement under such other securities or blue sky Laws of such jurisdictions as shall be reasonably requested by the Holders, use all reasonable efforts to keep each such registration or qualification effective, including through new filings, or amendments or renewals, during the Required Period, and notify the Holders of Registrable Securities covered by such Registration Statement of the receipt of any written notification with respect to any suspension of any such qualification; provided , however , that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(h) in the event of any Underwritten Offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of the Underwritten Offering pursuant to which such Registrable Securities are being offered;

(i) use all reasonable efforts to obtain: (A) at the time of effectiveness of the Registration Statement covering such Registrable Securities, a “cold comfort letter” from the Company’s independent certified public accountants covering such matters of the type customarily covered by “cold comfort letters” as the underwriters may reasonably request; and (B) at the time of any underwritten sale pursuant to such Registration Statement, a “bring-down comfort letter,” dated as of the date of such sale, from the Company’s independent certified public accountants covering such matters of the type customarily covered by “bring-down comfort letters” as the underwriters may reasonably request.



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(j) promptly notify each Holder of Registrable Securities covered by such Registration Statement at any time when a Prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the Prospectus included in such Registration Statement or any offering memorandum or other offering document includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing, and promptly prepare a supplement or amendment to such Prospectus or file any other required document so that, as thereafter delivered to the purchasers of such Registrable Securities, such Prospectus will not contain an untrue statement of material fact or omit to state any fact necessary to make the statements therein not misleading;

(k) permit any Holder of Registrable Securities covered by such Registration Statement, which Holder in its reasonable judgment could reasonably be deemed to be an underwriter with respect to the Underwritten Offering pursuant to which such Registrable Securities are being offered, or to be a controlling Person of the Company, to reasonably participate in the preparation of such Registration Statement and to require the insertion therein of information to the extent concerning such Holder, furnished to the Company in writing, which in the reasonable judgment of such Holder and its counsel should be included;

(l) in connection with any Underwritten Offering, use all reasonable efforts to obtain an opinion or opinions addressed to the underwriter or underwriters in customary form and scope from counsel for the Company;

(m) upon reasonable notice and during normal business hours, subject to the Company receiving customary confidentiality undertakings or agreements from any Holder of Registrable Securities covered by such Registration Statement or other person obtaining access to Company records, documents, properties or other information pursuant to this subsection (m), make available for inspection by a representative of such Holder and any underwriter participating in any disposition of such Registrable Securities and any attorneys or accountants retained by any such Holder or underwriter, relevant financial and other records, pertinent corporate documents and properties of the Company, and use all reasonable efforts to cause the officers, directors and employees of the Company to supply all information reasonably requested by any such representative, underwriter, attorneys or accountants in connection with the Registration Statement;

(n) with respect to one (1) Required Registration which includes Registrable Securities the market value of which is at least [***], participate, to the extent requested by the managing underwriter, in efforts extending for no more than three (3) days scheduled by such managing underwriter and reasonably acceptable to the Company's senior management, to sell the Registrable Securities being offered pursuant to such Required Registration (including participating during such period in customary "roadshow" meetings with prospective investors);



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(o) use all reasonable efforts to comply with all applicable rules and regulations of the SEC relating to such registration and make generally available to its security holders earning statements satisfying the provisions of Section 11(a) of the Securities Act, provided that the Company will be deemed to have complied with this Section 2.7(o) with respect to such earning statements if it has satisfied the provisions of Rule 158;

(p) if requested by the managing underwriter or any selling Holder, promptly incorporate in a prospectus supplement or post-effective amendment such information as the managing underwriter or any selling Holder reasonably requests to be included therein, with respect to the Registrable Securities being sold by such selling Holder, including, without limitation, the purchase price being paid therefor by the underwriters and with respect to any other terms of the Underwritten Offering of Registrable Securities to be sold in such offering, and promptly make all required filings of such prospectus supplement or post-effective amendment;

(q) cause the Registrable Securities covered by such Registration Statement to be listed on each securities exchange, if any, on which equity securities issued by the Company are then listed; and

(r) reasonably cooperate with each selling Holder and each underwriter participating in the disposition of such Registrable Securities and their respective counsel in connection with filings required to be made with the Financial Industry Regulatory Authority, Inc., if any.

2.8 Furnish Information . It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself and the Registrable Securities held by it as shall be reasonably necessary to effect the registration of such Holder's Registrable Securities.

2.9 Expenses . Except as specifically provided herein, all Registration Expenses shall be borne by the Company. All Selling Expenses incurred in connection with any registration hereunder shall be borne by the Holders of Registrable Securities covered by a Registration Statement, pro rata on the basis of the number of Registrable Securities registered on their behalf in such Registration Statement.

2.10 Indemnification. In the event any Registrable Securities are included in a Registration Statement under this Agreement:

(a) The Company shall indemnify and hold harmless each Holder including Registrable Securities in any such Registration Statement, any underwriter (as defined in the Securities Act) for such Holder and each Person, if any, who controls such Holder or underwriter within the meaning of Section 15 of the Securities Act or Section 20 of Exchange Act and the officers, directors, owners, agents and employees of such controlling Persons, against any and all losses, claims, damages or liabilities (joint or several) to which they may



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become subject under any securities Laws including, without limitation, the Securities Act, the Exchange Act, or any other statute or common law of the United States or any other country or political subdivision thereof, or otherwise, including the amount paid in settlement of any litigation commenced or threatened (including any amounts paid pursuant to or in settlement of claims made under the indemnification or contribution provisions of any underwriting or similar agreement entered into by such Holder in connection with any offering or sale of securities covered by this Agreement), and shall promptly reimburse them, as and when incurred, for any legal or other expenses incurred by them in connection with investigating any claims and defending any actions, insofar as any such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (each, a " **Violation** "): (i) any untrue statement or alleged untrue statement of a material fact contained in or incorporated by reference into such Registration Statement, including any preliminary prospectus or final prospectus contained therein or any free writing prospectus or any amendments or supplements thereto, or in any offering memorandum or other offering document relating to the offering and sale of such securities, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading or (iii) any violation or alleged violation by the Company (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities Law, or any rule or regulation promulgated under any state securities Law; provided , however , the Company shall not be liable in any such case for any such loss, claim, damage, liability or action to the extent that it (A) arises out of or is based upon a Violation which occurs solely in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by such Holder; or (B) is caused by such Holder's disposition of Registrable Securities during any period during which such Holder is obligated to discontinue any disposition of Registrable Securities as a result of any stop order suspending the effectiveness of any registration statement or prospectus with respect to Registrable Securities of which such Holder has received written notice. The Company shall pay, as incurred, any legal or other expenses reasonably incurred by any Person intended to be indemnified pursuant to this Section 2.10(a), in connection with investigating or defending any such loss, claim, damage, liability or action; provided , however , that the indemnity agreement contained in this Section 2.10(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without consent of the Company, which consent shall not be unreasonably withheld.

(b) Each Holder including Registrable Securities in a registration statement shall indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and the officers, directors, owners, agents and employees of such controlling Persons, any underwriter, any other Holder selling securities in such registration statement and any controlling Person of any such underwriter or other Holder, against any losses, claims, damages or liabilities (joint or several) to which any of the foregoing Persons may become subject, under liabilities (or



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actions in respect thereto) which arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation: (i) arises out of or is based upon a Violation which occurs solely in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by such Holder; or (ii) is caused by such Holder's disposition of Registrable Securities during any period during which such Holder is obligated to discontinue any disposition of Registrable Securities as a result of any stop order suspending the effectiveness of any registration statement or prospectus with respect to Registrable Securities of which such Holder has received written notice. Each such Holder shall pay, as incurred, any legal or other expenses reasonably incurred by any Person intended to be indemnified pursuant to this Section 2.10(b), in connection with investigating or defending any such loss, claim, damage, liability or action; provided , however , that the indemnity agreement contained in this Section 2.10(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without consent of the Holder, which consent shall not be unreasonably withheld.

(c) Promptly after receipt by an indemnified party under this Section 2.10 of notice of the commencement of any action (including any action by a Governmental Authority), such indemnified party shall, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.10, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided , however , that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain its own counsel, with the reasonable fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.10, but the omission so to deliver written notice to the indemnifying party shall not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.10.

(d) In order to provide for just and equitable contribution to joint liability in any case in which a claim for indemnification is made pursuant to this Section 2.10 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding the fact that this Section 2.10 provided for indemnification in such case, the Company and each Holder of Registrable Securities shall contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in proportion to the relative fault of the



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Company, on the one hand, and such Holder, severally, on the other hand; provided , however , that in any such case, no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; provided further , however , that in no event shall any contribution under this Section 2.10(d) on the part of any Holder exceed the net proceeds received by such Holder from the sale of Registrable Securities giving rise to such contribution obligation, except in the case of willful misconduct or fraud by such Holder.

(e) The obligations of the Company and the Holders under this Section 2.10 shall survive the completion of any offering of Registrable Securities in a registration statement under this Agreement and otherwise.

2.11 SEC Reports . With a view to making available to the Holders the benefits of Rule 144 under the Securities Act and any other rule or regulation of the SEC that may at any time permit a Holder to sell Registrable Securities of the Company to the public without registration or pursuant to a registration on Form S-3, for so long as any Holder owns Purchased Shares, the Company agrees to:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144; and

(b) furnish to any Holder, forthwith upon request (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC (exclusive of Rule 144A) which permits the selling of any Purchased Shares without registration or pursuant to Form S-3.

2.12 Assignment of Registration Rights . The rights to cause the Company to register any Registrable Securities pursuant to this Agreement may be assigned in whole or in part (but only with all restrictions and obligations set forth in this Agreement) by a Holder to a Permitted Transferee which acquires at least 100,000 Registrable Securities (subject to adjustment in the event of any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization) from such Holder ; provided , however , (a) such Holder shall, within five (5) days prior to such transfer, furnish to the Company written notice of the name and address of such Permitted Transferee, details of its status as a Permitted Transferee and details of the Registrable Securities with respect to which such registration rights are being assigned, (b) the Permitted Transferee, prior to or simultaneously with such transfer or assignment, shall agree in writing to be subject to and bound by all restrictions and obligations set forth in this Agreement, (c) the Investor shall continue to be bound by all restrictions and obligations set forth in this Agreement and (d) such transfer or assignment shall be effective only if immediately following such transfer or assignment the further disposition of such Registrable Securities by the Permitted Transferee is restricted under the Securities Act and other applicable securities Law.



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3. Restrictions on Beneficial Ownership .

3.1 Standstill . During the Standstill Term neither the Investor nor any of its Affiliates (collectively, the " **Standstill Parties** ") shall (and the Investor shall cause its Affiliates not to), except as expressly approved or invited in writing by the Company:

(a) directly or indirectly, acquire beneficial ownership of Shares of Then Outstanding Common Stock and/or Common Stock Equivalents, or make a tender, exchange or other offer to acquire Shares of Then Outstanding Common Stock and/or Common Stock Equivalents; provided , however , that notwithstanding the provisions of this Section 3.1(a), if the number of shares constituting Shares of Then Outstanding Common Stock is reduced or if the aggregate ownership of the Standstill Parties is increased as a result of (i) the participation in any offering by the Company of any securities offered pro-rata to all stockholders of the Company or (ii) a repurchase by the Company of Shares of Then Outstanding Common Stock, stock split, stock dividend or a recapitalization of the Company, the Standstill Parties shall not be required to dispose of any of their holdings of Shares of Then Outstanding Common Stock even though such action resulted in the Standstill Parties' beneficial ownership increasing;

(b) directly or indirectly, seek to have called any meeting of the stockholders of the Company, propose or nominate for election to the Company's Board of Directors any person whose nomination has not been approved by a majority of the Company's Board of Directors or cause to be voted in favor of such person for election to the Company's Board of Directors any Shares of Then Outstanding Common Stock;

(c) directly or indirectly, solicit proxies or consents or become a participant in a solicitation (as such terms are defined in Regulation 14A under the Exchange Act) in opposition to the recommendation of a majority of the Company's Board of Directors with respect to any matter, or seek to advise or influence any Person, with respect to voting of any Shares of Then Outstanding Common Stock of the Company;

(d) deposit any Shares of Then Outstanding Common Stock in a voting trust or subject any Shares of Then Outstanding Common Stock to any arrangement or agreement with respect to the voting of such Shares of Then Outstanding Common Stock;

(e) publicly propose (i) any merger, consolidation, business combination, tender or exchange offer, purchase of the Company's assets or businesses, or similar transaction involving the Company or (ii) any recapitalization, restructuring, liquidation or other extraordinary transaction with respect to the Company;



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(f) act in concert with any Third Party to take any action in clauses (a) through (e) above, or form, join or in any way participate in a "partnership, limited partnership, syndicate, or other group" within the meaning of Section 13(d)(3) of the Exchange Act; or

(g) enter into discussions, negotiations, arrangements or agreements with any Person relating to the foregoing actions referred to in (a) through (e) above;

provided , however , that [***]would reasonably be expected to require the Company or any third party to be required to [***]or any Affiliate may [***]of the Company [***]by the Investor or its Affiliates shall [***] nothing in the foregoing clause [***]and not pursuant to the [***]of the Company and its stockholders, and [***]Shares of Then Outstanding Common Stock and/or Common Stock Equivalents.

4. Restrictions on Dispositions .

4.1 Lock-Up . During the Lock-Up Term, without the prior approval of the Company, the Investor shall not, and shall cause its Affiliates not to, Dispose of (x) any of the Purchased Shares, together with any shares of Common Stock issued in respect thereof as a result of any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization, and (y) any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the shares of Common Stock described in clause (x) of this sentence (collectively, the " **Lock-Up Securities** "); provided , however , that the foregoing shall not prohibit the Investor from (A) transferring Lock-Up Securities to a Permitted Transferee or (B) Disposing of any Lock-Up Securities in order to reduce the beneficial ownership of the Standstill Parties to 19.9%, or such lesser percentage as advised in good faith and in writing by the Investor's certified public accountants that would not require the Investor to include in its financial statements its portion of the Company's financial results, of the Shares of Then Outstanding Common Stock.

4.2 Certain Tender Offers . Notwithstanding any other provision of this Section 4, this Section 4 shall not prohibit or restrict any Disposition of Shares of Then Outstanding Common Stock and/or Common Stock Equivalents by the Standstill Parties into (a) a tender offer by a Third Party which is not opposed by the Company's Board of Directors (but only after the Company's filing of a Schedule 14D-9, or any amendment thereto, with the SEC disclosing the recommendation of the Company's Board of Directors with respect to such tender offer) or (b) an issuer tender offer by the Company.

5. Voting Agreement .

5.1 Voting of Securities . During the Voting Agreement Term, other than as permitted by Section 5.2 with respect to Extraordinary Matters, in any vote or action by written consent of the stockholders of the Company (including, without limitation, with respect to the



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election of directors), the Investor shall, and shall cause any Permitted Transferees to, vote or execute a written consent with respect to the Purchased Shares, in the sole discretion of the Investor, either (a) in accordance with the recommendation of the Company's Board of Directors or (b) in the case of a meeting of stockholders, if the Investor or a Permitted Transferee has delivered written notice to the Company at any time prior to the vote on any given matter (but in any event not less than five (5) Business Days prior to such vote), setting forth its intent to vote pursuant to this clause (b), in the same proportion as the votes cast by all other holders of all classes of voting securities of the Company (as estimated by the inspector of election immediately prior to the closing of the polls with respect to the vote on any given matter, subject to adjustment for the inspector of election's final tabulation of votes cast). In the event that the Investor or a Permitted Transferee does not deliver timely written notice to the Company as provided in Section 5.1(b), such Person shall be deemed to have elected to vote the Purchased Shares of the Company as to which it is entitled to vote as provided in clause (a) above. In furtherance of this Section 5.1, the Investor hereby irrevocably appoints the Company and any individuals designated by the Company (such designated individuals to be limited to the Chairman, Chief Executive Officer, General Counsel or Secretary of the Company), and each of them individually, as the attorneys, agents and proxies, with full power of substitution and re-substitution in each of them, for the Investor, and in the name, place and stead of the Investor, to vote (or cause to be voted) in such manner as set forth in this Section 5.1 (but in any case, (i) in accordance with any written instruction from the Investor, properly delivered under this Section 5.1, to vote as contemplated by clause (b) above, and (ii) excluding any matter that is an Extraordinary Matter described in Section 5.2) with respect to the Purchased Shares to which the Investor is or may be entitled to vote at any meeting of the Company held after the date hereof, whether annual or special and whether or not an adjourned meeting (the " **Irrevocable Proxy** "). This Irrevocable Proxy is coupled with an interest, shall be irrevocable and binding on any successor in interest of the Investor and shall not be terminated by operation of law upon the occurrence of any event. This Irrevocable Proxy shall operate to revoke and render void any prior proxy as to voting securities heretofore granted by the Investor which is inconsistent herewith. Notwithstanding the foregoing, the Irrevocable Proxy shall be effective if, at any annual or special meeting of the stockholders of the Company and at any adjournments or postponements of any such meetings, the Investor (A) fails to appear or otherwise fails to cause its voting securities of the Company to be counted as present for purposes of calculating a quorum, or (B) fails to vote such voting securities in accordance with this Section 5.1, in each case at least two (2) Business Days prior to the date of such stockholders' meeting. The Irrevocable Proxy shall terminate upon the earlier of the expiration or termination of the Voting Agreement Term. The Investor shall cause any Permitted Transferee to promptly execute and deliver to the Company an irrevocable proxy, substantially in the form of Exhibit A attached hereto, and irrevocably appoint the Company and any individuals designated by the Company, and each of them individually, with full power of substitution and resubstitution, as its attorney, agent and proxy to vote (or cause to be voted) such Purchased Shares of the Company as to which such Permitted Transferee is entitled to vote, in such manner as each such attorney, agent and proxy or his substitute shall in its, his or her sole discretion deem appropriate or desirable



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with respect to the matters set forth in this Section 5.1 (the " **Permitted Transferee Irrevocable Proxy** "). The Investor acknowledges, and shall cause any Permitted Transferees to acknowledge, that any such proxy executed and delivered shall be coupled with an interest, shall constitute, among other things, an inducement for the Company to enter into this Agreement, shall be irrevocable and binding on any successor in interest of such Permitted Transferee and shall not be terminated by operation of Law upon the occurrence of any event. Such proxy shall operate to revoke and render void any prior proxy as to any voting securities of the Company heretofore granted by such Permitted Transferee, to the extent it is inconsistent herewith. The Investor acknowledges and agrees that it shall be a condition to any proposed transfer of voting securities of the Company by the Investor to such Permitted Transferee that such Permitted Transferee execute and deliver to the Company a Permitted Transferee Irrevocable Proxy, and that any purported transfer shall be void and of no force or effect if such Permitted Transferee Irrevocable Proxy is not so executed and delivered at the closing of such transfer. Such proxy shall terminate upon the earlier of the expiration or termination of the Voting Agreement Term. The Investor acknowledges and agrees that it shall be a condition to any proposed transfer of voting securities of the Company by the Investor to any Permitted Transferee during the Voting Agreement Term that such Permitted Transferee shall agree in writing to be subject to and bound by all restrictions and obligations set forth in this Section 5.1.

In the event the Company's stockholders are permitted to act by written consent, the Company and the Investor shall each negotiate in good faith with the other provisions as consistent as possible with the foregoing to govern the voting of the Investor's and its Permitted Transferees' Shares of Then Outstanding Common Stock as closely as practicable to the foregoing.

5.2 Certain Extraordinary Matters . The Investor and its Permitted Transferees may vote, or execute a written consent with respect to, any or all of the voting securities of the Company as to which they are entitled to vote or execute a written consent, as they may determine in their sole discretion, with respect to the following matters (each such matter being an " **Extraordinary Matter** "):

(a) any transaction which would result in a Change of Control;

(b) any issuance of Common Stock presented to stockholders for approval (which for avoidance of doubt shall not include the approval of any stock option or similar equity plan); and

(c) any liquidation or dissolution of the Company.

5.3 Quorum . In furtherance of Section 5.1, the Investor shall be, and shall cause each of its Permitted Transferees to be, present in person or represented by proxy at all meetings of stockholders to the extent necessary so that all voting securities of the Company as to which they are entitled to vote shall be counted as present for the purpose of determining the presence of a quorum at such meeting.



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6. Termination of Certain Rights and Obligations .

6.1 Termination of Registration Rights Term . Except for Section 2.10, which shall survive until the expiration of any applicable statutes of limitation, Section 2 shall terminate automatically and have no further force or effect upon the earliest to occur of:

(a) the [***];

(b) the date on which the Common Stock ceases to be registered pursuant to Section 12 of the Exchange Act; and

(c) a liquidation or dissolution of the Company.

6.2 Termination of Standstill Term . Section 3 shall terminate and have no further force or effect, upon the earliest to occur of:

(a) the date [***] after of the Closing Date;

(b) provided that none of the Standstill Parties has materially violated Section 3.1(d) or (f) with respect to any other Person or group (an " **Offeror** ") referred to in this Section 6.2, the date on which an Offeror publicly announces a tender, exchange or other offer for the Company's Common Stock that, if consummated, would result in a Change of Control of the Company;

(c) the date that the Company enters into a letter of intent relating to a Change of Control of the Company, announces its intent to do so or announces that it is pursuing a transaction that would result in a Change of Control of the Company;

(d) the date on which the Standstill Parties together beneficially own less than [***] of the Shares of Then Outstanding Common Stock;

(e) the date on which the Common Stock ceases to be registered pursuant to Section 12 of the Exchange Act; and

(f) a liquidation or dissolution of the Company;

provided , however , that if Section 3 terminates due to clauses (b) or (c) above and such agreement is abandoned and no other similar transaction has been announced and not abandoned or terminated [***] the restrictions contained in Section 3 shall again be applicable until otherwise terminated pursuant to this Section 6.2.



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6.3 Termination of Lock-Up Term . Section 4 shall terminate and have no further force or effect upon the earliest to occur of:

(a) the date [***] after of the Closing Date;

(b) the expiration or earlier valid termination of the Collaboration Agreement;

(c) the consummation by an Offeror of a Change of Control of the Company, which, in the case of a tender offer, shall be deemed to occur upon the commencement of a tender offer for all outstanding shares of Common Stock;

(d) the date on which the Investor and any Permitted Transferees together beneficially own less than [***] of the Shares of Then Outstanding Common Stock;

(e) a liquidation or dissolution of the Company; and

(f) the date on which the Common Stock ceases to be registered pursuant to Section 12 of the Exchange Act.

6.4 Termination of Voting Agreement Term . Section 5 shall terminate and have no further force or effect upon the earliest to occur of:

(a) the date [***] after the Closing Date;

(b) the expiration or earlier valid termination of the Collaboration Agreement;

(c) the consummation by an Offeror of a Change of Control of the Company, which, in the case of a tender offer, shall be deemed to occur upon the commencement of a tender offer for all outstanding shares of Common Stock;

(d) the date on which the Investor and any Permitted Transferees together beneficially own less than [***] of the Shares of Then Outstanding Common Stock;

(e) a liquidation or dissolution of the Company; and

(f) the date on which the Common Stock ceases to be registered pursuant to Section 12 of the Exchange Act.

6.5 Effect of Termination . No termination pursuant to any of Sections 6.1, 6.2, 6.3 or 6.4 shall relieve any of the parties (or the Permitted Transferee, if any) for liability for breach of or default under any of their respective obligations or restrictions under any terminated provision of this Agreement, which breach or default arose out of events or circumstances occurring or existing prior to the date of such termination.



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7. Miscellaneous .

7.1 Governing Law; Submission to Jurisdiction . This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflict of laws principles thereof that would require the application of the Law of any other jurisdiction. Any action brought, arising out of, or relating to this Agreement shall be brought in the Court of Chancery of the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of said Court in respect of any claim relating to the validity, interpretation and enforcement of this Agreement, and hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding in which any such claim is made that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts, or that the venue thereof may not be appropriate or that this agreement may not be enforced in or by such courts. The parties hereby consent to and grant the Court of Chancery of the State of Delaware jurisdiction over such parties and over the subject matter of any such claim and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 7.3 or in such other manner as may be permitted by law, shall be valid and sufficient thereof.

7.2 Waiver . Waiver by a party of a breach hereunder by another party shall not be construed as a waiver of any subsequent breach of the same or any other provision. No delay or omission by a party in exercising or availing itself of any right, power or privilege hereunder shall preclude the later exercise of any such right, power or privilege by such party. No waiver shall be effective unless made in writing with specific reference to the relevant provision(s) of this Agreement and signed by a duly authorized representative of the party granting the waiver.

7.3 Notices . All notices, instructions and other communications hereunder or in connection herewith shall be in writing, shall be sent to the address of the relevant party set forth on Exhibit A attached hereto and shall be (a) delivered personally, (b) sent by registered or certified mail, return receipt requested, postage prepaid, (c) sent via a reputable nationwide overnight courier service or (d) sent by facsimile transmission or electronic mail, with a confirmation copy to be sent by registered or certified mail, return receipt requested, postage prepaid. Any such notice, instruction or communication shall be deemed to have been delivered upon receipt if delivered by hand, three (3) Business Days after it is sent by registered or certified mail, return receipt requested, postage prepaid, one (1) Business Day after it is sent via a reputable nationwide overnight courier service or when transmitted with electronic confirmation of receipt, if transmitted by facsimile or electronic mail (if such transmission is made during regular business hours of the recipient on a Business Day; or otherwise, on the next Business Day following such transmission). Any party may change its address by giving notice to the other parties in the manner provided above.



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7.4 Entire Agreement . This Agreement, the Purchase Agreement and the Collaboration Agreement contain the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous arrangements or understandings, whether written or oral, with respect hereto and thereto.

7.5 Amendments . No provision in this Agreement shall be supplemented, deleted or amended except in a writing executed by an authorized representative of each of the parties hereto.

7.6 Headings; Nouns and Pronouns; Section References . Headings in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice-versa. References in this Agreement to a section or subsection shall be deemed to refer to a section or subsection of this Agreement unless otherwise expressly stated.

7.7 Severability . If, under applicable Laws, any provision hereof is invalid or unenforceable, or otherwise directly or indirectly affects the validity of any other material provision(s) of this Agreement in any jurisdiction (" **Modified Clause** "), then, it is mutually agreed that this Agreement shall endure and that the Modified Clause shall be enforced in such jurisdiction to the maximum extent permitted under applicable Laws in such jurisdiction; provided that the parties shall consult and use all reasonable efforts to agree upon, and hereby consent to, any valid and enforceable modification of this Agreement as may be necessary to avoid any unjust enrichment of either party and to match the intent of this Agreement as closely as possible, including the economic benefits and rights contemplated herein.

7.8 Assignment . Except for an assignment of this Agreement by the Investor to a Permitted Transferee, neither this Agreement nor any rights or duties of a party hereto may be assigned by such party, in whole or in part, without (a) the prior written consent of the Company in the case of any assignment by the Investor; or (b) the prior written consent of the Investor in the case of an assignment by the Company.

7.9 Successors and Assigns . This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

7.10 Counterparts . This Agreement may be executed in counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

7.11 Third Party Beneficiaries . None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party other than any Affiliate of the Investor. No Third Party with the exception of any Affiliate of the Investor shall obtain any right under any provision of this Agreement or shall by reason of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against any party hereto.



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7.12 No Strict Construction . This Agreement has been prepared jointly and will not be construed against any party.

7.13 Remedies . The rights, powers and remedies of the parties under this Agreement are cumulative and not exclusive of any other right, power or remedy which such parties may have under any other agreement or Law. No single or partial assertion or exercise of any right, power or remedy of a party hereunder shall preclude any other or further assertion or exercise thereof.

7.14 Specific Performance . The Company and the Investor hereby acknowledge and agree that the rights of the parties hereunder are special, unique and of extraordinary character, and that if any party refuses or otherwise fails to act, or to cause its Affiliates to act, in accordance with the provisions of this Agreement, such refusal or failure would result in irreparable injury to the Company or the Investor, as the case may be, the exact amount of which would be difficult to ascertain or estimate and the remedies at law for which would not be reasonable or adequate compensation. Accordingly, if any party refuses or otherwise fails to act, or to cause its Affiliates to act, in accordance with the provisions of this Agreement, then, in addition to any other remedy which may be available to any damaged party at law or in equity, such damaged party will be entitled to seek specific performance and injunctive relief, without posting bond or other security, and without the necessity of proving actual or threatened damages, which remedy such damaged party will be entitled to seek in any court of competent jurisdiction.

7.15 No Conflicting Agreements . The Investor hereby represents and warrants to the Company that neither it nor any of its Affiliates is, as of the date of this Agreement, a party to, and agrees that neither it nor any of its Affiliates shall, on or after the date of this Agreement, enter into any agreement that conflicts with the rights granted to the Company in this Agreement. The Company hereby represents and warrants to each Holder that it is not, as of the date of this Agreement, a party to, and agrees that it shall not, on or after the date of this Agreement, enter into any agreement or approve any amendment to its Organizational Documents (as defined in the Purchase Agreement) with respect to its securities that conflicts with the rights granted to the Holders in this Agreement. The Company further represents and warrants that the rights granted to the Holders hereunder do not in any way conflict with the rights granted to any other holder of the Company's securities under any other agreements.

7.16 Use of Proceeds . The Company shall use the proceeds from the sale of the Shares hereunder for working capital purposes and shall not use such proceeds for the redemption of any shares of Common Stock (or Common Stock Equivalents) or for the payment of any dividends on shares of Common Stock (or Common Stock Equivalents).



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7.17 No Publicity . The parties hereto agree that the provisions of Section 12.5 of the Collaboration Agreement shall be applicable to the parties to this Agreement with respect to any public disclosures regarding the proposed transactions contemplated by the Purchase Agreement and the Collaboration Agreement or regarding the parties hereto or their Affiliates (it being understood that the provisions of Section 12.5(a) of the Collaboration Agreement shall be read to apply to disclosures of information relating to this Agreement and the transactions contemplated hereby).

7.18 Limitation of Liability . IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE OTHER PARTY'S AFFILIATES OR SUBLICENSEES) IN CONNECTION WITH THIS AGREEMENT FOR LOST REVENUE, LOST PROFITS, LOST SAVINGS, LOSS OF USE, DAMAGE TO GOODWILL, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES UNDER ANY THEORY, INCLUDING CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

(Signature Page Follows)



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IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

**JOHNSON & JOHNSON INNOVATION-JJDC, INC.**

By: /s/ Asish K. Xavier
Name: Asish K. Xavier
Title: Vice President, Venture Investments

**MACROGENICS, INC.**

By: /s/ Scott Koenig, M.D., Ph.D.
Name: Scott Koenig, M.D., Ph.D.
Title: President and CEO

*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

**EXHIBIT A**

**FORM OF IRREVOCABLE PROXY**

In order to secure the performance of the duties of the undersigned pursuant to Section 5.1 of the Investor Agreement, dated as of December 19, 2014 (the "Agreement"), by and between Johnson & Johnson Innovation-JJDC, Inc. and MacroGenics, Inc. (the " **Company** "), the undersigned hereby irrevocably appoints the Company and any individual designated by the Company, and each of them individually, as the attorneys, agents and proxies, with full power of substitution and resubstitution in each of them, for the undersigned, and in the name, place and stead of the undersigned, to vote (or cause to be voted) in such manner as set forth in Section 5.1 of the Agreement (but in any case, (i) in accordance with any written instruction from the undersigned, properly delivered under Section 5.1 of the Agreement, to vote as contemplated by Section 5.1(b) of the Agreement and (ii) excluding any matter that is an Extraordinary Matter described in Section 5.2) with respect to all Purchased Shares, which the undersigned is or may be entitled to vote at any meeting of the Company held after the date hereof, whether annual or special and whether or not an adjourned meeting. This proxy is coupled with an interest, shall be irrevocable and binding on any successor in interest of the undersigned and shall not be terminated by operation of law upon the occurrence of any event. This proxy shall operate to revoke and render void any prior proxy as to voting securities heretofore granted by the undersigned which is inconsistent herewith. Notwithstanding the foregoing, this irrevocable proxy shall be effective if, at any annual or special meeting of the stockholders of the Company (or any consent in lieu thereof) and at any adjournments or postponements of any such meetings, the undersigned (A) fails to appear or otherwise fails to cause its voting securities of the Company to be counted as present for purposes of calculating a quorum, or (B) fails to vote such voting securities in accordance with Section 5.1 of the Agreement, in each case at least two (2) Business Days prior to the date of such stockholders' meeting. This proxy shall terminate upon the earlier of the expiration or termination of the Voting Agreement Term.

**JOHNSON & JOHNSON INNOVATION-JJDC, INC.**

By: _____
Name:
Title:



*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

**EXHIBIT B**
**NOTICES**

(a) If to the Investor:

Johnson & Johnson Innovation-JJDC, Inc.
410 George Street
New Brunswick, NJ 08901
Attention: General Manager

with a copy to:

Johnson & Johnson Law Department
One Johnson & Johnson Plaza
New Brunswick, NJ 08534
Attention: General Counsel

(b) If to the Company:

MacroGenics, Inc.
9640 Medical Center Drive
Rockville, MD 20850
Attention: CEO

with a copy to:

Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
Attention: Steven D. Singer



*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

**MacroGenics, Inc.**

**Second Amendment to Lease Agreement**

This Second Amendment to the Lease Agreement ("AMENDMENT") is made and entered into this 6th day of November 2014, by and between RED GATE III LLC ("LANDLORD") and MACROGENICS, INC. ("TENANT").

**WITNESSETH:**

***Whereas,*** the LANDLORD and TENANT entered into a certain lease dated May 31, 2011, as amended by First Amendment dated March 26, 2013 ("LEASE"), covering 46,267 square feet of space located in 9640 Medical Center Drive, Rockville, Maryland.

***Now, therefore*** , the parties hereto, intending to be legally bound, do covenant and agree as follows:

1. In the event a lease is executed at 9620 Medical Center Drive, Rockville, Maryland between LANDLORD and TENANT ("SECOND LEASE"), the term of the LEASE shall expire or terminate upon the applicable expiration or termination of the SECOND LEASE. The parties anticipate the expiration of the SECOND LEASE to occur on January 31, 2020.

***Ratification of LEASE:*** Except as expressly modified or amended by this AMENDMENT, all terms, covenants and conditions of the LEASE shall remain the same.

***In witness whereof*** , LANDLORD and TENANT have caused this AMENDMENT to be executed as of this 6th day of November 2014, and do hereby declare this AMENDMENT to be binding on them, their respective successors and assigns.

WITNESS:

LANDLORD:

**RED GATE III LLC**

/s/ William M. Rickman
By: William M. Rickman

WITNESS:

TENANT:

**MACROGENICS, INC.**

/s/ Scott Koenig M.D., PhD
By: Scott Koenig

**Exhibit 10.14**

# LEASE

Landlord: BRITANNIA BIOTECH GATEWAY LIMITED PARTNERSHIP

Tenant: RAVEN BIOTECHNOLOGIES, INC.

Date: November 21, 2006

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EXHIBITS

LEASE

THIS LEASE (" Lease ") is made and entered into as of November 21, 2006, by and between BRITANNIA BIOTECH GATEWAY LIMITED PARTNERSHIP, a Delaware limited partnership (" Landlord "), and RAVEN BIOTECHNOLOGIES, INC., a Delaware corporation (" Tenant ").

RECITALS

A. WHEREAS, substantially concurrently with the execution of this Lease, Tenant and Amgen SF, LLC, a Delaware limited liability company (" Amgen ") are entering into a sublease (the " Amgen Sublease ") providing for Tenant's subleasing of the Building (defined below) from Amgen for the remaining term of the Prior Lease (defined below), which term is presently scheduled to expire on December 31, 2013; and

B. WHEREAS, the intention of the parties, in executing this Lease at this time, is to establish a leasing relationship which will be fully binding on the parties and their successors and assigns as of the date of execution hereof, but which will ripen into an actual possessory interest, with attendant commencement of performance of economic and other obligations hereunder on a current basis, only upon the Commencement Date as determined pursuant to Section 2.1 below;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. PROPERTY

1.1 Lease of Building .

(a) Landlord leases to Tenant and Tenant hires and leases from Landlord, on the terms, covenants and conditions hereinafter set forth, the two-story office and laboratory building which is located on the real property described in Exhibit A attached hereto (the " Property "), is commonly known as One Corporate Drive, South San Francisco, California (the " Building "), contains approximately 66,127 square feet and is presently leased to Amgen, as successor in interest (by merger) to Tularik Inc., pursuant to a Build-to-Suit Lease dated as of April 20, 1995, as amended by a First Amendment to Lease dated as of February 10, 1998 and by a Second Amendment to Build-to-Suit Lease dated as of August 12, 2004 (as amended, the " Prior Lease "). The location of the Building on the Property is depicted on the site plan attached hereto as Exhibit B (the " Site Plan ," on which the Building is designated as "Building B" and is located in the area labeled "Phase I" on the Site Plan). The Property is part of the Britannia Biotechnology Center, sometimes also referred to as the Britannia Gateway Center (the " Center ," comprising collectively Phase I and Phase II as shown on the Site Plan) on Gateway Boulevard in the City of South San Francisco, County of San Mateo, State of California. The Building and related improvements presently existing on the Property are sometimes referred to collectively herein as the "Improvements ." The parking areas, driveways, sidewalks, landscaped areas and other portions of the Center that lie outside the exterior walls of the buildings now or hereafter existing from time to time in the Center, as depicted in the Site Plan and as heretofore or hereafter modified by Landlord from time to time in accordance with the provisions of this

Lease, are sometimes referred to herein as the " Common Areas ." Amgen (as successor in interest to Tularik) also presently leases one other building in the Center, at Two Corporate Drive, from Landlord pursuant to a Build-to-Suit Lease dated as of February 10, 1998, as amended by a First Amendment to Build-to-Suit Lease dated as of August 12, 2004.

(b) As an appurtenance to Tenant's leasing of the Building pursuant to Section 1.1(a), Landlord hereby grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, (i) those portions of the Common Areas improved from time to time for use as parking areas, driveways, sidewalks, landscaped areas, or for other common purposes, and (ii) all access easements and similar rights and privileges relating to or appurtenant to the Property and created or existing from time to time under any access easement agreements, declarations of covenants, conditions and restrictions, or other written agreements now or hereafter of record with respect to the Property, subject however to any limitations applicable to such rights and privileges under applicable law, under this Lease and/or under the written agreements creating such rights and privileges.

1.2 Landlord's Reserved Rights . To the extent reasonably necessary to permit Landlord to exercise any rights of Landlord and discharge any obligations of Landlord under this Lease, Landlord shall have, in addition to the right of entry set forth in Section 12.1 hereof, the following rights: (i) to make changes to the Common Areas, including, without limitation, changes in the location, size or shape of any portion of the Common Areas, and to relocate parking spaces on the Property and in the Common Areas (but not materially decrease the number of such parking spaces in areas of the Property generally adjacent to the Building); (ii) to close temporarily any of the Common Areas for maintenance or other reasonable purposes, provided that reasonable parking and reasonable access to the Building remain available; (iii) to construct, alter or add to other buildings and Common Area improvements on the Property (including, but not limited to, construction of site improvements, buildings and Common Area improvements on portions of the Property and/or on adjacent properties owned by Landlord from time to time); (iv) to build in areas adjacent to the Property and to add such areas to the Property or operate such areas, for maintenance, access, parking and other purposes, on an integrated basis with the Property; (v) to use the Common Areas while engaged in making additional improvements, repairs or alterations to the Property or any portion thereof or to any adjacent properties owned by Landlord from time to time; and (vi) to do and perform such other acts with respect to the Common Areas and the Property as may be necessary or appropriate; provided , however, that notwithstanding anything to the contrary in this Section 1.2, Landlord's exercise of its rights hereunder shall not cause any material diminution of Tenant's rights, nor any material increase of Tenant's obligations, under this Lease or with respect to the Improvements.

## 2. TERM

2.1 Term .

(a) The term of this Lease shall commence on the date (the " Commencement Date ") immediately following the date on which the Prior Lease expires, it being the intention of the parties that Tenant's occupancy of the Building as a subtenant under the Amgen Sublease

shall be followed immediately, without any intervening gap, by Tenant's occupancy of the Building as a direct tenant under this Lease. The term of this Lease shall end, unless sooner terminated or extended as hereinafter provided, on February 28, 2018 (the " Termination Date "). Tenant's minimum rental and Operating Expense obligations under this Lease with respect to the Building shall begin on the Commencement Date. The parties anticipate that the Commencement Date will occur on January 1, 2014, since the presently scheduled expiration date of the Prior Lease is December 31, 2013.

(b) Notwithstanding the foregoing provisions of Section 2.1 (a):

(i) If the Prior Lease is terminated prior to its scheduled expiration date by either Landlord or Amgen as a result of damage, destruction or condemnation, then this Lease shall be deemed to be terminated concurrently with such early termination, the Commencement Date shall not occur, and Landlord and Tenant shall have no further obligations under this Lease; provided, however, that if such early termination is elected by the tenant under the Prior Lease (but not by Landlord) as a result of damage or destruction occurring during the final year of the term of the Prior Lease, then Landlord agrees to negotiate in good faith with Tenant, if so requested by Tenant, regarding the possibility of causing the Building to be rebuilt for occupancy by Tenant during the remaining term (if any) of the Prior Lease and during the term of this Lease, but no such rebuilding of the Building and reinstatement of this Lease shall occur except pursuant to a written agreement mutually executed at the time by Landlord and Tenant in their respective discretion; and

(ii) If the Prior Lease is terminated prior to its scheduled expiration date for any other reason, then unless otherwise agreed by Landlord and Tenant at the time in a written agreement mutually executed by them in their respective discretion, this Lease shall be deemed to be terminated concurrently with such early termination, the Commencement Date shall not occur, and Landlord and Tenant shall have no further obligations under this Lease.

2.2 Condition of Premises .

(a) Tenant acknowledges that it will accept and occupy the Building in "AS IS" condition as the Building exists on the Commencement Date, immediately following the termination or expiration of the Prior Lease and Amgen Sublease and of Tenant's occupancy of the Building as a subtenant thereunder, and Landlord shall have no obligation to improve, repair or prepare the Building for occupancy by Tenant under this Lease; provided, however, that the foregoing provisions of this sentence shall be subject to any rebuilding obligations expressly imposed upon Landlord under the Prior Lease (to the extent any such rebuilding is in progress on the Commencement Date) or pursuant to a future written agreement (if any) as contemplated in Section 2.1(b)(i) above. Without limiting the generality of the foregoing, TENANT ACKNOWLEDGES THAT NEITHER LANDLORD NOR ANY AGENT OF LANDLORD IS MAKING OR HAS MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PHYSICAL CONDITION OF THE BUILDING AND IMPROVEMENTS, OR WITH RESPECT TO THE PRESENT OR FUTURE SUITABILITY

OF THE BUILDING OR IMPROVEMENTS FOR THE CONDUCT OF TENANT'S BUSINESS OR PROPOSED BUSINESS THEREIN, AS OF THE DATE OF EXECUTION OF THIS LEASE OR AS OF THE COMMENCEMENT DATE.

(b) Landlord and Tenant shall each use their respective best efforts to schedule and participate in, and to cause Amgen to participate in, a mutual walk-through of the Building prior to, or within thirty (30) days after, Tenant's commencement of occupancy of the Building as a subtenant pursuant to the Amgen Sublease, with the objective of arriving at a list mutually approved by Landlord, Tenant and Amgen describing all material fixtures, trade fixtures, equipment (if any) and tenant improvements to be left in place in the Building by Amgen upon Amgen's tender of possession of the Building to Tenant, including (but not limited to) all attached fume hoods and lab benches. Landlord shall have no obligation to enforce Amgen's obligation to leave any such items in place in the Building, but hereby assigns to Tenant for enforcement by Tenant, in Tenant's sole discretion (and subject to any separate agreement on this subject between Amgen and Tenant), any rights and/or claims of Landlord against Amgen, under the Prior Lease, with respect to the condition in which Amgen is required to leave the Building, including (but not limited to) the leaving of any specific items in place in the Building.

(c) Landlord shall provide Tenant with a tenant improvement allowance in the maximum amount of One Million Five Hundred Seventy-Five Thousand and No/100 Dollars ($1,575,000.00, calculated at the rate of $75.00 per square foot for the agreed area of 21,000 for the unimproved area of the Premises as of the date of this Lease) (the **" Tenant Improvement Allowance "),** to be available for application towards the construction of tenant improvements by Tenant in the Premises at any time after the date which is six (6) months prior to the scheduled Commencement Date as set forth above. Tenant's construction of such tenant improvements shall be governed by the provisions of this Section 2.2(c) and of Article 7 hereof, and such tenant improvements shall be constructed in compliance with all of the provisions thereof (including, without limitation, all conditions relating to Landlord's approval of plans and specifications). The Tenant Improvement Allowance shall not be used or useable by Tenant for any moving or relocation expenses of Tenant, or for any cost or expense associated with any moveable furniture, trade fixtures, personal property or any other item or element which, under the applicable provisions of this Lease, will not become Landlord's property and remain with the Building upon expiration or termination of this Lease. Any portion of the Tenant Improvement Allowance which has not been claimed or drawn by Tenant within fifteen (15) months after the Commencement Date shall expire and shall no longer be available to Tenant thereafter. Additional conditions and procedures relating to the disbursement of the Tenant Improvement Allowance shall be as reasonably prescribed in writing by Landlord or its Project Manager (as designated by Landlord from time to time). To the extent the Tenant Improvement Allowance or any portion thereof is actually drawn down by Tenant, the amount actually drawn down shall result in a rental adjustment pursuant to Section 3.1(b) hereof.

2.3 Acknowledgement Of Commencement Date . Promptly following the Commencement Date, Landlord and Tenant shall execute a written acknowledgement of the Commencement Date, Termination Date and related matters, substantially in the form attached hereto as Exhibit C (with appropriate insertions), which acknowledgement shall be deemed to be

incorporated herein by this reference. Notwithstanding the foregoing requirement, the failure of either party to execute any such written acknowledgement shall not affect the determination of the Commencement Date, Termination Date and related matters in accordance with the provisions of this Lease.

2.4 Holding Over . If Tenant holds possession of the Property or any portion thereof after the term of this Lease with Landlord's written consent, then except as otherwise specified in such consent, Tenant shall become a tenant from month to month at one hundred ten percent (110%) of the rental and otherwise upon the terms herein specified for the period immediately prior to such holding over and shall continue in such status until the tenancy is terminated by either party upon not less than thirty (30) days prior written notice. If Tenant holds possession of the Property or any portion thereof after the term of this Lease without Landlord's written consent, then Landlord in its sole discretion may elect (by written notice to Tenant) to have Tenant become a tenant either from month to month or at will, at one hundred fifty percent (150%) of the rental (prorated on a daily basis for an at-will tenancy, if applicable) and otherwise upon the terms herein specified for the period immediately prior to such holding over, or may elect to pursue any and all legal remedies available to Landlord under applicable law with respect to such unconsented holding over by Tenant. Tenant shall indemnify and hold Landlord harmless from any loss, damage, claim, liability, cost or expense (including reasonable attorneys' fees) resulting from any delay by Tenant in surrendering the Property or any portion thereof (except to the extent such delay is with Landlord's prior written consent), including but not limited to any claims made by a succeeding tenant by reason of such delay. Acceptance of rent by Landlord following expiration or termination of this Lease shall not constitute a renewal of this Lease.

## 3. RENTAL

3.1 Minimum Rental.

(a) Rental Amounts . Tenant shall pay to Landlord as minimum rental for the Building, in advance, without deduction, offset, notice or demand, on or before the Commencement Date and on or before the first day of each subsequent calendar month of the term of this Lease, the following amounts per month (with the counting of such months to begin on and as of the Commencement Date):

| Months | Monthly Minimum Rental |
|---|---|
| 001—012 | $185,261.40 ($2.8016/sq ft) |
| 013—024 | 190,819.25 ($2.8856/sq ft) |
| 025—036 | 196,543.82 ($2.9722/sq ft) |
| 037—048 | 202,440.14 ($3.0614/sq ft) |
| 049—050 | 208,513.34 ($3.1532/sq ft) |
| After Month 50 (if applicable) | Continued pattern with annual 3% escalations on each anniversary of Commencement Date |

If the obligation to pay minimum rental hereunder commences on other than the first day of a calendar month or if the term of this Lease terminates on other than the last day of a calendar month, the minimum rental for such first or last month of the term of this Lease, as the case may be, shall be prorated based on the number of days the term of this Lease is in effect during such month. If an increase in minimum rental becomes effective on a day other than the first day of a calendar month, the minimum rental for that month shall be the sum of the two applicable rates, each prorated for the portion of the month during which such rate is in effect.

(b) Additional Rent (If Applicable) . The minimum rental amounts specified in Section 3.1(a) do not take into account the availability of the Tenant Improvement Allowance under Section 2.2(c) above. If and to the extent that Tenant actually draws down the Tenant Improvement Allowance or any portion thereof, Tenant shall pay to Landlord as Additional Rent, payable together with monthly minimum rental as specified above:

(i) beginning on the later to occur of the Commencement Date or the first day of the first calendar month occurring after the date of actual funding of the Tenant Improvement Allowance funds (or portion thereof) drawn down by Tenant and continuing until the first anniversary of the Commencement Date, an amount each month equal to (x) the aggregate amount of the Tenant Improvement Allowance funds actually drawn down by Tenant up to and including the end of the calendar month immediately preceding the applicable payment date, (y) multiplied by eleven percent (11%) and then divided by twelve (12); and

(ii) beginning on the first anniversary of the Commencement Date, such Additional Rent shall be increased on each anniversary of the Commencement Date to one hundred three percent (103%) of the Additional Rent payable for the month immediately preceding the applicable adjustment date.

Thus, by way of illustration, if Tenant draws down a total of $1,250,000 from the Tenant Improvement Allowance during the four (4) months prior to the Commencement Date, then as of the Commencement Date, Tenant's Additional Rent obligation shall be $11,458.33 per month; if Tenant draws down the remaining $225,000 of the Tenant Improvement Allowance during the third (3rd) month following the Commencement Date, then as of the beginning of the fourth (4th) month following the Commencement Date, Tenant's Additional Rent obligation shall increase to $14,437.50 per month; and on the first anniversary of the Commencement Date, Tenant's Additional Rent obligation shall increase to $14,870.63 per month (with additional 3% increases on each subsequent anniversary of the Commencement Date).

(c) Square Footage of Building . The Building was fully constructed prior to the date of this Lease, has been measured by Landlord's Architect and, applying the measurement formula customarily used by Landlord to measure square footage of buildings in the Center, has been determined to contain 66,127 square feet, which measurement is final and binding on the parties, is hereby accepted by the parties for all purposes under this Lease and is not subject to remeasurement or adjustment unless and to the extent that there is a change in the physical size of the Building.

3.2 Late Charge . If Tenant fails to pay when due rental or other amounts due Landlord hereunder, such unpaid amounts shall bear interest for the benefit of Landlord at a rate equal to the lesser of fifteen percent (15%) per annum or the maximum rate permitted by law, from the date due to the date of payment. In addition to such interest, Tenant shall pay to Landlord a late charge in an amount equal to six percent (6%) of any installment of minimum rental and any other amounts due Landlord if not paid in full on or before the fifth (5th) day after such rental or other amount is due; provided, however, that for the first late payment in any twelve (12) month period, no such late charge shall be due unless Landlord first provides written notice to Tenant that the payment is past due and Tenant fails to pay the amount due within three (3) business days after Tenant's receipt of such notice. Tenant acknowledges that late payment by Tenant to Landlord of rental or other amounts due hereunder will cause Landlord to incur costs not contemplated by this Lease, including, without limitation, processing and accounting charges and late charges which may be. imposed on Landlord by the terms of any loan relating to the Property. Tenant further acknowledges that it is extremely difficult and impractical to fix the exact amount of such costs and that the late charge set forth in this Section 3.2 represents a fair and reasonable estimate thereof. Acceptance of any late charge by Landlord shall not constitute a waiver of Tenant's default with respect to overdue rental or other amounts, nor shall such acceptance prevent Landlord from exercising any other rights and remedies available to it. Acceptance of rent or other payments by Landlord shall not constitute a waiver of late charges or interest accrued with respect to such rent or other payments or any prior installments thereof, nor of any other defaults by Tenant, whether monetary or non-monetary in nature, remaining uncured at the time of such acceptance of rent or other payments.

## 4. TAXES

4.1 Personal Property . Tenant shall be responsible for and shall pay prior to delinquency all taxes and assessments levied against or by reason of (a) any and all alterations, additions and items installed or placed on or in the Building and taxed as personal property rather than as real property, and/or (b) all personal property, trade fixtures and other property placed by Tenant on or about the Property. Upon request by Landlord, Tenant shall furnish Landlord with satisfactory evidence of Tenant's payment thereof. If at any time during the term of this Lease any of said alterations, additions or personal property, whether or not belonging to Tenant, shall be taxed or assessed as part of the Property, then such tax or assessment shall be paid by Tenant to Landlord within fifteen (15) days after presentation by Landlord of copies of the tax bills in which such taxes and assessments are included and shall, for the purposes of this Lease, be deemed to be personal property taxes or assessments under this Section 6.1.

4.2 Real Property . To the extent any real property taxes and assessments on the Property (including, but not limited to, the Improvements or any portion thereof) are assessed directly to Tenant, Tenant shall be responsible for and shall pay prior to delinquency all such taxes and assessments levied against the Property. Upon request by Landlord, Tenant shall furnish Landlord with satisfactory evidence of Tenant's payment thereof. To the extent the Property and/or Improvements are taxed or assessed to Landlord following the Commencement Date, such real property taxes and assessments shall constitute Operating Expenses (as that term is defined in Section 5.2 of this Lease) and shall be paid in accordance with the provisions of Article 5 of this Lease.

## 5. OPERATING EXPENSES

5.1 Payment of Operating Expenses .

(a) Tenant shall pay to Landlord, at the time and in the manner hereinafter set forth, as additional rental, an amount equal to forty-four and eighty-seven hundredths percent (44.87%) (" Tenant's Operating Cost Share ") of the Operating Expenses defined in Section 5.2; provided, however, that the Tenant's Operating Cost Share set forth in the preceding portion of this sentence shall apply only to expenses that are determined and allocated by Landlord on a Center-wide or multi-building basis, subject to any adjustments required under any other applicable provisions of this Section 5.1, and that Tenant's Operating Cost Share shall be one hundred percent (100%) with respect to any Operating Expenses defined in Section 5.2 that are reasonably allocable solely to the Building.

(b) Tenant's Operating Cost Share as specified in paragraph (a) of this Section with respect to Operating Expenses which are determined and allocated on a Center-wide basis is based upon an area of 66,127 square feet for the Building and upon an aggregate area of 147,362 square feet for the existing buildings owned by Landlord in the Center and consolidated with the Building for operation, maintenance, common area and Operating Expense purposes. If the actual area of the buildings owned from time to time by Landlord in the Center and consolidated with the Building for operation, maintenance, common area and Operating Expense purposes, as such area is measured in good faith by Landlord's architect on the same basis of measurement under which the Building has been determined to contain 66,127 square feet, changes from the assumed figure set forth above as a result of a change in the physical size of one or more of such buildings, then Tenant's Operating Cost Share as it applies to Operating Expenses that are determined and allocated on a Center-wide or multi-building basis shall be adjusted to reflect the actual areas so measured as they exist from time to time.

(c) If Landlord at any time constructs additional buildings in the Center or on any adjacent property owned by Landlord and operated, for common area purposes, on an integrated basis with the Center, then Tenant's Operating Cost Share as it applies to Operating Expenses that are determined and allocated on a Center-wide or multi-building basis shall be adjusted to be equal to the percentage determined by dividing the gross square footage of the Building as it exists from time to time by the gross square footage of all buildings located in the Center or on any applicable adjacent property owned by Landlord as described above, measured using the same basis of measurement under which the Building has been determined to contain 66,127 square feet. In determining such percentage, a building shall be taken into account from and after the date on which a tenant first enters into possession of the building or a portion thereof.

5.2 Definition Of Operating Expenses .

(a) Subject to the exclusions and provisions hereinafter contained, the term " Operating Expenses " shall mean the total costs and expenses incurred by or allocable to Landlord for management, operation and maintenance of the Improvements, the Building, the Property and the Center (or, in the case of items that are determined and allocated on a stand-

alone basis as described in Section 5.1, that portion of the Property and the Center that is reasonably allocable to the Building), including, without limitation, costs and expenses of (i) insurance (which may include, at Landlord's option, seismic and environmental insurance), property management fees, landscaping, and the operation, repair and maintenance of buildings and Common Areas; (ii) all utilities and services; (iii) real and personal property taxes and assessments or substitutes therefor levied or assessed against the Center or any part thereof, including (but not limited to) any possessory interest, use, business, license or other taxes or fees, any taxes imposed directly on rents or services, any assessments or charges for police or fire protection, housing, transit, open space, street or sidewalk construction or maintenance or other similar services from time to time by any governmental or quasi-governmental entity, and any other new taxes on landlords in addition to taxes now in effect; (iv) supplies, equipment, utilities and tools used in management, operation and maintenance of the Center; (v) capital improvements to the Center, the Improvements or the Building, amortized over their respective useful lives as reasonably determined by Landlord's accountants either for federal income tax reporting purposes or pursuant to generally accepted accounting principles applied on a consistent basis, (aa) which reduce or will cause future reduction of other items of Operating Expenses for which Tenant is otherwise required to contribute or (bb) which are required by law, ordinance, regulation or order of any governmental authority or (cc) of which Tenant has use or which benefit Tenant; and (vi) any other costs (including, but not limited to, any parking or utilities fees or surcharges) allocable to or paid by Landlord, as owner of the Center, Building or Improvements, pursuant to any applicable laws, ordinances, regulations or orders of any governmental or quasi-governmental authority or pursuant to the terms of any declarations of covenants, conditions and restrictions now or hereafter affecting the Center or any other property over which Tenant has non-exclusive use rights as contemplated in Section 1.1(b) hereof. Operating Expenses shall not include any costs attributable to the initial construction of the Building or of Common Area improvements in the Center. The distinction between items of ordinary operating maintenance and repair and items of a capital nature shall be made in accordance with generally accepted accounting principles applied on a consistent basis or in accordance with tax accounting principles, as determined in good faith by Landlord's accountants.

(b) Notwithstanding anything to the contrary contained in this Lease, the following shall not be included within Operating Expenses:

(i) Costs of maintenance or repair of the roof membrane for any building, except during periods (if any) in which costs of maintenance or repair of the roof membrane for the Building are likewise included as an Operating Expense (rather than being incurred directly by Tenant or passed through directly to Tenant);

(ii) Leasing commissions, attorneys' fees, costs, disbursements, and other expenses incurred in connection with negotiations or disputes with tenants, or in connection with leasing, renovating or improving space for tenants or other occupants or prospective tenants or other occupants of the Center or of any other property owned by Landlord;

(iii) The cost of any service sold to any tenant (including Tenant) or other occupant for which Landlord is entitled to be reimbursed as an additional charge or rental over and above the basic rent and operating expenses payable under the lease with that tenant;

(iv) Any depreciation on the Building or on any other improvements in the Center or on any other property owned by Landlord;

(v) Expenses in connection with services or other benefits of a type that are not offered or made available to Tenant but that are provided to another tenant of the Center or of any other property owned by Landlord;

(vi) Costs incurred due to Landlord's violation of any terms or conditions of this Lease or of any other lease relating to the Building or to any other portion of the Center or of any other property owned by Landlord;

(vii) Amounts paid to any Affiliate of Landlord for management or other services on or to the Center or any portion thereof or any other property owned by Landlord, or for supplies or other materials, to the extent that the cost of the services, supplies or materials exceeds the cost that would have been paid had the services, supplies or materials been provided by unaffiliated parties on a competitive basis;

(viii) All interest, loan fees and other carrying costs related to any mortgage or deed of trust or related to any capital item, and all rental and other amounts payable under any ground or underlying lease, or under any lease for any equipment ordinarily considered to be of a capital nature (except (A) janitorial equipment which is not affixed to the Building and/or (B) equipment the cost of which, if purchased, would be considered an amortizable Operating Expense under the provisions of this Section 5.2, notwithstanding the capital nature of such equipment);

(ix) Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord;

(x) Advertising and promotional expenditures;

(xi) Costs of repairs and other work occasioned by fire, windstorm or other casualty of an insurable nature, except to the extent of any applicable deductible amounts under insurance actually carried by Landlord;

(xii) Any costs, fines or penalties incurred due to violations by Landlord of any governmental rule or authority or of this Lease or any other lease of any portion of the Center or any other property owned by Landlord, or due to Landlord's negligence or willful misconduct;

(xiii) Costs for sculpture, paintings or other objects of art, and for any insurance thereon or extraordinary security in connection therewith;

(xiv) Wages, salaries or other compensation paid to any executive employees above the grade of building manager;

(xv) The cost of correcting any building code or other violations which are Landlord's responsibility and which were violations prior to the Commencement Date; and

(xvi) The cost of containing, removing or otherwise remediating any contamination of the Center (including the underlying land and groundwater) by any toxic or hazardous materials (including, without limitation, asbestos and PCBs).

5.3 Determination Of Operating Expenses . On or before the Commencement Date and during the last month of each calendar year of the term of this Lease (" Lease Year "), or as soon thereafter as practical, Landlord shall provide Tenant notice of Landlord's estimate of the Operating Expenses for the ensuing Lease Year or applicable portion thereof. On or before the first day of each month during the ensuing Lease Year or applicable portion thereof, beginning on the Commencement Date, Tenant shall pay to Landlord Tenant's Operating Cost Share of the portion of such estimated Operating Expenses allocable (on a prorata basis) to such month; provided, however, that if such notice is not given in the last month of a Lease Year, Tenant shall continue to pay on the basis of the prior year's estimate, if any, until the month after such notice is given. If at any time or times it appears to Landlord that the actual Operating Expenses will vary from Landlord's estimate by more than five percent (5%), Landlord may, by notice to Tenant, revise its estimate for such year and subsequent payments by Tenant for such year shall be based upon such revised estimate.

5.4 Final Accounting For Lease Year .

(a) Within ninety (90) days after the close of each Lease Year, or as soon after such 90-day period as practicable, Landlord shall deliver to Tenant a statement of Tenant's Operating Cost Share of the Operating Expenses for such Lease Year prepared by Landlord from Landlord's books and records, which statement shall be final and binding on Landlord and Tenant (except as provided in Section 5.4(b)). If on the basis of such statement Tenant owes an amount that is more or less than the estimated payments for such Lease Year previously made by Tenant, Tenant or Landlord, as the case may be, shall pay the deficiency to the other party within thirty (30) days after delivery of the statement. Failure or inability of Landlord to deliver the annual statement within such ninety (90) day period shall not impair or constitute a waiver of Tenant's obligation to pay Operating Expenses, or cause Landlord to incur any liability for damages.

(b) At any time within three (3) months after receipt of Landlord's annual statement of Operating Expenses as contemplated in Section 5.4(a), Tenant shall be entitled, upon reasonable written notice to Landlord and during normal business hours at Landlord's office or such other places as Landlord shall designate, to inspect and examine those books and records of Landlord relating to the determination of Operating Expenses for the immediately preceding Lease Year covered by such annual statement or, if Tenant so elects by written notice to Landlord, to request an independent audit of such books and records. The independent audit

of the books and records shall be conducted by a certified public accountant acceptable to both Landlord and Tenant or, if the parties are unable to agree, by a certified public accountant appointed by the Presiding Judge of the San Mateo County Superior Court upon the application of either Landlord or Tenant (with notice to the other party). In either event, such certified public accountant shall be one who is not then employed in any capacity by Landlord or Tenant or by any of their respective affiliates. The audit shall be limited to the determination of the amount of Operating Expenses for the subject Lease Year, and shall be based on generally accepted accounting principles and tax accounting principles, consistently applied. If it is determined, by mutual agreement of Landlord and Tenant or by independent audit, that the amount of Operating Expenses billed to or paid by Tenant for the applicable Lease Year was incorrect, then the appropriate party shall pay to the other party the deficiency or overpayment, as applicable, within thirty (30) days after the final determination of such deficiency or overpayment. All costs and expenses of the audit shall be paid by Tenant unless the audit shows that Landlord overstated Operating Expenses for the subject Lease Year by more than five percent (5%), in which case Landlord shall pay all costs and expenses of the audit within thirty (30) days after Landlord receives Tenant's written demand for such payment, accompanied by invoices or other evidence reasonably supporting the costs and expenses for which such payment or reimbursement is claimed. Each party agrees to maintain the confidentiality of the findings of any audit in accordance with the provisions of this Section 5.4.

5.5 Proration . If the Commencement Date falls on a day other than the first day of a Lease Year or if this Lease terminates on a day other than the last day of a Lease Year, then the amount of Operating Expenses payable by Tenant with respect to such first or last partial Lease Year shall be prorated on the basis which the number of days during such Lease Year in which this Lease is in effect bears to 365. The termination of this Lease shall not affect the obligations of Landlord and Tenant pursuant to Section 5.4 to be performed after such termination.

## 6. UTILITIES

6.1 Payment . Commencing with the Commencement Date and thereafter throughout the term of this Lease, Tenant shall pay, before delinquency, all charges for water, gas, heat, light, electricity, power, sewer, telephone, alarm system, janitorial and other services or utilities supplied to or consumed in or with respect to the Building (other than any separately metered costs for water, electricity or other services or utilities furnished with respect to the Common Areas, which costs shall be paid by Landlord and shall constitute Operating Expenses under Section 5.2 hereof), including any taxes on such services and utilities. It is the intention of the parties that all such services shall be separately metered to the Building. In the event that any of such services supplied to the Building are not separately metered, then the amount thereof shall be an item of Operating Expenses and shall be paid as provided in Article 5.

6.2 Interruption . There shall be no abatement of rent or other charges required to be paid hereunder and Landlord shall not be liable in damages or otherwise for interruption or failure of any service or utility furnished to or used with respect to the Building or Property because of accident, making of repairs, alterations or improvements, severe weather, difficulty or inability in obtaining services or supplies, labor difficulties or any other cause. Notwithstanding the foregoing provisions of this Section 6.2, however, in the event of any interruption or failure

of any service or utility to the Building that (i) is caused in whole or in material part by the active negligence or willful misconduct of Landlord or its agents or employees and (ii) continues for more than three (3) business days and (iii) materially impairs Tenant's ability to use the Building for its intended purposes hereunder, then following such three (3) business day period, Tenant's obligations for payment of rent and other charges under this Lease shall be abated in proportion to the degree of impairment of Tenant's use of the Building, and such abatement shall continue until Tenant's use of the Building is no longer materially impaired thereby.

## 7. ALTERATIONS; SIGNS

7.1 Right To Make Alterations . Tenant shall make no alterations, additions or improvements to the Building or the Property, other than interior non-structural alterations costing less than Fifty Thousand Dollars ($50,000.00) in the aggregate during any twelve (12) month period, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. All such alterations, additions and improvements shall be completed with due diligence in a first-class workmanlike manner, in compliance with plans and specifications approved in writing by Landlord and in compliance with all applicable laws, ordinances, rules and regulations, and to the extent Landlord's consent is not otherwise required hereunder for such alterations, additions or improvements, Tenant shall give prompt written notice thereof to Landlord. Tenant shall cause any contractors engaged by Tenant for work in the Building or on the Property to maintain public liability and property damage insurance, and other customary insurance, with such terms and in such amounts as Landlord may reasonably require, naming as additional insureds Landlord and any of its partners, shareholders, property managers and lenders designated by Landlord for this purpose, and shall furnish Landlord with certificates of insurance or other evidence that such coverage is in effect. Notwithstanding any other provisions of this Section 7.1, under no circumstances shall Tenant make any structural alterations or improvements, or any substantial changes to the roof or substantial equipment installations on the roof, or any substantial changes or alterations to the building systems, without Landlord's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). If Tenant so requests in seeking Landlord's consent to any alterations, additions or improvements, Landlord shall specify in granting such consent whether Landlord intends to require that Tenant remove such alterations, additions or improvements (or any specified portions thereof) upon expiration or termination of this Lease. Landlord shall receive no fee for supervision, profit, overhead or general conditions in connection with any alterations, additions or improvements constructed or installed by Tenant under this Lease.

7.2 Title To Alterations . All alterations, additions and improvements installed in, on or about the Building or the Property shall become part of the Property and shall become the property of Landlord, unless Landlord elects to require Tenant to remove the same upon the termination of this Lease; provided, however, that the foregoing shall not apply to Tenant's movable furniture and equipment and trade fixtures. Tenant shall promptly repair any damage caused by its removal of any such furniture, equipment or trade fixtures. Notwithstanding any other provisions of this Article 7, however, (a) under no circumstances shall Tenant have any right to remove from the Building or the Property, during the term of this Lease or at the expiration or termination of this Lease, any lab benches, fume hoods, cold rooms or other similar improvements and equipment existing in the Building on the Commencement Date, except with

Landlord's written consent (which consent may take the form of either (i) a separate written consent or (ii) a written approval of plans for proposed alterations or improvements, if and to the extent that such plans specifically show the removal or relocation of any existing lab benches, fume hoods, cold rooms or other similar improvements or equipment as part of the proposed alterations or improvements), and (b) if Tenant requests Landlord's written consent to any alterations, additions or improvements under Section 7.1 hereof and, in requesting such consent, asks that Landlord specify whether Landlord will require removal of such alterations, additions or improvements upon termination or expiration of this Lease, then Landlord shall not be entitled to require such removal unless Landlord specified its intention to do so at the time of granting of Landlord's consent to the requested alterations, additions or improvements.

7.3 Tenant Fixtures . Subject to the final sentence of Section 7.2 and to Section 7.5, Tenant may install, remove and reinstall trade fixtures without Landlord's prior written consent, except that installation and removal of any fixtures which are affixed to the Building or the Property or which affect the exterior or structural portions of the Building or the building systems shall require Landlord's written approval, which approval shall not be unreasonably withheld or delayed. Subject to the provisions of Section 7.5, the foregoing shall apply to Tenant's signs, logos and insignia, all of which Tenant shall have the right to place and remove and replace (a) only with Landlord's prior written consent as to location, size and composition, which consent shall not be unreasonably withheld, conditioned or delayed, and (b) only in compliance with all restrictions and requirements of applicable law and of any covenants, conditions and restrictions or other written agreements now or hereafter applicable to the Property. Tenant shall immediately repair any damage caused by installation and removal of fixtures under this Section 7.3.

7.4 No Liens . Tenant shall at all times keep the Building and the Property free from all liens and claims of any contractors, subcontractors, materialmen, suppliers or any other parties employed either directly or indirectly by Tenant in construction work on the Building or the Property. Tenant may contest any claim of lien, but only if, prior to such contest, Tenant either (i) posts security in the amount of the claim, plus estimated costs and interest, or (ii) records a bond of a responsible corporate surety in such amount as may be required to release the lien from the Building and the Property. Tenant shall indemnify, defend and hold Landlord harmless against any and all liability, loss, damage, cost and other expenses, including, without limitation, reasonable attorneys' fees, arising out of claims of any lien for work performed or materials or supplies furnished at the request of Tenant or persons claiming under Tenant.

7.5 Signs . Without limiting the generality of the provisions of Section 7.3 hereof, Tenant shall have the right to display its corporate name and logo on the Building and in front of the entrance to the Building, subject to Landlord's prior approval as to location, size, design and composition (which approval shall not be unreasonably withheld, conditioned or delayed), subject to the established sign criteria for the Center and subject to all restrictions and requirements of applicable law and of any covenants, conditions and restrictions or other written agreements now or hereafter applicable to the Property.

## 8. MAINTENANCE AND REPAIRS

8.1 Landlord's Work .

(a) Landlord shall repair and maintain or cause to be repaired and maintained the Common Areas of the Property and the roof (structural portions only), exterior walls and other structural portions of the Building. The cost of all work performed by Landlord under this Section 8.1 shall be an Operating Expense hereunder, except to the extent such work (i) is required due to the negligence of Landlord, (ii) is a capital expense, or any other cost or expense, not includible as an Operating Expense under Section 5.2 hereof, or (iii) is required due to the negligence or willful misconduct of Tenant or its agents, employees or invitees (in which event Tenant shall bear the full cost of such work pursuant to the indemnification provided in Section 10.6 hereof, subject to the release set forth in Section 10.4 hereof). Tenant knowingly and voluntarily waives the right to make repairs at Landlord's expense, except to the extent permitted by Section 8.1(b) below, or to offset the cost thereof against rent, under any law, statute, regulation or ordinance now or hereafter in effect.

(b) If Landlord fails to perform any repairs or maintenance required to be performed by Landlord on the Building under Section 8.1(a) and such failure continues for thirty (30) days or more after Tenant gives Landlord written notice of such failure (or, if such repairs or maintenance cannot reasonably be performed within such 30-day period, then if Landlord fails to commence performance within such 30-day period and thereafter to pursue such performance diligently to completion), then Tenant shall have the right to perform such repairs or maintenance and Landlord shall reimburse Tenant for the reasonable cost thereof within fifteen (15) days after written notice from Tenant of the completion and cost of such work, accompanied by copies of invoices or other reasonable supporting documentation. Under no circumstances, however, shall Tenant have any right to offset the cost of any such work against rent or other charges falling due from time to time under this Lease.

8.2 Tenant's Obligation For Maintenance .

(a) Good Order, Condition And Repair . Except as provided in Section 8.1 hereof, Tenant at its sole cost and expense shall keep and maintain in good and sanitary order, condition and repair the Building and every part thereof, wherever located, including but not limited to the roof (non-structural portions only), signs, interior, ceiling, electrical system, plumbing system, telephone and communications systems of the Building, the HVAC equipment and related mechanical systems serving the Building (for which equipment and systems Tenant shall enter into a service contract with a person or entity designated or approved by Landlord), all doors, door checks, windows, plate glass, door fronts, exposed plumbing and sewage and other utility facilities, fixtures, lighting, wall surfaces, floor surfaces and ceiling surfaces of the Building and all other interior repairs, foreseen and unforeseen, with respect to the Building, as required.

(b) Landlord's Remedy . If Tenant, after notice from Landlord, fails to make or perform promptly any repairs or maintenance which are the obligation of Tenant hereunder, Landlord shall have the right, but shall not be required, to enter the Building and make the repairs or perform the maintenance necessary to restore the Building to good and sanitary order, condition and repair. Immediately on demand from Landlord, the cost of such repairs shall be due and payable by Tenant to Landlord.

(c) Condition Upon Surrender . At the expiration or sooner termination of this Lease, Tenant shall surrender the Building and the Improvements, including any additions, alterations and improvements thereto (except for items which Tenant is permitted and elects to remove, or is required to remove, pursuant to the provisions of this Lease), broom clean, in good and sanitary order, condition and repair, ordinary wear and tear excepted, first, however, removing all goods and effects of Tenant and all and fixtures and items required to be removed or specified to be removed at Landlord's election pursuant to this Lease (including, but not limited to, any such removal required as a result of an election duly made by Landlord to require such removal as contemplated in Section 7.2), and repairing any damage caused by such removal. Tenant shall not have the right to remove fixtures or equipment if Tenant is in material default hereunder unless Landlord specifically waives this provision in writing. Tenant expressly waives any and all interest in any personal property and trade fixtures not removed from the Property by Tenant at the expiration or termination of this Lease, agrees that any such personal property and trade fixtures may, at Landlord's election, be deemed to have been abandoned by Tenant, and authorizes Landlord (at its election and without prejudice to any other remedies under this Lease or under applicable law) to remove and either retain, store or dispose of such property at Tenant's cost and expense, and Tenant waives all claims against Landlord for any damages resulting from any such removal, storage, retention or disposal.

## 9. USE OF PROPERTY

9.1 Permitted Use . Subject to Sections 9.3, 9.4 and 9.6 hereof, Tenant shall use the Building solely for a laboratory and research and development facility, which use may include (but is not limited to) wet chemistry and biology labs, clean rooms, storage and use of toxic and radioactive materials (subject to the provisions of Section 9.6 hereof), storage and use of laboratory animals, administrative offices, and other lawful purposes reasonably related to or incidental to such specified uses (subject in each case to receipt of all necessary approvals from the City of South San Francisco and other governmental agencies having jurisdiction over the Building), and for no other purpose, unless Landlord in its sole discretion otherwise consents in writing.

9.2 [Omitted.]

9.3 No Nuisance . Tenant shall not use the Property for or carry on or permit upon the Property or any part thereof any offensive, noisy or dangerous trade, business, manufacture, occupation, odor or fumes, or any nuisance or anything against public policy, nor interfere with the rights or business of Landlord in the Building or the Property, nor commit or allow to be committed any waste in, on or about the Property. Tenant shall not do or permit anything to be done in or about the Property, nor bring nor keep anything therein, which will in any way cause the Property to be uninsurable with respect to the insurance required by this Lease or with respect to standard fire and extended coverage insurance with vandalism, malicious mischief and riot endorsements.

9.4 Compliance With Laws . Tenant shall not use the Property or permit the Property to be used in whole or in part for any purpose or use that is in violation of any applicable laws, ordinances, regulations or rules of any governmental agency or public authority. Tenant shall keep the Building and Improvements equipped with all safety appliances required by law, ordinance or insurance on the Property, or any order or regulation of any public authority, because of Tenant's particular use of the Property. Tenant shall procure all licenses and permits required for use of the Property. Tenant shall use the Property in strict accordance with all applicable ordinances, rules, laws and regulations and shall comply with all requirements of all governmental authorities now in force or which may hereafter be in force pertaining to the use of the Property by Tenant, including, without limitation, regulations applicable to noise, water, soil and air pollution, and making such nonstructural alterations and additions thereto as may be required from time to time by such laws, ordinances, rules, regulations and requirements of governmental authorities or insurers of the Property (collectively, " Requirements ") because of Tenant's construction of improvements in or other particular use of the Property. Any structural alterations or additions required from time to time by applicable Requirements because of Tenant's construction of improvements in the Building or other particular use of the Property shall, at Landlord's election, either (i) be made by Tenant, at Tenant's sole cost and expense, in accordance with the procedures and standards set forth in Section 7.1 for alterations by Tenant, or (ii) be made by Landlord at Tenant's sole cost and expense, in which event Tenant shall pay to Landlord as additional rent, within ten (10) days after demand by Landlord, an amount equal to all reasonable costs incurred by Landlord in connection with such alterations or additions. The judgment of any court, or the admission by Tenant in any proceeding against Tenant, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement shall be conclusive of such violation as between Landlord and Tenant.

9.5 Liquidation Sales . Tenant shall not conduct or permit to be conducted any auction, bankruptcy sale, liquidation sale, or going out of business sale, in, upon or about the Property, whether said auction or sale be voluntary, involuntary or pursuant to any assignment for the benefit of creditors, or pursuant to any bankruptcy or other insolvency proceeding.

9.6 Environmental Matters .

(a) For purposes of this Section, " hazardous substance " shall mean (i) the substances included within the definitions of the term "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq ., and the regulations promulgated thereunder, as amended, (ii) the substances included within the definition of "hazardous substance" under the California Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health & Safety Code §§ 25300 et seq ., and regulations promulgated thereunder, as amended, (iii) the substances included within the definition of "hazardous materials" under the Hazardous Materials Release Response Plans and Inventory Act, California Health & Safety Code §§ 25500 et seq ., and regulations promulgated thereunder, as amended, (iv) the substances included within the definition of "hazardous substance" under the Underground Storage of Hazardous Substances provisions set forth in California Health & Safety Code §§ 25280 et seq ., and (v) petroleum or any fraction thereof; " hazardous waste " shall mean (i) any waste listed as or meeting the identified characteristics of a "hazardous waste" under the Resource Conservation and Recovery

Act of 1976, 42 U.S.C. §§ 6901 et seq ., and regulations promulgated pursuant thereto, as amended (collectively, " RCRA "), (ii) any waste meeting the identified characteristics of "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under the California Hazardous Waste Control Law, California Health & Safety Code §§ 25100 et seq ., and regulations promulgated pursuant thereto, as amended (collectively, the " CHWCL "), and/or (iii) any waste meeting the identified characteristics of "medical waste" under California Health & Safety Code §§ 25015-25027.8, and regulations promulgated thereunder, as amended; and " hazardous waste facility " shall mean a hazardous waste facility as defined under the CHWCL.

(b) Without limiting the generality of the obligations set forth in Section 9.4 of this Lease:

(i) Tenant shall not cause or permit any hazardous substance or hazardous waste to be brought upon, kept, stored or used in or about the Property without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, except that Tenant, in connection with its permitted use of the Property as provided in Section 9.1, may keep, store and use materials that constitute hazardous substances which are customary for such permitted use, provided such hazardous substances are kept, stored and used in quantities which are customary for such permitted use and are kept, stored and used in full compliance with clauses (ii) and (iii) immediately below.

(ii) Tenant shall comply with all applicable laws, rules, regulations, orders, permits, licenses and operating plans of any governmental authority with respect to the receipt, use, handling, generation, transportation, storage, treatment and/or disposal of hazardous substances or wastes by Tenant or its agents or employees (" Tenant's Hazardous Substances "), and Tenant will provide Landlord with copies of all permits, licenses, registrations and other similar documents that authorize Tenant to conduct any such activities in connection with its authorized use of the Property from time to time.

(iii) Tenant shall not (A) operate on or about the Property any facility required to be permitted or licensed as a hazardous waste facility or for which interim status as such is required, nor (B) store any hazardous wastes on or about the Property for ninety (90) days or more, nor (C) conduct any other activities on or about the Property that could result in the Property being deemed to be a "hazardous waste facility" (including, but not limited to, any storage or treatment of hazardous substances or hazardous wastes which could have such a result), nor (D) store any hazardous wastes on or about the Center in violation of any federal or California laws or in violation of the terms of any federal or state licenses or permits held by Tenant.

(iv) Tenant shall not install any underground storage tanks on the Property without the prior written consent of Landlord and prior approval by all applicable governmental authorities. If and to the extent that Tenant obtains all such required consents and approvals and installs any underground storage tanks on the Property, Tenant shall comply with all applicable laws, rules, regulations, orders and permits relating to underground storage tanks installed by Tenant or its agents or

employees or at the request of Tenant (including any installation, monitoring, maintenance, closure and/or removal of such tanks) as such tanks are defined in California Health & Safety Code § 25281(x), including, without limitation, complying with California Health & Safety Code §§ 25280-25299.7 and the regulations promulgated thereunder, as amended. Tenant shall furnish to Landlord copies of all registrations and permits issued to or held by Tenant from time to time for any and all underground storage tanks located on or under the Property.

(v) If applicable, Tenant shall provide Landlord in writing the following information and/or documentation within fifteen (15) days after the Commencement Date, and shall update such information at least annually, on or before each anniversary of the Commencement Date, to reflect any change in or addition to the required information and/or documentation ( provided, however, that in the case of the materials described in subparagraphs (B), (C) and (E) below, Tenant shall not be required to deliver copies of such materials to Landlord but shall maintain copies of such materials to such extent and for such periods as may be required by applicable law and shall permit Landlord or its representatives to inspect and copy such materials during normal business hours at any time and from time to time upon reasonable notice to Tenant):

(A) A list of all hazardous substances and/or wastes that Tenant receives, uses, handles, generates, transports, stores, treats or disposes of from time to time in connection with its operations on the Property.

(B) All Material Safety Data Sheets (" MSDS's "), if any, required to be completed with respect to operations of Tenant at the Property from time to time in accordance with Title 26, California Code of Regulations § 8-5194 or 42 U.S.C. § 11021, or any amendments thereto, and any Hazardous Materials Inventory Sheets that detail the MSDS's.

(C) All hazardous waste manifests, if any, that Tenant is required to complete from time to time under California Health & Safety Code § 25160, any regulations promulgated thereunder, any similar successor provisions and/or any amendments to any of the foregoing, in connection with its operations at the Property.

(D) Any Hazardous Materials Management Plan required from time to time with respect to Tenant's operations at the Property, pursuant to California Health & Safety Code §§ 25500 et seq ., any regulations promulgated thereunder, any similar successor provisions and/or any amendments to any of the foregoing.

(E) Any Air Toxics Emissions Inventory Plan required from time to time with respect to Tenant's operations at the Property, pursuant to California Health & Safety Code §§ 44340 et seq ., any regulations promulgated thereunder, any similar successor provisions and/or any amendments to any of the foregoing.

(F) Any biennial Hazardous Waste Generator reports or notifications furnished by Tenant to the California Department of Toxic Substances Control or other applicable governmental authorities from time to time pursuant to California Code of Regulations Title 22, § 66262.41, any similar successor provisions and/or any amendments to any of the foregoing, in connection with Tenant's operations at the Property.

(G) Any Hazardous Waste Generator Reports regarding source reductions, as required from time to time pursuant to California Health & Safety Code §§ 25244.20 et seq ., any regulations promulgated thereunder, any similar successor provisions and/or any amendments to any of the foregoing, in connection with Tenant's operations at the Property.

(H) Any Hazardous Waste Generator Reports or notifications not otherwise described in the preceding subparagraphs and required from time to time pursuant to California Health & Safety Code § 25153.6, California Code of Regulations Title 22, Division 4.5, Chapter 12, §§ 66262.10 et seq . ("Standards Applicable to Generators of Hazardous Waste"), any other regulations promulgated thereunder, any similar successor provisions and/or any amendments to any of the foregoing, in connection with Tenant's operations at the Property.

(I) All industrial wastewater discharge permits issued to or held by Tenant from time to time in connection with its operations on the Property, and all air quality management district permits issued to or held by Tenant from time to time in connection with its operations at the Property.

(J) Copies of any other lists or inventories of hazardous substances and/or wastes on or about the Property that Tenant is otherwise required to prepare and file from time to time with any governmental or regulatory authority.

(vi) Tenant shall secure Landlord's prior written approval for any proposed receipt, storage, possession, use, transfer or disposal of "radioactive materials" or "radiation," as such materials are defined in Title 26, California Code of Regulations § 17-30100, and/or any other materials possessing the characteristics of the materials so defined, which approval Landlord may withhold in its sole and absolute discretion; provided , that such approval shall not be required for any radioactive materials for which Tenant has secured prior written approval of the California Department of Health Services (or other governmental authority then having primary regulatory jurisdiction over such matters) and delivered to Landlord a copy of such approval. Tenant, in connection with any such authorized receipt, storage, possession, use, transfer or disposal of radioactive materials or radiation, shall:

(A) Comply with all federal, state and local laws, rules, regulations, orders, licenses and permits issued to or applicable to Tenant with respect to its business operations on the Property;

(B) Maintain, to such extent and for such periods as may be required by applicable law, and permit Landlord and its representatives to inspect during normal business hours at any time and from time to time upon reasonable notice to Tenant, a list of all radioactive materials or radiation received, stored, possessed, used, transferred or disposed of by Tenant or in connection with the operation of Tenant's business on the Property from time to time, to the extent not already disclosed through delivery of a copy of a California Department of Health Services approval (or approval by any other governmental authority then having primary regulatory jurisdiction over such matters) with respect thereto as contemplated above; and

(C) Maintain, to such extent and for such periods as may be required by applicable law, and permit Landlord or its representatives to inspect during normal business hours at any time and from time to time upon reasonable notice to Tenant, all licenses, registration materials, inspection reports, governmental orders and permits in connection with the receipt, storage, possession, use, transfer or disposal of radioactive materials or radiation by Tenant or in connection with the operation of Tenant's business on the Property from time to time.

(vii) Tenant shall comply with any and all applicable laws, rules, regulations and orders of any governmental authority with respect to the release into the environment of any hazardous wastes or substances or radiation or radioactive materials by Tenant or its agents or employees. Tenant shall give Landlord immediate verbal notice of any unauthorized release of any such hazardous wastes or substances or radiation or radioactive materials into the environment, and shall follow such verbal notice with written notice to Landlord of such release within twenty-four (24) hours of the time at which Tenant became aware of such release.

(viii) Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, losses (including, but not limited to, loss of rental income), damages, liabilities, costs, legal fees and expenses of any sort arising out of or relating to (A) any failure by Tenant to comply with any provisions of this Section 9.6(b), or (B) any receipt, use, handling, generation, transportation, storage, treatment, release and/or disposal of any hazardous substance or waste or any radioactive material or radiation on or about the Property as a proximate result of Tenant's use of the Property or as a result of any intentional or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant.

(ix) Tenant shall cooperate with Landlord in furnishing Landlord with complete information regarding Tenant's receipt, handling, use, storage, transportation, generation, treatment and/or disposal of any hazardous substances or wastes or radiation or radioactive materials. Upon request, Tenant shall grant Landlord reasonable access at reasonable times to the Property to inspect Tenant's receipt, handling, use, storage, transportation, generation, treatment and/or disposal of hazardous substances or wastes or radiation or radioactive materials, provided that (A) Landlord shall use reasonable efforts

to avoid any unreasonable interference with Tenant's business operations in exercising such access and inspection rights, without thereby being deemed guilty of any disturbance of Tenant's use or possession and without being liable to Tenant in any manner, and (B) Tenant may require that the person(s) exercising Landlord's access, review and inspection rights be accompanied by an employee or representative of Tenant while such person(s) are in the Building.

(x) Notwithstanding Landlord's rights of inspection and review under this Section 9.6(b), Landlord shall have no obligation or duty to so inspect or review, and no third party shall be entitled to rely on Landlord to conduct any sort of inspection or review by reason of the provisions of this Section 9.6(b).

(xi) If Tenant receives, handles, uses, stores, transports, generates, treats and/or disposes of any hazardous substances or wastes or radiation or radioactive materials on or about the Property at any time during the term of this Lease, then no later than thirty (30) days after the termination or expiration of this Lease, Tenant at its sole cost and expense shall obtain and deliver to Landlord an environmental study, performed by an expert reasonably satisfactory to Landlord, evaluating the presence or absence of hazardous substances and wastes, radiation and radioactive materials on and about the Property. Such study shall be based on a reasonable and prudent level of tests and investigations of the Property and surrounding areas (if appropriate), which tests shall be conducted no earlier than the earliest of (i) the date of termination or expiration of this Lease; (ii) the date Tenant shall have vacated the Building; or (iii) the date Tenant shall have ceased operations involving hazardous substances within the Building. Liability for any remedial actions required or recommended on the basis of such study shall be allocated in accordance with Sections 9.4, 9.6, 10.6 and other applicable provisions of this Lease.

(c) Landlord shall indemnify, defend and hold Tenant harmless from and against any and all claims, losses, damages, liabilities, costs, legal fees and expenses of any sort arising out of or relating to (i) the presence on the Property of any hazardous substances or wastes or radiation or radioactive materials as of the Commencement Date (other than Tenant's Hazardous Substances and other than as a result of any intentional or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant), and/or (ii) any unauthorized release into the environment (including, but not limited to, the Property) of any hazardous substances or wastes or radiation or radioactive materials to the extent such release results from the negligence of or willful misconduct or omission by Landlord or its agents or employees.

(d) The parties acknowledge that nothing in this Section 9.6 is intended to impose on Tenant any responsibility or liability for any hazardous substances or wastes or radiation or radioactive materials present on the Property as of the Commencement Date (other than as a result of any intentional misconduct or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant), but also acknowledge that nothing in the preceding portion of this sentence is intended to exculpate Tenant from responsibility or liability for any exacerbation of any such pre-existing conditions as a result of any breach of Tenant's obligations under this Section 9.6.

(e) The provisions of this Section 9.6 shall survive the termination of this Lease.

## 10. INSURANCE AND INDEMNITY

10.1 Insurance .

(a) Tenant shall procure and maintain in full force and effect at all times during the term of this Lease, at Tenant's cost and expense, commercial general liability insurance to protect against liability to the public, or to any invitee of Tenant or Landlord, arising out of or related to the use of or resulting from any accident occurring in, upon or about the Property, with limits of liability of not less than (i) Three Million Dollars ($3,000,000.00) per occurrence for bodily injury, personal injury and death, and Five Hundred Thousand Dollars ($500,000.00) per occurrence for property damage, or (ii) a combined single limit of liability of not less than Five Million Dollars ($5,000,000.00) per occurrence for bodily injury (including personal injury and death) and property damage. Such insurance shall name Landlord, its general partners, its property manager and any lender holding a deed of trust on the Property from time to time (as designated in writing by Landlord to Tenant from time to time) as additional insureds thereunder. The amount of such insurance shall not be construed to limit any liability or obligation of Tenant under this Lease. Tenant shall also procure and maintain in full force and effect at all times during the term of this Lease, at Tenant's cost and expense, products/completed operations coverage on terms and in amounts (A) customary in Tenant's industry for companies engaged in the marketing of products on a scale comparable to that in which Tenant is engaged from time to time and (B) mutually satisfactory to Landlord and Tenant in their respective reasonable discretion.

(b) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Landlord's cost and expense (but reimbursable as an Operating Expense under Section 5.2 hereof), commercial general liability insurance to protect against liability arising out of or related to the use of or resulting from any accident occurring in, upon or about the Property, with combined single limit of liability of not less than Five Million Dollars ($5,000,000.00) per occurrence for bodily injury (including personal injury and death) and property damage.

(c) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Landlord's cost and expense (but reimbursable as an Operating Expense under Section 5.2 hereof), policies of property insurance providing protection against "all risk of direct physical loss" (as defined by and detailed in the Insurance Service Office's Commercial Property Program "Cause of Loss—Special Form [CP1030]" or its equivalent) for the shell of the Building and for the improvements in the Common Areas of the Property, on a full replacement cost basis (with no co-insurance or, if coverage without co-insurance is not reasonably available, then on an "agreed amount" basis or with a commercially reasonable margin clause). Such insurance shall include earthquake and environmental coverage, and shall have such commercially reasonable deductibles and other terms as Landlord in its reasonable discretion determines to be appropriate. Landlord shall have no obligation to carry property damage insurance for any alterations, additions or improvements installed by Tenant or by any predecessor tenant in the Building or on or about the Property, except to the extent (if any) expressly provided in paragraph (d) below or otherwise expressly agreed in writing by Landlord and Tenant.

(d) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Landlord's cost and expense (but reimbursable as an Operating Expense under Section 5.2 hereof), policies of property insurance providing protection against "all risk of direct physical loss" (as defined by and detailed in the Insurance Service Office's Commercial Property Program "Cause of Loss-Special Form [CP1030]" or its equivalent) for the tenant improvements existing in the Building on the Commencement Date and on all other alterations, additions and improvements installed by Tenant from time to time in or about the Building, on a full replacement cost basis (with no co-insurance or, if coverage without co-insurance is not reasonably available, then on an "agreed amount" basis or with a commercially reasonable margin clause). Such insurance may have such commercially reasonable deductibles and other terms as Landlord in its discretion determines to be appropriate, and shall name both Tenant and Landlord as insureds as their interests may appear. The coverage required to be maintained under this paragraph (d) may, in Landlord's discretion, be added to or combined with Landlord's master policy carried under paragraph (c) above, in which event Tenant shall be named as an insured only with respect to the portion of the policy that covers tenant improvements as described in this paragraph (d). Tenant shall cooperate with Landlord in the preparation of a mutually approved initial list or schedule of such existing improvements as of the Commencement Date, for purposes of identifying the items Landlord is responsible for insuring under this paragraph (d), and Tenant shall thereafter provide to Landlord from time to time, upon request by Landlord annually or at other reasonable intervals, an updated version of such list or schedule (the intended purpose of such updating being to reflect any addition, modification or removal of any items that would have the effect of adding them to or eliminating them from the scope of Landlord's insurance obligation under this paragraph (d)). Landlord, in its discretion, may elect from time to time to obtain appraisals of any or all alterations, additions, improvements and tenant improvements (if any) which Landlord is required to insure hereunder. Landlord shall have no obligation or liability with respect to any underinsurance of items described in this paragraph (d) that results from Tenant's failure to keep Landlord informed from time to time, on a current basis, of the identification and insurable value of such items.

10.2 Quality Of Policies And Certificates . All policies of insurance required hereunder shall be issued by responsible insurers and, in the case of policies carried or required to be carried by Tenant, shall be written as primary policies not contributing with and not in excess of any coverage that Landlord may carry. Tenant shall deliver to Landlord copies of policies or certificates of insurance showing that said policies are in effect. The coverage provided by such policies shall include the clause or endorsement referred to in Section 10.4. If Tenant fails to acquire, maintain or renew any insurance required to be maintained by it under this Article 10 or to pay the premium therefor, then Landlord, at its option and in addition to its other remedies, but without obligation so to do, may procure such insurance, and any sums expended by it to procure any such insurance on behalf of or in place of Tenant shall be repaid upon demand, with interest as provided in Section 3.2 hereof. Tenant shall obtain written undertakings from each insurer under policies required to be maintained by it to notify all insureds thereunder at least thirty (30) days prior to cancellation of coverage.

10.3 Workers' Compensation . Tenant shall maintain in full force and effect during the term of this Lease workers' compensation insurance in at least the minimum amounts required by law, covering all of Tenant's employees working on the Property. In addition, Tenant shall maintain in full force and effect during the term of this Lease employer's liability coverage with limits of liability of not less than One Hundred Thousand Dollars ($100,000) per accident, One Hundred Thousand Dollars ($100,000) per employee for disease, and Five Hundred Thousand Dollars ($500,000) policy limit for disease.

10.4 Waiver Of Subrogation . To the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other with respect to (i) damage to property, (ii) damage to the Property or any part thereof, or (iii) claims arising by reason of any of the foregoing, but only to the extent that any of the foregoing damages and claims under clauses (i)-(iii) hereof are covered, and only to the extent of such coverage, by casualty insurance actually carried or required to be carried hereunder by either Landlord or Tenant. This provision is intended to waive fully, and for the benefit of each party, any rights and claims which might give rise to a right of subrogation in any insurance carrier. Each party shall procure a clause or endorsement on any casualty insurance policy denying to the insurer rights of subrogation against the other party to the extent rights have been waived by the insured prior to the occurrence of injury or loss. Coverage provided by insurance maintained by Tenant shall not be limited, reduced or diminished by virtue of the subrogation waiver herein contained.

10.5 Increase In Premiums . Tenant shall do all acts and pay all expenses necessary to insure that the Property is not used for purposes prohibited by any applicable fire insurance, and that Tenant's use of the Property complies with all requirements necessary to obtain any such insurance. If Tenant uses or permits the Property to be used in a manner which increases the existing rate of any insurance carried by Landlord on the Property and such use continues for longer than a reasonable period specified in any written notice from Landlord to Tenant identifying the rate increase and the factors causing the same, then Tenant shall pay the amount of the increase in premium caused thereby, and Landlord's costs of obtaining other replacement insurance policies, including any increase in premium, within ten (10) days after demand therefor by Landlord.

10.6 Indemnification .

(a) Tenant shall indemnify, defend and hold Landlord and its partners, shareholders, officers, directors, agents and employees harmless from any and all liability for injury to or death of any person, or loss of or damage to the property of any person, and all actions, claims, demands, costs (including, without limitation, reasonable attorneys' fees), damages or expenses of any kind arising therefrom which may be brought or made against Landlord or which Landlord may pay or incur by reason of the use, occupancy and enjoyment of the Property by Tenant or any invitees, sublessees, licensees, assignees, employees, agents or contractors of Tenant or holding under Tenant from any cause whatsoever other than negligence or willful misconduct or omission by Landlord, its agents or employees. Landlord and its partners, shareholders, officers, directors, agents and employees shall not be liable for, and Tenant hereby waives all claims against such persons for, damages to goods, wares and

merchandise in or upon the Property, or for injuries to Tenant, its agents or third persons in or upon the Property, from any cause whatsoever other than negligence or willful misconduct or omission by Landlord, its agents or employees. Tenant shall give prompt notice to Landlord of any casualty or accident in, on or about the Property.

(b) Landlord shall indemnify, defend and hold Tenant and its partners, shareholders, officers, directors, agents and employees harmless from any and all liability for injury to or death of any person, or loss of or damage to the property of any person, and all actions, claims, demands, costs (including, without limitation, reasonable attorneys' fees), damages or expenses of any kind arising therefrom which may be brought or made against Tenant or which Tenant may pay or incur, to the extent such liabilities or other matters arise in, on or about the Property by reason of any negligence or willful misconduct or omission by Landlord, its agents or employees.

10.7 Blanket Policy . Any policy required to be maintained hereunder may be maintained under a so-called "blanket policy" insuring other parties and other locations so long as the amount of insurance required to be provided hereunder is not thereby diminished. Without limiting the generality of the requirement set forth at the end of the preceding sentence, property insurance provided under a blanket policy shall provide full replacement cost coverage and liability insurance provided under a blanket policy shall include per location aggregate limits meeting or exceeding the limits required under this Article 10.

## 11. SUBLEASE AND ASSIGNMENT

11.1 Assignment And Sublease Of Building . Except in the case of a Permitted Transfer, Tenant shall not have the right or power to assign its interest in this Lease, or make any sublease of the Building or any portion thereof, nor shall any interest of Tenant under this Lease be assignable involuntarily or by operation of law, without on each occasion obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Any purported sublease or assignment of Tenant's interest in this Lease requiring but not having received Landlord's consent thereto (to the extent such consent is required hereunder) shall be void. Without limiting the generality of the foregoing, Landlord may withhold consent to any proposed subletting or assignment for which consent is requested solely on the ground, if applicable, that the use by the proposed subtenant or assignee is reasonably likely to be incompatible with Landlord's use of any adjacent property owned or operated by Landlord, unless the proposed use is within the permitted uses specified in Section 9.1, in which event it shall not be reasonable for Landlord to object to the proposed use. Except in the case of a Permitted Transfer, any dissolution, consolidation, merger or other reorganization of Tenant, or any sale or transfer of substantially all of the stock or assets of Tenant in a single transaction or series of related transactions, shall be deemed to be an assignment hereunder and shall be void without the prior written consent of Landlord as required above. Notwithstanding the foregoing, (i) an initial public offering of the common stock of Tenant shall not be deemed to be an assignment hereunder; (ii) any transfer of Tenant's stock during any period in which Tenant has a class of stock listed on any recognized securities exchange or traded in the NASDAQ over-the-counter market shall not be deemed to be an assignment hereunder; (iii) any transfer of Tenant's stock in connection with a bona fide financing, capitalization or recapitalization of Tenant shall

not be deemed to be an assignment hereunder, provided that such financing, capitalization or recapitalization does not result in a material reduction in Tenant's net worth or materially change the nature of Tenant's ongoing business as a going concern; and (iv) Tenant shall have the right to assign this Lease or sublet the Building, or any portion thereof, without Landlord's consent (but with prior or concurrent written notice by Tenant to Landlord, except to the extent Tenant is advised by its counsel that such prior or concurrent notice would be in violation of applicable law, in which event Tenant shall give such written notice as soon as reasonably possible after the giving of such notice is no longer in violation of applicable law), to any Affiliate of Tenant, or to any entity which results from a merger or consolidation with Tenant, or to any entity which acquires substantially all of the stock or assets of Tenant as a going concern (hereinafter each a " Permitted Transfer "). For purposes of this Lease, an " Affiliate " of a party shall mean any entity in which that party owns at least a twenty percent (20%) equity interest, any entity which owns at least a twenty percent (20%) equity interest in that party, and/or any entity which is related to that party by a chain of ownership interests involving at least a twenty percent (20%) equity interest at each level in the chain. Landlord shall have no right to terminate this Lease in connection with, and shall have no right to any sums or other economic consideration resulting from, any Permitted Transfer. Except as expressly set forth in this Section 11.1, however, the provisions of Section 11.2 shall remain applicable to any Permitted Transfer and the transferee under such Permitted Transfer shall be and remain subject to all of the terms and provisions of this Lease.

11.2 Rights Of Landlord .

(a) Consent by Landlord to one or more assignments of this Lease, or to one or more sublettings of the Building or any portion thereof, or collection of rent by Landlord from any assignee or sublessee, shall not operate to exhaust Landlord's rights under this Article 11, nor constitute consent to any subsequent assignment or subletting. No assignment of Tenant's interest in this Lease and no sublease shall relieve Tenant of its obligations hereunder, notwithstanding any waiver or extension of time granted by Landlord to any assignee or sublessee, or the failure of Landlord to assert its rights against any assignee or sublessee, and regardless of whether Landlord's consent thereto is given or required to be given hereunder. In the event of a default by any assignee, sublessee or other successor of Tenant in the performance of any of the terms or obligations of Tenant under this Lease, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against any such assignee, sublessee or other successor. In addition, Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Building as permitted under this Lease, and Landlord, as Tenant's assignee and as attorney-in-fact for Tenant, or any receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant which remains uncured following the expiration of any applicable cure period, Tenant shall have the right to collect such rent and to retain all sublease profits (subject to the provisions of Section 11.2(c), below).

(b) Upon any assignment of Tenant's interest in this Lease for which Landlord's consent is required under Section 11.1 hereof, Tenant shall pay to Landlord, within ten (10) days after receipt thereof by Tenant from time to time, one-half (1/2) of all cash sums

and other economic considerations received by Tenant in connection with or as a result of such assignment, after first deducting therefrom (i) the unamortized cost of any leasehold improvements previously made in the Building and paid for by Tenant, (ii) any costs incurred by Tenant for leasehold improvements (including, but not limited to, third-party architectural and space planning costs) in the Building in connection with such assignment, (iii) any real estate commissions and/or attorneys' fees incurred by Tenant in connection with such assignment, and (iv) any economic consideration received by Tenant as bona fide, reasonable compensation for services rendered by Tenant to the assignee and/or personal property sold or leased by Tenant to the assignee.

(c) Upon any sublease of all or any portion of the Building for which Landlord's consent is required under Section 11.1 hereof, Tenant shall pay to Landlord, within ten (10) days after receipt thereof by Tenant from time to time, one-half (1/2) of all cash sums and other economic considerations received by Tenant in connection with or as a result of such sublease, after first deducting therefrom (i) the rental due hereunder for the corresponding period, prorated (on the basis of the average per-square-foot cost paid by Tenant for the entire Building for the applicable period under this Lease) to reflect the size of the subleased portion of the Building, (ii) any costs incurred by Tenant for leasehold improvements in the subleased portion of the Building (including, but not limited to, third-party architectural and space planning costs) for the specific benefit of the sublessee in connection with such sublease, amortized over the term of the sublease, (iii) any real estate commissions and/or attorneys' fees incurred by Tenant in connection with such sublease, amortized over the term of such sublease, (iv) the unamortized cost of any leasehold improvements previously made and paid for by Tenant with respect to the subleased portion of the Building, and (v) any economic consideration received by Tenant as bona fide, reasonable compensation for services rendered by Tenant to the sublessee and/or personal property sold or leased by Tenant to the sublessee.

## 12. RIGHT OF ENTRY AND QUIET ENJOYMENT

12.1 Right Of Entry . Landlord and its authorized representatives shall have the right to enter the Building at any time during the term of this Lease during normal business hours and upon not less than twenty-four (24) hours prior notice, except in the case of emergency (in which event no notice shall be required and entry may be made at any time), for the purpose of inspecting and determining the condition of the Building or for any other proper purpose including, without limitation, to make repairs, replacements or improvements which Landlord may deem necessary, to show the Building to prospective purchasers, to show the Building to prospective tenants (but only during the final year of the term of this Lease), and to post notices of nonresponsibility. Landlord shall not be liable for inconvenience, annoyance, disturbance, loss of business, quiet enjoyment or other damage or loss to Tenant by reason of making any repairs or performing any work upon the Building or the Property or by reason of erecting or maintaining any protective barricades in connection with any such work, and the obligations of Tenant under this Lease shall not thereby be affected in any manner whatsoever, provided , however, Landlord shall use reasonable efforts to minimize the inconvenience to Tenant's normal business operations caused thereby, and Tenant may require Landlord and its authorized representatives exercising Landlord's right of entry hereunder to be accompanied by an employee or representative of Tenant while they are in the Building, except in the case of emergency (in which event no accompaniment shall be required).

12.2 Quiet Enjoyment . Landlord covenants that Tenant, upon paying the rent and performing its obligations hereunder and subject to all the terms and conditions of this Lease, shall peacefully and quietly have, hold and enjoy the Building and the Property throughout the term of this Lease, or until this Lease is terminated as provided by this Lease.

## 13. CASUALTY AND TAKING

13.1 Damage or Destruction .

(a) If the Building, or the Common Areas of the Property necessary for Tenant's use and occupancy of the Building, are damaged or destroyed in whole or in part under circumstances in which (i) repair and restoration is permitted under applicable governmental laws, regulations and building codes then in effect and (ii) repair and restoration reasonably can be completed within a period of one (1) year (or, in the case of an occurrence during the last year of the term of this Lease, within a period of sixty (60) days) following the date of the occurrence, then Landlord, as to the Common Areas of the Property and the Building Shell (as such term is defined in the Prior Lease), and Tenant, as to the Tenant Improvements (as such term is defined in the Prior Lease) in the Building, shall commence and complete, with all due diligence and as promptly as is reasonably practicable under the conditions then existing, all such repair and restoration as may be required to return the affected portions of the Property to a condition comparable to that existing immediately prior to the occurrence. In the event of damage or destruction the repair of which is not permitted under applicable governmental laws, regulations and building codes then in effect, if such damage or destruction (despite being corrected to the extent then permitted under applicable governmental laws, regulations and building codes) would still materially impair Tenant's ability to conduct its business in the Building, then either party may terminate this Lease as of the date of the occurrence by giving written notice to the other within thirty (30) days after the date of the occurrence; if neither party timely elects such termination, or if such damage or destruction does not materially impair Tenant's ability to conduct its business in the Building, then this Lease shall continue in full force and effect, except that there shall be an equitable adjustment in monthly minimum rental and of Tenant's Operating Cost Share of Operating Expenses, based upon the extent to which Tenant's ability to conduct its business in the Building is impaired, and Landlord and Tenant respectively shall restore the Common Areas and Building Shell and the Tenant Improvements to a complete architectural whole and to a functional condition. In the event of damage or destruction which cannot reasonably be repaired within one (1) year (or, in the case of an occurrence during the last year of the term of this Lease, within a period of sixty (60) days) following the date of the occurrence, then either Landlord or Tenant, at its election, may terminate this Lease as of the date of the occurrence by giving written notice to the other within thirty (30) days after the date of the occurrence; if neither party timely elects such termination, then this Lease shall continue in full force and effect and Landlord and Tenant shall each repair and restore applicable portions of the Property in accordance with the first sentence of this Section 13.1.

(b) The respective obligations of Landlord and Tenant pursuant to Section 13.1(a) are subject to the following limitations:

(i) If the occurrence results from a peril which is required to be insured pursuant to Section 10.1(c) and (d) above, the obligations of either party shall not exceed the amount of insurance proceeds received from insurers (or, in the case of any failure to maintain required insurance, proceeds that reasonably would have been available if the required insurance had been maintained) by reason of such occurrence, plus the amount of the party's permitted deductible (provided that each party shall be obligated to use its best efforts to recover any available proceeds from the insurance which it is required to maintain pursuant to the provisions of Section 10.1(c) or (d), as applicable), and, if such proceeds (including, in the case of a failure to maintain required insurance, any proceeds that reasonably would have been available) are insufficient, either party may terminate the Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall; and

(ii) If the occurrence results from a peril which is not required to be insured pursuant to Section 10.1(c) and (d) above and is not actually insured, Landlord shall be required to repair and restore the Building Shell and Common Areas to the extent necessary for Tenant's continued use and occupancy of the Building, and Tenant shall be required to repair and restore the Tenant Improvements to the extent necessary for Tenant's continued use and occupancy of the Building, provided that each party's obligation to repair and restore shall not exceed an amount equal to five percent (5%) of the replacement cost of the Building Shell and Common Area improvements, as to Landlord, or five percent (5%) of the replacement cost of the Tenant Improvements, as to Tenant; if the replacement cost as to either party exceeds such amount, then the party whose limit has been exceeded may terminate this Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall.

(c) If this Lease is terminated pursuant to the foregoing provisions of this Section 13.1 following an occurrence which is a peril actually insured or required to be insured against pursuant to Section 10.1(c) and (d), Landlord and Tenant agree (and any Lender shall be asked to agree) that such insurance proceeds shall be allocated between Landlord and Tenant in a manner which fairly and reasonably reflects their respective ownership rights under this Lease, as of the termination or expiration of the term of this Lease, with respect to the improvements, fixtures, equipment and other items to which such insurance proceeds are attributable.

(d) From and after the date of an occurrence resulting in damage to or destruction of the Building or of the Common Areas necessary for Tenant's use and occupancy of the Building, and continuing until repair and restoration thereof are completed, there shall be an equitable abatement of minimum rental and of Tenant's Operating Cost Share of Operating Expenses based upon the degree to which Tenant's ability to conduct its business in the Building is impaired.

(e) Each party expressly waives the provisions of California Civil Code Sections 1932(2), 1933(4) and any other applicable existing or future law permitting the termination of a lease agreement in the event of damage to or destruction of the leased property, it being the intention of the parties that their respective rights in such circumstances shall be governed solely by the provisions of this Article 13.

13.2 Condemnation .

(a) If during the term of this Lease the Property or Improvements, or any substantial part of either, is taken by eminent domain or by reason of any public improvement or condemnation proceeding, or in any manner by exercise of the right of eminent domain (including any transfer in avoidance of an exercise of the power of eminent domain), or receives irreparable damage by reason of anything lawfully done under color of public or other authority, then (i) this Lease shall terminate as to the entire Building at Landlord's election by written notice given to Tenant within sixty (60) days after the taking has occurred, and (ii) this Lease shall terminate as to the entire Building at Tenant's election, by written notice given to Landlord within thirty (30) days after the nature and extent of the taking have been finally determined, if the portion of the Building taken is of such extent and nature as substantially to handicap, impede or permanently impair Tenant's use of the balance of the Building. If Tenant elects to terminate this Lease, Tenant shall also notify Landlord of the date of termination, which date shall not be earlier than thirty (30) days nor later than ninety (90) days after Tenant has notified Landlord of Tenant's election to terminate, except that this Lease shall terminate on the date of taking if such date falls on any date before the date of termination designated by Tenant. If neither party elects to terminate this Lease as hereinabove provided, this Lease shall continue in full force and effect (except that there shall be an equitable abatement of minim um rental and of Tenant's Operating Cost Share of Operating Expenses based upon the degree to which Tenant's ability to conduct its business in the Building is impaired), Landlord shall restore the Building Shell and Common Area improvements to a complete architectural whole and a functional condition and as nearly as reasonably possible to the condition existing before the taking, and Tenant shall restore the Tenant Improvements and Tenant's other alterations, additions and improvements to a complete architectural whole and a functional condition and as nearly as reasonably possible to the condition existing before the taking. In connection with any such restoration, each party shall use its respective best efforts (including, without limitation, any necessary negotiation or intercession with its respective lender, if any) to ensure that any severance damages or other condemnation awards intended to provide compensation for rebuilding or restoration costs are promptly collected and made available to Landlord and Tenant in portions reasonably corresponding to the cost and scope of their respective restoration obligations, subject only to such payment controls as either party or its lender may reasonably require in order to ensure the proper application of such proceeds toward the restoration of the Improvements. Each party waives the provisions of Code of Civil Procedure Section 1265.130 and of any other existing or future law allowing either party to terminate (or petition the Superior Court to terminate) a lease in the event of a partial condemnation or taking of the leased property, it being the intention of the parties that their respective rights in such circumstances shall be governed solely by the provisions of this Article 13.

(b) The respective obligations of Landlord and Tenant pursuant to Section 13.2(a) are subject to the following limitations:

(i) Each party's obligation to repair and restore shall not exceed, net of any condemnation awards or other proceeds available for and allocable to such restoration as contemplated in Section 13.2(a), an amount equal to five percent (5%) of the replacement cost of the Building Shell and Common Area improvements, as to Landlord, or five percent (5%) of the replacement cost of the Tenant Improvements, as to Tenant; if the replacement cost as to either party exceeds such amount, then the party whose limit has been exceeded may terminate this Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall; and

(ii) If this Lease is terminated pursuant to the foregoing provisions of this Section 13.2, or if this Lease remains in effect but any condemnation awards or other proceeds become available as compensation for the loss or destruction of any of the Improvements, then Landlord and Tenant agree (and any Lender shall be asked to agree) that such proceeds shall be allocated between Landlord and Tenant, respectively, in the respective proportions in which Landlord and Tenant would have shared, under Section 13.1(c), the proceeds of any insurance proceeds following loss or destruction of the applicable Improvements by an insured casualty.

13.3 Reservation Of Compensation . Landlord reserves, and Tenant waives and assigns to Landlord, all rights to any award or compensation for damage to the Improvements, the Property and the leasehold estate created hereby, accruing by reason of any taking in any public improvement, condemnation or eminent domain proceeding or in any other manner by exercise of the right of eminent domain or of anything lawfully done by public authority, except that (a) Tenant shall be entitled to any and all compensation or damages paid for or on account of Tenant's moving expenses, trade fixtures and equipment and any leasehold improvements installed by Tenant in the Building at its own sole expense, but only to the extent Tenant would have been entitled to remove such items at the expiration of the term of this Lease and then only to the extent of the then remaining unamortized value of such improvements computed on a straight-line basis over the term of this Lease, and (b) any condemnation awards or proceeds described in Section 13.2(b)(ii) shall be allocated and disbursed in accordance with the provisions of Section 13.2(b)(ii), notwithstanding any contrary provisions of this Section 13.3.

13.4 Restoration Of Improvements . In connection with any repair or restoration of Improvements by either party following a casualty or taking as hereinabove set forth, the party responsible for such repair or restoration shall, to the extent possible, return such Improvements to a condition substantially equal to that which existed immediately prior to the casualty or taking. To the extent such party wishes to make material modifications to such Improvements, such modifications shall be subject to the prior written approval of the other party (not to be unreasonably withheld, conditioned or delayed), except that no such approval shall be required for modifications that are required by applicable governmental authorities as a condition of the repair or restoration, unless such required modifications would impair or impede Tenant's conduct of its business in the Building (in which case any such modifications in Landlord's work shall require Tenant's consent, not unreasonably withheld, conditioned or delayed) or would materially and adversely affect the exterior appearance, the structural integrity or the mechanical or other operating systems of the Building (in which case any such modifications in Tenant's work shall require Landlord's consent, not unreasonably withheld or delayed).

## 14. DEFAULT

14.1 Events Of Default . The occurrence of any of the following shall constitute an event of default on the part of Tenant:

(a) [Omitted.]

(b) Nonpayment . Failure to pay, when due, any amount payable to Landlord hereunder, such failure continuing for a period of five (5) business days after written notice of such failure; provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 et seq ., as amended from time to time;

(c) Other Obligations . Failure to perform any obligation, agreement or covenant under this Lease other than those matters specified in subsection (b) hereof, such failure continuing for thirty (30) days after written notice of such failure; provided, however, that if such failure is curable in nature but cannot reasonably be cured within such 30-day period, then Tenant shall not be in default if, and so long as, Tenant promptly (and in all events within such 30-day period) commences such cure and thereafter diligently pursues such cure to completion; and provided further, however, that any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 et seq ., as amended from time to time;

(d) General Assignment . A general assignment by Tenant for the benefit of creditors;

(e) Bankruptcy . The filing of any voluntary petition in bankruptcy by Tenant, or the filing of an involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of thirty (30) days. In the event that under applicable law the trustee in bankruptcy or Tenant has the right to affirm this Lease and continue to perform the obligations of Tenant hereunder, such trustee or Tenant shall, in such time period as may be permitted by the bankruptcy court having jurisdiction, cure all defaults of Tenant hereunder outstanding as of the date of the affirmance of this Lease and provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations under this Lease. Specifically, but without limiting the generality of the foregoing, such adequate assurances must include assurances that the Building continues to be operated only for the use permitted hereunder. The provisions hereof are to assure that the basic understandings between Landlord and Tenant with respect to Tenant's use of the Property and the benefits to Landlord therefrom are preserved, consistent with the purpose and intent of applicable bankruptcy laws;

(f) Receivership . The employment of a receiver appointed by court order to take possession of substantially all of Tenant's assets or the Building, if such receivership remains undissolved for a period of thirty (30) days;

(g) Attachment . The attachment, execution or other judicial seizure of all or substantially all of Tenant's assets or the Building, if such attachment or other seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof; or

(h) Insolvency . The admission by Tenant in writing of its inability to pay its debts as they become due, the filing by Tenant of a petition seeking any reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the filing by Tenant of an answer admitting or failing timely to contest a material allegation of a petition filed against Tenant in any such proceeding or, if within thirty (30) days after the commencement of any proceeding against Tenant seeking any reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed.

14.2 Remedies Upon Tenant's Default.

(a) Upon the occurrence of any event of default described in Section 14.1 hereof, Landlord, in addition to and without prejudice to any other rights or remedies it may have, shall have the immediate right to re-enter the Building or any part thereof and repossess the same, expelling and removing therefrom all persons and property (which property may be stored in a public warehouse or elsewhere at the cost and risk of and for the account of Tenant), using such force as may be necessary to do so (as to which Tenant hereby waives any claim for loss or damage that may thereby occur). In addition to or in lieu of such re-entry, and without prejudice to any other rights or remedies it may have, Landlord shall have the right either (i) to terminate this Lease and recover from Tenant all damages incurred by Landlord as a result of Tenant's default, as hereinafter provided, or (ii) to continue this Lease in effect and recover rent and other charges and amounts as they become due.

(b) Even if Tenant has breached this Lease and abandoned the Building, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession under subsection (a) hereof and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover rent as it becomes due, and Landlord, without terminating this Lease, may exercise all of the rights and remedies of a lessor under California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations), or any successor Code section. Acts of maintenance, preservation or efforts to relet the Building or the appointment of a receiver upon application of Landlord to protect Landlord's interests under this Lease shall not constitute a termination of Tenant's right to possession.

(c) If Landlord terminates this Lease pursuant to this Section 14.2, Landlord shall have all of the rights and remedies of a landlord provided by Section 1951.2 of the Civil Code of the State of California, or any successor Code section, which remedies include Landlord's right to recover from Tenant (i) the worth at the time of award of the unpaid rent and additional rent which had been earned at the time of termination, (ii) the worth at the time of award of the amount by which the unpaid rent and additional rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided, (iii) the worth at the time of award of the amount by which the unpaid rent and additional rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided, and

(iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Building, expenses of reletting, including necessary repair, renovation and alteration of the Building, reasonable attorneys' fees, and other reasonable costs. The " worth at the time of award " of the amounts referred to in clauses (i) and (ii) above shall be computed by allowing interest at ten percent (10%) per annum from the date such amounts accrued to Landlord. The " worth at the time of award " of the amounts referred to in clause (iii) above shall be computed by discounting such amount at one percentage point above the discount rate of the Federal Reserve Bank of San Francisco at the time of award.

14.3 Remedies Cumulative . All rights, privileges and elections or remedies of Landlord contained in this Article 14 are cumulative and not alternative to the extent permitted by law and except as otherwise provided herein.

## 15. SUBORDINATION, ATTORNMENT AND SALE

15.1 Subordination To Mortgage . This Lease, and any sublease entered into by Tenant under the provisions of this Lease, shall be subject and subordinate to any ground lease, mortgage, deed of trust, sale/leaseback transaction or any other hypothecation for security now or hereafter placed upon the Building, the Property, or any of them, and the rights of any assignee of Landlord or of any ground lessor, mortgagee, trustee, beneficiary or leaseback lessor under any of the foregoing, and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof; provided , however, that such subordination in the case of any future ground lease, mortgage, deed of trust, sale/leaseback transaction or any other hypothecation for security placed upon the Building, the Property, or any of them shall be conditioned on Tenant's receipt from the ground lessor, mortgagee, trustee, beneficiary or leaseback lessor of a Non-Disturbance Agreement in a form reasonably acceptable to Tenant (i) confirming that so long as Tenant is not in material default hereunder beyond any applicable cure period (for which purpose the occurrence of any event of default under Section 14.1 hereof shall be deemed to be "material"), Tenant's rights hereunder shall not be disturbed by such person or entity and (ii) agreeing that the benefit of such Non-Disturbance Agreement shall be transferable to any transferee under a Permitted Transfer and to any other assignee or subtenant that is acceptable to the ground lessor, mortgagee, trustee, beneficiary or leaseback lessor at the time of transfer. If any mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or assignee elects to have this Lease be an encumbrance upon the Property prior to the lien of its mortgage, deed of trust, ground lease or leaseback lease or other security arrangement and gives notice thereof to Tenant, this Lease shall be deemed prior thereto, whether this Lease is dated prior or subsequent to the date thereof or the date of recording thereof. Tenant, and any sublessee, shall execute such documents as may reasonably be requested by any mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or assignee to evidence the subordination herein set forth, subject to the conditions set forth above, or to make this Lease prior to the lien of any mortgage, deed of trust, ground lease, leaseback lease or other security arrangement, as the case may be. Upon any default by Landlord in the performance of its obligations under any mortgage, deed of trust, ground lease, leaseback lease or assignment, Tenant (and any sublessee) shall, notwithstanding any subordination hereunder,

attorn to the mortgagee, trustee, beneficiary, ground lessor, leaseback lessor or assignee thereunder upon demand and become the tenant of the successor in interest to Landlord, at the option of such successor in interest, and shall execute and deliver any instrument or instruments confirming the attornment herein provided for. Landlord represents and warrants to Tenant that as of the date of this Lease, neither the Building nor the Center is subject to any existing ground lease, mortgage, deed of trust, sale-leaseback transaction or any other hypothecation for security.

15.2 Sale Of Landlord's Interest . Upon sale, transfer or assignment of Landlord's entire interest in the Building and the Property, Landlord shall be relieved of its obligations hereunder with respect to liabilities accruing from and after the date of such sale, transfer or assignment.

15.3 Estoppel Certificates . Tenant or Landlord (the " responding party "), as applicable, shall at any time and from time to time, within ten (10) days after written request by the other party (the " requesting party "), execute, acknowledge and deliver to the requesting party a certificate in writing stating: (i) that this Lease is unmodified and in full force and effect, or if there have been any modifications, that this Lease is in full force and effect as modified and stating the date and the nature of each modification; (ii) the date to which rental and all other sums payable hereunder have been paid; (iii) that the requesting party is not in default in the performance of any of its obligations under this Lease, that the certifying party has given no notice of default to the requesting party and that no event has occurred which, but for the expiration of the applicable time period, would constitute an event of default hereunder, or if the responding party alleges that any such default, notice or event has occurred, specifying the same in reasonable detail; and (iv) such other matters as may reasonably be requested by the requesting party or by any institutional lender, mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or prospective purchaser of the Property, or prospective sublessee or assignee of this Lease. Any such certificate provided under this Section 15.3 may be relied upon by any lender, mortgagee, trustee, beneficiary, assignee or successor in interest to the requesting party, by any prospective purchaser, by any purchaser on foreclosure or sale, by any grantee under a deed in lieu of foreclosure of any mortgage or deed of trust on the Property, by any subtenant or assignee, or by any other third party. Failure to execute and return within the required time any estoppel certificate requested hereunder, if such failure continues for five (5) days after a second written request by the requesting party for such estoppel certificate, shall be deemed to be an admission of the truth of the matters set forth in the form of certificate submitted to the responding party for execution.

15.4 Subordination to CC&R's . This Lease, and any permitted sublease entered into by Tenant under the provisions of this Lease, and the interests in real property conveyed hereby and thereby shall be subject and subordinate to any declarations of covenants, conditions and restrictions affecting the Property from time to time, provided that the terms of such declarations are reasonable, do not materially impair Tenant's ability to conduct the uses permitted hereunder on the Property, and do not discriminate against Tenant relative to other similarly situated tenants occupying portions of the property covered by such declaration(s). Tenant agrees to execute, upon request by Landlord, any documents reasonably required from time to time to evidence such subordination.

15.5 Mortgagee Protection . If, following a default by Landlord under any mortgage, deed of trust, ground lease, leaseback lease or other security arrangement covering the Building, the Property, or any of them, the Buildings and/or the Property, as applicable, is acquired by the mortgagee, beneficiary, master lessor or other secured party, or by any other successor owner, pursuant to a foreclosure, trustee's sale, sheriff's sale, lease termination or other similar procedure (or deed in lieu thereof), then any such person or entity so acquiring the Building and/or the Property shall not be:

(a) liable for any act or omission of a prior landlord or owner of the Property (including, but not limited to, Landlord);

(b) subject to any offsets or defenses that Tenant may have against any prior landlord or owner of the Property (including, but not limited to, Landlord);

(c) bound by any rent or additional rent that Tenant may have paid in advance to any prior landlord or owner of the Property (including, but not limited to, Landlord) for a period in excess of one month, or by any security deposit, cleaning deposit or other prepaid charge that Tenant may have paid in advance to any prior landlord or owner (including, but not limited to, Landlord), except to the extent such deposit or prepaid amount has been expressly turned over to or credited to the successor owner thus acquiring the Property;

(d) liable for any warranties or representations of any nature whatsoever, whether pursuant to this Lease or otherwise, by any prior landlord or owner of the Property (including, but not limited to, Landlord) with respect to the use, construction, zoning, compliance with laws, title, habitability, fitness for purpose or possession, or physical condition (including, without limitation, environmental matters) of the Property or the Building; or

(e) liable to Tenant in any amount beyond the interest of such mortgagee, beneficiary, master lessor or other secured party or successor owner in the Property as it exists from time to time, it being the intent of this provision that Tenant shall look solely to the interest of any such mortgagee, beneficiary, master lessor or other secured party or successor owner in the Property for the payment and discharge of the landlord's obligations under this Lease and that such mortgagee, beneficiary, master lessor or other secured party or successor owner shall have no separate personal liability for any such obligations.

## 16. SECURITY

16.1 Deposit .

(a) No later than the Commencement Date, Tenant shall deposit with Landlord the sum of Three Hundred Seventy-Five Thousand and No/100 Dollars ($375,000.00), which sum (the " Security Deposit ") shall be held by Landlord as security for the faithful performance 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 (beyond any applicable cure period) with respect to any provision of this Lease, including, without limitation, the provisions relating to the payment of rental and other sums due hereunder, Landlord shall have the right, but shall not be required, to use, apply or retain all or any part of the Security Deposit for the payment of rental

or any other amount which Landlord may spend or become obligated to 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 the Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep any deposit under this Section separate from Landlord's general funds, and Tenant shall not be entitled to interest thereon. 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 term of this Lease and after Tenant has vacated the Property. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer all deposits then held by Landlord under this Section to Landlord's successor in interest, whereupon Tenant agrees to release Landlord from all liability for the return of such deposit or the accounting thereof.

(b) As an alternative to the cash Security Deposit described in Section 16.1(a), Tenant may instead deliver to Landlord an irrevocable standby letter of credit (the " Letter of Credit ") issued in favor of Landlord by a federally insured commercial bank or trust company approved in writing by Landlord (which approval shall not be unreasonably withheld), in form and substance reasonably satisfactory to Landlord, to be held by Landlord as security for the faithful performance of all the obligations of Tenant under this Lease, subject to the following terms and conditions:

(i) The amount of the Letter of Credit shall be Three Hundred Seventy-Five Thousand and No/100 Dollars ($375,000.00), and Tenant shall maintain the Letter of Credit in that amount in full force and effect throughout the term of this Lease and until thirty (30) days after the expiration of the term of this Lease, unless Tenant elects at any time to replace the Letter of Credit with a full cash Security Deposit in compliance with Section 16.1(a). The Letter of Credit may be for an initial one-year term, with automatic renewal provisions, provided that Landlord shall be given at least thirty (30) days prior written notice if the Letter of Credit will not be renewed as of any otherwise applicable renewal date and shall be entitled to draw against the expiring Letter of Credit if a replacement Letter of Credit is not furnished to Landlord at least twenty (20) days prior to the scheduled expiration date, as provided in Section 16.1(b)(iii)(A) below.

(ii) Landlord shall be entitled (but shall not be required) to draw against the Letter of Credit and receive and retain the proceeds thereof upon any default (beyond any applicable cure period) by Tenant in the payment of any rent or other amounts required to be paid by Tenant under this Lease, or upon the occurrence of any other Event of Default (beyond any applicable cure period) under this Lease. The amount of the draw shall not exceed the amount of the payments (if any) as to which Tenant is then in default and/or the amount reasonably necessary to cure any nonmonetary Events of Default by Tenant, and shall be applied by Landlord to the cure of the applicable default(s). Following any partial draw under this paragraph (ii), if Tenant fully cures all outstanding defaults and provides Landlord with a new Letter of Credit in

the full required amount under this Section 16.1, Landlord shall surrender and return to Tenant, within ten (10) days after Tenant's satisfaction of the foregoing conditions, the Letter of Credit under which the partial draw was made.

(iii) Landlord shall also be entitled (but shall not be required) to draw against the Letter of Credit in full and to receive the entire proceeds thereof under either of the following circumstances:

(A) If the Letter of Credit will expire as of a date prior to the date thirty (30) days after the expiration of the term of this Lease and Tenant fails to provide to Landlord an extension or replacement of such Letter of Credit, in at least the minimum amount required under this Section 16.1(b), at least twenty (20) days prior to the scheduled expiration date of the Letter of Credit; or

(B) If, as a result of a draw against the Letter of Credit by Landlord or for any other reason, the amount of the Letter of Credit falls below the minimum amount required to be maintained from time to time pursuant to this Section 16.1(b) and Tenant has failed to cause the Letter of Credit to be restored to at least the minimum required amount within ten (10) days after written demand by Landlord or, in lieu thereof, has failed to put up cash in an amount equal to the amount required to be restored (which cash, if put up by Tenant, shall be retained by Landlord as a cash security deposit in accordance with Section 16.1(a) hereof).

(iv) If Landlord draws against the Letter of Credit in any of the circumstances described in subparagraph (iii) above, Landlord shall use, apply and/or retain all or any part of the amount drawn for the cure of any then existing defaults under this Lease. Any amount drawn that is not immediately so used or applied by Landlord shall be retained by Landlord as a cash security deposit, subject to and in accordance with the provisions of Section 16.1(a).

(v) Any actual or purported withdrawal, rescission, termination or revocation of the Letter of Credit by the issuer thereof prior to the expiration of the term of this Lease (except when replaced prior to the effectiveness of such withdrawal, rescission, termination or revocation by a replacement Letter of Credit as contemplated in Section 16.1(b)(iii)(A) hereof or by a cash Security Deposit in the required amount) shall be a material breach of this Lease.

(vi) The Letter of Credit shall provide that it is governed by the International Standby Practices (ISP98), ICC Publication No. 590.

## 17. MISCELLANEOUS

17.1 Notices . All notices, consents, waivers and other communications which this Lease requires or permits either party to give to the other shall be in writing and shall be deemed given when delivered personally (including delivery by private same-day or overnight courier or express delivery service) or by telecopier with mechanical confirmation of transmission,

effective upon personal delivery to or refusal of delivery by the recipient (in the case of personal delivery by any of the means described above) or upon telecopier transmission during normal business hours at the recipient's office (in the case of telecopier transmission, with any transmission outside of normal business hours being effective as of the beginning of the first business day commencing after the time of actual transmission), to the parties at their respective addresses as follows:

| | |
|---|---|
| To Tenant: | (prior to Tenant's occupancy of Building under Amgen Sublease)<br>Raven biotechnologies, inc.<br>1140 Veterans Boulevard<br>South San Francisco, CA 94080<br>Attn: CFO<br>Telecopier: (650) 624-2693 |
| | (after Tenant's occupancy of Building under Amgen Sublease)<br>RAVEN BIOTECHNOLOGIES, INC.<br>One Corporate Drive<br>South San Francisco, CA 94080<br>Attn: CFO<br>Telecopier: (650) |
| with copy to: | Cooley Godward Kronish LLP<br>101 California Street, 5th Floor<br>San Francisco, CA 94111-5800<br>Attn: Anna B. Pope, Esq.<br>Telecopier: (415) 693-2222 |
| To Landlord: | Britannia Biotech Gateway Limited Partnership<br>c/o Slough Estates USA Inc.<br>444 North Michigan Avenue, Suite 3230<br>Chicago, IL 60611<br>Attn: Randy Rohner<br>Telecopier: (312) 755-0717 |
| with copy to: | Britannia Management Services, Inc.<br>555 Twelfth Street, Suite 1650<br>Oakland, CA 94607<br>Telecopier: (510) 763-6262 |
| and copy to: | Folger Levin & Kahn LLP<br>Embarcadero Center West<br>275 Battery Street, 23rd Floor<br>San Francisco, CA 94111<br>Attn: Donald E. Kelley, Jr.<br>Telecopier: (415) 986-2827 |

or to such other address as may be contained in a notice at least fifteen (15) days prior to the address change from either party to the other given pursuant to this Section. Rental payments and other sums required by this Lease to be paid by Tenant shall be delivered to Landlord in care of Britannia Management Services, Inc., 555 Twelfth Street, Suite 1650, Oakland, CA 94607, or at such other address as Landlord may from time to time specify in writing to Tenant, and shall be deemed to be paid only upon actual receipt.

17.2 Successors And Assigns . The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the original Landlord named herein and each successive Landlord under this Lease shall be liable only for obligations accruing during the period of its ownership of the Property, and any liability for obligations accruing after termination of such ownership shall terminate as of the date of such termination of ownership and shall pass to the successor lessor.

17.3 No Waiver . The failure of Landlord to seek redress for violation, or to insist upon the strict performance, of any covenant or condition of this Lease shall not be deemed a waiver of such violation, or prevent a subsequent act which would originally have constituted a violation from having all the force and effect of an original violation.

17.4 Severability . If any provision of this Lease or the application thereof is held to be invalid or unenforceable, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each of the provisions of this Lease shall be valid and enforceable, unless enforcement of this Lease as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would materially frustrate the purposes of this Lease.

17.5 Litigation Between Parties . In the event of any litigation or other dispute resolution proceedings between the parties hereto arising out of or in connection with this Lease, the prevailing party shall be reimbursed for all reasonable costs, including, but not limited to, reasonable accountants' fees and attorneys' fees, incurred in connection with such proceedings (including, but not limited to, any appellate proceedings relating thereto) or in connection with the enforcement of any judgment or award rendered in such proceedings. " Prevailing party " within the meaning of this Section shall include, without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

17.6 Surrender . A voluntary or other surrender of this Lease by Tenant, or a mutual termination thereof between Landlord and Tenant, shall not result in a merger but shall, at the option of Landlord, operate either as an assignment to Landlord of any and all existing subleases and subtenancies, or a termination of all or any existing subleases and subtenancies. This provision shall be contained in any and all assignments or subleases made pursuant to this Lease.

17.7 Interpretation . The provisions of this Lease shall be construed as a whole, according to their common meaning, and not strictly for or against Landlord or Tenant. The captions preceding the text of each Section and subsection hereof are included only for convenience of reference and shall be disregarded in the construction or interpretation of this Lease.

17.8 Entire Agreement . This written Lease, together with the exhibits hereto, contains all the representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Lease and the exhibits hereto. This Lease may be modified only by an agreement in writing signed by each of the parties.

17.9 Governing Law . This Lease and all exhibits hereto shall be construed and interpreted in accordance with and be governed by all the provisions of the laws of the State of California.

17.10 No Partnership . The relationship between Landlord and Tenant is solely that of a lessor and lessee. Nothing contained in this Lease shall be construed as creating any type or manner of partnership, joint venture or joint enterprise with or between Landlord and Tenant.

17.11 Financial Information . From time to time Tenant shall promptly provide directly to prospective lenders and purchasers of the Property designated by Landlord such financial information pertaining to the financial status of Tenant as Landlord may reasonably request; provided. Tenant shall be permitted to provide such financial information in a manner which Tenant deems reasonably necessary to protect the confidentiality of such information. In addition, from time to time, Tenant shall provide Landlord with such financial information pertaining to the financial status of Tenant as Landlord may reasonably request. Landlord agrees that all financial information supplied to Landlord by Tenant shall be treated as confidential material, and shall not be disseminated to any party or entity (including any entity affiliated with Landlord) without Tenant's prior written consent, except that Landlord shall be entitled to provide such information, subject to reasonable precautions to protect the confidential nature thereof, (i) to Landlord's partners and professional advisors, solely to use in connection with Landlord's execution and enforcement of this Lease, and (ii) to prospective lenders and/or purchasers of the Property, solely for use in connection with their bona fide consideration of a proposed financing or purchase of the Property, provided that such prospective lenders and/or purchasers are not then engaged in businesses directly competitive with the business then being conducted by Tenant. For purposes of this Section, without limiting the generality of the obligations provided herein, it shall be deemed reasonable for Landlord to request copies of Tenant's most recent audited annual financial statements, or, if audited statements have not been prepared, unaudited financial statements for Tenant's most recent fiscal year, accompanied by a certificate of Tenant's chief financial officer that such financial statements fairly present Tenant's financial condition as of the date(s) indicated. Notwithstanding any other provisions of this Section 17.11, during any period in which Tenant has outstanding a class of publicly traded securities and is filing with the Securities and Exchange Commission, on a regular basis, Forms 10Q and 10K and any other periodic filings required under the Securities Exchange Act of 1934, as amended, it shall constitute sufficient compliance under this Section 17.11 for Tenant to furnish Landlord with copies of such periodic filings substantially concurrently with the filing thereof with the Securities and Exchange Commission.

Landlord and Tenant recognize the need of Tenant to maintain the confidentiality of information regarding its financial status and the need of Landlord to be informed of, and to provide to prospective lenders and purchasers of the Property financial information pertaining to, Tenant's financial status. Landlord and Tenant agree to cooperate with each other in achieving these needs within the context of the obligations set forth in this Section.

17.12 Costs . If Tenant requests the consent of Landlord under any provision of this Lease for any act that Tenant proposes to do hereunder, including, without limitation, assignment or subletting of the Building or any portion thereof, Tenant shall, as a condition to doing any such act and the receipt of such consent, reimburse Landlord promptly for any and all reasonable costs and expenses incurred by Landlord in connection therewith, including, without limitation, reasonable attorneys' fees.

17.13 Time . Time is of the essence of this Lease, and of every term and condition hereof.

17.14 Rules And Regulations . Tenant shall observe, comply with and obey, and shall cause its employees, agents and, to the best of Tenant's ability, invitees to observe, comply with and obey such rules and regulations as Landlord may reasonably promulgate from time to time for the safety, care, cleanliness, order and use of the Improvements, the Building and the Property, provided that such rules and regulations do not expressly conflict with the terms of this Lease.

17.15 Brokers . Each party represents and warrants that no broker participated in the consummation of this Lease and agrees to indemnify, defend and hold the other party harmless against any liability, cost or expense, including, without limitation, reasonable attorneys' fees, arising out of any claims for brokerage commissions or other similar compensation in connection with any conversations, prior negotiations or other dealings by the indemnifying party with any broker, finder or other similar claimant.

17.16 Memorandum Of Lease . At any time during the term of this Lease, either party, at its sole expense, shall be entitled to record a memorandum of this Lease and, if either party so elects, both parties agree to cooperate in the preparation, execution, acknowledgement and recordation of such document in reasonable form. If such a memorandum of lease is recorded, then upon expiration or termination of this Lease, Tenant agrees promptly to execute, acknowledge and deliver to Landlord, upon written request by Landlord, a Termination of Memorandum of Lease in such form as Landlord may reasonably request, for the purpose of terminating any continuing effect of the previously recorded memorandum of lease as a cloud upon title to the Property.

17.17 Corporate Authority . Each party to this Lease represents and warrants that the person signing this Lease on behalf of such respective party is fully authorized to do so and, by so doing, to bind such party.

17.18 Execution and Delivery . This Lease may be executed in one or more counterparts and by separate parties on separate counterparts, but each such counterpart shall constitute an original and all such counterparts together shall constitute one and the same instrument.

17.19 Survival . Without limiting survival provisions which would otherwise be implied or construed under applicable law, the provisions of Sections 2.4, 5.4, 7.2, 7.3, 7.4, 8.2(c), 9.6, 10.6, 16.1, 17.5 and 17.16 hereof shall survive the termination of this Lease with respect to matters occurring prior to the expiration of this Lease.

17.20 Parking . Landlord and Tenant agree that the Common Areas, taken as a whole, shall include parking in amounts sufficient to satisfy the minimum parking requirements of the City of South San Francisco applicable to the Property and the Center from time to time.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first set forth above.

| "Landlord" | "Tenant" |
|---|---|
| BRITANNIA BIOTECH GATEWAY LIMITED PARTNERSHIP, a Delaware limited partnership | RAVEN BIOTECHNOLOGIES, INC., a Delaware corporation |
| By: SLOUGH BIOTECH GATEWAY INCORPORATED, a Delaware corporation, General Partner | By: /s/ George F. Schreiner<br>Name: George F. Schreiner<br>Title: CEO |
| By: /s/ Jonathan M. Bergschneider<br>Jonathan M. Bergschneider<br>Senior Vice President | By: /s/ John Whelan<br>Name: John Whelan<br>Title: COO & CFO |

EXHIBITS

| | |
|---|---|
| EXHIBIT A | Real Property Description |
| EXHIBIT B | Site Plan |
| EXHIBIT C | Acknowledgement of Commencement Date |

**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

All that certain real property in the City of South San Francisco, County of San Mateo, State of California, more particularly described as follows:

Parcel One:

Parcel C as designated on the Map entitled “PARCEL MAP NO. 89-268”, being a resubdivision of Lots 4, 5, 6 and 7 of that certain Map entitled “FINAL MAP GATEWAY CENTER” (SA-81-74) filed in the office of the Recorder of the County of San Mateo in Book 107 of Maps at Pages 27, 28, 29 and 30, which Map was filed in the Office of the Recorder of the County of San Mateo, State of California on December 12, 1989 in Book 63 of Parcel Maps at Pages 32 and 33.

Parcel Two:

A portion of that certain 0.572 acre parcel of land described in Resolution No. 900 by the City of South San Francisco, recorded August 6, 1943, in Book 1079 of Official Records of San Mateo County at Page 77, further described as follows:

A portion of Industrial Way, as shown on that certain Map entitled “Final Map Gateway Center” filed October 1, 1982, in Book 107 of Maps at Pages 27-30, San Mateo County Records, further described as follows:

Beginning at a point on the southeasterly line of said 0.572 acre parcel, also being the northwesterly line of Lot 4 as shown on said Map (104 Maps 27-30), distant thereon North 38° 42’ 41” East, 29.29 feet from the southwest corner of said Lot 4; thence along the aforementioned southeasterly line, North 38° 42’ 41” East, 356.97 feet; then northeasterly along the arc of a tangent, 980.56 foot radius curve to the left, through a central angle of 7° 19’ 26”, an arc distance of 125.34 feet to a point of reverse curvature; thence northeasterly along the arc of a tangent, 980.56 foot radius curve to the right, through a central angle of 7° 19’ 26”, an arc distance of 125.34 feet to a point of cusp, being the most northerly point of the aforementioned 0.572 acre parcel; thence along the northwesterly line of said 0.572 acre parcel, South 38° 42’ 41” West, 606.97 feet to a line which bears North 51° 17’ 19” West from the point of beginning; thence South 51° 17’ 19” East, 16.00 feet to the point of beginning.

**EXHIBIT B**

**SITE PLAN**

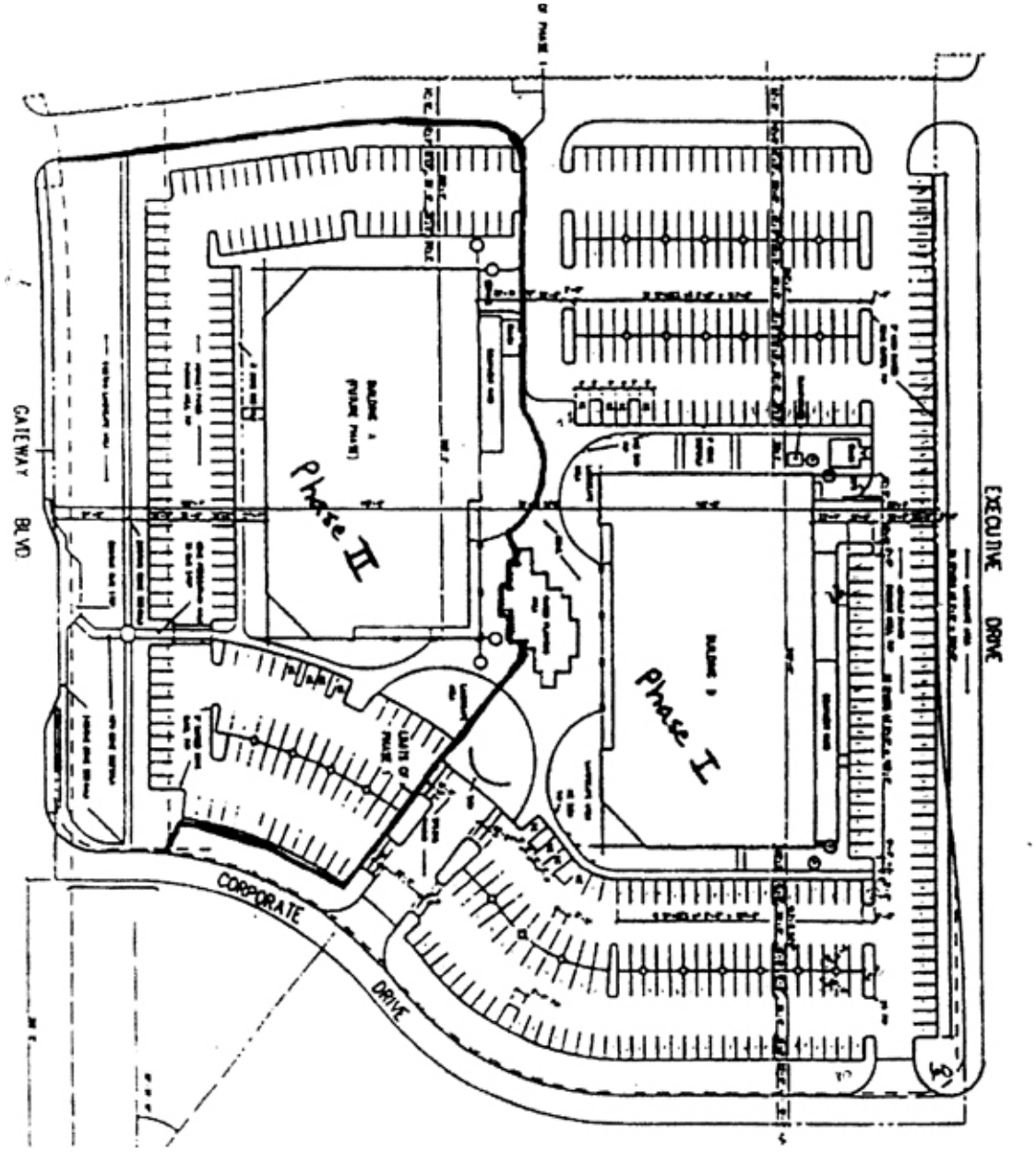



EXHIBIT B to Lease

**EXHIBIT C**

**ACKNOWLEDGEMENT OF COMMENCEMENT DATE**

This Acknowledgement is executed as of , , by BRITANNIA BIOTECH GATEWAY LIMITED PARTNERSHIP, a Delaware limited partnership (" Landlord "), and RAVEN BIOTECHNOLOGIES, INC., a Delaware corporation (" Tenant "), pursuant to Section 2.3 of the Lease dated November 21, 2006 between Landlord and Tenant (the " Lease ") covering premises located at One Corporate Drive, South San Francisco, CA 94080 (the " Property ").

Landlord and Tenant hereby acknowledge and agree as follows:

1. The Commencement Date under the Lease is , .

2. The Termination Date under the Lease shall be February 28, 2018, subject to any applicable provisions of the Lease for early termination thereof.

3. The square footage of the Building is 66,127 square feet.

4. Tenant accepts the Building and acknowledges the satisfactory condition thereof as provided in the applicable provisions of the Lease.

EXECUTED as of the date first set forth above.

| "Landlord" | "Tenant" |
|---|---|
| BRITANNIA BIOTECH GATEWAY LIMITED PARTNERSHIP, a Delaware limited partnership | RAVEN BIOTECHNOLOGIES, INC., a Delaware corporation |
| By: SLOUGH BIOTECH GATEWAY INCORPORATED, a Delaware corporation, General Partner | By: _____<br>Its: _____ |
| By: _____<br>Jonathan M. Bergschneider<br>Senior Vice President | By: _____<br>Its: _____ |

**MACROGENICS, INC.**

**LEASE AGREEMENT**

THIS LEASE AGREEMENT, made this 31st day of March 2014, by and between
**W. M. RICKMAN CONSTRUCTION CO. LLC** ("Landlord") and **MACROGENICS, INC.** ("Tenant").

**W I T N E S S E T H:**

**1. DEMISE OF PREMISES**

Landlord hereby demises unto Tenant, and Tenant hereby leases from Landlord for the terms and upon the conditions set forth in this Lease the entire third (3 rd ) floor (approximately 14,597 square feet) in the building located at 15235 Shady Grove Road, Rockville, Maryland (the "Building"), as set forth on Exhibit A, hereto attached, said space being referred to as the "Premises." Landlord shall maintain the Building, as required, in accordance with all applicable laws, including, but not limited to the Americans with Disabilities Act of 1990, as amended (the "ADA"). Landlord hereby represents and warrants that the Building is in full compliance, as required, with the ADA as of the date of this Lease and the Lease Commencement Date.

**2. TERM**

The term of this Lease shall be for a period of four (4) years, commencing on the 1st day of April 2014, and terminating on the 31 st day of March 2018, with an option for an additional five (5) years on the same terms and conditions in this Lease, provided that Tenant shall have given the Landlord written notice of Tenant's intention to do so at least nine (9) months prior to the expiration of this Lease and that Tenant is not in default under this Lease.

In the event the Landlord is not able to deliver possession of the Premises to Tenant on the date this Lease is to commence because Landlord has not fully completed the Landlord's Work, or an earlier tenant has failed to vacate the Premises, the commencement date shall be extended to the date said Work is completed and/or the earlier tenant has vacated and the expiration date shall be similarly extended.

The date of delivery of the Premises by Landlord to Tenant shall be that date on which all required improvements to be furnished by Landlord as stated in Exhibit "A" have been substantially completed except for punch list items and the occupancy certificate has been issued, unless Tenant's act or omissions have caused such approval to be denied, in which case Tenant shall be deemed to have waived this condition. Rent shall be pro-rated for any portion of the initial month in which Tenant is required to commence rental payments hereunder, which does not commence with the first day thereof.

At any time prior to delivery of possession of the Premises, Tenant shall have the right to enter upon the Premises for the purpose of taking measurements, provided such entry does not unreasonably interfere with or obstruct the progress of work being done by the Landlord.

**3. RENT**

The Tenant shall pay to the Landlord an annual rental (herein called "Minimum Rent") in the amount of Two Hundred Seventy Seven Thousand Three Hundred Forty Three and NO/100 DOLLARS ($277,343.00), subject to adjustment as hereinafter set forth, payable without deduction or set off in equal monthly installments of Twenty Three Thousand One Hundred Eleven and 92/100 DOLLARS ($23,111.92) in advance, the first installment of which is due and payable upon signing of the Lease and upon commencement all subsequent installments due and payable on the first day of each calendar month thereafter during the term of the Lease until the total rent provided for herein is paid. No payment by Tenant or receipt of Landlord of a lesser amount than a monthly installment of rent herein stipulated, or endorsement or statement on any check or any letter accompanying any check for payment as rent be deemed an accord and satisfaction, and Landlord may accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided for in this Lease.

Tenant's Minimum Rent shall be abated for the initial eighteen (18) month of the Lease, Tenant shall still be responsible for any additional expenses as set forth in Lease.

**4. ADJUSTMENT OF MINIMUM RENT**

A. The Minimum Rent shall be increased at the end of each lease year during the term hereby by three percent (3%) of the rent then being paid. There shall be no additional pass-throughs of increases in operating expenses except for real estate taxes or as otherwise provided for herein. For purposes of clarification, any adjustment of the Minimum Rent under this the Article 4 during the initial eighteen (18) months of the Lease shall be abated.

Additionally Tenant shall pay its pro rata share (33%) of the Building insurance and common area maintenance charges (collectively, "Operating Expenses") in addition to its pro rata share of the real estate taxes as identified in Section 5. Operating Expenses shall not include:

a. Ground rent or other rental payments made under any ground lease or underlying lease or loan payments made on account of any loan;

b. Costs of expanding the Building and costs of structural repairs, improvements or replacements to the Building, including structural repairs to the walls, foundation and floor slabs and the maintenance, repair or replacement of the roof;

c. Costs of leasing commissions, legal, space planning, construction and other expenses incurred in procuring or retaining tenants for the Building or solely with respect to individual tenants or occupants of the Building;

d. Costs of painting, redecorating or other services or work performed solely for the benefit of another tenant, prospective tenant or occupant (other than for the Common Area);

e. Salaries, wages, or other compensation paid to officers or executives of Landlord above the level of Building Manager;

f. in the case of any offsite or other employees who are not assigned full time to the operation, management, maintenance or repair of the Common Area (as hereinafter defined), Landlord shall reasonably allocate the compensation paid for the wages, salary, or other compensation or benefits paid to such employees among the properties to which such employees are assigned and Operating Expenses shall exclude the portion of such compensation not reasonably allocated to the Building.

g. Costs of advertising and public relations and promotional costs associated with the leasing of the Building;

h. Any costs, fines or penalties incurred due to the violation by Landlord of any governmental rule or authority;

i. Any expenses for which Landlord actually receives reimbursement from insurance, other tenants or any other source;

j. Costs of repairs, restoration, replacements or other work occasioned by (A) fire, flood, windstorm or other casualty (whether such destruction be total or partial) and (B) the exercise by governmental authorities of the right of eminent domain (whether such taking be total or partial);

k. Costs incurred in connection with disputes with tenants, other occupants or prospective tenants, or costs and expenses incurred in connection with negotiations or disputes with employees, consultants, management agents, leasing agents, purchasers or mortgagees of the Building;

l. Costs incurred in connection with the original construction of the Building or in connection with any change in the Building including but not limited to construction, alteration, improvement, consultation, architectural or engineering reconfiguration associated with compliance with the Americans With Disabilities Act and the Clean Air Act;

m. Costs of repairing, replacing or otherwise correcting defects (including latent defects) in or inadequacies of (but not the costs of ordinary and customary repair for normal wear and tear) the initial design or construction of the Building or the costs of repairing, replacing or correcting defects in the initial design or construction of any tenant improvements;

n. Costs relating to another tenant's or occupant's space which (A) were incurred in rendering any service or benefit to such tenant that Landlord was not required to provide, or were for a service in excess of the service that the Landlord was required to provide to Tenant hereunder or (B) were otherwise in excess of the Building standard services then being provided by Landlord to all tenants or other occupants in the Building, whether or not such other tenant or occupant is actually charged therefor by Landlord;

o. Costs incurred in connection with the sale, financing, refinancing, mortgaging, selling or change of ownership of the Building, including, but not limited to, attorneys' fees, title insurance premiums, and transfer and recording costs;

p. Costs, fines, interest, penalties, legal fees or costs of litigation incurred due to the late payments of loan payments, taxes and utility bills and other costs incurred by Landlord's failure to make such payments when due;

q. General overhead and general administrative expenses and accounting, record-keeping and clerical support of Landlord;

r. Fees for management of the Building or the Project in excess of five percent (5%) of gross collected rents of the Building;

s. Increased insurance premiums caused by Landlord's or any other tenant's hazardous acts and insurance of leasehold improvements in the premises leased or to be leased to other tenants;

t. Costs incurred for any items to the extent covered by a manufacturer's, materialman's, vendor's or contractor's warranty;

u. Interest on capital invested, bad debt losses, rent losses and reserves for such losses;

v. Costs incurred by Landlord which are associated with the operation of the business of the legal entity which constitutes Landlord as the same is separate and apart from the costs of the operation of the Building, including legal entity formation and maintenance charges, legal entity accounting (excluding the incremental accounting fees relating to the operation of the Building) and legal fees (other than with respect to Building operations);

w. All amounts which would otherwise be included in Operating Expenses which are paid to any affiliate or subsidiary of Landlord to the extent the cost of such services exceed the market rate for similar services;

x. Costs or expenses necessitated by or resulting from the gross negligence, misconduct or illegal conduct of Landlord, its agents, or employees; and

y. Depreciation and amortization, and costs which under GAAP are capitalized.

In no event will controllable Operating Expenses (i.e., all such charges excluding costs of utilities, insurance, repairs and snow removal) for any year during the term increase by more than four percent (4%) over the amount of such controllable costs incurred by Landlord during the prior twelve (12)-month period.

C. Additional Rent Estimates and Adjustments.

a. In order to provide for current monthly payments of additional rent, Landlord shall provide Tenant with the Landlord's estimate of the amount of the charges described in Section 5.A. above, together with the amount of Tenant's additional rent ("Additional Rent") which is estimated to result from such charges. Tenant shall pay each month during the term of this lease one-third (1/3) of Tenant's pro rata share of Landlord's estimate of the Operating Expenses. Landlord may revise its estimate of Operating Expenses at any time during a calendar year by written notice to Tenant, setting forth such revised estimate and Tenant's pro rata share thereof. In such event, all monthly payments made by Tenant after such notice shall be in an amount calculated on the basis of such revised estimate. Tenant shall, in all cases, continue to make monthly payments of Operating Expenses based on the last estimate received from Landlord until it receives a revised or updated estimate.

b. If payment of Additional Rent begins on a date other than January 1 st under this Lease, in order to provide for current payments of Additional Rent through December 31 st of that partial calendar year, Landlord shall provide Tenant with the Landlord's estimate of Tenant's Additional Rent for that partial year, stated in monthly increments, resulting from the charges described in Section 5(c)(i) above. Tenant shall make the monthly incremental payments of estimated Additional Rent together with its installments of Minimum Rent.

c. After the end of each calendar year, Landlord will as soon as practicable submit to Tenant a statement of the actual Operating Expenses for the preceding calendar year. Tenant shall pay Landlord, within thirty (30) days of Tenant's receipt of such statement, the excess, if any, of Tenant's pro rata share of actual Operating Expenses over the amount paid by Tenant during the previous year as its share of such charges. If the amount paid by Tenant during the previous year exceeded Tenant's pro rata share of actual Operating Expenses for the year, the excess shall be credited toward payment of the next monthly installment of Minimum Rent to be paid by Tenant after Tenant receives said statement from Landlord. If the amount paid by Tenant during the last calendar year of the Lease Term exceeds Tenant's pro rata share of actual Operating Expenses for such year, Landlord shall pay Tenant the excess amount within thirty (30) days after Landlord's submission to Tenant of the aforesaid Operating Expenses statement for such calendar year.

d. Landlord's failure or delay in rendering any statement contemplated by this Section shall not constitute a waiver of Landlord's right thereafter and during the term of this Lease to render such statement.

C. Within ten (10) business days after receipt of Landlord's statement showing actual figures for the year, Tenant shall have the right to request a detailed statement of Operating Expenses prepared by Landlord and copies of Real Estate Tax bills, which shall be supplied to Tenant within a reasonable time after Tenant's written request. No such request shall extend the time for payments as set forth in Section 5.A. or Section 6. Unless Tenant asserts specific error(s) and supports such errors, in writing, within thirty (30) days after Landlord has complied with Tenant's request, Tenant shall waive the right to contest the statement of actual figures for the year submitted by Landlord. If it shall be determined that there is an error in Landlord's statement, Tenant shall be entitled to a credit for any overpayment. Any payment, refund or credit made pursuant to Section 5.A. or Section 6 shall be made without prejudice to any right of Tenant to dispute, or of Landlord to correct, any item(s) as billed pursuant to the provision hereof.

## 5. REAL ESTATE TAXES

In the event the real estate taxes levied or assessed against the land and Building on which the Premises are a part in future tax years are greater than the real estate taxes for the Base Year, the Tenant shall pay within fifteen (15) days after submission of the bill to Tenant for the increase in real estate taxes, as additional rent, a proportionate share of such increase, which proportionate share shall be computed at 30.37% of the increase in taxes, but shall exclude any fine, penalty, or interest charge for late or non-payment of taxes by Landlord. The Base Year shall be July 1, 2014, to June 30, 2015.

Any reasonable expense incurred by Landlord (including counsel fees) in contesting any tax increase shall be included as an item of taxes for the purpose of computing additional rent due Landlord. Landlord, however, shall be under no obligation to contest any tax increase.

## 6. UTILITIES

Tenant shall be responsible for the payment of all utilities used or consumed by the Tenant in and upon the Premises. Electric and Gas shall be separately metered, with the cost of such separate meters to be borne by Landlord. Utilities shall be either separately metered at Landlord's expense or an equitable allocation made between the Tenants in the Building based on the quantity of water consumed. In the event any utility service to the Premises shall be interrupted for a continuous period of more than five (5) days as a result of any cause whatsoever and Tenant is unable to use all or a substantial portion of the Premises, the Minimum Rent shall abate until such services are rendered. If such interruption continues for a period of sixty (60) consecutive days Tenant shall have the right to terminate this Lease by delivery of written notice to Landlord while such interruption is continuing.

Landlord shall not be liable to Tenant for any damage or inconvenience caused by the cessation or interruption of any utility service, or the elevators in the Building, occasioned by fire, accident, strike or other cause beyond Landlord's control.

## 7. SECURITY DEPOSIT

N/A

## 8. USE OF PREMISES

Tenant shall use the Premises only for Research Laboratories, Office, and Manufacturing purposes consistent with Tenant's business, and for no other purpose, except as approved by Landlord in advance, in writing, which approval shall not be unreasonably withheld. Tenant shall not make any use of the Premises which would disturb the quiet enjoyment of the Landlord or other tenants in the Building or prejudice or increase the fire insurance premium for the Building, and shall comply with all laws and regulations of all governmental authorities pertaining to Tenant's use of Premises.

## 9. WASTE REMOVAL

Tenant shall be responsible for removal of waste generated by Tenant's operation. This includes waste service fees levied by local jurisdictions.

## 10. HAZARDOUS MATERIALS

Tenant shall be permitted to store Hazardous Materials on the Premises and shall comply with all laws and regulations of all governmental authorities pertaining to Tenant's use of the Premises, including, without limitation, all Environmental Laws (as hereinafter defined) and laws pertaining to Hazardous Materials and Air and Water Quality. The term "Hazardous Materials" means and includes any petroleum products and/or any hazardous toxic or other dangerous waste, substance or material defined as such in the Environmental Laws. The term "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, any "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning the use or storage of Hazardous Materials. All such materials must be completely removed upon expiration of this Lease, and any de-contamination certificates required by the Landlord or any government authority must be obtained and delivered to the Landlord.

Tenant shall obtain and maintain, in full force and effect, all necessary government licenses, permits and approvals legally required for materials used in the conduct of its business. If the presence of any Hazardous Materials on the Premises caused or permitted by Tenant results in any contamination of the Premises or any portion of the Building or Common Areas, Tenant shall promptly take all actions, at its sole expense, necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Materials, provided that all such actions shall be subject to the approval of Landlord, which approval shall not be unreasonably withheld.

At the Commencement Date of the Lease and on January 1 of each year thereafter, Tenant shall disclose to Landlord the names and amounts of all Hazardous Materials which are to be stored, used or disposed of on the Premises.

## 11. LATE CHARGE

If any installment of rent accruing herein shall not be paid within five (5) days of due date, and other sums not paid within fifteen (15) days after written notice to Tenant, such installment and other sums shall be increased without affecting the Landlord's other rights under this Lease, by a late charge of five percent (5%) of the delinquent installment. Anything contained herein to the contrary notwithstanding.

## 12. REPAIRS AND MAINTENANCE

Landlord shall be responsible for all structural repairs, including repairs to the roof and load-bearing walls of the Building, for maintaining the parking area and sidewalks, and the Common Areas (as hereinafter defined) in the Building. Landlord will repair and replace any glass breakage, provided it is not the result of the Tenant's willful or negligent act.

The Tenant shall be responsible for the maintenance and repair of the Premises and all fixtures, appliances, light bulbs and equipment therein, including, but not limited to, the Heating and Air Conditioning system(s) serving Tenant's suite. Landlord will pay for major Heating and Air Conditioning component replacement and all repairs to the Landlord installed heating and air conditioning system(s) in excess of Four Hundred Dollars ($400.00) per occurrence per Heating and Air Conditioning unit. All major replacements or repairs will be performed by Landlord unless written permission is otherwise given. Landlord hereby represents that the HVAC is in good and proper working order upon the Commencement Date hereof.

Tenant shall be responsible for removal of waste generated by Tenant's operation and provide its own janitorial and cleaning service. This includes waste service fees levied by local jurisdictions.

Tenant, at its sole expense, shall keep all Tenant fixtures and equipment in the Premises in safe and sanitary condition and good order and repair, together with related plumbing, electrical or other utility service, whether installed by Tenant or by Landlord on Tenant's behalf. Tenant shall pay for all damage to the Building and any fixtures and appurtenances related thereto due to the malfunction, lack of repair, or improper installation of the Tenant's fixtures and equipment.

## 13. COMMON AREAS

In addition to the use of the Premises, Tenant, its employees and business invitees shall have the right to use the Common Areas in common with Landlord and other tenants of the Building, their employees and visitors. The term "Common Areas" shall mean those portions of the Building and the land upon which the Building is erected which Landlord may from time to time designate for Tenant's non-exclusive use, which may include the entrance, foyer and lobby corridors, lavatories, stairwells, elevators, and parking areas. All Common Areas shall be subject to the exclusive control of the Landlord. The Landlord shall operate, manage, light and maintain the Common Areas. Landlord reserves the right to change the size, area, level, location and arrangement of the Common Areas and any such change or rearrangement shall not affect the obligations of the Landlord and Tenant hereunder.

## 14. LANDLORD'S WORK PRIOR TO COMMENCEMENT OF TERM

A. Landlord shall provide the following improvements at its expense to the Premises prior to the commencement of the term of the Lease: re-paint, re-carpet/tile (floor tiles) and replace all ceiling tiles, ensure all window blinds and ventilation are in proper working order and remove toilets and showers identified by Tenant within Suite 302, consisting of approximately 2,590 square feet located within Premises.

B. Tenant shall be entitled to occupy the office areas of the Premises a section at a time during the Term. Prior to Tenant occupying each additional section of office area of the Premises, Landlord at its expense shall re-paint, re-carpet/tile (floor tiles) and replace all ceiling tiles, ensure all window blinds and ventilation are in proper working order and remove toilets and showers identified by Tenant within such additional section.

C. Tenant shall be entitled to occupy the laboratory area during the Term a section at a time or altogether simultaneously. Prior to Tenant occupying a laboratory section, Landlord at its expense shall undertake and complete the following improvements in such laboratory section:

a) re-paint, re-carpet/tile (floor tiles) and replace all ceiling tiles, ensure all window blinds and ventilation are in proper working order and remove toilets and showers identified by Tenant;

b) replace case work (including counter tops) per mutual consent;

c) ensure all hoods and vents are in working order;

d) ensure that the cold room is in good working order or remove the cold room at Tenant's request;

e) remove or renovate vivarium (if present in the laboratory space being occupied) per mutual consent;

f) remove warm room (if present in the laboratory space being occupied); and

g) remove additional equipment and casework upon Tenant's request.

D. Additional modifications and improvements to the Premises shall be conducted at Landlord's expense according to a separate agreement and mutually agreed upon plan. Which will include the installation of additional electrical outlets and removal or addition of walls.

**15. TENANT ALTERATIONS**

All alterations, improvements, or additions to the demised Premises to be made by Tenant shall be subject to the written consent of the Landlord, which consent shall not be unreasonably withheld, provided such alterations and improvements do not weaken the structural integrity of the Building or detract from its dignity and/or uniformity. All alterations and improvements and/or additions made by Tenant shall remain upon the Premises at the expiration or earlier termination of this Lease and shall become the property of the Landlord, unless Landlord shall, at the time of approval of the alteration, provide written notice to Tenant to remove the same, in which event Tenant shall remove such alterations, improvements and/or additions, and restore the Premises to the same good order and condition in which it was at the commencement of this Lease, reasonable wear and tear and unavoidable casualty excepted. Should Tenant fail to do so, Landlord may do so, collecting the reasonable cost and expense thereof from Tenant as additional rent.

**16. TRADE FIXTURES**

All trade fixtures, telephone equipment, and apparatus installed by Tenant in the Premises shall remain the property of Tenant and shall be removed at the expiration or earlier termination of this Lease and, upon such removal, Tenant shall repair any damage caused by the removal and shall promptly restore the Premises to their good order and condition. Any such trade fixture not removed prior to such termination shall be considered abandoned property, but such abandonment shall not release Tenant of its obligation to pay for the cost of removing such trade fixtures and repairing any damage caused by the removal.

**17. QUIET ENJOYMENT**

Landlord covenants that, upon payment of the rent herein provided and performance by the Tenant of all other covenants herein contained, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term hereof and options.

**18. SURRENDER OF PREMISES**

Upon the expiration or termination of this Lease, Tenant shall quit and surrender the Premises to the Landlord broom clean and shall remove all of its property therefrom. If the removal of any such property shall result in damaging the Premises, or leaving any holes in the floors, walls or ceiling therein, the Tenant shall make the appropriate repairs with Landlord approved building materials prior to the expiration of this Lease. The obligation of this paragraph shall survive the termination of the Lease.

**19. INSURANCE**

Tenant covenants and agrees to maintain and carry, at all times during the term of this Lease, in companies qualified and authorized to transact business in the State of Maryland, general liability insurance in amounts of $1,000,000.00 per person, $1,000,000.00 per occurrence and $1,000,000.00 for damage to property on the Premises or arising out of the use thereof by Tenant or its agents. All policies of insurance shall provide that they may not be canceled, except on thirty (30) days written notice to Landlord, and all such policies shall name Landlord as an additional insured.

Landlord shall procure and maintain throughout the Term of this Lease a policy or policies of insurance , at its sole cost and expense ( but subject to Section 5), causing the Building and any other related improvements to be insured under a Causes of Loss - Special Form property insurance policy in an amount equal to the full replacement value of the Building and any such other improvements (excluding the cost of excavation) and a policy of commercial general liability insurance with a combined single limit of not less than One Million Dollars ($1,000,000,00).

Prior to commencement, Tenant shall furnish Landlord with satisfactory proof that the insurance herein provided for is at all times in full force and effect. If either party hereto is paid any proceeds under any policy of insurance naming such party as an insured on account of any loss, damage or liability, then such party hereby releases the other party to (and only to) the extent of the amount of such proceeds, from any and all liability for such loss or damage, notwithstanding negligent or intentionally tortuous act or omission of the other party, its agents or employees; provided, such release shall be effective only as to a loss of damage occurring while the appropriate policy of insurance of the releasing party provides that such release shall not impair the effectiveness of such policy or the insured's ability to recover thereunder. Each party hereto shall use reasonable efforts to have a clause to such effect included in its said policies, and shall promptly notify the other in writing if such clause cannot be included in any such policy.

**20. INDEMNIFICATION**

(a) Tenant shall indemnify and hold harmless the Landlord from, and name Landlord as additional insured on policy regarding, any and all liability, damage, expense, cause of action, or claims arising out of injury to persons or to property on the Premises, except for the negligence or willful misconduct of Landlord, its agents, employees, or servants.

(b) Landlord shall indemnify and save harmless Tenant from any and all liability, damage, expense, cause of action or claims arising from (i) injury to person occurring in the Building or upon the Land on which the Building is situated, which arises out of the act, failure to act, or negligence of Landlord, its agents, contractors or employees, or (ii) which arise out of Landlord's breach of, or default under, this Lease.

**21. DAMAGE BY FIRE OR CASUALTY**

(a) If the Premises are damaged by fire or other casualty, but are not thereby rendered untenantable in whole or in part, Landlord, at its own expense, and subject to the limitations set forth in this Lease, shall cause such damage to be repaired and the Minimum Rent and

Additional Rent shall not be abated.

If, by reason of any damage or destruction, the Premises shall be rendered untenantable in whole or in part and cannot be repaired and made tenantable within one hundred twenty (120) days after such damage: (i) Landlord, at its option and its own expense, may cause the damage to be repaired and the Minimum Rent and Additional Rent shall be abated proportionately as to the portion of the Premises rendered untenantable while it is untenantable; or (ii) Landlord shall have the right, to be exercised by notice in writing delivered to Tenant within thirty (30) days of the occurrence of such damage or destruction, to terminate this Lease, whereupon the Minimum Rent and Additional Rent shall be adjusted as of the date of such termination.

(b) In the event that twenty-five percent (25%) or more of the rentable floor area of the Building shall be damaged or destroyed by fire or other cause, notwithstanding that the Premises may be unaffected by such fire or other damage, Landlord shall have the right, to be exercised by notice in writing delivered to Tenant within thirty (30) days after such occurrence, to terminate this Lease. Upon the giving of such notice, the Minimum Rent and Additional Rent shall be adjusted as of the date of termination and This Lease shall thereupon terminate.

**22. ASSIGNMENT OR SUBLETTING**

Tenant acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that accordingly, this lease is personal to Tenant. Taking this into consideration, tenant shall not assign, mortgage, sublet, pledge or encumber this Lease, in whole or in part, except with the written consent of the Landlord, which shall not be unreasonably withheld or delayed. Tenant agrees that, in the event of any such assignment or subletting, Tenant shall nevertheless remain liable for the performance of all terms, covenants, and conditions of this Lease.

In the event the Landlord consents to an assignment of the Lease, any money or consideration to be paid to Tenant for the assignment shall be paid to the Landlord as partial consideration for the Landlord's consent to the assignment.

In the event the Landlord consents to a sublease of the Premises, or any portion thereof, Tenant shall pay to the Landlord fifty percent (50%) any money, rent or other consideration paid to the Tenant by any subtenant in excess of the pro-rata portion of the rent for such space then being paid by Tenant to Landlord under this Lease less Tenant's actual costs of such subletting and (2) any other profit or gain realized by the Tenant from such subletting. All sums payable hereunder by Tenant shall be paid to Landlord as additional rent immediately upon the receipt thereof by Tenant.

**23. SUBORDINATION AND ATTORNMENT**

This Lease shall be subject to and subordinate at all times to the lien of any mortgage and/or deeds of trust and all land leases now or hereafter made on any portion of the Premises, and to all advances thereunder, provided the mortgagee or trustee named in said mortgage or deed of trust shall agree to recognize this Lease and agrees, in the event of foreclosure, not to disturb the Tenant's possession hereunder, provided Tenant is not in default under this Lease. This subordination shall be self-operative and no further instrument of subordination shall be required.

If any proceedings are commenced to foreclose any mortgage or deed of trust encumbering the Premises, Tenant agrees to attorn to the purchaser at the foreclosure sale, if requested to do so by any such purchaser, and to recognize such purchaser as the Landlord under this Lease, provided purchaser shall agree that Tenant's rights hereunder shall not be disturbed so long as Tenant has not committed any event of default as to which the applicable cure period has expired.

**24. CONDEMNATION**

(a) If the whole of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain, condemnation or conveyance in lieu thereof, then this Lease shall terminate as of the date on which possession of the Premises is required to be surrendered to the condemning authority and the Tenant shall have no claim against Landlord or the condemning authority for the value of the unexpired term of this Lease. Tenant shall have the right to claim, however, the unamortized cost of any improvements or additions made to the Premises by Tenant at its cost, the value of any Tenant fixtures and furnishings and any moving expenses.

(b) If a portion of the Premises shall be so taken or conveyed, and if such partial taking or conveyance shall render the Premises unsuitable for the business of the Tenant, then the term of this Lease shall cease and terminate as of the date on which possession of the portion of the Premises is surrendered to the condemning authority, and Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired term of this Lease.

In the event such partial taking or conveyance is not extensive enough to render the Premises untenantable for the business of Tenant, this Lease shall continue in full force and effect, except that the Minimum Rent shall be reduced in the same proportion that the floor area of the Premises so taken or conveyed bears to such floor area immediately prior to such taking or conveyance.

In the event of such partial taking and continuation of Lease, Landlord shall promptly restore the Premises as nearly as practical to the condition comparable to that which existed prior to the condemnation.

## 25. EVENTS OF DEFAULT

The occurrence of any of the following shall constitute an event of default hereunder:

(a) Failure of Tenant to pay installment of rent within five (5) days of the due date, or failure of Tenant to pay within fifteen (15) days after receipt of written notice any other sum herein required to be paid by Tenant. Notwithstanding the foregoing, Landlord shall be required to deliver to Tenant written notice of the failure to pay Minimum Rent and/or such payments of Operating Expenses one (1) time in every twelve (12)-month period, in which event Tenant shall be deemed to be in default only if such failure continues for five (5) business days after receipt of such written notice from Landlord.

(b) Tenant's failure to perform any other covenant or condition of this Lease within thirty (30) days after receipt of written notice and demand, unless the failure is of such a character as to require more than thirty (30) days to cure in which event Tenant's failure to proceed diligently to cure such failure shall constitute an event of default.

## 26. LANDLORD'S REMEDIES

Upon the occurrence of any event of default, Landlord may, at Landlord's sole option, exercise any or all of the following remedies, together with any such other remedies as may be available to Landlord at law or in equity.

(a) Landlord may terminate this Lease by giving Tenant written notice of its election to do so, as of a specified date not less than thirty (30) days after the date of the giving of such notice and this Lease shall then expire on the date so specified, and Landlord shall then be entitled to immediately regain possession of the Premises as if the date had been originally fixed as the expiration date of the term of this Lease. Landlord may then re-enter upon the Premises, either with or without due process of law, and remove all persons therefrom, the statutory notice to quit or any other notice to quit being hereby expressly waived by Tenant. Tenant expressly agrees that the exercise by Landlord of the right of re-entry shall not be a bar to or prejudice in any way other legal remedies available to Landlord. In that event, Landlord shall be entitled to recover from Tenant as and for liquidated damages an amount equal to the rent and additional rent reserved in this Lease less any and all amounts received by Landlord from the rental of the Premises to another tenant. Nothing herein contained, however, shall limit or prejudice the right of Landlord to prove for and obtain as liquidated damages, by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which such damages are to be proved, whether or not such amount may be greater, equal to, or less than the amount of the difference referred to above, and the Landlord may, in his own name, but as agent for Tenant, re-let the Premises. Any recovery by the Landlord shall be limited to the rent hereunder (plus any costs incurred in re-letting) less any rent actually paid by the new tenant.

(b) No termination of this Lease or any taking of possession of the Premises shall deprive Landlord of any of its remedies or actions against Tenant for past or future rent, nor shall the bringing of any action for rent or breach of covenant, or the resort to any other remedy herein provided for the recovery of rent, be construed as a waiver of the right to obtain possession of the Premises.

(c) In addition to any damages becoming due under this paragraph, Landlord shall be entitled to recover from Tenant and Tenant shall pay to Landlord an amount equal to all expenses, including attorneys' fees, if any, incurred by the Landlord in recovering possession of the Premises, and all reasonable costs and charges for the care of said Premises while vacant, which damages shall be due and payable by Tenant to Landlord at such time or times as such expenses are incurred by the Landlord.

(d) In the event of a default or threatened default by Tenant of any of the terms or conditions of this Lease, Landlord shall have the right of injunction and the right to invoke any remedy allowed by law or in equity as if no specific remedies of Landlord were set forth in this Lease.

(e) If default be made and a compromise and settlement shall be had thereupon, it shall not constitute a waiver of any covenant herein contained, nor of the Lease itself.

## 27. RIGHTS OF LANDLORD

Landlord reserves the following rights with respect to the Premises:

(a) During normal business hours, upon 24 hours notice, to go upon and inspect the Premises, and at Landlord's option, to make repairs, alterations and additions to the Premises or the Building of which the Premises are a part, provided there is no interference with Tenant's occupancy. An Agent of the Tenant may be present for inspection, if requested by Tenant.

(b) To display, within sixty (60) days prior to the expiration of this Lease or after notice from either party of intention to terminate this Lease, a "For Rent" sign, and all of said signs which shall be placed upon such part of the Premises as Landlord shall determine, except on doors leading into the Premises. Prospective purchasers or tenants authorized by Landlord may inspect the Premises during normal business hours following adequate notice to Tenant.

(c) To install, place upon, or fix to the roof and exterior walls of the Premises, equipment, signs, displays, antennae, and any other object or structure of any kind, providing the same shall not materially impair the structural integrity of the Building or interfere with Tenant's occupancy.

**28. HOLDING OVER**

If Tenant holds possession of the Leased Premises after the Expiration Date or other termination of this Lease, Landlord shall, at its sole option, have the right to treat Tenant as a tenant by the month commencing with the first day after the termination of the Lease at one hundred fifty percent (150%) the monthly Minimum Rent paid during the last month of the Term, and upon all the other terms of this Lease, including the provisions of this paragraph. Said holdover term shall terminate upon thirty (30) days notice from one party to the other. Notwithstanding the foregoing, nothing contained herein shall be construed as a requirement that Landlord consent to the occupancy or possession of the Leased Premises by Tenant after the termination of the Lease, and Landlord, upon said termination of this Lease, if Landlord elects to treat Tenant as a trespasser, shall be entitled to the benefit of all public general or public laws relating to the speedy recovery of the possession of land and tenements held over by Tenant, whether now or hereafter in force and effect.

**29. WAIVER OF CLAIMS**

Except as may result from their negligence, Landlord and Landlord's agents, employees, and contractors shall not be liable for, and Tenant hereby releases all claims for, damages to persons or property sustained by Tenant (or any person claiming through Tenant) resulting from any fire, accident, occurrence or condition in or upon the Premises or Building, including but not limited to such claims for damage resulting from (1) any defect in or failure of plumbing, heating or air-conditioning equipment, electric wiring or installation thereof, water pipes, stairs, railings or walks; (2) any equipment or apparatus becoming out of repair; (3) the bursting, leaking or running of any tank, washstand, water closet, waste pipe, drain or any other pipe or tank, upon or about such building or premises; (4) the backing up of any sewer pipe or downspout; (5) the escape of steam or hot water; (6) water, snow or ice being upon or coming through the roof or any other place upon or near the Building or Premises or otherwise; (7) the falling of any fixtures, plaster or stucco; (8) broken glass; and (9) any act or omission of occupants of adjoining or contiguous property or buildings.

**30. NOTICE**

All notices required under this Lease shall be given in writing and shall be deemed to be properly serviced if sent by certified or registered United States Mail, postage prepaid, as follows:

| | |
|---|---|
| If to the Landlord: | W. M. Rickman Construction Co. LLC<br>15215 Shady Grove Road<br>Suite 201<br>Rockville, Maryland 20850 |
| If to the Tenant: | MacroGenics, Inc.<br>9640 Medical Center Drive<br>Rockville, MD 20850 |

or to such other address as either may have designated from time to time by written notice to the other. The date of service of such notices shall be the date such notices are deposited in any United States Post Office.

**31. COVENANTS OF TENANT**

Tenant covenants and agrees:

(a) To give to Landlord prompt written notice of any accident, fire, or damage occurring on or to the Premises.

(b) To keep the thermostats in the Premises set at a temperature sufficient to prevent freezing of water pipes, fixtures and HVAC units.

(c) To keep the Premises clean, orderly, sanitary, and free from all objectionable odors and from insects, vermin and other pests.

(d) To comply with the requirements of the State, Federal and County statutes, ordinances, and regulations applicable to Tenant and its use of the Premises, and to save Landlord harmless from penalties, fines, costs, and expenses resulting from failure to do so, provided Tenant shall not be obligated to make structural repairs or alterations to so comply.

(e) Tenant shall promptly pay all contractors, suppliers of material and persons it engages to perform work and provide materials for construction work on the Premises so as to minimize the possibility of a lien attaching to the Premises. Should any such lien be made or filed, Tenant shall cause the same to be discharged and released of record by bond or otherwise within ten (10) days of receipt of written request from Landlord.

(f) Tenant is responsible for the security of the Premises.

**32. LANDLORD'S RIGHT TO ALTER SITE PLAN**

LANDLORD shall, from time to time, have the right to alter or modify the site plan of the Building and to rearrange the driveways and parking areas, as well as the entrance and exits to the Premises so long as the availability of parking spaces to Tenant under Article 33 is maintained.

**33. PARKING SPACES**

LANDLORD agrees to furnish 3 1/3 unreserved parking spaces per thousand square feet of space occupied by the Tenant. There shall be no charge to Tenant for parking space use during the Term and any renewals of the Term.

**34. ENTIRE AGREEMENT**

This Lease contains the entire agreement of the parties. There are no oral agreements existing between them.

**35. SUCCESSORS AND ASSIGNS**

This Lease, and the covenants and conditions herein contained shall inure to the benefit of and be binding upon the Landlord, its successors and assigns, and shall inure to the benefit of and be binding upon the Tenant, its successors and assigns, if permitted.

**36. BANKRUPTCY**

If Tenant shall make an assignment of its assets for the benefit of creditors, or if Tenant shall file a voluntary petition in bankruptcy, or if any involuntary petition in bankruptcy or for receivership be instituted against the Tenant and the same be not dismissed within thirty (60) days of the filing thereof, or if Tenant shall be adjudged bankrupt, then and in any of said events, this Lease shall immediately cease and terminate at the option of the Landlord with the same force and effect as though the date of said event was the date herein fixed for expiration of the term of this Lease.

**37. NON-DELIVERY**

In the event the Landlord shall be unable to give possession of the Premises because construction of the Building is not complete or for any other cause reasonably beyond the control of the Landlord, the Landlord shall not be liable to Tenant for any damage resulting from failure to give possession.

**38. PARTIAL INVALIDITY**

If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall be held to be invalid and unenforceable, the remainder of this Lease, and the application of such terms, covenants, or conditions shall be valid and enforceable to the fullest extent permitted by law.

**39. FORCE MAJEURE**

With the exception of those provisions contained herein regarding the payment of rent, the inability of either party to perform any of the terms, covenants or conditions of this Lease shall not be deemed a default if the same shall be due to any cause beyond the control of that party.

**40. EARLY ACESS**

Landlord will permit Tenant to have early access to premises following lease execution in order to perform work to ready space for occupancy as long as such work is coordinated with Landlord so as not to interfere with Landlord's work to make space ready for Tenant's occupation.

**41. ESTOPPEL CERTIFICATE**

The Tenant shall from time to time, within ten (10) days after being requested to do so by the Landlord or any Mortgagee, execute, acknowledge and deliver to the Landlord (or, at the Landlord's request, to any existing or prospective purchaser, transferee, assignee or Mortgagee of any or all of the Premises) an instrument in recordable form, certifying (a) that this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modification); (b) as to the dates to which the Minimum Rent and other charges arising hereunder have been paid; (c) as to the amount of any prepaid Rent or any credit due to the Tenant hereunder; (d) that the Tenant has accepted possession of the Premises, and the date on which the Term commenced; (e) as to whether, to the best knowledge, information and belief of the signer of such certificate, the Landlord or the Tenant is then in default in performing any of its obligations hereunder (and, if so, specifying the nature of each such default); and (f) as to any other fact or condition reasonably requested by the Landlord or such other addressee. In the event the Tenant fails or refuses to provide such a certificate, Tenant shall be liable to Landlord for any loss or damage (including reasonable counsel fees) arising out of or in connection with such failure or refusal.

**42. SERVICES TO BE PROVIDED BY LANDLORD.**

During Tenant's occupancy of the Premises, Landlord shall furnish the following services, subject to any limitations contained elsewhere in this lease:

a. Air conditioning, both heating and cooling (as required by the seasons) at such temperatures and in such amounts as are comparable to those provided in other similar buildings in Rockville, Maryland, subject, however, to Tenant's obligation to pay for or toward certain repairs to the Building's HVAC system as provided in Section 12 above.

b. Hot and cold water at those points of supply provided for general use of other tenants in the Building through fixtures installed by Landlord, provided, however, that Tenant shall be obligated to maintain and repair at Tenant's sole cost the water boiler involved.

c. Routine maintenance and electric lighting service for all common areas and service areas of the Building in the manner and to the extent which is comparable to that provided in other similar buildings in Rockville, Maryland.

d. Electrical facilities to furnish to the Premises electricity at the same capacity as that furnished as of April 1, 2014.

e. Replacement of all Building standard fluorescent bulbs in all common areas of the Building and all incandescent bulb replacement in all common areas, stairwells, and other common service areas.

Passenger elevator(s) for ingress to and egress from the Premises.

**43. LENDER APPROVAL.**

Landlord's execution and delivery of this Lease shall be conclusive evidence of approval by any financial institution possessing the right to approve leases for space in the Building

**44. DECONTAMINATION OF PREMISES.**

Landlord, at its sole cost, shall obtain and provide to Tenant a report evidencing the decontamination of the Premises prior to the Early Delivery Date.

**46. BROKER PARTICIPATION.**

Landlord and Tenant agree, understand and recognize that there are no brokers other than CBRE, Inc. and J Street Companies ("Brokers") participating in this transaction and that Landlord will compensate Brokers under terms of a separate agreement.

**IN WITNESS WHEREOF** , the parties have caused this Lease Agreement to be executed on the year and date first written.

WITNESS:

LANDLORD:

**W. M. RICKMAN CONSTRUCTION CO. LLC**

/s/ William M. Rickman
By: William M. Rickman

WITNESS:

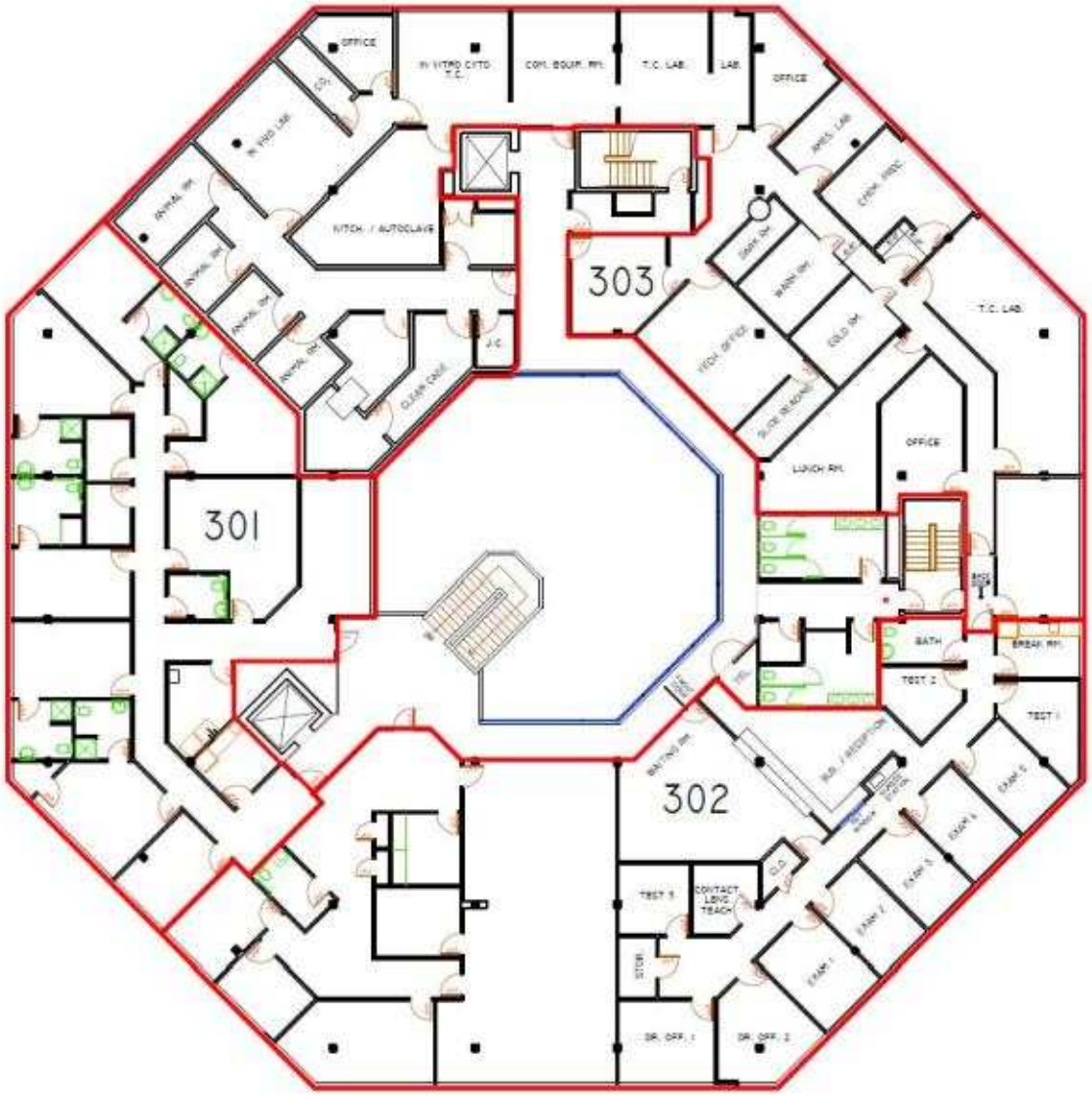
Tenant:

**MACROGENICS, INC.**

/s/ Scott Koenig, M.D., PhD
By: Scott Koenig, M.D., PhD

**Exhibit A**
Current Layout/Plan

15235 Shady Grove Road
3 rd Floor
Rockville, Maryland



**MACROGENICS, INC.**

**LEASE AGREEMENT**

THIS LEASE AGREEMENT, made this 6th day of November 2014, by and between **RED GATE III LLC** ("LANDLORD") and **MACROGENICS, INC.** ("TENANT").

**W I T N E S S E T H:**

**1. DEMISE OF PREMISES**

Landlord hereby demises unto Tenant, and Tenant hereby leases from Landlord for the terms and upon the conditions set forth in this Lease approximately 9,416 square feet of space in the building located at 9620 Medical Center Drive, Rockville, MD (the "Building"), as set forth on Exhibit B, hereto attached, said space being referred to as the "Premises".

Landlord's architect shall provide an accurate measurement of the Premises based upon a reasonable Building Owners and Managers Association ("BOMA") calculation.

Landlord shall maintain the Building and Common Areas, as required, in accordance with all applicable laws, including, but not limited to the Americans with Disabilities Act of 1990, as amended (the "ADA"). Landlord shall deliver the Premises in compliance with all applicable laws, including the ADA, and that the HVAC, plumbing and wiring serving the Premises are operational and in good working order.

**2. TERM**

The term of this Lease shall be for a period of five (5) years, commencing on the 1 st day of February, 2015 ("Commencement Date"), and terminating on the 31 st day of January 2020 ("Expiration Date"), with an option for an additional five (5) years on the same terms and conditions in this Lease, provided that Tenant shall have given the Landlord written notice of Tenant's intention to do so at least six (6) months prior to the expiration of this Lease and that Tenant is not in default under this Lease beyond any applicable notice and cure period.

In the event the Landlord is not able to deliver possession of the Premises to Tenant upon the Commencement Date because Landlord has not fully completed the Landlord's Work (as hereinafter defined), or an earlier tenant has failed to vacate the Premises, the Commencement Date shall be extended to the date said Work is completed and/or the earlier tenant has vacated and the Expiration Date shall be similarly extended.

The date of delivery of the Premises by Landlord to Tenant shall be that date on which all required improvements to be furnished by Landlord as stated in Exhibit "A" have been substantially completed except for punch list items and the occupancy certificate has been issued, unless Tenant's act or omissions have caused such approval to be denied, in which case Tenant shall be deemed to have waived this condition. Rent shall be pro-rated for any portion of the initial month in which Tenant is required to commence rental payments hereunder, which does not commence with the first day thereof.

At any time prior to delivery of possession of the Premises, Tenant shall have the right to enter upon the Premises for the purpose of taking measurements, and/or installing its equipment/casework/security and information technology. infrastructure provided such entry does not unreasonably interfere with or obstruct the progress of work being done by the Landlord.

**3. RENT**

The Tenant shall pay to the Landlord an annual rental (herein called "Minimum Rent") in the amount of One Hundred Ninety Three Thousand Twenty Eight and NO/100 DOLLARS ($193,028.00), subject to adjustment as hereinafter set forth, payable without deduction or set off in equal monthly installments of Sixteen Thousand Eighty Five and 67/100 DOLLARS ($16,085.67) in advance, the first installment of which is due and payable upon signing of the Lease and after the Commencement Date all subsequent monthly installments shall be due and payable on the

first day of each calendar month thereafter during the term of the Lease until the total rent provided for herein is paid. No payment by Tenant or receipt of Landlord of a lesser amount than a monthly installment of rent herein stipulated, or endorsement or statement on any check or any letter accompanying any check for payment as rent be deemed an accord and satisfaction, and Landlord may accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided for in this Lease.

**4. ABATEMENT**

Tenant shall receive a Minimum Rent abatement totaling Sixty Four Thousand Three Hundred Forty Two and 68/100 Dollars ($64,342.68). Such abatement shall be applied to the Minimum Rent payable by Tenant for the first four (4) months of the initial term. Tenant shall still be responsible for any additional expenses as set forth in Lease.

**5. ADJUSTMENT OF MINIMUM RENT**

The Minimum Rent shall be increased at the end of each lease year during the term hereby by three percent (3%) of the rent then being paid. There shall be no pass-throughs of increases in operating expenses except for increases in real estate taxes or as otherwise provided for herein ("Operating Expenses").

**6. REAL ESTATE TAXES**

In the event the real estate taxes levied or assessed against the land plot and Building on which the Premises are a part in future tax years are greater than the real estate taxes for the Base Year, the Tenant shall pay within fifteen (15) days after submission of the bill to Tenant for the increase in real estate taxes, as additional rent, a proportionate share of such increase, which proportionate share shall be computed at 14.66% of the increase in taxes, but shall exclude any fine, penalty, or interest charge for late or non-payment of taxes by Landlord. The Base Year shall be July 1, 2014, to June 30, 2015. In the event that the BOMA assessment calculation undertaken by Landlord in Section 1 changes the proportion of the square feet of space of the Premises compared to the total square feet of space to the Building, then Tenant's share of increases of real estate taxes set forth in the preceding paragraph of this Section 6, shall be adjusted to such new proportions. Upon Tenant's request, Landlord shall provide Tenant with a copy of each tax bill received by Landlord relating to the land and Building on which the Premises are a part.

Any reasonable expense incurred by Landlord (including counsel fees) in contesting any tax increase shall be pro-rated according to Tenant's pro-rated share of the taxes and included as an item of taxes for the purpose of computing additional rent due Landlord. Landlord, however, shall be under no obligation to contest any tax increase. If Tenant requests in writing, that the Landlord appeal an increased assessment or tax; Tenant may contest such tax assessments.

**7. UTILITIES**

Tenant shall be responsible for the payment of all utilities used or consumed by the Tenant in and upon the Premises. Utilities shall be separately metered with the cost of such separate metering to be borne by Landlord, or an equitable allocation made between the Tenants in the Building. In the event any utility service to the Premises shall be interrupted for a continuous period of more than two (2) days due to the gross negligence, willful misconduct, illegal conduct or breach of this Agreement by Landlord, its agents or servants, the Minimum Rent shall abate until such services are rendered.

Landlord shall not be liable to Tenant for any damage or inconvenience caused by the cessation or interruption of any utility service, or the elevators in the Building, occasioned by a cause beyond Landlord's control.

**8. USE OF PREMISES**

Tenant shall use the Premises only for Office and Laboratory purposes consistent with Tenant's business, and for no other purpose, except as approved by Landlord in advance, in writing, which approval shall not be unreasonably withheld. Tenant shall not make any use of the Premises which would disturb the quiet enjoyment of the Landlord or other tenants in the Building or prejudice or increase the fire insurance premium for the Building, and shall comply with all laws and regulations of all governmental authorities pertaining to Tenant's use of Premises, including zoning regulations.

## 9. WASTE REMOVAL

Tenant shall be responsible for removal of waste generated by Tenant's operation. This includes waste service fees levied by local jurisdictions.

## 10. HAZARDOUS MATERIALS

Tenant shall be permitted to store Hazardous Materials on the Premises and shall comply with all laws and regulations of all governmental authorities pertaining to Tenant's use of the Premises, including, without limitation, all Environmental Laws (as hereinafter defined) and laws pertaining to Hazardous Materials and Air and Water Quality. The term "Hazardous Materials" means and includes any petroleum products and/or any hazardous toxic or other dangerous waste, substance or material defined as such in the Environmental Laws. The term "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, any "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning the use or storage of Hazardous Materials. All such materials must be completely removed upon expiration of this Lease, and any de-contamination certificates required by the Landlord or any government authority must be obtained by Tenant and delivered to the Landlord.

Tenant shall obtain and maintain, in full force and effect, all necessary government licenses, permits and approvals legally required for materials used in the conduct of its business. If the presence of any Hazardous Materials on the Premises caused or permitted by Tenant results in any contamination of the Premises or any portion of the Building or Common Areas, Tenant shall promptly take all actions, at its sole expense, necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Materials, provided that all such actions shall be subject to the approval of Landlord, which approval shall not be unreasonably withheld.

At the Commencement Date of the Lease and on January 1 of each year thereafter, Tenant shall disclose to Landlord the names and amounts of all Hazardous Materials which are to be stored, used or disposed of on the Premises.

Any Hazardous Materials stored or used on the Premises must not in any way prejudice the Landlord's insurance or increase the fire hazards to a greater extent than necessarily incident to the business for which the Premises are leased.

Tenant shall indemnify and hold harmless Landlord, its officers, members and employees against any and all claims, actions, proceedings or liabilities of any kind to any third party or governmental authority arising out of or in connection with the presence of any Hazardous Materials on the Premises or used in connection with Tenant's business, or the violation by Tenant of any applicable Environmental Laws. In the event Tenant uses and/or stores Hazardous Materials on the Premises, Tenant shall maintain and carry during such use or storage of this Lease a Pollution and Nuclear Waste insurance policy which shall designate Landlord as a named insured which provides coverage for i) extraction of pollutants from land or water resulting from the discharge, dispersal, seepage, migration, release or escape of pollutants from a specified cause; and ii) radioactive contamination.

## 11. LATE CHARGE

If any installment of Minimum Rent accruing herein shall not be paid within five (5) days of due date, and other sums not paid within fifteen (15) days of due date, more than once in any 12-month period, such installment and other sums shall be increased without affecting the Landlord's other rights under this Lease, by a late charge of five percent (5%) of the delinquent installment, anything contained herein to the contrary notwithstanding.

## 12. REPAIRS AND MAINTENANCE

Landlord shall be responsible for all structural repairs, including repairs to the roof and load-bearing walls of the Building, for maintaining the parking area and sidewalks, the Common Areas (as hereinafter defined) and any Building systems and equipment in unleased areas in the Building. Landlord will repair and replace any glass breakage, provided it is not the result of the Tenant's willful or negligent act.

The Tenant shall be responsible for the maintenance and repair of the Premises and all fixtures, appliances, light bulbs and equipment therein, including, but not limited to, the heating and air conditioning system(s) (hereinafter "HVAC") serving the Premises except as set forth herein. Landlord will pay for major HVAC component replacement and all repairs to the Landlord installed HVAC system(s) in excess of Four Hundred Dollars ($400.00) per occurrence per HVAC unit. All major replacements or repairs will be performed by Landlord unless written permission is otherwise given. Landlord hereby represents that the HVAC is in good and proper working order upon the Commencement Date hereof.

Tenant covenants and agrees to obtain a maintenance, repair and service contract on the HVAC; said contract to be on such terms and with such company as shall be approved by Landlord. Tenant will notify Landlord if costs for repairs will exceed $400.00 prior to making repairs. Landlord, in Landlord's commercially reasonable judgment, will make such repairs at Landlord's sole expense, provided it is not the result of the Tenant's willful or negligent act.

Tenant shall be responsible for removal of waste generated by Tenant's operation and provide its own janitorial and cleaning service within the Premises. This includes waste service fees levied by local jurisdictions.

Tenant, at its sole expense, shall keep all Tenant fixtures and equipment in the Premises in safe and sanitary condition and good order and repair, together with related plumbing, electrical or other utility service, whether installed by Tenant or by Landlord on Tenant's behalf. Subject to Section 29, Tenant shall pay for all damage to the Building and any fixtures and appurtenances related thereto due to the malfunction, lack of repair, or improper installation of the Tenant's fixtures and equipment.

## 13. COMMON AREAS

In addition to the use of the Premises, Tenant, its employees and business invitees shall have the right to use the Common Areas in common with Landlord and other tenants of the Building, their employees and visitors. The term "Common Areas" shall mean those portions of the Building and the land upon which the Building is erected which Landlord may from time to time designate for Tenant's non-exclusive use, which may include the entrance, foyer and lobby corridors, lavatories, stairwells, elevators, and parking areas. All Common Areas shall be subject to the exclusive control of the Landlord. The Landlord shall operate, manage, light and maintain the Common Areas. Landlord with prior written notice reserves the right to change the size, area, level, location and arrangement of the Common Areas and any such change or rearrangement shall not affect the obligations of the Landlord and Tenant hereunder.

Landlord will provide maintenance and cleaning of these Common Areas consistent with similar office/lab building located in the Rockville/Shady Grove submarkets. In all Common Areas, Landlord will replace all standard fluorescent bulbs and all incandescent bulbs. Landlord will provide and maintain passenger elevator(s) for ingress to and egress from the Premises.

## 14. LANDLORD'S WORK PRIOR TO COMMENCEMENT OF TERM

Landlord shall make the following improvements to the Premises prior to the commencement of the term of the Lease: Construction in accordance with Exhibits A and B (hereinafter "Landlord's Work").

## 15. TENANT ALTERATIONS

All alterations, improvements, or additions to the demised Premises to be made by Tenant (other than cosmetic changes not costing more than $50,000 in any 12 mo. period) shall be subject to the written consent of the Landlord, which consent shall not be unreasonably withheld, provided such alterations and improvements do not weaken the structural integrity of the Building or detract from its dignity and/or uniformity. All alterations and improvements and/or additions made by Tenant shall remain upon the Premises at the expiration or earlier termination of this Lease and shall become the property of the Landlord, unless Landlord shall, at the time of approval of the alteration, provide written notice to Tenant to remove the same, in which event Tenant shall remove such alterations, improvements and/or additions, and restore the Premises to a good order and condition, reasonable wear and tear and unavoidable casualty excepted. Should Tenant fail to do so, Landlord may do so, collecting the reasonable cost and expense thereof from Tenant as additional rent.

**16. TRADE FIXTURES**

All trade fixtures, telephone and computer equipment, and apparatus installed by Tenant in the Premises shall remain the property of Tenant and shall be removed at the expiration or earlier termination of this Lease and, upon such removal, Tenant shall repair any damage caused by the removal and shall promptly restore the Premises to their good order and condition. Any such trade fixture not removed prior to such termination shall be considered abandoned property, but such abandonment shall not release Tenant of its obligation to pay for the cost of removing such trade fixtures and repairing any damage caused by the removal.

**17. QUIET ENJOYMENT**

Landlord covenants that, upon payment of the rent herein provided and performance by the Tenant of all other covenants herein contained, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term hereof and options.

**18. SURRENDER OF PREMISES**

Upon the expiration or termination of this Lease, Tenant shall quit and surrender the Premises to the Landlord broom clean and shall remove all of its property therefrom. If the removal of any such property shall result in damaging the Premises, or leaving any holes in the floors, walls or ceiling therein, the Tenant shall make the appropriate repairs with Landlord approved building materials prior to the expiration of this Lease. The obligation of this paragraph shall survive the termination of the Lease.

**19. INSURANCE**

Tenant covenants and agrees to maintain and carry, at all times during the term of this Lease, in companies qualified and authorized to transact business in the State of Maryland, general liability insurance in amounts of $1,000,000.00 per occurrence which shall include damage to property on the Premises or arising out of the use thereof by Tenant or its agents. All such policies of insurance shall not be canceled, except on thirty (30) days written notice to the Landlord for all reasons except non-payment, which will be a seven (7) notice period, and all such policies shall name Landlord as an additional insured.

Landlord shall procure and maintain throughout the Term of this Lease a policy or policies of insurance, at its sole cost and expense (but subject to Section 6), causing the Building and any other related improvements to be insured under a Causes of Loss - Special Form property insurance policy in an amount equal to the full replacement value of the Building and any such other improvements (excluding the cost of excavation) and a policy of commercial general liability insurance with a combined single limit of not less than One Million Dollars ($1,000,000,00).

Landlord shall require the other tenants in the Building to obtain and maintain the same amount and type of insurance as required of Tenant in this Lease during the terms of such other tenants' leases.

Prior to the Commencement Date or during the term of this Lease, upon Landlord's request, Tenant shall furnish Landlord with satisfactory proof that the insurance herein provided for is at all times in full force and effect.

Each party shall employ reasonable efforts to require that their respective insurance policies referenced above will contain the following: (a) mutual waivers of subrogation rights; and (b) a provision naming the other party as an "additional insured". Each party shall promptly notify the other in writing if such provisions cannot be incorporated into their respective policies in which event the parties and their insurers shall thereafter endeavor in good faith to incorporate such alternative policy provisions as may be commercially reasonable in the opinion of Landlord's insurer.

## 20. INDEMNIFICATION

Tenant shall indemnify and hold harmless the Landlord from, and name Landlord as an additional insured on Tenant's policy regarding, any and all liability, damage, expense, cause of action, or claims arising out of injury to any persons or to property on the Premises, Building and Common Areas, except for the negligence, willful misconduct, illegal conduct or breach of this Lease by Landlord, its agents, employees, or servants.

Landlord shall indemnify and hold harmless the Tenant from, and name Tenant as an additional insured on the Landlord's policy regarding, any and all liability, damage, expense, cause of action or claims arising out of injury to any persons or to property on the Premises, Building and Common Areas, except for the negligence, willful misconduct, illegal conduct or breach of this Lease by Tenant, its agents, employees, or servants.

## 21. DAMAGE BY FIRE OR CASUALTY

(a) If the Premises are damaged by fire or other casualty, but are not thereby rendered untenantable in whole or in part, Landlord, at its own expense, and subject to the limitations set forth in this Lease, shall cause such damage to be repaired and the Minimum Rent and Additional Rent shall not be abated.

If, by reason of any damage or destruction, the Premises shall be rendered untenantable in whole or in part and cannot be repaired and made tenantable within ninety (90) days after such damage: (i) Landlord, at its option and its own expense, may cause the damage to be repaired and the Minimum Rent and Additional Rent shall be abated proportionately as to the portion of the Premises rendered untenantable while it is untenantable; or (ii) Landlord or Tenant shall have the right, to be exercised by notice in writing delivered to the other within thirty (30) days of the occurrence of such damage or destruction, to terminate this Lease, whereupon the Minimum Rent and Additional Rent shall be adjusted as of the date of such termination.

In the event substantially all of the Premises are rendered untenantable for the business of the Tenant as a result of a casualty or other event not due to Tenant's acts or omissions and the Premises cannot be substantially restored for the business use of the Tenant within ninety (90) days of such event, Tenant shall have the right to terminate this Lease upon delivery of written notice to Landlord no later than thirty (30) days following such event.

(b) In the event that twenty-five percent (25%) or more of the rentable floor area of the Building shall be damaged or destroyed by fire or other cause, notwithstanding that the Premises may be unaffected by such fire or other damage, Landlord and Tenant shall have the right, to be exercised by notice in writing delivered to other party within thirty (30) days after such occurrence, to terminate this Lease. Upon the giving of such notice, the Minimum Rent and Additional Rent shall be adjusted as of the date of termination and this Lease shall thereupon terminate.

## 22. ASSIGNMENT OR SUBLETTING

Tenant acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that accordingly, this Lease is personal to Tenant. Taking this into consideration, Tenant shall not assign, mortgage, sublet, pledge or encumber this Lease, in whole or in part, except with the written consent of the Landlord, which shall not be unreasonably withheld, except that Tenant may assign this Lease or its interest therein or sublease the Premises to Tenant's parent corporation, Tenant's direct subsidiaries or entities under common control with Tenant or to Tenant's successor by way of merger, consolidation, sale of assets, joint venture controlled by Tenant, or partnership of which Tenant is the sole general partner without the consent of Landlord. Tenant agrees that, in the event of any such assignment or subletting, Tenant and its assignee or sublessee shall nevertheless remain jointly and severally liable for the performance of all terms, covenants, and conditions of this Lease. Landlord's failure to deny Tenant's written request for consent within ten (10) days after receipt shall be deemed consent to such request.

In the event the Landlord consents to an assignment of the Lease, any money, additional rent or other consideration to be paid to Tenant for the assignment shall be paid to the Landlord as partial consideration for the Landlord's consent to the assignment.

In the event the Landlord consents to a sublease of the Premises, or any portion thereof, Tenant shall pay to the Landlord fifty percent (50%) any money, rent or other consideration paid to the Tenant by any subtenant in excess of the pro-rata portion of the rent for such space then being paid by Tenant to Landlord under this Lease, less Tenant's actual costs of such subletting. All sums payable hereunder by Tenant shall be paid to Landlord as additional rent immediately upon the receipt thereof by Tenant.

**23. SUBORDINATION AND ATTORNMENT**

This Lease shall be subject to and subordinate at all times to the lien of any mortgage and/or deeds of trust and all land leases now or hereafter made on any portion of the Premises, and to all advances thereunder, provided the mortgagee or trustee named in said mortgage or deed of trust shall agree to recognize this Lease and agrees, in the event of foreclosure, not to disturb the Tenant's possession hereunder, provided Tenant is not in default under this Lease. This subordination shall be self-operative and no further instrument of subordination shall be required.

If any proceedings are commenced to foreclose any mortgage or deed of trust encumbering the Premises, Tenant agrees to attorn to the purchaser at the foreclosure sale, if requested to do so by any such purchaser, and to recognize such purchaser as the Landlord under this Lease, provided such purchaser shall agree that Tenant's rights hereunder shall not be disturbed so long as Tenant has not committed any event of default as to which the applicable cure period has expired.

**24. CONDEMNATION**

(a) If the whole of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain, condemnation or conveyance in lieu thereof, then this Lease shall terminate as of the date on which possession of the Premises is required to be surrendered to the condemning authority and the Tenant shall have no claim against Landlord or the condemning authority for the value of the unexpired term of this Lease. Tenant shall have the right to claim, however, the unamortized cost of any improvements or additions made to the Premises by Tenant at its cost, the value of any Tenant fixtures and furnishings and any moving expenses (collectively, "Tenant's Claim").

(b) If a portion of the Premises, Building or Common Areas shall be so taken or conveyed, and if such partial taking or conveyance shall render the Premises unsuitable for the business of the Tenant, then the term of this Lease shall cease and terminate as of the date on which possession of the portion of the Premises is surrendered to the condemning authority, and Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired term of this Lease, but will have the right to make Tenant's Claim against such public or quasi public authority.

In the event that in Tenant's reasonable judgment such partial taking or conveyance is not extensive enough to render the Premises untenantable for the business of Tenant, this Lease shall continue in full force and effect, except that the Minimum Rent shall be reduced in the same proportion that the floor area of the Premises so taken or conveyed bears to such floor area immediately prior to such taking or conveyance.

In the event of such partial taking and continuation of Lease, Landlord shall promptly restore the Premises as nearly as practical to the condition comparable to that which existed prior to the condemnation.

**25. EVENTS OF DEFAULT**

The occurrence of any of the following shall constitute an event of default hereunder:

(a) Failure of Tenant to pay installment of Minimum Rent or scheduled payments of Operating Expenses or additional sums due under this Lease within five (5) days of the due date, or failure of Tenant to pay within fifteen (15) days following written notice any other sum herein required to be paid by Tenant. Notwithstanding the foregoing, Landlord shall be required to deliver to Tenant written notice of the failure to pay

Minimum Rent and/or such payments of Operating Expenses two (2) times in every twelve (12)-month period, in which event Tenant shall be deemed to be in default only if such failure continues for five (5) business days after receipt of such written notice from Landlord.

(b) Tenant's failure to perform any other covenant or condition of this Lease within thirty (30) days following Tenant's receipt of written notice from Landlord, unless the failure is of such a character as to require more than thirty (30) days to cure in which event Tenant's failure to proceed diligently to cure such failure shall constitute an event of default.

**26. LANDLORD'S REMEDIES**

Upon the occurrence of any event of default, Landlord may, at Landlord's sole option, exercise any or all of the following remedies, together with any such other remedies as may be available to Landlord at law or in equity.

(a) Landlord may terminate this Lease by giving Tenant written notice of its election to do so, as of a specified date not less than thirty (30) days after the date of the giving of such notice and this Lease shall then expire on the date so specified, and Landlord shall then be entitled to immediately regain possession of the Premises as if the date had been originally fixed as the expiration date of the term of this Lease. Landlord may then re-enter upon the Premises, either with or without due process of law (after providing twenty-four (24) hours prior notice), and remove all persons therefrom, the statutory notice to quit or any other notice to quit being hereby expressly waived by Tenant. Tenant expressly agrees that the exercise by Landlord of the right of re-entry shall not be a bar to or prejudice in any way other legal remedies available to Landlord. In that event, Landlord shall, at its option, be entitled to recover from Tenant as and for liquidated damages an amount equal to the rent and additional rent reserved in this Lease less any and all amounts received by Landlord from the rental of the Premises to another tenant. Nothing herein contained, however, shall limit or prejudice the right of Landlord to prove for and obtain an award for damages, by reason of such termination, of an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which such damages are to be proved, whether or not such amount may be greater, equal to, or less than the amount of the difference referred to above, and the Landlord may, in his own name, but as agent for Tenant, re-let the Premises. Any recovery by the Landlord shall be limited to the rent hereunder (plus any costs incurred in re-letting) less any rent actually paid by the new tenant.

(b) No termination of this Lease or any taking of possession of the Premises shall deprive Landlord of any of its remedies or actions against Tenant for past or future rent, nor shall the bringing of any action for rent or breach of covenant, or the resort to any other remedy herein provided for the recovery of rent, be construed as a waiver of the right to obtain possession of the Premises.

(c) In addition to any damages becoming due under this paragraph, Landlord shall be entitled to recover from Tenant and Tenant shall pay to Landlord an amount equal to all expenses, including reasonable attorneys' fees, if any, incurred by the Landlord in recovering possession of the Premises, and all reasonable costs and charges for the care of said Premises while vacant, which damages shall be due and payable by Tenant to Landlord at such time or times as such expenses are incurred by the Landlord.

(d) In the event of a default or threatened default by Tenant of any of the terms or conditions of this Lease, Landlord shall have the right of injunction and the right to invoke any remedy allowed by law or in equity as if no specific remedies of Landlord were set forth in this Lease.

(e) If a Tenant default be made and a compromise and settlement shall be had thereupon, it shall not constitute a waiver of any covenant herein contained, nor of the Lease itself.

**26A. LANDLORD DEFAULT.**

If Landlord defaults in the performance or observance of any of its obligations under this Lease (a "Landlord Default"), Tenant may deliver to Landlord written notice specifying the manner in which Landlord has defaulted ("Default Notice"), and if such Landlord Default has not been cured by Landlord within thirty (30) days after the delivery of the Default Notice, or (a) such shorter period after delivery of the Default Notice as may be appropriate in the case of an emergency, or (b) such longer period as may be reasonably necessary to cure such default if it cannot practicably be cured within thirty (30) days, provided Landlord proceeds with diligence to cure such default at the earliest practicable date, then Tenant shall have the right (but not the obligation) to perform such obligation on Landlord's account. In the event Tenant cures any such Landlord Default, the reasonable costs and expenses incurred by Tenant therefor, shall be reimbursed by Landlord within thirty (30) days after receipt of demand and detailed invoice therefor. In addition to the foregoing remedy of Tenant, in the event of a Landlord Default which remains uncured for the duration of the notice and cure period set forth above, and as a result of such Default the Premises are inaccessible or untenantable for the business of the Tenant for a period of ninety (90) consecutive days, then, in such event, Tenant shall have the right to terminate this Lease by delivery of written notice to Landlord at any time after such cure period while such Landlord Default remains uncured.

**27. RIGHTS OF LANDLORD**

Landlord reserves the following rights with respect to the Premises:

(a) During normal business hours, upon 24 hours notice, to go upon and inspect the Premises, and at Landlord's option, to make repairs, alterations and additions to the Premises or the Building of which the Premises are a part, provided there is no interference with Tenant's occupancy. An Agent of the Tenant may be present for inspection, if requested by Tenant.

(b) To display, within sixty (60) days prior to the expiration of this Lease or after notice from either party of intention to terminate this Lease, a "For Rent" sign, and all of said signs which shall be placed upon such part of the Premises as Landlord shall determine, except on doors leading into the Premises. Prospective purchasers or tenants authorized by Landlord may inspect the Premises during normal business hours following adequate notice to Tenant.

(c) To install, place upon, or fix to the roof and exterior walls of the Premises, equipment, signs, displays, antennae, and any other object or structure of any kind, providing the same shall not materially impair the structural integrity of the Building or interfere with Tenant's occupancy or conduct of Tenant's business.

**28. HOLDING OVER**

If Tenant holds possession of the Leased Premises after the Expiration Date or other termination of this Lease, Landlord shall, at its sole option, have the right to treat Tenant as a tenant by the month commencing with the first day after the termination of the Lease at one hundred fifty percent (150%) of the monthly Minimum Rent paid during the last month of the Term, and upon all the other terms of this Lease, including the provisions of this paragraph. Said holdover term shall terminate upon thirty (30) days' notice from one party to the other. Notwithstanding the foregoing, nothing contained herein shall be construed as a requirement that Landlord consents to the occupancy or possession of the Leased Premises by Tenant after the termination of the Lease, and Landlord, upon said termination of this Lease, if Landlord elects to treat Tenant as a trespasser, shall be entitled to the benefit of all public general or public laws relating to the speedy recovery of the possession of land and tenements held over by Tenant, whether now or hereafter in force and effect.

**29. WAIVER OF CLAIMS**

Except as may result from a party's gross negligence, willful misconduct, or illegal conduct, or breach of this Agreement, such party, its agents, employees, and contractors shall not be liable for, and the other party hereby releases all claims for, damages to persons or property sustained by such other party (or any person claiming through such other party) resulting from any fire, accident, occurrence or condition in or upon the Premises or Building, including but not limited to such claims for damage resulting from (1) any defect in or failure of plumbing, heating or air-conditioning equipment, electric wiring or installation thereof, water pipes, stairs, railings or walks; (2) any equipment or apparatus becoming out of repair; (3) the bursting, leaking or running of any tank, washstand, water closet, waste pipe, drain or any other pipe or tank, upon or about the Building or Premises; (4) the backing up of any sewer pipe or downspout; (5) the

escape of steam or hot water; (6) water, snow or ice being upon or coming through the roof or any other place upon or near the Building or Premises or otherwise; (7) the falling of any fixtures, plaster or stucco; (8) broken glass; and (9) any act or omission of occupants of adjoining or contiguous property or buildings.

**30. NOTICE**

All notices required under this Lease shall be given in writing and shall be deemed to be properly serviced if sent by certified or registered United States Mail, postage prepaid, as follows:

| | |
|---|---|
| If to the Landlord: | RED GATE III LLC<br>15215 Shady Grove Road<br>Suite 201<br>Rockville, Maryland 20850 |
| If to the Tenant: | MACROGENICS, INC.<br>9640 Medical Center Drive<br>Rockville, Maryland 20850 |

or to such other address as either may have designated from time to time by written notice to the other. The date of service of such notices shall be the date such notices are deposited in any United States Post Office.

**31. COVENANTS OF TENANT**

Tenant covenants and agrees:

(a) To give to Landlord prompt written notice of any accident, fire, or damage occurring on or to the Premises.

(b) To keep the thermostats in the Premises set at a temperature sufficient to prevent freezing of water pipes, fixtures and HVAC units.

(c) To keep the Premises clean, orderly, sanitary, and free from all objectionable odors and from insects, vermin and other pests.

(d) To comply with the requirements of the State, Federal and County statutes, ordinances, and regulations applicable to Tenant and its use of the Premises, and to save Landlord harmless from penalties, fines, costs, and expenses resulting from failure to do so not caused by Landlord's negligence, willful misconduct, illegal conduct or breach of this Lease, provided Tenant shall not be obligated to make structural repairs or alterations to so comply.

(e) Tenant shall promptly pay all contractors, suppliers of material and persons it engages to perform work and provide materials for construction work on the Premises so as to minimize the possibility of a lien attaching to the Premises. Should any such lien be made or filed, Tenant shall cause the same to be discharged and released of record by bond or otherwise within ten (10) days of receipt of written request from Landlord.

(f) Tenant is responsible for the security of the Premises.

**32. LANDLORD'S RIGHT TO ALTER SITE PLAN**

Landlord shall, from time to time, have the right to alter or modify the site plan of the Building and to rearrange the driveways and parking areas, as well as the entrance and exits to the Premises, provided such alteration, modification or rearrangement does not adversely affect Tenant's parking or Tenant's access to the Premises.

**33. PARKING SPACES**

Landlord agrees to furnish 2.7 unreserved parking spaces per thousand square feet of space occupied by the Tenant. There shall be no charge to Tenant for parking space use during the Term and any renewals of the Term

**34. ENTIRE AGREEMENT**

This Lease contains the entire agreement of the parties. There are no oral agreements existing between them.

**35. SUCCESSORS AND ASSIGNS**

This Lease, and the covenants and conditions herein contained shall inure to the benefit of and be binding upon the Landlord, its successors and assigns, and shall inure to the benefit of and be binding upon the Tenant, its successors and assigns, if permitted.

**36. BANKRUPTCY**

If Tenant shall make an assignment of its assets for the benefit of creditors, or if Tenant shall file a voluntary petition in bankruptcy, or if any involuntary petition in bankruptcy or for receivership be instituted against the Tenant and the same be not dismissed within sixty (60) days of the filing thereof, or if Tenant shall be adjudged bankrupt, then and in any of said events, this Lease shall immediately cease and terminate at the option of the Landlord with the same force and effect as though the date of said event was the date herein fixed for expiration of the term of this Lease.

**37. NON-DELIVERY**

In the event the Landlord shall be unable to give possession of the Premises because construction of the Premises is not complete or for any other cause reasonably beyond the control of the Landlord, the Landlord shall not be liable to Tenant for any damage resulting from failure to give such possession.

If the Premises are not delivered by April 1, 2015 Tenant shall have the right to terminate this Lease.

**38. PARTIAL INVALIDITY**

If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall be held to be invalid and unenforceable, the remainder of this Lease, and the application of such terms, covenants, or conditions shall be valid and enforceable to the fullest extent permitted by law.

**39. FORCE MAJEURE**

With the exception of those provisions contained herein regarding the payment of rent, the inability of either party to perform any of the terms, covenants or conditions of this Lease shall not be deemed a default if the same shall be due to any cause beyond the control of that party.

**40. ESTOPPEL CERTIFICATE**

The Tenant shall from time to time, within ten (10) days after being requested to do so by the Landlord or any mortgagee, execute, acknowledge and deliver to the Landlord (or, at the Landlord's request, to any existing or prospective purchaser, transferee, assignee or Mortgagee of any or all of the Premises) an instrument in recordable form, certifying (a) that this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modification); (b) as to the dates to which the Minimum Rent and other charges arising hereunder have been paid; (c) as to the amount of any prepaid rent or any credit due to the Tenant hereunder; (d) that the Tenant has accepted possession of the Premises (if Landlord has delivered the Premises in accordance with this Agreement), and the Commencement Date; (e) as to whether, to the best knowledge, information and belief of the signer of such certificate, the Landlord or the Tenant is then in default in performing any of its obligations hereunder (and, if so, specifying the nature of each such default); and (f) as to any other fact or condition reasonably requested by the Landlord or such other addressee. In the event the Tenant fails or refuses to provide such a certificate, and following five (5) business days' written notice and opportunity to cure, at Landlord's option: (i) the failure of Tenant to deliver such statement within such time shall constitute a material default of Tenant hereunder, in which event Tenant shall be liable to Landlord for any resulting loss or damage (including reasonable counsel fees) up to a maximum amount of One Million Dollars ($1,000,000.00); or (ii) it shall be conclusive upon Tenant that (a) this Lease is in full force and effect, without modification, (b) there are no material uncured defaults in Landlord's

performance, (c) not more than one (1) month's Base Rent has been paid in advance, (d) all Tenant improvements to be constructed by Landlord, if any, have been completed in accordance with Landlord's obligations and (e) Tenant has taken possession of the Premises.

**41. EXPANSION AND RIGHT OF FIRST OFFER**

Subject to availability and any existing expansion rights of other tenants in the Building, Tenant shall have the first right to expand into the remaining space in the Building during its term. The Minimum Rent rate would be at the then current escalated rental rate. In the event any additional office space in the Building becomes available for leasing during the initial Term of this Lease, Landlord shall first offer, by written submission to the Tenant, the terms under which it intends to offer the space for lease. If the Landlord and Tenant shall not have executed a lease agreement for such additional space within forty-five (45) days after Tenant's receipt of such notice, Landlord shall have the unfettered right to lease all or any portion of the Building upon such terms and conditions as the Landlord may desire.

**42. SIGNAGE**

Tenant shall have the right, at its expense, to put Tenant's name on the building's façade and/or Premises at Tenant's expense. Any such signage shall comply with any rules, regulations and covenants applicable and mutually agreeable between the parties and any applicable government agencies. Tenant, at its expense, shall at all times maintain such exterior signage in good condition.

**43. LENDER APPROVAL.**

Landlord's execution and delivery of this Lease shall be conclusive evidence of approval by any financial institution possessing the right to approve leases for space in the Building.

**44. DECONTAMINATION OF PREMISES.**

Landlord, at its sole cost, shall obtain and provide to Tenant a report evidencing the decontamination of the Premises prior to the Commencement Date.

**45. BROKER PARTICIPATION.**

Landlord and Tenant agree, understand and recognize that there are no brokers other than CBRE, Inc. and J Street Companies ("Brokers") participating in this transaction and that Landlord will compensate Brokers under terms of a separate agreement.

**IN WITNESS WHEREOF** , the parties have caused this Lease Agreement to be executed on the year and date first written.

LANDLORD:

WITNESS:

**RED GATE III LLC**

/s/ William M. Rickman
By: William M. Rickman

TENANT:

WITNESS:

**MACROGENICS, INC.**

/s/ Scott Koenig, M.D., PhD
By: Scott Koenig, M.D., PhD

**EXHIBIT A**

To be attached.

To include:

- The approved floor plan will include the segregation of space from Common Areas and other Building tenants such that entry to all Building tenants space may be controlled and locked.
- Re-paint, re-carpet, re-tile entire Premises.
- Replace all damaged and discolored ceiling tiles
- Balance HVAC
- Provide building standard lunch room cabinetry and sink as well as adequate electrical installation for a refrigerator and microwave. Kitchen appliances will be supplied by Tenant.

**EXHIBIT B**

FLOOR PLAN

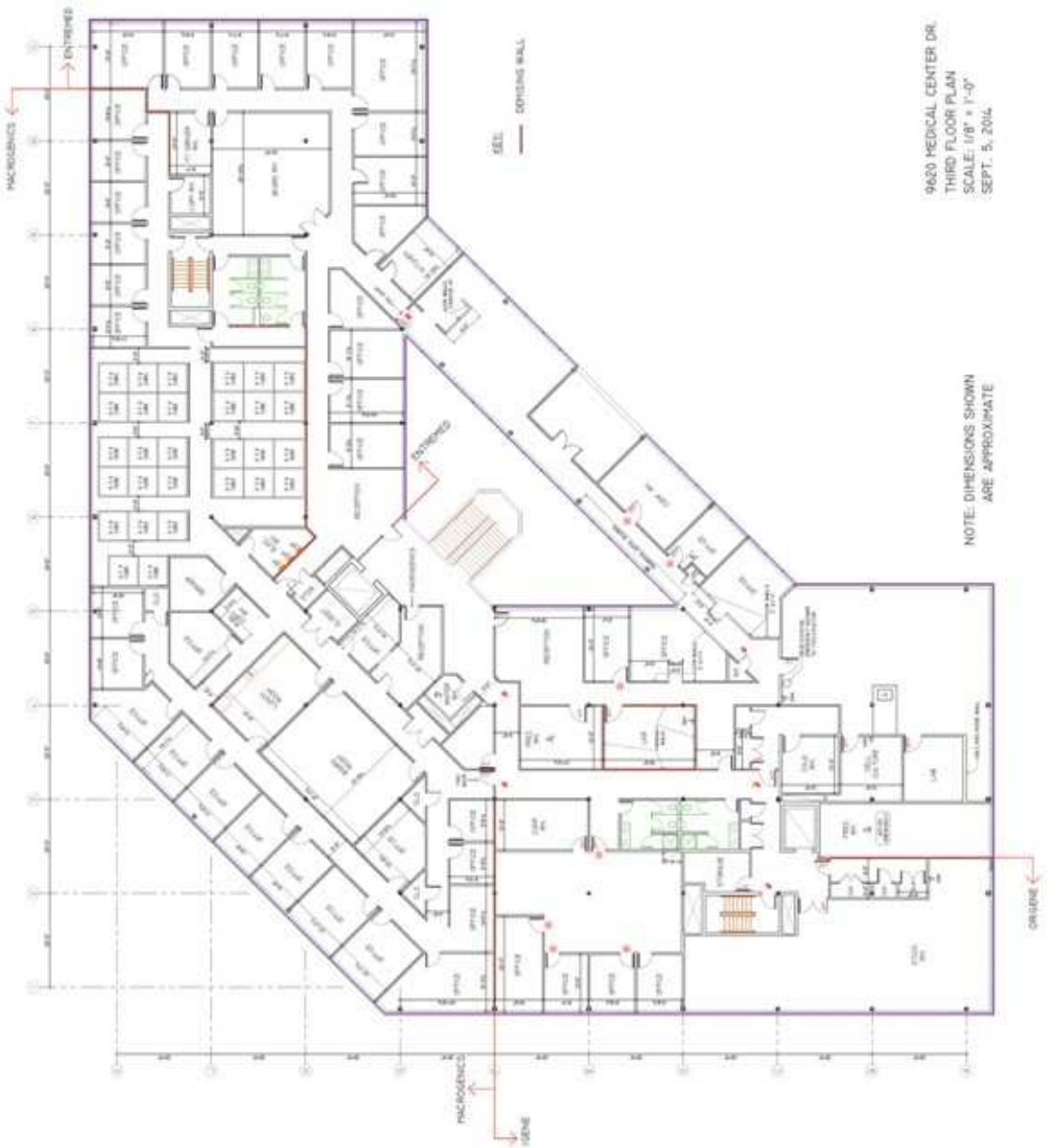


Exhibit 10.25

Execution Version

***Confidential Materials omitted and filed separately with the Securities and Exchange Commission. Triple asterisks denote omissions.***

# COLLABORATION AND LICENSE AGREEMENT

**BY AND BETWEEN**

**MACROGENICS, INC.**

**AND**

**JANSSEN BIOTECH, INC.**

**TABLE OF CONTENTS**





*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

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**LIST OF EXHIBITS**



**LIST OF SCHEDULES**





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**COLLABORATION AND LICENSE AGREEMENT**

**THIS COLLABORATION AND LICENSE AGREEMENT** (" **Agreement** ") is entered into as of December 19, 2014 (the " **Execution Date** "), by and between **JANSSEN BIOTECH, INC.** , a Pennsylvania corporation, having its principal place of business at 800/850 Ridgeview Drive, Horsham, PA 19044 (hereinafter " **Company** ") and **MACROGENICS, INC.** , a Delaware corporation having its principal place of business at 9640 Medical Center Drive, Rockville, MD 20850 (together with its Affiliates, " **MacroGenics** "). Company and MacroGenics are sometimes referred to herein individually as a " **Party** " and collectively as the " **Parties** ".

**WHEREAS** , MacroGenics has discovered and is developing a proprietary program that includes a Compound (as defined below) containing CD3 and CD19 specificities and is coded by MacroGenics as MGD011, with various potential human therapeutic uses;

**WHEREAS** , Company desires to obtain certain license rights in respect of such Compound, all in accordance with the terms and conditions of this Agreement, with MacroGenics retaining certain options to co-promote the Initial Product (as defined below) in the U.S. and to co-fund certain development costs and participate in the profits and losses of the Initial Product, all as set forth in this Agreement; and

**WHEREAS** , MacroGenics and Johnson & Johnson Innovation - JJDC, Inc., an Affiliate (as defined below) of Company, are contemporaneously entering into that certain Stock Purchase Agreement and that certain Investor Agreement, each as of the Execution Date.

**NOW, THEREFORE** , in consideration of the foregoing and the premises and conditions set forth herein, the Parties agree as follows:

## ARTICLE 1
## DEFINITIONS

**1.1** " **Accelerated Approval** " means FDA approval of a BLA that (a) includes clinical data from a Phase 2 Trial or Phase 2/3 Trial, but no clinical data from a Phase 3 Trial; (b) has been granted expedited review by the FDA ( *e.g.* , such BLA has been granted a Breakthrough Therapy designation pursuant to Section 506(a) of the FFDCA or a Fast Track designation pursuant to Section 506(b) of the FFDCA); or (c) has been granted orphan drug status pursuant to Section 526 of the FFDCA.

**1.2** " **Acquirer** " means any Third Party that is a party to any Change of Control transaction and any of such Third Party's Affiliates.

**1.3** " **Affiliate** " means, with respect to a particular Person, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such first Person. For the purposes of this definition, the word "control" (including, with correlative meaning, the terms "controlled by" or "under the common control with") means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of fifty percent (50%) or more of the voting stock of such entity, or by contract or otherwise.



*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

**1.4** " **Alliance Manager** " means the person appointed by each Party from within their respective organization to coordinate and facilitate the communication, interaction and cooperation of the Parties pursuant to this Agreement.

**1.5** " **Antitrust Laws** " means any law relating to competition that is enforced by (a) the Federal Trade Commission or the Antitrust Division of the U.S. Department of Justice or (b) any equivalent foreign authority, including the European Commission.

**1.6** " **Applicable Law** " means all applicable statutes, ordinances, regulations, rules, or orders of any kind whatsoever of any Governmental Authority, including the FFDCA, Prescription Drug Marketing Act of 1987 (21 U.S.C. §§331, 333, 353, 381), the Generic Drug Enforcement Act of 1992 (21 U.S.C. §335(a) et seq.), U.S. Patent Act (35 U.S.C. §1 et seq.), Federal False Claims Act (31 U.S.C. §3729 et seq.), and the Anti-Kickback Statute (42 U.S.C. §1320a-7b et seq.), all as amended from time to time, together with any rules, regulations, and compliance guidance promulgated thereunder.

**1.7** " **BLA** " means (a) a Biologics License Application as defined in the Public Health Service Act and the regulations promulgated thereunder, (b) a Marketing Authorization Application in Europe, or (c) any equivalent or comparable application, registration or certification in any other country or region.

**1.8** " **Business Day** " means a day other than Saturday, Sunday or any other day that is designated as a J&J holiday in the J&J Universal Calendar (a copy of which for the years 2014 and 2015 is attached as Exhibit E and a copy of which prior to the beginning of each such year for succeeding years shall be provided to MacroGenics).

**1.9** " **Calendar Quarter** " means a financial quarter based on a Calendar Year; provided , however , that the first Calendar Quarter and the last Calendar Quarter may be partial quarters as applicable under the relevant Calendar Year.

**1.10** " **Calendar Year** " means a year based on the Johnson & Johnson Universal Calendar; provided , however , that the first Calendar Year and the last Calendar Year of the applicable period (such as the Royalty Term) may be a partial year as the case may be.

**1.11** " **Centralized Approval Procedure** " means, to the extent compulsory or permitted for the Regulatory Approval of a Compound or Product in Iceland, Liechtenstein, Norway or any country in the European Union, the procedure administrated by the EMA which results in a single marketing authorization that is valid in Iceland, Liechtenstein, Norway and all countries in the European Union.

**1.12** " **CFDA** " means the China Food and Drug Administration and any successor agency(ies) or authority having substantially the same function.



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*An unredacted version of this exhibit has been filed separately with the Commission.*

**1.13** " **Change of Control** " shall occur if: (a) any Third Party acquires directly or indirectly the beneficial ownership of any voting security of a Party, or if the percentage ownership of such person or entity in the voting securities of a Party is increased through stock redemption, cancellation or other recapitalization, and immediately after such acquisition or increase such Third Party is, directly or indirectly, the beneficial owner of voting securities representing more than fifty percent (50%) of the total voting power of all of the then outstanding voting securities of a Party; (b) a merger, consolidation, recapitalization, or reorganization of a Party is consummated, other than any such transaction, which would result in stockholders or equity holders of such Party immediately prior to such transaction, owning at least fifty percent (50%) of the outstanding securities of the surviving entity (or its parent entity) immediately following such transaction; (c) the stockholders or equity holders of a Party approve a plan of complete liquidation of such Party, or an agreement for the sale or disposition by such Party of all or substantially all of such Party's assets, other than pursuant to the transaction described above or to an Affiliate; (d) individuals who, as of the date hereof, constitute the Board of Directors of a Party (the " **Incumbent Board** ") cease for any reason to constitute at least a majority of the Board of Directors of such Party ( provided , however , that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by such Party's shareholders, was recommended or approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board of Directors of such Party); or (e) the sale or transfer to a Third Party of (i) all or substantially all of such Party's assets taken as a whole or (ii) a majority of such Party's assets which relate to this Agreement, is effected.

**1.14** " **Clinical Trials** " means a Phase 1 Trial, Phase 2 Trial, Phase 2/3 Trial, Phase 3 Trial or Phase 4 Trial, as applicable.

**1.15** " **Co-Funding Term** " means the time period commencing on the date that Company receives the Co-Funding Option Exercise Notice and concluding on the Co-Funding Termination Date.

**1.16** " **Co-Funding Termination Date** " means the last day of the Calendar Quarter during which the Co-Funding Termination Event occurs.

**1.17** " **Co-Funding Termination Event** " means the earlier of: (a) the [***] after MacroGenics' receipt of a GDC Late Payment Notice, provided that MacroGenics has not paid the entire non-disputed outstanding amount due under the applicable GDC Invoice; (b) Company's receipt of the Co-Funding Opt-Out Notice; (c) if, Net Sales of the Initial Product in the Northern American Territory are less than [***], the last day of such second Calendar Year or (d) [***] after the First Commercial Sale of the Initial Product in the Northern American Territory.



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**1.18** " **Combination Product** " means (a) a Product that comprises, consists of or incorporates two (2) or more active pharmaceutical ingredients or (b) a package that includes a Product and at least one pharmaceutical product that is not a Product.

**1.19** " **Commercial FTE** " means [***] of work devoted to or in direct support of the Commercialization of a Product (other than Detailing) that is carried out by one or more qualified employees or contractors or consultants of MacroGenics or its Affiliates or Company or its Affiliates, [***].

**1.20** " **Commercial FTE Costs** " means, with respect to any period, the Commercial FTE Rate multiplied by the number of Commercial FTEs expended by a Party during such period.

**1.21** " **Commercial FTE Rate** " means a rate of [***] per Commercial FTE per Calendar Year (pro-rated for the period beginning on the Effective Date and ending on the last day of the first Calendar Year of the Term); provided , however , that such rate shall be increased or decreased annually beginning on January 4, 2016 by the percentage increase or decrease in the [***]. The Commercial FTE Rate is "fully burdened" and covers employee salaries, benefits, travel and other costs not separately accounted for in Commercialization Expenses.

**1.22** " **Commercialization** " means any activities directed to marketing, promoting, distributing, importing, offering to sell and/or selling a Product. When used as a verb, " **Commercialize** " means to engage in Commercialization activities.

**1.23** " **Commercially Reasonable Efforts** " means, with respect to the efforts to be expended, or considerations to be undertaken, by a Party or its Affiliate with respect to any objective, activity or decision to be undertaken hereunder, reasonable, good faith efforts to accomplish such objective, activity or decision as such Party would normally use to accomplish a similar objective, activity or decision under similar circumstances, it being understood and agreed that, with respect to the Development, Manufacture, seeking and obtaining Regulatory Approval, or Commercialization of a Compound or Product, such efforts and resources shall be consistent with those efforts and resources commonly used by a Party under similar circumstances for similar compounds or products to which it has similar rights, which compound or product, as applicable, is at a similar stage in its development or product life and is of similar market potential, taking into account all commercial, scientific, economic and other factors, including: (a) issues of efficacy, safety, and expected and actual approved labeling; (b) the expected and actual competitiveness of alternative products sold by Third Parties in the marketplace; (c) the expected and actual product profile of the Compound or Product; (d) the expected and actual patent and other proprietary position of the Compound or Product; (e) the likelihood of Regulatory Approval of the Compound or Product given the regulatory structure involved, including the likelihood of obtaining Regulatory Exclusivity; and (f) the expected and actual profitability and return on investment of the Compound or Product, taking into consideration, among other factors, expected and actual Third Party costs and expenses, the pricing and reimbursement relating to the Product(s), and the payments due to a Party hereunder. To the extent that the performance of a Party's obligations hereunder is adversely affected by the other Party's failure to perform its obligations hereunder, the impact of such performance failure will be taken into account in determining whether such first Party has used Commercially Reasonable Efforts to perform its affected obligations.



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**1.24** " **Company Applied Technology** " means, with respect to any Reverted Product, (a) any Know-How Controlled by Company as of the Effective Date or during the Term (other than as a result of the licenses granted by MacroGenics to Company under this Agreement) that (i) Company had applied to such Reverted Product prior to termination of this Agreement, provided that such Know-How is necessary for the continued Exploitation of such Reverted Product as it exists at the time of such termination or (ii) Company had incorporated into such Reverted Product prior to termination of this Agreement and (b) any Patents Controlled by Company as of the Effective Date or during the Term that Covers the Know-How described in clause (a).

**1.25** " **Company Inventions** " means Inventions Controlled by Company that are necessary or otherwise used to Exploit Compounds or Products in the Field in the Territory.

**1.26** " **Company Know-How** " means all Know-How Controlled by Company, during the Term, used to Exploit Compounds or Products in the Field in the Territory as contemplated by this Agreement, including Company Inventions.

**1.27** " **Company Patents** " means all Patents Controlled by Company, covering Inventions discovered or invented during the Term pursuant to activities under this Agreement that: (a) Cover the composition of matter of, the method of making or using, or the sale or the importation of the Compounds or the Products, to the extent included within a Company Invention; or (b) are otherwise used to Exploit the Compounds or the Products in the Field in the Territory.

**1.28** " **Company Technology** " means, collectively, the Company Patents and the Company Know-How.

**1.29** " **Competitive Infringement** " means any infringement or misappropriation that involves the Development, Manufacture, use or Commercialization of a product or product candidate that [***].

**1.30** " **Compound** " means (a) MGD011, its derivatives and variants, including molecules that [***] and are specifically claimed in Patents that specifically claim the amino acid sequence of MGD011; and (b) any other DART derived from the DART Platform that [***].

**1.31** " **Confidential Information** " means, subject to ARTICLE 12, all non-public or proprietary Information disclosed by a Party to the other Party under this Agreement, which may include ideas, inventions, discoveries, concepts, compounds, compositions, formulations, formulas, practices, procedures, processes, methods, knowledge, know-how, trade secrets, technology, inventories, machines, techniques, development, designs, drawings, computer programs, skill, experience, documents, apparatus, results, clinical and regulatory strategies, Regulatory Documentation, Information and submissions pertaining to, or made in association with, filings with any Governmental Authority, data, including pharmacological, toxicological and clinical

data, analytical and quality control data, manufacturing data and descriptions, patent and legal data, market data, financial data or descriptions, devices, assays, chemical formulations, specifications, material, product samples and other samples, physical, chemical and biological materials and compounds, and the like, without regard as to whether any of the foregoing is marked "confidential" or "proprietary," or disclosed in oral, written, graphic, or electronic form.

Confidential Information shall include: (a) the terms and conditions of this Agreement; and (b) Confidential Information disclosed by either Party pursuant to the Confidential Disclosure Agreement [***] (the " **Prior CDA** ").

**1.32** " **Control** " or " **Controlled** " means, with respect to any Information, Know-How, Patent or other intellectual property right, (a) ownership by a Party or, subject to Section 16.5, any of its Affiliates, of such Information, Know-How, Patent or other intellectual property right, or (b) possession by a Party or, subject to Section 16.5, any of its Affiliates, of the ability (without taking into account any rights granted by one Party to the other Party under the terms of this Agreement) to grant access, a license or a sublicense to such Information, Know-How, Patent or other intellectual property right without violating the terms of any agreement or other arrangement with, or necessitating the consent of, any Third Party, at such time that the Party would be first required under this Agreement to grant the other Party such access, license or sublicense, but excluding, in each case ((a) and (b)), any Information, Know-How, Patent or other intellectual property right that comes into the Control of a Party pursuant to a Change of Control of such Party, except to the extent, and only to the extent that, such Information, Know-How, Patent or other intellectual property right is either (i) actually used by such Party or its Affiliates, or the Acquirer, to Develop, Manufacture or Commercialize the Compounds or Products following the consummation of such Change of Control or (ii) made, conceived or reduced to practice by the Acquirer through the use of, or reference to, any Information, Know-How, Patent or other intellectual property right of such Party.

**1.33** " **Co-Promote Option Deadline** " means [***] after Company delivers the Co-Promote Materials relating to such second Indication to MacroGenics in accordance with Section 8.3 (the [***]").

**1.34** " **Cover** " or " **Covering** " means, with respect to a product, technology, process or method, that, in the absence of ownership of or a license granted under a Valid Claim, the practice or Exploitation of such product, technology, process or method would infringe such Valid Claim (or, in the case of a Valid Claim that has not yet issued, would infringe such Valid Claim if it were to issue).

**1.35** " **CPI** " means the Consumer Price Index-Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, 1982-1984=100, published by the U.S. Department of Labor, Bureau of Labor Statistics (or its successor equivalent index) in the U.S.

**1.36** [***]



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**1.37** " **DART** " means a dual affinity re-targeting molecule consisting of [***].

**1.38** " **DART Platform** " means MacroGenics' proprietary platform for generating DARTs.

**1.39** " **Detail** " or " **Detailing** " means an interactive face-to-face meeting between a sales representative acting on behalf of the applicable Party and a health care professional having prescribing authority within the target audience that occurs after Regulatory Approval of a Product, during which such Product's attributes (including approved uses, safety, effectiveness, contraindications, side effects warnings and/or other relevant characteristics) are discussed in an effort to increase prescribing preferences of such Product for its approved uses, in a manner consistent with Applicable Law and industry standards and with the quality of similar presentations made by a Party's sales representatives for such Party's other products, if applicable. Details may include First Position Details or Second Position Details. Detailing shall not include (a) sample drops made by sales representatives, (b) medical affairs activities or related activities conducted by medical support staff (such as medical science liaisons), (c) activities conducted at conventions, (d) electronic details or (e) activities performed by market development specialists, managed care account directors or other personnel not performing face-to-face sales calls or not specifically trained with respect to a Product.

**1.40** " **Development** " means all research and non-clinical and clinical drug development activities and processes, including toxicology, pharmacology, project management and other non-clinical efforts, statistical analysis, formulation development, delivery system development, statistical analysis, Manufacturing Development, the performance of clinical trials (including the manufacturing of Product for use in clinical trials), or other activities reasonably necessary in order to obtain, but not maintain, Regulatory Approval of Products in the Field in the Territory. When used as a verb, " **Develop** " means to engage in Development activities.

**1.41** " **Development FTE** " means (a) with respect to Company, [***] hours of work devoted to or in direct support of the Global Development Activities by one or more qualified employees or contractors or consultants of Company or its Affiliates, as measured in accordance with Company's normal time allocation practices, or (b) with respect to MacroGenics, [***] of work devoted to or in direct support of the Global Development Activities, pursuant to Section 4.2(c) or providing assistance to Company pursuant to Section 5.2 or Section 7.1 by one or more qualified employees or contractors or consultants of Company or its Affiliates, as measured in accordance with MacroGenics' normal time allocation practices, provided that, in each case ((a) and (b)) such employees or contractors or consultants must be [***].

**1.42** " **Development FTE Costs** " means, with respect to any period, the Development FTE Rate multiplied by the number of Development FTEs expended by a Party during such period.

**1.43** " **D evelopment FTE Rate** " means a rate of [***] per FTE per Calendar Year (pro-rated for the period beginning on the Effective Date and ending on the last day of the first Calendar Year of the Term); provided , however , that such rate shall be increased or decreased annually beginning on January 4, 2016 by the [***]. The Development FTE Rate is "fully burdened" and will cover employee salaries and such facilities and equipment and other materials and services, including ordinary laboratory consumables procured from distributors of relevant products as they may use.



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**1.44** " **Development Transition Date** " means the earlier of (a) the IND Clearance Date for the IND for the first Phase 1 Trial of the Initial Product submitted by MacroGenics in accordance with Section 5.2(a), (b) the date on which the JSC determines that Company shall assume responsibility for the preparation and filing of such IND in accordance with Section 4.1(a) or (c) twelve (12) months after the Effective Date.

**1.45** [***].

**1.46** " **Effective Date** " means the first (1st) Business Day immediately following the date on which the Parties have actual knowledge that all applicable waiting periods under the HSR Act with respect to the transactions contemplated hereunder have expired or have been terminated.

**1.47** " **EMA** " means the European Medicines Agency or any successor agency(ies) or authority having substantially the same function.

**1.48** [***] and including, in each case, the territories and possessions of each country.

**1.49** " **European Union** " or " **EU** " means the European Union member states as then-currently constituted; provided , however , that the EU shall always be deemed to include the [***]. As of the Execution Date, the European Union member states are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom.

**1.50** " **Executive Officers** " means (a) with respect to Company, either (i) prior to the first Regulatory Approval, the Global Head of Research and Development (or his or her designee), and (ii) following the first Regulatory Approval, the president of U.S. oncology commercial operations (or his or her designee) and (b) with respect to MacroGenics, the Chief Executive Officer (or his or her designee).

**1.51** " **Exploit** " or " **Exploitation** " means to research, make, have made, distribute, import, export, use, have used, sell, have sold, or offer for sale, Develop, Commercialize, register, modify, enhance, improve, Manufacture, have Manufactured or otherwise dispose of a Compound or Product.

**1.52** " **FDA** " means the U.S. Food and Drug Administration and any successor agency(ies) or authority having substantially the same function.

**1.53** " **FFDCA** " means the U.S. Federal Food, Drug and Cosmetic Act (21 U.S.C. §301 et seq.), as amended from time to time.



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**1.54** " **Field** " means all uses, including the diagnosis, treatment or prevention of any disease in humans.

**1.55** " **First Commercial Sale** " means, on a Product-by-Product and country-by-country basis, the first sale for monetary value of such Product under this Agreement by Company, its Affiliates or its sublicensees to an end user for use, consumption or resale of such Product in such country in the Field after Regulatory Approval of such Product has been obtained in such country in the Field, where such sale results in a Net Sale. Sale of a Product under this Agreement by Company to an Affiliate of Company or a sublicensee of Company shall not constitute a First Commercial Sale unless such Affiliate or such sublicensee is the end user of such Product. For the avoidance of doubt, the sale of Product for clinical study purposes, early access programs (such as to provide patients with a Product prior to Regulatory Approval pursuant to treatment INDs or protocols, named patient programs or compassionate use programs) or any similar uses shall not constitute a First Commercial Sale.

**1.56** " **First Position Detail** " means a Detail in which a Product is Detailed before any other product and a predominant portion of time is devoted to Detailing such Product.

**1.57** " **Force Majeure** " means any event beyond the reasonable control of the affected Party, which may include embargoes; war or acts of war, including terrorism; insurrections, riots, or civil unrest; strikes, lockouts or other labor disturbances; epidemics, fire, floods, earthquakes or other acts of nature; acts, omissions or delays in acting by any Governmental Authority (other than delays incident to the ordinary course of drug development); and failure of plant or machinery.

**1.58** " **FPD** " means, with respect to a Clinical Trial, the first patient dosed in such Clinical Trial.

**1.59** " **FTE** " means, collectively, Development FTE, Commercial FTE and Sales Rep FTE. For clarity, no more than [***] per Calendar Year (or equivalent pro-rata portion thereof for the period beginning on the Effective Date and ending on the last day of the first Calendar Year) may be charged for a single individual contributing work factoring into any reimbursable FTE Costs hereunder, regardless of how much additional work time is contributed by such individual during such Calendar Year (or period beginning on the Effective Date and ending on the last day of the first Calendar Year), and any individual contributing less than [***] per Calendar Year (or equivalent pro-rata portion thereof for the period beginning on the Effective Date and ending on the last day of the first Calendar Year) shall be deemed a fraction of an FTE on a pro-rata basis.

**1.60** " **FTE Costs** " means, collectively, Development FTE Costs and Commercial FTE Costs.

**1.61** " **GAAP** " means generally accepted accounting principles in the U.S., consistently applied.

**1.62** " **Global Development Activities** " means the following Development activities relating to the Initial Product:

**(a)** performance of any Phase 2 Trial or Pivotal Trial of the Initial Product in accordance with the Global Development Plan;

**(b)** Manufacturing of the Initial Product to conduct such Phase 2 Trial or Pivotal Trial (and associated Manufacturing Development (except to the extent expressly [***])); and

**(c)** preparation, filing and maintenance of Regulatory Documentation directly supporting such Phase 2 Trial or Pivotal Trial and obtaining Regulatory Approval of the Initial Product;

provided , however , that Global Development Activities shall specifically exclude: [***].

**1.63** " **Global Development Costs** " means all of the following expenses related to Global Development Activities incurred by Company or its Affiliates (or by MacroGenics or its Affiliates pursuant to Section 4.2(c)), regardless of whether such expenses are incurred before or during the Co-Funding Term:

**(a)** Third Party Expenses;

**(b)** Development FTE Costs; and

**(c)** Product Liabilities arising from the conduct of the Global Development Activities before or during the Co-Funding Term (even if such Product Liabilities are not incurred until after the Co-Funding Term), provided that any Product Liabilities for which a Party is obligated to indemnify the other Party pursuant to Section 15.1 or 15.2 because such Product Liabilities are Losses to which such other Party becomes subject as a result of a Claim (or would be Losses if such other Party became subject to such Product Liabilities as a result of a Claim) shall be expressly excluded from this definition of Global Development Costs and shall be the responsibility of such first Party to the extent that such first Party is (or would be) responsible for such Losses pursuant to ARTICLE 15.

For purposes of clarity, Global Development Costs shall not include [***]

**1.64** " **Global Development Plan** " means the high-level, written plan attached hereto as Exhibit B covering the planned Development of the Compounds and the Products, as amended from time to time in accordance with Section 4.2(b).

**1.65** " **Good Clinical Practices** " or " **GCP** " means the then-current standards, practices and procedures promulgated or endorsed by the FDA as set forth in the guideline adopted by the International Conference on Harmonization (" **ICH** "), titled "Guidance for Industry E6 Good Clinical Practice: Consolidated Guidance" (or any successor document), including related regulatory requirements imposed by the FDA and comparable regulatory standards, practices and procedures promulgated by the EMA, PMDA, CFDA or other Regulatory Authority applicable to the Territory, as they may be updated from time to time.



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**1.66** " **Good Laboratory Practices** " or " **GLP** " means the then-current standards, practices and procedures promulgated or endorsed by the FDA as set forth in 21 C.F.R. Part 58 (or any successor statute or regulation), including related regulatory requirements imposed by the FDA and comparable regulatory standards, practices and procedures promulgated by the EMA, PMDA, CFDA or other Regulatory Authority applicable to the Territory, as they may be updated from time to time, including applicable guidelines promulgated under the ICH.

**1.67** " **Good Manufacturing Practices** " or " **GMP** " means the then-current good manufacturing practices required by the FDA, as set forth in the FFDCA, as amended, and the regulations promulgated thereunder, for the manufacture and testing of pharmaceutical materials, and comparable Applicable Law related to the manufacture and testing of pharmaceutical materials in jurisdictions outside the U.S., including the quality guideline promulgated by the ICH designated ICH Q7A, titled "Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients" and the regulations promulgated thereunder, in each case as they may be updated from time to time.

**1.68** " **Governmental Authority** " means any multi-national, federal, state, local, municipal or other government authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, court or other tribunal).

**1.69** " **HSR Act** " means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended from time to time, and any comparable Applicable Law in jurisdictions outside the U.S. related to the approval of transactions similar to those contemplated under this Agreement.

**1.70** " **HSR Clearance Date** " means the expiration or termination of all applicable waiting periods and requests for information (and any extensions thereof) under the HSR Act.

**1.71** " **HSR Filing** " means (a) filings by Company and MacroGenics with the U.S. Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice of a Notification and Report Form for Certain Mergers and Acquisitions (as that term is defined in the HSR Act) with respect to the matters set forth in this Agreement, together with all required documentary attachments thereto, or (b) equivalent filings with relevant foreign authorities.

**1.72** " **IND** " means (a) an Investigational New Drug application as defined in the FFDCA and applicable regulations promulgated thereunder by the FDA; (b) a clinical trial authorization application for a product filed with a Regulatory Authority in any other regulatory jurisdiction outside the U.S., the filing of which (in the case of (a) or (b)) is necessary to commence or conduct clinical testing of a pharmaceutical product in humans in such jurisdiction; or (c) documentation issued by a Regulatory Authority that permits the conduct of clinical testing of a product in humans in such jurisdiction.

**1.73** " **IND Clearance Date** " means, with respect to any IND, the date on which the sponsor of such IND is permitted to initiate clinical trials following submission of such IND to the applicable Regulatory Authority.



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**1.74** " **Indication** " means a [***].

**1.75** " **Information** " means information, inventions, discoveries, compounds, compositions, formulations, formulas, practices, procedures, processes, methods, knowledge, know-how, trade secrets, technology, techniques, designs, drawings, correspondence, computer programs, documents, apparatus, results, strategies, Regulatory Documentation, information and submissions pertaining to, or made in association with, filings with any Governmental Authority or patent office, data, including pharmacological, toxicological, non-clinical and clinical data, analytical and quality control data, manufacturing data and descriptions, market data, financial data or descriptions, devices, assays, chemical formulations, specifications, material, product samples and other samples, physical, chemical and biological materials and compounds, and the like, in written, electronic, oral or other tangible or intangible form, now known or hereafter developed, whether or not patentable.

**1.76** " **Initial Product** " means the initial Product Developed hereunder that either (a) contains MGD011 as its sole active pharmaceutical ingredient, or (b) contains a different Compound approved for Development by mutual agreement of the Parties.

**1.77** " **Invention** " means any invention, discovery or development, whether or not patentable, made, conceived or reduced to practice in the course of performance of this Agreement, whether made, conceived or reduced to practice solely by, or on behalf of, MacroGenics, Company, the Parties jointly, or any Affiliate of the same.

**1.78** " **Johnson & Johnson Universal Calendar** " means the calendar of a particular period of twelve (12) months that constitutes a financial year for the purposes of Johnson & Johnson, a New Jersey corporation and the ultimate parent company of Company (" **Johnson & Johnson** "), and its Affiliates.

**1.79** " **Know-How** " means all Information and Inventions Controlled by a Party that are necessary or useful to Exploit Compounds and/or Products in the Field in the Territory. Know-How excludes any Information contained within a Party's published Patents.

**1.80** " **Knowledge** " means, as applied to a Party, that such Party shall be deemed to have knowledge of a particular fact or other matter to the extent that a reasonably prudent person with primary responsibility for the applicable subject matter (whether an officer or employee of such Party) knew or should have known of such fact or other matter.

**1.81** " **MAA** " or " **Marketing Authorization Application** " means an application for Regulatory Approval in any particular jurisdiction other than the U.S.

**1.82** " **MacroGenics Inventions** " means Inventions Controlled by MacroGenics during the Term that are necessary or useful to Exploit Compounds or Products in the Field in the Territory.

**1.83** " **MacroGenics Know-How** " means all Know-How Controlled by MacroGenics as of the Execution Date or during the Term, including all MacroGenics Inventions.



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**1.84** " **MacroGenics Options** " mean, individually, the Co-Funding Option and the Co-Promote Option.

**1.85** " **MacroGenics Out-of-Pocket Patent Costs** " means all Third Party Expenses incurred by MacroGenics pursuant to the filing, prosecution and maintenance of MacroGenics Patents.

**1.86** " **MacroGenics Patents** " means all Patents Controlled by MacroGenics, as of the Execution Date or during the Term that: (a) Cover the composition of matter of, or the method of making or using, the sale or the importation of the Compounds or the Products; or (b) are otherwise necessary or useful to Exploit the Compounds or the Products in the Field in the Territory. The MacroGenics Patents as of the Execution Date include those set forth in Exhibit C . The MacroGenics Patents include any Patents Covering MacroGenics Inventions.

**1.87** " **MacroGenics Platform Patent** " means a MacroGenics Patent that is a Platform Patent.

**1.88** " **MacroGenics Product Patent** " means a MacroGenics Patent that is a Product Patent.

**1.89** " **MacroGenics Technology** " means, collectively, the MacroGenics Patents and the MacroGenics Know-How.

**1.90** " **MacroGenics Trademarks** " means the trademark DART ® , trademarks which incorporate the acronym "DART", and related logos.

**1.91** " **Major Markets** " mean the [***].

**1.92** " **Manufacture** " means all activities and processes related to the manufacturing of a Compound or a Product, or any ingredient thereof, including manufacturing of finished Product for Development and Commercialization, labeling, packaging, in-process and finished Product testing, release of Product or any component or ingredient thereof, including Compound, quality assurance activities related to manufacturing and release of Compound or Product, and ongoing stability tests and regulatory activities related to any of the foregoing. Where the context so requires, Manufacture shall also include obtaining Product from contract manufacturers. When used as a verb, to " **Manufacture** " means to engage in Manufacturing activities.

**1.93** " **Manufacturing Development** " means any of the following with respect to a Compound or Product: [***]

**1.94** " **MGD011** " means the compound with the chemical structure and amino acid sequence as set forth on Exhibit D .

**1.95** " **N.A. Profit/Loss** " means the profits or losses resulting from the Commercialization of the Initial Product in the Northern American Territory, which shall be equal to [***].

**1.96** " **Net Sales** " means, with respect to any Product, the gross amounts invoiced by Company or any of its Affiliates or sublicensees for sales of such Product to unaffiliated Third Party



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purchasers in arms-length transactions, less the following deductions calculated in accordance with GAAP and standard internal policies and procedures and accounting standards consistently applied throughout Johnson & Johnson, to the extent reasonable and customary, and specifically and solely allocated to such Product, whether fixed or variable, and actually taken, paid, accrued, allowed, included, or allocated based on good faith estimates in the gross sales prices with respect to such sales (and consistently applied as set forth below):

**(a)** normal and customary cash, trade or quantity discounts, allowances, and credits allowed, in the form of deductions or fees actually allowed with respect to sales of such Product (to the extent not already reflected in the amount invoiced), excluding commissions for Commercialization of such Product;

**(b)** charge-back payments, rebates, administrative fees, and discounts (or equivalents thereof) payable to trade customers, managed health care organizations, pharmacy benefit managers (or equivalents thereof), group purchasing organizations, specialty pharmacy providers, federal, state/provincial, local, or other governments, or their agencies or purchasers or reimbursers;

**(c)** retroactive price reductions or credits actually granted upon rejections or returns of such Product, where such adjustments are limited to recalls or damaged goods, billing errors, reserves for returns, and the actual amount of any write-offs for bad debt;

**(d)** outbound freight, shipment and insurance costs, to the extent included in the price and separately itemized on the invoice price;

**(e)** taxes (other than income taxes assessed against the income arising from the sale of such Product), duties, tariffs, mandated contribution or other governmental charges imposed on the sale of such Product, including customs duties, VAT (but only to the extent that such VAT are not reimbursable or refundable), excise taxes, use taxes and sales taxes, in each case to the extent included in the price and separately itemized on the invoice price;

**(f)** compulsory payments and cash rebates related to sales of such Product payable to a Governmental Authority (or agent thereof) pursuant to Applicable Law by reason of any national or local health insurance program or similar program, including government-levied fees resulting from healthcare reform policies and annual fees paid pursuant to the Patient Protection and Affordable Care Act (" **ACA** "), provided that such ACA annual fees shall be reasonably allocable to the Product; and

**(g)** amounts payable to patients through co-pay assistance cards or similar forms of rebate directly related to the prescribing of such Product.

All of the aforementioned deductions shall be determined, on a country-by-country basis, as



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incurred in the ordinary course of business in type and amount consistent with Company's or its applicable Affiliate's or sublicensee's (as the case may be) business practices consistently applied across its product lines and accounting standards and verifiable based on the Johnson & Johnson sales reporting system. All such deductions shall be fairly and equitably allocated to such Product and other products of Company and its Affiliates and sublicensees, such that such Product does not bear a disproportionate portion of such deductions.

Notwithstanding the foregoing, amounts invoiced by Company, its Affiliates, or its sublicensees for the sale of a Product among Company, its Affiliates or its sublicensees for resale shall not be included in the computation of Net Sales hereunder unless such Affiliate or such sublicensee is the end user of such Product and as long as such Product is subsequently resold to a Third Party end user. In addition, the following shall not be included in the computation of Net Sales: (i) transfer or dispositions of reasonable quantities of samples of a Product at no cost for promotional or educational purposes, (ii) transfers or dispositions of reasonable and customary quantities of a Product as free samples or donations, or for patient assistance, testing marketing programs or other similar programs at no cost, and (iii) sales of a Product for clinical study or other scientific testing purposes, early access programs (such as to provide patients with such Product prior to Regulatory Approval pursuant to treatment INDs or protocols, named patient programs or compassionate use programs) or any similar use.

With respect to sales of any Combination Product in a country, the Parties shall determine Net Sales for such Combination Product in such country by mutual agreement based on the relative contribution of the Product and the other active ingredient(s) in the Combination Product.

With respect to any Product that is sold in combination with services from Company or the selling Affiliate or sublicensee, where the customer receives a specific discount for the bundling of products or services, the Net Sales of such Combination Product or Product shall be determined by the mutual agreement of the Parties.

**1.97** " **Northern American Territory** " shall mean the U.S. and Canada, including in each case the territories and possessions of such country.

**1.98** " **Patents** " means all: (a) patents, including any utility or design patent; (b) patent applications, including provisionals, substitutions, divisionals, continuations, continuations in-part or renewals; (c) patents of addition, restorations, extensions, supplementary protection certificates, registration or confirmation patents, patents resulting from post-grant proceedings, re-issues and re-examinations; (d) other patents or patent applications claiming priority directly or indirectly to (i) any such specified patent or patent application specified in (a) through (c), or (ii) any patent or patent application from which a patent or patent application specified in (a) through (c) claim direct or indirect priority; (e) inventor's certificates; and (f) other rights issued from a Governmental Authority similar to any of the foregoing; in each case of (a) through (f), irrespective of whether such patent, patent application or other right arises in the U.S. or any other jurisdiction in the Territory.



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**1.99** " **Person** " means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability company, business trust, joint stock company, trust, incorporated association, joint venture or similar entity or organization, including a government or political subdivision, department or agency of a government.

**1.100** " **Phase 1 Trial** " means a clinical trial of the Product that (a) (i) is a first-in-humans trial on subjects who are patients, (ii) is for the purposes of establishing initial safety, tolerability, pharmacokinetic and pharmacodynamic Information for the Product, (iii) exposes subjects to the Product and (iv) is designed to provide the sponsor of the clinical trial with sufficient Information about the Product to initiate a Phase 2 Trial; or (b) meets the definition in 21 C.F.R. §312.21(a) or any of its foreign equivalents. Solely for purposes of determining which activities are "Global Development Activities" that are included in "Global Development Costs" shared pursuant to Section 8.2 during the Co-Funding Term, any Phase 1/2 Trial included in the Global Development Plan shall be treated as a [***].

**1.101** " **Phase 1/2 Trial** " means a clinical trial of the Product that combines both a Phase 1 Trial and a Phase 2 Trial of such Product into a single protocol, where the Phase 1 Trial portion is performed first to (i) to establish initial safety, tolerability, pharmacokinetic and pharmacodynamic Information for the Product as a monotherapy or in combination with another agent or (ii) determine the Maximum Tolerable Dose (" **MTD** ") of such Product in subjects, and the Phase 2 Trial portion is performed second to further evaluate safety and/or efficacy of such Product as a monotherapy or in combination with another agent in subjects treated with a selected dose.

**1.102** " **Phase 2 Trial** " means a clinical trial of the Product (a) with the endpoint of evaluating its effectiveness for a particular Indication or Indications, its short term tolerance and safety, as well as its pharmacokinetic and pharmacodynamic Information in patients with the Indications under study and is not intended to be pivotal to support Regulatory Approval for the Product; or (b) that meets the definition in 21 C.F.R. §312.21(b) or any of its foreign equivalents.

**1.103** " **Phase 2/3 Trial** " means a Phase 2 Trial involving a sufficient number of subjects that, prior to commencement of the trial or at any other defined point in the trial, satisfies both of the following ((a) and (b)):

**(a)** such trial is designed to (i) establish that the Product is safe and efficacious for its intended use, and (ii) define and determine warnings, precautions, and adverse reactions that are associated with the Product in the dosage range to be prescribed, which trial is intended to support Regulatory Approval of such Product or a similar clinical study prescribed by the FDA; and

**(b)** such trial is or becomes a registration trial sufficient for filing an application for a Regulatory Approval for such Product in the U.S., as evidenced by (i) an agreement with or statement from the FDA on a Special Protocol Assessment or equivalent, or (ii) other guidance or minutes issued by the FDA, for such registration trial.



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**1.104** " **Phase 3 Trial** " means a clinical trial of the Product (a) on a sufficient number of patients, which trial (i) is designed to establish that the Product is safe and efficacious for its intended use, (ii) is designed to define warnings, precautions and adverse reactions that are associated with the Product in the dosage range to be prescribed, and (iii) is pivotal to support Regulatory Approval for the Product; or (b) that meets the definition in 21 C.F.R. §312.21(c) or any of its foreign equivalents.

**1.105** " **Phase 4 Trial** " means a clinical trial of a Product, possibly including pharmacokinetic studies, which trial (a) is not required to be completed prior to obtaining Regulatory Approval of an Indication; and (b) either (i) is required by the applicable Regulatory Authority as mandatory to be conducted on or after the Regulatory Approval of an Indication, or (ii) is conducted voluntarily to enhance marketing or scientific knowledge of the Product (e.g., providing additional drug profile, safety data or marketing support Information, or supporting expansion of Product labeling).

**1.106** " **Pivotal Trial** " means a Phase 2/3 Trial and/or a Phase 3 Trial.

**1.107** " **Platform Claim** " means a Patent claim that Covers [***].

**1.108** " **Platform Patent** " means a Patent that includes a Platform Claim and no Product Claims.

**1.109** " **PMDA** " means the Pharmaceuticals and Medical Devices Agency in Japan and any successor agency(ies) or authority having substantially the same function.

**1.110** [***].

**1.111** [***]

**1.112** " **Product** " means any pharmaceutical product, including all forms, presentations, strengths, doses and formulations (including any method of delivery), containing a Compound alone or in combination with other active pharmaceutical ingredients (other than any active pharmaceutical ingredient that is owned or controlled by MacroGenics or any of its Affiliates that is not a Compound), including any Combination Product. For the sake of clarity, all forms, presentations, doses and formulations of a pharmaceutical product containing a Compound shall be considered the same Product for purposes of this Agreement, so long as each form, presentation, dose and formulation contains the same Compound and other active pharmaceutical ingredients (and no other Compounds or other active pharmaceutical ingredients).

**1.113** " **Product Claim** " means a Patent claim that (a) Covers [***].

**1.114** " **Product Liabilities** " means all Losses incurred by Company, its Affiliate or its sublicensee and resulting from or relating to the use of a Compound and/or a Product in a human (including Clinical Trials and/or Commercialization) in the Territory incurred after the Effective Date. For the avoidance of doubt, Product Liabilities shall include (i) reasonable attorneys' and experts' fees and costs relating to any claim or potential claim against a Party, its Affiliate, or its

sublicensee and all losses, damages, fees and costs associated therewith, and (ii) Losses associated with recalls and/or the voluntary or involuntary withdrawal of the Compound and/or the Product (except to the extent a Party is obligated to indemnify the other Party pursuant to Section 15.1 or 15.2 for such Losses) and (iii) fines, penalties, assessments or other financial sanctions levied by any Governmental Authority related to such a claim (except to the extent a Party is obligated to indemnify the other Party for such amounts pursuant to Section 15.1 or 15.2 because such amounts are Losses to which such other Party becomes subject as a result of a Claim (or would be Losses if such other Party became subject to such amounts as a result of a Claim)).

**1.115** " **Product Patent** " means any Patent that does not include a Platform Claim and includes a Product Claim.

**1.116** " **Product Target** " means [***] " **CD19** " means [***]

**1.117** " **Promotional Materials** " means all written, printed, graphic, electronic, audio or video presentations of Information, including journal advertisements, sales visual aids, formulary binders, reprints, direct mail, direct-to-consumer advertising, disease awareness materials, internet postings, broadcast advertisements and sales reminder aides (for example, note pads, pens and other such items, if appropriate), which, in each case, are permitted under Applicable Law and intended for use or used by or on behalf of a Party, its Affiliates or its sublicensees in connection with the Commercialization of the Product in the Territory.

**1.118** " **Regulatory Approval** " means any and all approvals (including supplements, amendments, pre- and post-approvals), licenses, registrations or authorizations of any national, regional, state or local Regulatory Authority, department, bureau, commission, council or other governmental entity, that is necessary to market and/or sell a Product in any country or jurisdiction in the Territory for one or more uses, including any pricing and reimbursement approvals that are necessary to conduct a launch of such Product in such country or jurisdiction (even if such approvals are not legally required to launch such Product in such country or jurisdiction). [***]

**1.119** " **Regulatory Approval Application** " means a New Drug Approval Application or Biologics License Application (each, as defined in the FFDCA) in the U.S., or any corresponding application for Regulatory Approval in any country or jurisdiction in the Territory outside the U.S., including, with respect to the European Union, an MAA filed with the EMA pursuant to the Centralized Approval Procedure or with the applicable Regulatory Authority of a country in Europe with respect to the decentralized procedure, mutual recognition or any national approval procedure.

**1.120** " **Regulatory Authority** " means any applicable Governmental Authority involved in granting Regulatory Approval in a country or jurisdiction in the Territory, including (a) in the U.S., the FDA and any other applicable Governmental Authority having jurisdiction over a Product; (b) in the EU, the EMA or any other applicable Governmental Authority in the EU having jurisdiction over a Product; (c) in Japan, the PMDA; (d) in China, the CFDA; and (e) in any country or jurisdiction other than the U.S., EU, Japan or China, any applicable Governmental Authority having jurisdiction over a Product.

**1.121** " **Regulatory Documentation** " means, with respect to any Compound or Product, all regulatory filings and supporting documents created, for, submitted to or received from an applicable governmental agency or Regulatory Authority relating to such Compound or Product, and all data contained therein, including all Regulatory Materials, as well as the contents of any minutes from meetings (whether in person or by audio conference or videoconference) with Regulatory Authorities, registrations and licenses, regulatory drug lists, advertising and promotion documents shared with Regulatory Authorities, adverse event files, complaint files and Manufacturing records.

**1.122** " **Regulatory Exclusivity** " means any exclusive marketing rights or data protection or other exclusivity rights conferred by any Regulatory Authority with respect to a Product in a country or jurisdiction in the Territory, including orphan drug exclusivity, pediatric exclusivity, rights conferred in the U.S. under the Drug Price Competition and Patent Term Restoration Act (21 U.S.C. §355), as amended (the " **Hatch-Waxman Act** "), the ACA or in the European Union under Directive 2001/83/EC, as amended, and Regulation (EC) No. 1901/2006, as amended, or rights similar thereto in other countries or regulatory jurisdictions in the Territory, that prevent such Regulatory Authority from granting any regulatory approval under the Biologics Price Competition and Innovation Act or similar Applicable Law, of a Third Party product that has an amino acid sequence that is the same as or substantially identical to the amino acid sequence of such Product; provided , however , that, in the event that a Regulatory Authority confers more than one type of exclusivity with respect to a Product in a country or jurisdiction (e.g., the FDA grants both new chemical entity exclusivity and orphan drug exclusivity with respect to such Product), "Regulatory Exclusivity" will be deemed to apply to such Product in such country so long as any Regulatory Exclusivity granted to such Product prevents such Regulatory Authority from granting any regulatory approval under the Biologics Price Competition and Innovation Act, or similar Applicable Law, of a Third Party product that has an amino acid sequence that is the same as or substantially identical to the amino acid sequence of such Product. Regulatory Exclusivity shall not include exclusivity conferred by a Patent right.

**1.123** " **Regulatory Materials** " means regulatory applications, submissions, notifications, registrations, Regulatory Approvals or other regulatory submissions, including any written correspondence or meeting minutes, made to, made with, or received from a Regulatory Authority that are necessary or reasonably desirable in order to research Develop, Manufacture, or Commercialize a Product in a particular country or jurisdiction in the Territory. Regulatory Materials include INDs and Regulatory Approval Applications, and amendments and supplements for any of the foregoing, and applications for pricing and reimbursement approvals.

**1.124** " **Royalty Term** " means, [***], the time period beginning with the First Commercial Sale of such Product in such country and continuing until the later of: (a) the expiration of the last Valid Claim Covering the composition of matter or the method of making or using such Product included in a MacroGenics Patent licensed to Company under the Company License; (b) [***]; or (c) if Regulatory Exclusivity is granted with respect to such Product in such country, the expiration or termination of such Regulatory Exclusivity in such country.



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**1.125 Second Position Detail** ” means a Detail in which a Product is Detailed in the second position ( *i.e.* , no more than one other product is presented to or discussed with the applicable healthcare professional before such Product) and the second most predominant portion of time is devoted to the Detailing of such Product.

**1.126** “ **Tax** ” or “ **Taxes** ” means any present or future taxes, levies, imposts, duties, charges, assessments or fees of any nature (including any interest thereon).

**1.127** “ **Territory** ” means any country in the world.

**1.128** “ **Third Party** ” means any Person other than (a) Company, (b) MacroGenics or (c) an Affiliate of either of Company or MacroGenics.

**1.129** “ **Third Party Expenses** ” means out-of-pocket expenses incurred by a Party or any of its Affiliates for services performed by a Third Party on behalf of Company or MacroGenics in the course of such Party’s performance of this Agreement. For clarity, such Third Party Expenses will include the costs of any raw materials and resins used for Manufacture of clinical trial material.

**1.130** “ **U.S.** ” means the United States of America, including its territories and possessions.

**1.131** “ **U.S. Commercialization Plan** ” means a plan, prepared by Company pursuant to Section 6.1 in the event that MacroGenics exercises the Co-Promote Option, for the coordination of Detailing activities in the U.S.

**1.132** “ **Valid Claim** ”tmeans (a) a claim of an issued and unexpired Patent, to the extent such claim has not been revoked, held invalid or unenforceable by a patent office, court or other Governmental Authority of competent jurisdiction in a final order, from which no further appeal can be taken, and which claim has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination or disclaimer or otherwise; or (b) a claim within a patent application that has not been pending for more than [***] from the date of its first priority patent application filing anywhere in the Territory and which claim has not been revoked, cancelled, withdrawn, held invalid or abandoned.

Additional Definitions . Each of the following definitions is set forth in the Section of this Agreement indicated below:

| **Definition** | **Section** |
|---|---|
| ACA | 1.96 |
| Advertising and Market Research Expenses | Exhibit A |
| Agreement | Preamble |
| Approval Milestone | 9.3(b) |
| Approval Milestone Payment | 9.3(b) |
| Bankruptcy Laws | 13.7(b) |
| Breaching Party | 13.3(a) |



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| Definition | Section |
|---|---|
| CD3 | 1.116 |
| CD19 | 1.116 |
| Claim | 15.1 |
| Clinical Supply Agreement | 7.1 |
| Co-Funding Approval Milestone | 9.3(c) |
| Co-Funding Approval Milestone Payment | 9.3(c) |
| Co-Funding Materials | 8.2(b) |
| Co-Funding Option | 8.2(a) |
| Co-Funding Option Deadline | 8.2(a) |
| Co-Funding Option Exercise Notice | 8.2(a) |
| Co-Funding Opt-Out | 8.2(e) |
| Co-Funding Opt-Out Notice | 8.2(e) |
| Co-Funding Sales Milestone | 9.3(e) |
| Co-Funding Sales Milestone Payment | 9.3(e) |
| Commercialization Expenses | Exhibit A |
| Company | Preamble |
| Company Detailing Expenses | Exhibit A |
| Company Indemnitee | 15.2 |
| Company License | 3.1 |
| Cooperating Party | 12.5(b) |
| Co-Promote Materials | 8.3(b) |
| Co-Promote Option | 8.3(a) |
| Co-Promote Option Exercise Notice | 8.3(a) |
| Co-Promotion Agreement | 8.3(c) |
| Cost Cap | 8.2(d)(iii) |
| Cost Per PDE | Exhibit A |
| Cost Variances | Exhibit A |
| [***] | 14.3 |
| Cure Period | 13.3(a) |
| [***] | [***] |
| Development Milestone | 9.3(a) |
| Development Milestone Payment | 9.3(a) |
| Disclosing Party | 12.1 |
| Dispute(s) | 14.1 |
| Distribution Expenses | Exhibit A |
| EAP Expenses | Exhibit A |
| Education Expenses | Exhibit A |
| [***] | [***] |
| Execution Date | Preamble |
| [***] | [***] |
| [***] | [***] |
| [***] | [***] |



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| Definition | Section |
|---|---|
| [***] | [***] |
| GDC Invoice | 8.2(d)(ii) |
| GDC Late Payment Notice | 8.2(d)(ii) |
| GDC Repayment Option | 8.2(e)(iii) |
| Good Faith Dispute | 10.4 |
| Hatch-Waxman Act | 1.122 |
| ICH | 1.65 |
| Incumbent Board | 1.13 |
| Indemnifying Party | 15.3(a) |
| Indemnitee | 15.3(a) |
| Infringement Recovery | 10.5(d) |
| Insolvency Event | 13.7(a) |
| Insolvent Party | 13.7(b) |
| Johnson & Johnson | 1.78 |
| Joint Inventions | 10.1 |
| Joint Patents | 10.3(d) |
| JSC | 2.1(a) |
| Licensed Patents | 11.2(b) |
| Losses | 15.1 |
| MacroGenics | Preamble |
| MacroGenics Indemnitee | 15.1 |
| Manufacturing Expenses | Exhibit A |
| Manufacturing Process | 7.1(a) |
| Manufacturing Technology Transfer | 7.1(a) |
| Manufacturing Transition Plan | 7.1(a) |
| Marketing Expenses | Exhibit A |
| Marketing Management Expenses | Exhibit A |
| Medical Affairs Expenses | Exhibit A |
| Milestone Events | 9.3 |
| Milestone Payments | 9.3 |
| MTD | 1.101 |
| Non-Insolvent Party | 13.7(b) |
| Other Costs | Exhibit A |
| Other Costs Not Included in Standard | Exhibit A |
| Party/Parties | Preamble |
| Patent Extension(s) | 10.4 |
| PDE | Exhibit A |
| Phase 4 Trial Expenses | Exhibit A |
| [***] | [***] |
| Prior CDA | 1.31 |
| Protocol | 14.3(b)(iii) |
| PVA | 5.3(b) |



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| Definition | Section |
|---|---|
| Quarterly N.A. Profit/Loss Report | 9.9(b) |
| Recall Expenses | Exhibit A |
| Receiving Party | 12.1 |
| Requesting Party | 12.5(b) |
| Reverted Product | 13.8(a)(iv) |
| Sales Milestone | 9.3(d) |
| Sales Milestone Payment | 9.3(d) |
| Sales Rep FTE | Exhibit A |
| Sales Rep FTE Rate | Exhibit A |
| Sales Rep PDE Total | Exhibit A |
| [***] | [***] |
| Selling Costs | Exhibit A |
| Sole Inventions | 10.1 |
| Standard Cost of Goods Manufactured | Exhibit A |
| Term | 13.1 |
| Terminated Country | 13.8 |
| Terminated Product | 13.8 |
| Terminating Party | 13.3(a) |
| Third Party Obligation | 9.10(a) |
| Third Party Obligation Expenses | Exhibit A |
| Third Party Patent Challenge | 10.7(b) |
| Transition Plan | 4.1(b) |

## ARTICLE 2
## GOVERNANCE

**2.1 Joint Steering Committee** .

**(a) Formation and Purpose** . The Parties agree to establish and convene a joint steering committee (the " **JSC** ") within [***] after the Effective Date. The JSC shall consist of representatives from each Party as further described in Section 2.1(d) and operate in accordance with this Section 2.1. The purpose of the JSC shall be to provide a forum for the overall coordination, communication and oversight of the Parties' activities under this Agreement, including the resolution of disputes properly referred to the JSC under this Agreement.

( **b) Responsibilities of the JSC** . The JSC's overall responsibility shall be to:

**(i)** discuss, approve and oversee MacroGenics Development, regulatory and Manufacturing activities with respect to the Initial Product;

**(ii)** discuss, approve and oversee the Transition Plan and Manufacturing Transition Plan;



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**(iii)** if MacroGenics exercises the Co-Funding Option in accordance with Section 8.2(a), encourage and facilitate communication and information sharing regarding Global Development Activities and Commercialization of the Initial Product in the Northern American Territory, including review and discussion of Company's then-current Global Development Plan, during the Co-Funding Term;

**(iv)** coordinate the fulfillment of those rights and obligations arising from MacroGenics' exercise of any of the MacroGenics Options;

**(v)** decide matters and resolve disputes referred to the JSC which the JSC has authority to decide or resolve under this Agreement; and

**(vi)** perform other obligations specifically delegated to it under this Agreement.

**(c)** **JSC Decisions and Actions** . Actions to be taken by the JSC shall be taken only following [***], with each Party having [***]. If the JSC fails to reach unanimous agreement on a matter before it for decision within [***] from the date that the matter is first presented to the JSC in writing, such matter shall be referred to the Executive Officers for discussion and resolution pursuant to Section 14.2. Any resolution of such matter by the Executive Officers shall be final and binding on the Parties. If the Executive Officers are not able to resolve the matter within the [***] period specified in Section 14.2, then [***] with respect to such matter, and [***] on such matter shall be final and binding on the Parties, subject to the limitations set forth in Section 2.5.

**(d)** **JSC Membership** . Promptly after the Effective Date, each Party shall designate three (3) such representatives for the JSC. The JSC may elect to vary the number of representatives from time to time, provided that, unless otherwise agreed by the Parties in writing at the JSC, the JSC shall maintain an equal number of representatives from each Party. Each representative shall have the appropriate level of experience in the subject area of the JSC, and at least one (1) representative shall have sufficient seniority within the applicable Party's organization to have the necessary decision-making authority in order for the JSC to fulfill its responsibilities. Either Party may designate substitutes for its JSC representatives if one (1) or more of such Party's designated representatives is unable to be present at a meeting. From time to time each Party may replace its JSC representatives by written notice to the other Party specifying the prior representative (s) and their replacement(s). Each representative shall be bound by confidentiality and non-use obligations at least as restrictive as those set forth in this Agreement.

**(e)** **JSC Chairperson** . The JSC will have a chairperson, to be designated by Company. The chairperson shall be responsible for calling and convening meetings, but shall have no special authority over the other members of the JSC,



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and shall have no additional voting rights. The chairperson (or its designate) shall: (i) prepare and circulate an agenda reasonably in advance of each upcoming meeting; and (ii) prepare and issue minutes of the JSC meeting within thirty (30) days thereafter. Such minutes shall not be finalized until each JSC representative reviews and approves such minutes, provided that any minutes shall be deemed approved unless a JSC representative objects to the accuracy of such minutes within [***] after the circulation of the minutes.

**(f) Meetings** .

**(i)** ***Timing and Frequency*** . No later than [***] after the Effective Date, the JSC will hold an in-person meeting to establish the JSC's operating procedures. The JSC shall meet at least once every Calendar Quarter until the later of the Co-Funding Option Deadline or the final Co-Promote Option Deadline, at which time the JSC shall dissolve; provided , however , that, (A) in the event MacroGenics exercises the Co-Funding Option, the JSC shall meet at least

once every Calendar Quarter until the end of the end of the Co-Funding Term, unless otherwise agreed by the Parties, and (B) in the event that MacroGenics exercises the Co-Promote Option oversight of Co-Promotion activities shall be as specified in the Co-Promotion Agreement. Additional meetings of the JSC may be held with the consent of each Party (such consent not to be unreasonably withheld, delayed or conditioned), as required under this Agreement or to resolve any matter or dispute referred to the JSC in accordance with this Agreement. In the case of any matter or dispute referred to the JSC, such meeting shall be held within [***] following referral to the JSC, or as soon as reasonably possible thereafter.

**(ii)** ***Meeting Procedures*** . Meetings of the JSC shall be effective only if a majority of representatives of each Party are present or participating. Other than the initial meeting, the JSC may meet either (i) in person at either Party's facilities or at such locations as the Parties may otherwise agree, at least twice every Calendar Year; or (ii) by audio or video teleconference. Each Party shall be responsible for all of its own expenses incurred in connection with its representatives' participation in the JSC meeting, including all travel and lodging. All other Third Party expenses incurred by the JSC in furtherance of a JSC meeting, such as expenses associated with off-site meetings, shall be shared equally by the Parties.

**(iii)** ***Non-Member Participation*** . Additional non-members of the JSC having relevant experience may from time to time be invited to participate in a JSC meeting, provided that such participants shall have no voting rights or powers. Non-member participants who are not employees of a Party or its Affiliates shall only be allowed to attend if: (i) the other Party's representatives have consented to the attendance (such consent not to be unreasonably withheld, delayed or conditioned); and (ii) such non-member participant is subject to confidentiality and non-use obligations at least as restrictive as those set forth in this Agreement.



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**2.2 Additional Subcommittees and Working Groups**. The JSC may establish other subcommittees or working groups, as needed to further the purposes of this Agreement, including any responsibilities assigned to the JSC under this Agreement; provided, however, that the JSC shall not delegate its dispute resolution authority. In particular, if MacroGenics exercises the Co-Funding Option, the Parties contemplate establishment of a Joint Development Committee to facilitate communication regarding Global Development Activities during the Co-Funding Term and a Joint Marketing Committee to facilitate communication and information sharing regarding the Commercialization of the Initial Product in the Northern American Territory. The purpose, scope and procedures of any such subcommittee or working group shall be mutually agreed in writing by the JSC. Actions to be taken by any subcommittee or working group shall be taken only following unanimous vote, with each Party having one (1) vote. If any subcommittee or working group fails to reach unanimous agreement on a matter before it for decision relating to the Development or Commercialization of Products for a period in excess of [***] from the date that the matter is first presented to such subcommittee or working group in writing, such matter shall be referred to the JSC for resolution pursuant to Section (c).

**2.3 Authority**. The Parties agree that it shall be conclusively presumed that, unless otherwise explicitly stated, each voting member of the JSC, or each subcommittee or working group established by the JSC, has the authority and approval of such member's respective senior management in casting his or her vote. The JSC, and each subcommittee or working group established by the JSC, shall each have only the powers assigned expressly to the JSC in this ARTICLE 2 and elsewhere in this Agreement, and shall not have any power to amend or modify the Global Development Plan or the U.S. Commercialization Plan or to amend, modify or waive compliance with this Agreement.

**2.4 Alliance Managers**. Promptly following the Effective Date, each Party shall designate in writing an Alliance Manager to serve as the primary point of contact for the Parties regarding all collaboration activities contemplated under this Agreement. Each Alliance Manager shall facilitate communication and coordination of the Parties' activities under this Agreement relating to the Compounds and the Products. The Alliance Managers shall not be a member of the JSC. The Alliance Managers shall be allowed to attend, as a non-voting observer, meetings of the JSC, as well as any subcommittee or working group established by the JSC of which the Alliance Manager is not a member.

**2.5 Decision-Making Restrictions**. Notwithstanding anything to the contrary in this Agreement, to the extent that [***] with respect to any matter pursuant to Section 2.1(c), [***] shall not [***] to: (i) expand [***] or [***], or [***]or [***], under this Agreement; (ii) determine that [***], or [***], under this Agreement; (iii) [***] that is expressly stated to [***] or [***] or the [***] or [***] and; (iv) resolve any dispute regarding whether a [***] or the [***].



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**ARTICLE 3**
**LICENSES**

**3.1 License to Company** . Subject to the terms and conditions of this Agreement, MacroGenics hereby grants to Company an exclusive (even as to MacroGenics), royalty-bearing, non-transferable (except in accordance with Section 16.4) license, with the right to grant sublicenses as provided in Section 3.1(a), under the MacroGenics Technology, to Exploit the Compounds and the Products in the Field in the Territory (the " **Company License** ").

**Sublicensing** . Company shall have the right to grant sublicenses of the rights granted to Company under this Section 3.1 to: (i) its Affiliates through multiple tiers; and (ii) Third Parties through multiple tiers subject to the conditions in this subsection (a) provided below. Any sublicenses to Third Parties [***] that include [***] may only be granted with MacroGenics' prior consent, not to be unreasonably withheld, conditioned or delayed, unless such sublicense is: (A) in connection with, and only to the extent necessary or useful to enable, a Third Party to perform services for the Company, its Affiliate or sublicensee in the course of its performance of its Development, Manufacturing and Commercialization rights and obligations under this Agreement; and (B) to one or more Third Party distributors only to the extent reasonably necessary or useful, to enable such Third Party distributors to Commercialize Products in such countries. Company shall identify each Third Party sublicensee to MacroGenics for which Company has [***]. Each sublicense shall refer to and be subordinate to this Agreement and, except to the extent the Parties may otherwise agree in writing, any sublicense must be consistent in all material respects with the terms and conditions of this Agreement. Company shall remain responsible for the performance of this Agreement and the performance of its sublicensees hereunder. Company shall provide to MacroGenics copies of all sublicenses which grant the right to directly [***] to a Third Party in a jurisdiction in the Territory, provided that Company shall have the right to redact commercially sensitive information from such copies. Information regarding the scope of the license grants, territory and/or term of each such sublicense shall not be considered commercially sensitive.

**(a) Company Termination of License** . Company shall have the right to terminate the Company License with respect to one or more of the MacroGenics Patents included in the Company License, by providing [***] prior written notice to MacroGenics specifying the MacroGenics Patent(s) to be subject to such termination. Upon the effectiveness of such termination, (i) the Company License will no longer extend to such MacroGenics Patent(s); (ii) such MacroGenics Patent(s) shall no longer be subject to the provisions of ARTICLE 10, and MacroGenics shall have the sole right to prosecute, maintain, enforce and defend such MacroGenics Patent(s) at MacroGenics' sole expense; and (iii) no claims of such MacroGenics Patent(s) shall be considered a Valid Claim for purposes of Section 9.5 or Section 9.6.



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**3.2 Licenses to MacroGenics**. Subject to the terms and conditions of this Agreement:

**(a)** Company hereby grants back to MacroGenics a non-exclusive, fully-paid, royalty-free, non-transferable (except in accordance with Section 16.4), non-sublicensable sublicense under the Company License for use with the Compounds and the Products in the Field in the Territory, solely to the extent necessary for MacroGenics to exercise its rights and perform its obligations under this Agreement, including any rights or obligations that arise in the event MacroGenics elects to exercise any of the MacroGenics Options.

Company hereby grants back to MacroGenics a non-exclusive, fully-paid, royalty-free, non-transferable (except in accordance with Section 16.4), non-sublicensable license under (i) the Company Technology, (ii) any Know-How Controlled by Company, as of the Execution Date or during the Term, that is incorporated into the embodiment of a Product Developed hereunder, and (iii) any Patent Controlled by Company, as of the Execution Date or during the Term, that Covers technology incorporated into the embodiment of a Product Developed hereunder, in each case ((i), (ii) and (iii)), for use with the Compounds and the Products in the Field in the Territory, solely to the extent necessary for MacroGenics to exercise its rights and perform its obligations under this Agreement, including any rights or obligations that arise in the event MacroGenics elects to exercise any of the MacroGenics Options.

**(b)** Company hereby grants back to MacroGenics a non-exclusive, fully-paid, royalty-free, non-transferable (except in accordance with Section 16.4), non-sublicensable license under the Company License to [***], provided that MacroGenics shall not [***] without the prior written consent of Company.

**(c)** Company hereby grants to MacroGenics a non-exclusive, fully-paid, royalty-free, non-transferable (except in accordance with Section 16.4) license, with the right to sublicense, under any Platform Patent Controlled by Company by virtue of the use of the MacroGenics Know-How or exercise of the Company License and that claims technology applied to a Product, [***].

**3.3 Trademark License**. MacroGenics hereby grants Company a non-exclusive license to use the MacroGenics Trademarks in connection with the Development and Commercialization of the Products, subject to customary and reasonable quality control procedures to be mutually agreed upon by the Parties prior to the launch of any Products.

**3.4 No Implied Licenses**. All licenses and rights are granted only as expressly provided in this Agreement and no license or other right is or shall be created or granted under this Agreement by implication, estoppel, or otherwise. All rights not expressly granted by a Party under this Agreement are reserved by such Party and may not be used by the other Party for any purpose.



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**ARTICLE 4**
**DEVELOPMENT**

**4.1 Transition of Development Responsibilities** .

During the period beginning on the Effective Date and ending on the Development Transition Date, MacroGenics shall use diligent efforts to perform (i) all Development activities necessary to [***], other than [***], and (ii) any Development activities assigned to MacroGenics in the Transition Plan; provided , however , that, in the event that MacroGenics does not [***]after the Effective Date, upon Company's request, the JSC shall discuss and determine whether Company should assume responsibility for the [***]. If the JSC determines that Company should assume responsibility for the [***], then, promptly following such determination, MacroGenics shall transfer to Company all Information Controlled by MacroGenics that is reasonably necessary for Company [***] and provide reasonable assistance to Company with respect to the [***].

**(a)** [***] following the Development Transition Date, MacroGenics shall transfer to Company, and Company shall cooperate in good faith to support MacroGenics' transfer of, all activities and responsibilities related to the Compounds and the Products in accordance with a transition plan to be approved by the JSC promptly after the Effective Date (the " **Transition Plan** "). The Transition Plan shall be designed to effect an efficient transfer from MacroGenics to Company of all Compound and Product-related Development, Manufacturing, regulatory and other related responsibilities and documentation, as well as all Information Controlled by MacroGenics that is reasonably necessary or useful for Company's Exploitation of the Compounds and the Products (including copies or tangible embodiments thereof), and may be updated and amended by the JSC as necessary to effect such transfer. The Transition Plan shall include an itemized list of deliverables and the dates by which such deliverables are expected to be provided by MacroGenics to Company. Any dispute between the Parties regarding the conduct of the activities set forth in the Transition Plan shall be referred to the JSC for resolution.

**(b)** MacroGenics shall report on the status of any activities conducted pursuant to this Section 4.1 at each meeting of the JSC or as otherwise requested by Company.

**4.2 Development** .

**(a)** **Company Development Activities** . Except for Development activities to be undertaken prior to the Development Transition Date by MacroGenics pursuant to Section 4.1, Company shall be solely responsible for and have sole authority with respect to, at its own expense (subject to MacroGenics' exercise of the Co-Funding Option), all Development of the Compounds and the Products. Company shall use Commercially Reasonable Efforts to Develop, and to seek Regulatory Approval for, [***]. In addition, Company shall use Commercially Reasonable Efforts to [***].



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**(b)** **Global Development Plan** . Except with respect to [***]as specified below, Company shall use Commercially Reasonable Efforts to conduct the Development of the Products for the Territory in accordance with the Global Development Plan, at its own expense (subject to MacroGenics' sharing of expenses upon its exercise of the Co-Funding Option). Company shall have the right to make amendments to the Global Development Plan, which shall be consistent with Company's Development obligations set forth in Section 4.2(a), and each amended Global Development Plan shall include all material Development activities anticipated to be required to obtain Regulatory Approval for Products in [***], as well as timelines regarding such activities, including the plans and timelines for preparing the necessary Regulatory Materials. The Global Development Plan shall include any Development activities with respect to [***] that Company elects to conduct, provided that Company shall have no obligation to conduct Development or to seek Regulatory Approval for Products in [***]. Beginning with the delivery of the Co-Funding Materials and continuing through the Co-Funding Option Deadline (if MacroGenics does not exercise the Co-Funding Option) and the Co-Funding Termination Date (if MacroGenics exercises the Co-Funding Option), Company shall update the Global Development Plan to include a then-current, non-binding budget for any Global Development Costs. During the Co-Funding Term, Company shall update and amend, as appropriate, the then-current Global Development Plan and shall submit such updates and/or amendments for review to the JSC. While the Global Development Plan shall not require the approval of the JSC, Company shall review and consider all comments to the Global Development Plan received from MacroGenics at the JSC in good faith. Company will consider including, in the Global Development Plan, Clinical Trials using the Initial Product [***], to the extent that Company reasonably determines that such Clinical Trials are feasible from a medical, scientific, regulatory and commercial perspective. The Parties acknowledge and agree that Company's ability to conduct such Clinical Trials may be subject to [***] and that Company shall have no obligation to conduct such Clinical Trials unless the conduct of such Clinical Trials is [***].

**(c)** **MacroGenics Development** . In the event that MacroGenics, at any time during the Co-Funding Term, wishes to conduct a Clinical Trial of the Initial Product that is consistent with, but not currently included in, the Global Development Plan, it shall submit a written proposal for the conduct of such Clinical Trial to the JSC for approval, together with a draft protocol, clinical plan and budget. The JSC shall consider such proposal in good faith. If the JSC approves such proposal, then: (i) such Clinical Trial shall be deemed to be a Global Development Activity and shall become part of the Global Development Plan; (ii) the costs associated with such



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Clinical Trial shall be Global Development Costs and shared in accordance with Section 8.2; (iii) upon Company's request, the Parties shall enter into a clinical trial agreement governing the conduct of such Clinical Trial, which agreement shall account for necessary regulatory and other considerations and shall be consistent with the terms of this Agreement; (iv) MacroGenics' agreement with the sites at which such Clinical Trial is conducted shall be consistent with Company's form of clinical trial site agreement and with the terms of this Agreement; (v) the Parties shall amend the PVA as necessary to provide for the sharing of information and data relating to such Clinical Trial; and (vi) MacroGenics shall use Commercially Reasonable Efforts to conduct such Clinical Trial in accordance with the Global Development Plan. If the JSC does not approve such proposal, the JSC shall inform MacroGenics as to the reasons for such determination and, if the JSC has any specific suggestions for revisions to the protocol that may address the reasons underlying such JSC determination, such suggestions and MacroGenics may submit a revised proposal to JSC. MacroGenics shall not conduct any Clinical Trial of the Initial Product without the express approval thereof by the JSC.

**(d)** **Clinical Trial Registries** . For all Clinical Trials in the Field in the Territory, Company shall be responsible, in accordance with Applicable Law, for registering in the appropriate clinical trial registry and posting the results of such Clinical Trials.

**4.3 Decision-Making** . Company shall have sole authority with respect to the Development of the Compounds and the Products in the Field in the Territory in accordance with this Agreement.

**4.4 Compliance with Law** . Each Party shall conduct all Development activities related to Compound and Products in all material respects in a good scientific manner and in compliance in all material respects with all Applicable Law, including applicable national and international ( *e.g.* , ICH, GCP, GLP, and GMP) guidelines.

**4.5 Records** . Company shall prepare and maintain, or shall cause to be prepared and maintained, complete and accurate written records, accounts, notes, reports and data with respect to Development activities conducted pursuant to this Agreement (including the Global Development Plan) in conformity with Applicable Law and Company's standard practices, provided that in no case shall such records be maintained for [***] following the Calendar Year to which such records pertain (or any longer period required by Applicable Law).

**4.6 Cooperation** . Upon reasonable advance notice, at the request of the JSC, each Party agrees to make its employees and consultants reasonably available at their respective places of employment to consult with the other Party on issues arising in connection with the Global Development Plan.



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**4.7 Progress Reports** . No later than [***] and [***], Company shall provide to MacroGenics in writing (or, if the JSC has not yet been dissolved pursuant to Section 2.1(f)(i), to the JSC verbally) a report detailing Company's efforts and progress during the [***] to such date, as applicable, to Exploit each Compound and Product. Each such report shall describe, among other matters: (a) material Development activities completed since the last report, including the object and parameters of the Development, when initiated, when completed and a summary of all material results; (b) material Development activities planned to be undertaken before the next report, including the type and object of any Clinical Trials to be conducted and their projected starting and completion dates; and (c) material changes in Company's Development and Commercialization plans. In addition, Company shall reasonably respond to reasonable requests by MacroGenics for information regarding Company's

Development and Commercialization activities for such Compounds and Products, to the extent such information is necessary to assess Company's compliance with its obligations hereunder. In addition, if MacroGenics does not exercise the Co-Funding Option or MacroGenics exercises the Co-Funding Opt-Out in accordance with Section 8.2(e), at the request of MacroGenics, the Parties shall meet to discuss Development and Commercialization progress at either Party's facilities (or such other location as may be agreed upon by the Parties) on a semi-annual basis.

**4.8 Subcontracting** . Company may subcontract the performance of any Development activities conducted in accordance with this Agreement to any of its Affiliates or any Third Party, provided that Company shall oversee the performance of any subcontracted activities in a manner that would be reasonably expected to result in their successful and timely completion and shall remain responsible for the performance of such subcontracted activities in accordance with this Agreement.

## ARTICLE 5
## REGULATORY RESPONSIBILITIES

**5.1 Initial Data Transfer** .

**(a)** Within [***] after the Development Transition Date, MacroGenics shall deliver to Company electronic copies (unless otherwise required by Applicable Law) of all Regulatory Materials relating to the Products in the Field in the Territory which are Controlled by MacroGenics. Upon the completion of such transfer, MacroGenics shall, and hereby does, assign to Company all such Regulatory Materials and shall promptly (and in any case within [***] take all steps reasonably necessary to effectuate the assignment of all INDs, Regulatory Approval Applications and Regulatory Approvals included in such Regulatory Materials, including submitting to any applicable Regulatory Authority a letter or other necessary documentation (with copy to Company) notifying the Regulatory Authority of the assignment. In the event that any such IND, Regulatory Approval Application or Regulatory Approval cannot be transferred within such [***] period, MacroGenics shall take all actions reasonably requested by Company with respect to the maintenance or transfer of such IND, Regulatory Approval Application or Regulatory Approval.



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**(b)** Within [***] after the Development Transition Date, MacroGenics shall make available to Company separate electronic copies of all remaining Regulatory Documentation, including the study reports from all non-clinical trials and clinical trials, in each case, whether completed prior to the Development Transition Date or then in-progress, that are Controlled by MacroGenics (to the extent not previously provided to Company).

**(c)** Notwithstanding Section 5.1(a) and Section 5.1(b), from time to time after the Development Transition Date, to the extent not done so already, MacroGenics shall, and shall cause its Affiliates to, without additional compensation, disclose and make available to Company, in whatever form Company may reasonably request, as soon as reasonably practicable after the earlier of the development, making, conception or reduction to practice, all Regulatory Documentation and other Information Controlled by MacroGenics, which in each case is reasonably necessary or useful for Company's Exploitation of the Compounds and the Products, including copies or tangible embodiments thereof. For clarity, MacroGenics will have the right, unless otherwise required by Applicable Law, to retain original copies of the foregoing subject to ARTICLE 12.

**5.2 Preparation of Regulatory Materials** .

**(a)** **By MacroGenics** . During the period beginning on the Effective Date and ending on the Development Transition Date, [***], in consultation with [***], shall (i) [***]as soon as possible after the Effective Date, provided that Company shall [***] and provide a [***], and (ii) take all actions necessary to maintain all Regulatory Materials relating to the Products in the Field in the Territory which are Controlled by MacroGenics.

**(b)** **By Company** . Except for the activities to be undertaken prior to the Development Transition Date by MacroGenics pursuant to Section 5.2(a), Company shall, with respect to the Products in the Field in the Territory, have the sole right and sole authority, at its own expense (subject to MacroGenics' exercise of the Co-Funding Option), to: (i) develop and implement the overall regulatory strategy with respect to obtaining Regulatory Approval of Products in the Field in the Territory; (ii) prepare, obtain, and maintain all Regulatory Documentation, including all INDs, Regulatory Approval Applications and Regulatory Approvals; and (iii) conduct communications with the relevant Regulatory Authorities. The regulatory strategy for the Territory shall be consistent with the Global Development Plan and the terms of this Agreement. All Regulatory Materials (including all Regulatory Approvals) generated with respect to the Products under this Agreement shall be owned by, and shall be the sole property and held in the name of, Company or its designee.



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**(c )** **MacroGenics Assistance** . MacroGenics shall assist Company as reasonably requested in connection with the preparation and filing of Regulatory Documentation for the Territory, at MacroGenics' sole expense; provided , however , that Company shall reimburse MacroGenics for FTE Costs and Third Party Expenses incurred by MacroGenics in providing any such assistance later than six (6) months after the Effective Date.

**5.3 Adverse Event Reporting and Safety Data Exchange** .

**(a)** **Company Responsibilities** . Upon the transfer of ownership of the INDs, Regulatory Approval Applications and Regulatory Approvals in accordance with Section 5.1(a), Company will assume responsibility for the monitoring of all clinical experiences, maintaining the global safety database, safety monitoring, pharmacovigilance surveillance, compliance and filing of all required safety reports to all Regulatory Authorities in the Territory with respect to Compounds and Products, including annual safety reports, throughout the Development and Commercialization of each Compound and Product.

**(b)** **Safety Information Exchange; Pharmacovigilance Agreement** . In the event MacroGenics exercises the Co-Promote Option, the Parties shall cooperate to develop methods and/or procedures for sharing Information relating to the clinical experiences referred to in Section 5.3(a) with respect to the Initial Product in accordance with safety reporting requirements of the respective Governmental Authorities and as necessary to comply with Applicable Law. Specific details regarding the management of safety Information, including adverse events reports, related to the Development and the Commercialization of the Initial Product in the Territory, will be delineated in a separate global pharmacovigilance agreement (the " **PVA** "). The Parties shall meet to discuss the PVA within [***] after MacroGenics exercises the Co-Promote Option and shall agree upon the terms of the PVA as soon as practicable, but in any event no later than the anticipated date of the First Commercial Sale of any Product in the U.S.; provided , however , that, in the event the Parties do not reach agreement on all terms of the PVA prior to the First Commercial Sale of any Product in the U.S., then the Parties shall enter into an interim PVA prior to the First Commercial Sale of any Product in the U.S. and shall agree upon the terms of the final PVA as soon as practicable thereafter. In the event of any conflicts or inconsistencies between the PVA and this Agreement, the terms of the PVA shall take precedence for matters relating to pharmacovigilance.

**5.4 Recalls and Voluntary Withdrawals** . Company shall use reasonable efforts to notify MacroGenics promptly, but in no event later than [***], following its determination that any event, incident, or circumstance related to safety issues or regulatory concerns has occurred that is reasonably likely to result in the need for a recall, market suspension or market withdrawal of a Product in the Territory, and shall include in such notice the reasoning behind such determination



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and any supporting facts. Company shall have the sole right to make the final determination of whether to voluntarily implement any such recall, market suspension or market withdrawal in the Territory, provided that, prior to the implementation of such a recall, market suspension or market withdrawal, Company shall, to the extent practical, consult with MacroGenics and shall consider MacroGenics' comments in good faith. For all recalls, market suspensions or market withdrawals undertaken pursuant to this Section 5.4, Company shall be solely responsible for the execution thereof and MacroGenics shall reasonably cooperate in all such recall efforts. Subject to ARTICLE 15, Company shall be responsible for all costs of conducting any such recall, market suspension, or market withdrawal. For the sake of clarity, during the Co-Funding Term certain [***] associated with recalls and market withdrawals [***] in accordance with Section 9.9.

**5.5 Subcontracting** . Company may subcontract the performance of any activities conducted in accordance with this ARTICLE 5 to any of its Affiliates or any Third Party, provided that Company shall oversee the performance of any subcontracted activities in a manner that would be reasonably expected to result in their successful and timely completion and shall remain responsible for the performance of such subcontracted activities in accordance with this Agreement.

## ARTICLE 6
## COMMERCIALIZATION

**6.1 Commercialization Activities** .

**(a)** **Company Commercialization Activities** . Subject to MacroGenics' exercise of the Co-Promote Option, Company shall be solely responsible for and have sole authority with respect to, at its own expense (subject to MacroGenics' sharing of expenses upon its exercise of the Co-Funding Option), all aspects of the Commercialization of the Product in the Field in the Territory, including: (i) developing and executing a commercial launch and pre-launch plan; (ii) marketing and promotion (including Detailing); (iii) booking sales and distribution and performance of related services; (iv) handling all aspects of order processing, invoicing and collection, inventory and receivables; (v) publications; (vi) providing customer support, including handling medical queries, and performing other related functions; (vii) the review and approval of all Promotional Materials for compliance with Applicable Law, including submission, where appropriate, to the applicable Regulatory Authority and (viii) conforming its practices and procedures in all material respects to Applicable Law relating to the marketing, detailing and promotion of the Products in the Field in the Territory. Company shall use Commercially Reasonable Efforts to Commercialize Products for which Regulatory Approval is received in the Territory.

**(b)** **Ordering** . MacroGenics shall not accept orders for the purchase of a Product from Third Parties, or make sales of Product to Third Parties in the Field in the Territory for its own account or for Company's account. If MacroGenics receives any order for a Product in the Field in the Territory, it shall refer such orders to Company for acceptance or rejection.



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**(c)** **U.S. Commercialization Plan** . In the event MacroGenics exercises the Co-Promote Option in accordance with Section 8.3(a), Company shall submit the initial U.S. Commercialization Plan to the JSC, or such subcommittee designated by the JSC, at [***] for review by the JSC or such subcommittee. Thereafter, Company shall submit an updated U.S. Commercialization Plan to the JSC, or such subcommittee designated by the JSC, at least once each Calendar Year until the termination or expiration of the Co-Promotion Agreement for review by the JSC or such subcommittee.

**6.2 Trademarks** . Company shall have sole responsibility, at its own expense, for all matters relating to the use of, and shall own, all trademarks used in the sale of Products in the Field in the Territory (but excluding the MacroGenics Trademarks and any trademark that is confusingly similar to a MacroGenics Trademark), including the selection, filing, prosecution, maintenance, defense and enforcement thereof. Notwithstanding the foregoing, in the event MacroGenics exercises the Co-Funding Option, costs related to Product trademarks in the Northern American Territory shall be treated as a Commercialization Expense.

**6.3 Decision-Making** . Except with respect to a MacroGenics decision to exercise the Co-Promote Option as set forth in Section 8.3(a) and MacroGenics' right to conduct [***] upon any such exercise, after the Effective Date, Company shall have sole authority with respect to all aspects of Commercialization of Products in the Field in the Territory in accordance with this Agreement, including all decisions regarding pricing, discounts and the terms of sale.

**6.4 Transparency Reporting** . Company and, in the event it exercises either or both the Co-Funding Option or Co-Promote Option, MacroGenics, shall each be responsible for tracking and reporting transfers of value initiated and controlled by its and its Affiliates' employees, contractors, and agents pursuant to the requirements of the marketing reporting laws or research expense reporting laws of any Governmental Authority in the Territory, including Section 6002 of ACA, commonly referred to as the "Sunshine Act."

**6.5 Compliance with Law** . Company and, if MacroGenics exercises the Co-Promote Option, MacroGenics, shall conduct all Commercialization activities related to Compound and Products in compliance in all material respects with all Applicable Law.

**6.6 Subcontracting** . Company may subcontract the performance of any Commercialization activities conducted in accordance with this Agreement to any of its Affiliates or any Third Party, provided that Company shall oversee the performance of any subcontracted activities in a manner that would be reasonably expected to result in their successful and timely completion and shall remain responsible for the performance of such subcontracted activities in accordance with this Agreement.



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## ARTICLE 7
## MANUFACTURING

**7.1 General Supply Terms** . After the Effective Date, except as provided below, Company shall have sole responsibility for and sole authority with respect to, at its own expense (subject to MacroGenics' exercise of the Co-Funding Option), Manufacturing clinical and commercial supplies of the Compounds and the Products for use in the Field in the Territory. Upon Company's request, (a) MacroGenics shall transfer to Company, at no cost, all nucleotide molecules, cell lines and protein material of Compounds, and all Products in finished form or in process on the Effective Date, in MacroGenics' inventory on the Effective Date, provided that MacroGenics may retain reasonable quantities of such materials for [***] of such inventory; and (b) MacroGenics shall use Commercially Reasonable Efforts to Manufacture, at MacroGenics' facility, and supply to Company (i) [***]; (ii) [***]; and (iii) based on a timeline reasonably acceptable to MacroGenics, in its sole discretion, clinical supplies of Compound for use in other [***], in each case ((i), (ii) and (iii)), at a cost equal to [***] incurred by MacroGenics in connection with such Manufacture [***] with respect to new clinical supplies Manufactured after the Execution Date for [***]). A non-binding estimate of such costs are set forth on Schedule 7.1 . MacroGenics shall not be obligated to [***] in fulfilling any such Company request pursuant to clause (b) of this Section 7.1, unless otherwise agreed by the Parties. MacroGenics shall continue to conduct and complete [***] that are being conducted as of the Execution Date with respect to [***] through the [***] of the Execution Date, and Company shall reimburse MacroGenics for any reasonable Third Party Expenses and Development FTE Costs incurred by MacroGenics after the Execution Date in conducting such [***]. Promptly after the Effective Date, the Parties shall enter into good faith negotiations to conclude a clinical supply agreement (the " **Clinical Supply Agreement** ") and a related quality agreement within [***] after the Execution Date, which Clinical Supply Agreement shall include specifications and procedures for delivery and acceptance of Products. Such quality agreement will reflect the findings of any supply qualification audits conducted by Company of MacroGenics and any critical sub-suppliers. Company shall not have the right to [***] to be negotiated under the Clinical Supply Agreement.

**7.2 Transition of Manufacturing Responsibilities** .

**(a)** Subject to the JSC's approval of a Manufacturing transition plan (the " **Manufacturing Transition Plan** "), MacroGenics shall effect a transfer to Company or its designee (which designee may be an Affiliate or a Third Party manufacturer, and which Third Party manufacturer may be a backup manufacturer or a second manufacturer of a Compound or a Product) of all MacroGenics Know-How and rights under Third Party agreements relating to the then-current process for the Manufacture of Compound and Product (the " **Manufacturing Process** ") and to facilitate implementation of the Manufacturing Process at facilities designated by Company (such transfer and implementation, as more fully described in this Section 7.1(a), the " **Manufacturing Technology Transfer** "). MacroGenics shall provide all reasonable assistance requested by Company to enable Company (or its Affiliate or designated Third Party manufacturer, as applicable) to implement the Manufacturing Process at the facilities designated by

Company. Company shall reimburse MacroGenics' personnel costs at the Development FTE Rate and reimburse Third Party Expenses incurred by MacroGenics in providing any such assistance.

**(b)** Without limitation to the foregoing, in connection with the Manufacturing Technology Transfer, MacroGenics shall cause all appropriate employees and representatives of MacroGenics and its Affiliates to meet with employees or representatives of Company (or its Affiliate or designated Third Party manufacturer, as applicable) at the applicable manufacturing facility at mutually convenient times to assist with the working up and use of the Manufacturing Process and with the training of the personnel of Company (or its Affiliate or designated Third Party manufacturer, as applicable) to the extent reasonably necessary or useful to enable Company (or its Affiliate or designated Third Party manufacturer, as applicable) to use and practice the Manufacturing Process.

**7.3 Decision Making** . Company shall have sole authority with respect to the all aspects of Manufacturing of Compound and Product in the Field in the Territory, including CMC development.

**7.4 Compliance with Law** . Each Party shall conduct all Manufacturing activities related to Compound and Products in compliance in all material respects with all Applicable Law, including applicable national and international ( *e.g.* , ICH, GCP, GLP, and GMP) guidelines.

**7.5 Subcontracting** . Company may subcontract the performance of any Manufacturing activities conducted in accordance with this Agreement to any of its Affiliates or any Third Party, provided that Company shall oversee the performance of any subcontracted activities in a manner that would be reasonably expected to result in their successful and timely completion and shall remain responsible for the performance of such subcontracted activities in accordance with this Agreement.

## ARTICLE 8
## MACROGENICS OPTIONS

**8.1 Generally** . Subject to the terms of this Agreement, MacroGenics may, at its discretion, exercise the Co-Promote Option and the Co-Funding Option. MacroGenics' exercise(s) of the Co-Promote Option and the Co-Funding Option are separate and independent of each other, such that MacroGenics may exercise: only the Co-Promote Option; only the Co-Funding Option; both the Co-Promote Option and the Co-Funding Option; or neither.

**8.2 Co-Funding Option** .

**(a)** **Option Grant and Exercise** . Company hereby grants MacroGenics an option to fund [***] of the Global Development Costs and share [***]of the N.A. Profit/Loss (in lieu of royalties on Net Sales of the Initial Product in the Northern American



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Territory), as further described in this Section 8.2 (the " **Co-Funding Option** "). MacroGenics may, at its discretion, exercise the Co-Funding Option by delivering written notice thereof to Company (the **" Co-Funding Option Exercise Notice** ") at any time before the date that is [***] (the " **Co-Funding Option Deadline** "). Company shall promptly provide written notice to MacroGenics of the occurrence of [***]. The Co-Funding Option shall be deemed to be exercised on the date that Company receives the Co-Funding Option Exercise Notice. If the Co-Funding Option Deadline passes without Company receiving a Co-Funding Option Exercise Notice, the Co-Funding Option shall immediately and permanently expire on the day after the Co-Funding Option Deadline.

**(b)** **Co-Funding Materials** . No later than [***], Company shall deliver to MacroGenics: (i) a projected timeline for the Global Development Activities; (ii) a summary of [***]; (iii) a then-current, [***] that are included in the Global Development Plan, which [***] of the Global Development Activities and an annual basis thereafter; (iv) a then-current, non-binding [***], which shall be on an [***], and (v) a then-current, [***] (the " **Co-Funding Materials** "). After delivery of the Co-Funding Materials, but prior to the Co-Funding Option Deadline, upon MacroGenics' reasonable request and with reasonable notice, Company shall promptly make available to MacroGenics (i) during normal business hours its employees and consultants who performed the activities on behalf of Company in preparation of the Co-Funding Materials to answer MacroGenics' questions about the Co-Funding Materials; and (ii) any additional Information in Company's possession relating to the Initial Product that may be reasonably useful in evaluating the Co-Funding Materials. MacroGenics acknowledges and agrees that nothing in the Co-Funding Materials will be deemed to be a representation or warranty, either express or implied, that Company will be able to successfully Develop or Commercialize the Initial Product in the Northern American Territory or, if Commercialized, that it will achieve any particular sales level of the Initial Product in the Northern American Territory.

**(c)** **Terms of Co-Funding** . During the Co-Funding Term: (1) MacroGenics shall be responsible for [***] of the Global Development Costs; (2) the N.A. Profit/Loss shall be allocated between the Parties as provided in Section 9.9; (3) Section 9.3(c) shall apply in lieu of Section 9.3(b); (4) Section 9.3(e) shall apply in lieu of Section 9.3(d) and (3) royalties with respect to Net Sales of the Products shall be payable only under Section 9.4(b) ( *i.e.* no royalties shall be payable with respect to Net Sales of the Initial Product in the Northern American Territory).

**(d)** **Invoicing and Payment of Global Development Costs** .

**(i)** Company shall provide to MacroGenics, no later than [***] before the [***] during the Co-Funding Term, a rolling, non-binding annual forecast of Global Development Costs that Company expects to incur during the [***] (the " **Final GDC Forecast** "), with the [***]. In addition, Company shall provide to



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MacroGenics, no later than [***] before the [***] during the Co-Funding Term, a [***]. The first Calendar Year in each Final GDC Forecast shall be referred to as the " **Current Forecast** ." The Final GDC Forecast shall be consistent with the Global Development Plan and with Company's internal budget for the relevant periods.

**(ii)** Except with respect to the Calendar Quarter in which the Co-Funding Option is exercised, within thirty (30) days after the end of each Calendar Quarter during the Co-Funding Term (including the Calendar Quarter in which the Co-Funding Termination Date occurs, if any), (A) Company will provide a written report and invoice to MacroGenics setting forth in reasonable detail the Global Development Costs incurred by Company during such Calendar Quarter and (B) MacroGenics will provide a written report and invoice to Company setting forth in reasonable detail the Global Development Costs incurred by Company pursuant to Section 4.2(c) during such Calendar Quarter and Company's share of such Global Development Costs (each, a " **GDC Invoice** "). The GDC Invoice for the first Calendar Quarter during the Co-Funding Term shall also include all Global Development Costs incurred by Company prior to such Calendar Quarter (i.e. Global Development Costs relating to Global Development Activities incurred prior to the exercise of the Co-Funding Option). Within sixty (60) days after the receipt of each GDC Invoice, MacroGenics, to the extent the amounts set forth in such GDC Invoice are not in reasonable dispute and after netting out Company's share of any GDC Invoice provided by MacroGenics for such Calendar Quarter, shall pay the GDC Invoice in full, subject to the Cost Cap provisions set forth in Section 8.2(d)(iii). If MacroGenics fails to pay to Company the total amount set forth in a GDC Invoice within [***] from the date of such GDC Invoice , Company shall so notify MacroGenics in writing (a " **GDC Late Payment Notice** "). MacroGenics shall notify Company of any amount reasonably disputed in a GDC Invoice, including the basis for such dispute. Company shall notify MacroGenics of any amount reasonably disputed in a GDC Invoice provided by MacroGenics, including the basis for such dispute. Disputes with respect to the amounts set forth in a GDC Invoice that are not resolved by the Parties [***] after such dispute is first raised shall be referred to the JSC for attempted resolution; provided , however , that such dispute shall not be subject to Company's final decision-making authority under Section 2.1(c). If the JSC does not resolve such dispute within [***], the provisions of ARTICLE 14 shall apply. The audit rights set forth in Section 9.13 shall apply to any payment made pursuant to this Section 8.1(d)(ii).

**(iii)** Notwithstanding Section 8.2(d)(ii), during any Calendar Year in which Global Development Costs to be paid by MacroGenics [***], MacroGenics may elect to [***] by providing written notice of such election to Company within [***] after receipt of the first GDC Invoice for such Calendar Year that [***]. Following Company's receipt of a [***] during any Calendar Year, MacroGenics shall not be obligated to [***] Any [***] that have not been paid or

deducted from payments due hereunder at the end of any Calendar Quarter shall be carried forward to the next Calendar Quarter; provided , however , that all [***] shall be paid by MacroGenics or deducted within [***] during which such Excess Costs were incurred. [***] that are carried forward from one Calendar Year to a subsequent Calendar Year [***] for purposes of determining whether the [***]. As used above, [***] means (a) with respect to [***] during the period beginning [***] and ending on [***] for the period beginning [***] and ending [***] during such Calendar Year, and (b) for each [***] thereafter [***] during such Calendar Year. For example, if the [***] that became due and payable pursuant [***] during the applicable [***])

**(iv)** Notwithstanding subsection (ii), during any [***] in which Global Development Costs are greater than [***] of the [***] for such Calendar Year [***], Company shall [***].

**(v)** Upon the request of either Party, the finance teams of the Parties will meet and attempt to agree in good faith on changes to the processes for reporting, calculating and invoicing Global Development Costs (including [***] and [***]) pursuant to this Section 8.2(d) to reflect any process improvements identified with respect thereto.

**(e)** **Co-Funding Opt-Out** . Notwithstanding the foregoing, at any time during the Co-Funding Term after MacroGenics has paid at least a cumulative total of [***] in Global Development Costs pursuant to Section 8.2(d), MacroGenics may, in its discretion, elect to cease funding [***] of the Global Development Costs and sharing [***] of the N.A. Profit/Loss (the " **Co-Funding Opt-Out** " ) by providing written notice of such election to Company (the " **Co-Funding Opt-Out Notice** " ) on or before [***] of the applicable Calendar Year. If MacroGenics delivers a Co-Funding Opt-Out Notice in accordance with this Section 8.2(e), then the following provisions shall apply beginning on the Co-Funding Termination Date and for the remainder of the Term:

**(i)** MacroGenics' obligation to fund [***] of Global Development Costs shall terminate on the Co-Funding Termination Date and MacroGenics shall have no obligation to fund any Global Development Costs (including Global Development Costs incurred by MacroGenics in performing Clinical Trials in accordance with Section 4.2(c)) incurred after the Co-Funding Termination Date (but, for clarity, MacroGenics shall be responsible for paying any and all invoiced Global Development Costs incurred on or prior to the Co-Funding Termination Date);

**(ii)** the sharing of N.A. Profit/Loss pursuant to Section 9.9 shall terminate on the Co-Funding Termination Date;

**(iii)** if MacroGenics exercises the Co-Funding Opt-Out [***], then MacroGenics may elect (in the Co-Funding Opt-Out Notice) to be reimbursed for the

Global Development Costs paid by MacroGenics prior to the Co-Funding Termination Date (the " **GDC Repayment Option** "), in which case (A) Company shall pay to MacroGenics, in [***], the Global Development Costs previously funded by MacroGenics, with the [***] to be made within [***] after the Co-Funding Termination Date and the [***] to be made on or before the last day of the next [***] immediately following the payment of the [***], provided that Company's obligation to make any such payments shall terminate as of the effective date of the termination of this Agreement by Company pursuant to Section 13.3, and (B) beginning with the first Calendar Quarter after the Co-Funding Termination Date, royalties with respect to Net Sales of the Products shall be payable under Section 9.4(c)(ii); and

**(iv)** if (x) MacroGenics exercises the Co-Funding Opt-Out [***]or (y) MacroGenics exercises the Co-Funding Opt-Out prior to the [***] but does not elect the GDC Repayment Option in the Co-Funding Opt-Out Notice, then, in each case ((x) and (y)), beginning with the first Calendar Quarter after the Co-Funding Termination Date, royalties with respect to Net Sales of the Products shall be payable under Section 9.4(c)(i).

**(f)** **Termination of Co-Funding Term due to Failure to Pay Global Development Costs** . If MacroGenics fails to pay the entire non-disputed, outstanding invoiced amount set forth in a GDC Invoice within [***] after receiving a GDC Late Payment Notice (and MacroGenics has not delivered [***] in accordance with Section 8.2(d)(iii)), then the following provisions shall apply beginning on the Co-Funding Termination Date and for the remainder of the Term:

**(i)** MacroGenics' obligation to fund [***] of Global Development Costs shall terminate on the Co-Funding Termination Date (except with respect to Global Development Costs incurred on or prior to the Co-Funding Termination Date), and MacroGenics shall have no obligation to fund any Global Development Costs incurred after the Co-Funding Termination Date (but, for clarity, MacroGenics shall be responsible for paying any and all invoiced Global Development Costs incurred on or prior to the Co-Funding Termination Date);

**(ii)** the sharing of N.A. Profit/Loss pursuant to Section 9.9 shall terminate on the Co-Funding Termination Date;

**(iii)** beginning with the first Calendar Quarter after the Co-Funding Termination Date, royalties with respect to Net Sales of the Products shall be payable under Section 9.4(c)(ii); and

**(iv)** Company may setoff against any amounts that are then owed to MacroGenics or that subsequently become due to MacroGenics pursuant to this Agreement the amount of any such non-disputed, outstanding invoiced Global Development Costs and any other Global Development Costs MacroGenics subsequently becomes obligated to pay pursuant to Section 8.2(d).



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**(g)** **Expiration of Co-Funding Term** . If the Co-Funding Termination Event is the result of the application of subsection (c) or (d) of Section 1.17, then the following provisions shall apply beginning on the Co-Funding Termination Date and for the remainder of the Term:

**(i)** MacroGenics' obligation to fund [***] of Global Development Costs shall terminate on the Co-Funding Termination Date (except with respect to Global Development Costs incurred on or prior to the Co-Funding Termination Date), and MacroGenics shall have no obligation to fund any Global Development Costs incurred after the Co-Funding Termination Date (but, for clarity, MacroGenics shall be responsible for paying any and all invoiced Global Development Costs incurred on or prior to the Co-Funding Termination Date);

**(ii)** the sharing of N.A. Profit/Loss pursuant to Section 9.9 shall terminate on the Co-Funding Termination Date; and

**(iii)** Company shall have no obligation to make any payments to MacroGenics' hereunder with respect to Net Sales of the Initial Product in the Northern American Territory beginning with the first Calendar Quarter after the Co-Funding Termination Date.

**(h)** **Change of Control** . In the event of the occurrence of a Change of Control of MacroGenics before or during the Co-Funding Term, the following provisions shall apply until the end of the Co-Funding Term.

**(i)** Upon the consummation of a Change of Control of MacroGenics, MacroGenics shall have no further right to [***] pursuant to Section 8.2(d)(iii). Commencing within [***] after such Change of Control, MacroGenics shall reimburse Company for all outstanding [***] under Section 8.2(d)(iii) that have not previously been recouped by Company as set forth therein[***].

**(ii)** Upon the consummation of a Change of Control of MacroGenics, (A) the JSC shall be dissolved (except to the extent necessary to perform the activities described in clause (B) of this sentence), and (B) prior to dissolution, the JSC shall establish reasonable procedures to protect the secrecy of Company's and MacroGenics' competitively sensitive Confidential Information with respect to such other products, including, for example, limiting access to such information and requiring each Party's representatives on the JSC and any employees performing activities in connection with this Agreement to sign individual confidentiality agreements agreeing to comply with the confidentiality provisions of this Agreement. It is understood that such procedures shall not be established or required in any way that would diminish any of MacroGenics' rights



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under this Agreement to information regarding Products, diminish MacroGenics' operational responsibilities under this Agreement in any meaningful way, or otherwise impair MacroGenics' rights with respect to Compounds or Products.

**(i)** **Decision-Making** . For clarity, MacroGenics' exercise of the Co-Funding Option shall not alter either Party's respective rights with respect to the Development of Compounds or Products, including Company's decision making rights as set forth in Section 4.3.

**8.3 Co-Promote Option** .

**(a)** **Option Grant and Exercise** . Company hereby grants MacroGenics an option to co-promote the Initial Product in the U.S. for all approved Indications, as further described in this Section 8.3 (the " **Co-Promote Option** " ). MacroGenics may, at its discretion, exercise the Co-Promote Option by delivering written notice thereof to Company (the " **Co-Promote Option Exercise Notice** " ) at any time before the [***] (in the case of the [***]) or the [***] (in the case of the Indication planned for [***]); provided , however , that MacroGenics shall only have the right to exercise the Co-Promote Option with respect to the [***] if Company obtains, or seeks to obtain, an [***]. For purposes of clarity: (a) if MacroGenics does not exercise the Co-Promote Option [***]and Company has not obtained, or is not seeking to obtain, an [***], then the Co-Promote Option shall expire upon the [***], and (b) if MacroGenics does not exercise the Co-Promote Option prior to the [***] and Company has obtained, or is seeking to obtain, an [***] for the [***], then the Co-Promote Option shall remain exercisable until the expiration of the [***]. Furthermore, once MacroGenics exercises the Co-Promote Option, such exercise shall [***]. Notwithstanding the foregoing, in the event of the occurrence of a Change of Control of MacroGenics prior to MacroGenics' exercise of the Co-Promote Option, Company may terminate the Co-Promote Option upon immediate written notice to MacroGenics within [***] of the consummation of such Change of Control, if, after such Change of Control, MacroGenics or the Acquirer or its Affiliates would be conducting Clinical Trials or Commercializing any product that would directly compete in the Field with the Initial Product, whether through the same mechanism of action (e.g., [***]) or for treatment of the same Indication as the Initial Product with such competitive product in the U.S. and, upon receipt of such notice by MacroGenics, this Section 8.3 shall be of no further force or effect.

**(b)** **Co-Promote Materials** . With respect to [***], Company shall deliver to MacroGenics (i) a non-binding [***] and (ii) a summary of the key terms of the Co-Promotion Agreement (the " **Co-Promote Materials** " ); provided , however , that Company shall not be obligated to deliver the Co-Promote Materials for the [***] for which the [***] unless Company obtains, or seeks to obtain, an [***]. After



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delivery of the Co-Promote Materials, but prior to the applicable Co-Promote Option Deadline, upon MacroGenics' reasonable request and with reasonable notice, Company shall promptly make available to MacroGenics (x) during normal business hours its employees and consultants who performed the activities on behalf of Company in preparation of the Co-Promote Materials to answer MacroGenics' questions about the Co-Promote Materials, and (y) any additional Information in Company's possession relating to the Initial Product that may be reasonably useful in evaluating the Co-Promote Materials.

**(c)** **Terms of Co-Promote** . Promptly following Company's receipt of the Co-Promote Option Exercise Notice in accordance with Section 8.3(a), the Parties shall enter into good faith negotiations for a separate co-promotion agreement with respect to the co-promotion of the Initial Product in the U.S. (the " **Co-Promotion Agreement** "). In addition to such usual and customary terms that are typically found within contract sales force agreements, including with respect to the diligence obligations of MacroGenics, the Co-Promotion Agreement shall include the terms set forth below in this Section 8.3(c). MacroGenics shall commit in the Co-Promotion Agreement to employ a number of sales representatives sufficient to provide [***]of the Details for the Initial Product in the U.S. For the sake of clarity, MacroGenics' exercise of the Co-Promote Option shall have no affect on Company's authority with respect to Commercialization of the Products under Section 6.3 and MacroGenics shall have no right to Detail the Initial Product in the U.S. unless and until the Parties execute the Co-Promotion Agreement.

**(i)** ***MacroGenics' Detailing Percentage*** . Unless otherwise agreed by the Parties, MacroGenics shall contribute [***] of the total Details for the Initial Product in the U.S. for each Calendar Year, as set forth in the U.S. Commercialization Plan; provided , however , that, if Company increases the total number of Details in a given Calendar Year, MacroGenics shall have the right, but not the obligation, to increase its total sales force efforts within [***] of receipt of notice from Company in order to maintain the agreed-upon percentage of Details assigned to MacroGenics. Company will have the right to allocate the planned Details for the Initial Product in the U.S. for each Calendar Year between the Parties, which allocation shall be set forth in Company's call plan for such Calendar Year. The Parties may agree to treat electronic detailing, such as live video conferencing, as a form of Detail, in which event the Parties shall mutually agree upon the costs of such electronic details and such costs shall be deemed to be Commercialization Expenses during the Co-Funding Term.

**(ii)** ***Fee for Detail*** . Company shall reimburse MacroGenics for the Details of the Initial Product in the U.S. performed by MacroGenics at a Cost Per PDE as measured and approved by the JSC prior to the First Commercial Sale of the Initial Product in the Northern American Territory. For clarity, Company shall not pay or be responsible for any costs associated with MacroGenics' Detailing of the Initial Product other than the Cost Per



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PDE agreed upon by the Parties and, in the event the Parties agree to treat electronic details as a form of Detail, such electronic details shall not be reimbursed at the Cost Per PDE, but instead shall be reimbursed at the cost mutually agreed upon by the Parties as described in Section 8.30 (i).

**(iii)** ***Audit Right*** . Each Party shall have the right to audit the other Party's records regarding performance under the Co-Promotion Agreement, solely for the purpose of determining the other Party's compliance with the Co-Promotion Agreement.

**(iv)** ***Termination of Co-Promotion Agreement*** . MacroGenics may terminate the Co-Promotion Agreement by [***] prior written notice to Company. Company may terminate the Co-Promotion Agreement immediately if (1) MacroGenics fails to contribute at least [***] of the Details for the Initial Product in the Northern American Territory that MacroGenics is obligated to provide under the U.S. Commercialization Plan and fails to remedy such shortfall within [***] after receiving written notice of such shortfall from Company or (2) MacroGenics materially breaches the Co-Promotion Agreement and fails to cure such breach within [***] after receiving written notice of such breach from Company. The Co-Promotion Agreement shall be subordinate to and coterminous with this Agreement.

**(v)** ***Promotional Materials and Samples*** . Except for MacroGenics Trademarks, Company shall remain solely responsible for the production of product labeling and Promotional Materials for the Initial Product, the training and testing materials for all sales representatives (including those acting on behalf of MacroGenics) who Detail the Initial Product, and restrictions with respect to the ability of such sales representatives to Detail other products. MacroGenics' sales representatives for the Initial Product shall only use Promotional Materials provided by Company, without alteration, and shall use all such Promotional Materials. Company will provide to MacroGenics, at Company's expense, reasonable quantities of Promotional Materials and product samples and/or sample vouchers for the Initial Product to support MacroGenics' Detailing of the Initial Product in the U.S.. Company shall not use the MacroGenics Trademarks in any of the Promotional Materials without MacroGenics' written consent (such consent not to be unreasonably withheld, delayed or conditioned).

**(vi)** ***Training and Related MacroGenics Sales Force Issues*** . Company will be responsible for designing and providing training materials for the representatives (including those acting on behalf of MacroGenics) who Detail the Initial Product. Company shall provide training to MacroGenics' sales representatives who Detail the Initial Product, at MacroGenics' expense. Company will ship training materials to MacroGenics as reasonably required for MacroGenics' ongoing training needs at MacroGenics' expense. MacroGenics shall compensate its sales representatives who Detail the Initial Product in the U.S. using a sales compensation structure similar to that used by Company with respect to its sales representatives who Detail the Initial Product in the U.S. Each sales representative who Details in the Initial Product in the U.S. on behalf of MacroGenics shall be an employee of MacroGenics or its Affiliate.



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**(vii)** ***Compliance*** . MacroGenics' sales representatives performing Details of the Initial Product in the U.S. shall comply with Applicable Law and all of Company's reasonable instructions, quality standards, policies and guidelines which relate to the Commercialization of the Initial Product and of which MacroGenics has been given sufficient written notice by Company to appropriately train such sales representatives. MacroGenics shall establish a compliance program and appoint a compliance officer to ensure that MacroGenics' Detailing of the Initial Product is in compliance with Applicable Law and such Company instructions, quality standards, policies and guidelines.

**(viii)** ***Governance*** . The Parties shall establish a committee to oversee and facilitate communication between the Parties with respect to the Detailing of the Initial Product in the U.S.

**(ix)** ***Change of Control*** . In the event of the occurrence of a Change of Control of MacroGenics during the Term, Company may terminate the Co-Promotion Agreement upon immediate written notice to MacroGenics within [***] of the consummation of such Change of Control if, after such Change of Control, MacroGenics or the Acquirer would be Developing or Commercializing, or assisting a Third Party or its Affiliates to conduct any Pivotal Trial or Commercialize, any product that would directly compete in the Field with the Initial Product, whether through the same mechanism of action ( *e.g.* , binds to the Product Target) or for treatment of the same Indication as the Initial Product with such competitive product in the U.S.

## ARTICLE 9
## CONSIDERATION

**9.1 Upfront Payment** . Within [***] after the Effective Date, Company shall pay to MacroGenics Fifty Million Dollars ($50,000,000) as a one-time, non-refundable, non-creditable upfront payment.

**9.2 Reimbursement of Expenses** . Company shall reimburse MacroGenics for FTE Costs and Third Party Expenses incurred by MacroGenics in providing assistance pursuant to Section 5.2(c) and 7.1(a) of this Agreement as contemplated thereby. Company shall also reimburse MacroGenics Out-of-Pocket Patent Costs incurred pursuant to Section 10.3(b). Company shall reimburse such FTE Costs, Third Party Expenses and MacroGenics Out-of-Pocket Patent Costs within sixty (60) days after receipt of an invoice issued by MacroGenics describing such costs in reasonable detail and providing appropriate supporting documentation.

**9.3 Milestone Payments** . Company will notify MacroGenics within [***] following the achievement by Company, its Affiliate or sublicensee of each Development Milestone, each Approval Milestone or Co-Funding Approval Milestone, as applicable, and each Sales Milestone or Co-Funding Sales Milestone, as applicable (collectively, the " **Milestone Events** "). Within [***] after achievement of each Milestone Event, Company shall remit the applicable Development Milestone Payment, Approval Milestone Payment or Co-Funding Approval



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Milestone Payment, as applicable, or Sales Milestone Payment or Co-Funding Sales Milestone Payment, as applicable (collectively, the " **Milestone Payments** ") to MacroGenics. Each Milestone Payment by Company pursuant to this Section 9.3 shall be payable only once. For the sake of clarity, if Development of a first Product is discontinued prior to the time at which a Milestone Payment pursuant to this Section 9.3 is made with respect to such Product, then the achievement by a subsequent Product of any Milestone Event for which the Development of such first Product did not result in the achievement of a Milestone Payment under this Section 9.3 shall be deemed to be the first achievement of such milestone event under this Section 9.3. In addition, if for any reason the [***] Development Milestone does not occur prior to the occurrence of the [***] Development Milestone, then the [***] Development Milestone shall be deemed to occur concurrently with the occurrence of the [***] Development Milestone (e.g., if Development Milestone [***] occurs with respect to [***] Milestone [***] has not previously occurred with respect to such Indication or any other Indication, then Development Milestone [***] will be deemed to occur concurrently with Development Milestone [***] and Development Milestone Payments [***] and [***] shall become due and payable in accordance with this Section 9.3). Similarly, if for any reason a [***] Development Milestone does not occur with respect to an Indication prior to the occurrence of a [***] Development Milestone with respect to such Indication, then a [***] Development Milestone shall be deemed to occur concurrently with the occurrence of such [***] Development Milestone, but only if at least one of the [***] Development Milestones has not yet occurred with respect to another Indication (e.g. if (a) Development Milestone [***] occurs with respect to an Indication (other than [***]) and none of Development Milestone [***],[***] or [***] have occurred with respect to such Indication or any other Indication, then Development Milestone [***] will be deemed to occur concurrently with Development Milestone [***] and Development Milestone Payments [***] and [***] shall become due and payable in accordance with this Section 9.3 or (b) if Development Milestone [***] occurs with respect to [***] and Development Milestone [***] has not yet occurred with respect to [***], then Development Milestone [***] will be deemed to occur concurrently with Development Milestone [***] and Development Milestone Payments [***] and [***] shall become due and payable in accordance with this Section 9.3).

**(a)** **Development Milestones** . The following payments (each, a " **Development Milestone Payment** ") shall be made on a one-time basis with respect to the first Product to achieve the corresponding milestone event (each, a " **Development Milestone** "):

| ***Development Milestone*** | ***Development Milestone Payment (USD)*** |
|---|---|
| [***] Trial Development Milestone | |
| 1. [***] | [***] |
| [***] Trial Development Milestones | |



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| | ***Development Milestone*** | ***Development Milestone Payment (USD)*** |
|---|---|---|
| 2. | [***] | [***] |
| 3. | [***] [1] | [***] |
| 4. | [***] with respect to which Development Milestone [***] was achieved [1] | [***] |
| 5. | [***] with respect to which Development Milestone [***] was achieved or the [***] with respect to which Development Milestone [***] was achieved [1] | [***] |
| 6. | [***] | [***] |
| 7. | [***] [2] | [***] |
| 8. | [***] respect to which Development Milestone [***] was achieved [2] | [***] |
| 9. | [***] with respect to which Development Milestone [***] was achieved or the [***] with respect to which Development Milestone [***] was achieved [2] | [***] |

[1] *The Development Milestone Payment for this Development Milestone, when achieved, will be due regardless of whether* [***] .
[2] *The Development Milestone Payment for this* [***] *Milestone, when achieved, will be due regardless of whether* [***] .

**(b) Regulatory Approval Milestones** . The following payments (each, an " **Approval Milestone Payment** ") shall be made on a one-time basis with respect to the first Product to achieve corresponding milestone event (each, an " **Approval Milestone** "), if and only if the Co-Funding Term is not in effect when such Approval Milestone is achieved.

| | ***Approval Milestone*** | ***Approval Milestone Payment (USD)*** |
|---|---|---|
| 1. | [***] | [***] |
| 2. | [***] [1] | [***] |
| 3. | [***] with respect to which Approval | [***] |



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| | ***Approval Milestone*** | ***Approval Milestone Payment (USD)*** |
|---|---|---|
| | Milestone [***] was achieved [1] | |
| 4. | [***] | [***] |
| 5. | [***] [2] | [***] |
| 6. | [***] with respect to which Approval Milestone [***] was achieved [2] | [***] |

1 *The Approval Milestone Payment for this Approval Milestone, when achieved, will be due regardless of whether* [***] .

2 *The Approval Milestone Payment for this Approval Milestone, when achieved, will be due regardless of whether* [***] .

**(c) Regulatory Approval Milestones during Co-Funding Term** . The following payments (each, a " **Co-Funding Approval Milestone Payment** ") shall be made on a one-time basis with respect to the first Product to achieve corresponding milestone event (each, a " **Co-Funding Approval Milestone** "), if and only if such Co-Funding Approval Milestone is achieved during the Co-Funding Term. For the sake of clarity, this Section 9.3(c) shall only apply during the Co-Funding Term.

| | ***Co-Funding Approval Milestone*** | ***Co-Funding Approval Milestone Payment (USD)*** |
|---|---|---|
| 1. | [***] | [***] |
| 2. | [***] [1] | [***] |
| 3. | [***] with respect to which Approval Milestone [***] was achieved [1] | [***] |

1 *The Co-Funding Approval Milestone Payment for this Co-Funding Approval Milestone, when achieved, will be due regardless of whether* [***] .

(d) **Annual Net Sales Milestones** . The milestone payments set forth in this Section 9.30 (each, a " **Sales Milestone Payment** ") shall each be payable to MacroGenics one-time only, upon the first time during the Term that the total aggregate Net Sales of Products in any Calendar Year by Company, its Affiliates and its sublicensees in the Territory during the applicable Royalty Term for the Products in the applicable country exceed the amounts set forth in the following table (each, a " **Sales Milestone** "), if and only if the Co-Funding Term is not in effect when such Sales Milestone is achieved.

**Annual Aggregate Worldwide Net Sales Milestones**

| *Sales Milestone* | *Sales Milestone Payment (USD)* |
|---|---|
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |

If more than one Sales Milestone described in this Section 9.30 is achieved during the same Calendar Year, Company shall pay MacroGenics each Sales Milestone Payment that corresponds to such Sales Milestones. For purposes of clarity, only one Milestone Payment shall be owed on the first occasion that aggregate annual Net Sales of the Products exceeds [***] or [***] under Section 9.30 and Section 9.3(e).

**(e)** **Annual Net Sales Milestones during the Co-Funding Term** . The milestone payments set forth in this Section 9.3(e) (each, a " **Co-Funding Sales Milestone Payment** ") shall each be payable to MacroGenics one-time only, upon the first time during the Co-Funding Term that the total aggregate Net Sales of the Products by Company, its Affiliates and its sublicensees in the Territory during the applicable Royalty Term for the Products in the applicable country, excluding Net Sales of the Initial Product in the Northern American Territory during the Co-Funding Term, exceed the amounts set forth in the following table (each, a " **Co-Funding Sales Milestone** "), if and only if such Co-Funding Sales Milestone is achieved during the Co-Funding Term.

**Annual Aggregate Net Sales Milestones in the Territory (excluding only Net Sales in Northern American Territory with respect to the Initial Product)**

| *Co-Funding Sales Milestone* | *Co-Funding Sales Milestone Payment (USD)* |
|---|---|
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |
| Upon the first occasion that aggregate annual Net Sales of the Products exceeds [***] | [***] |

If more than one Co-Funding Sales Milestone described in this Section 9.3(e) is achieved during the same Calendar Year, Company shall pay MacroGenics each Co-Funding Sales Milestone Payment that corresponds to such Co-Funding Sales



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Milestones. For purposes of clarity, only one Milestone Payment shall be owed on the first occasion that aggregate annual Net Sales of the Products exceeds [***] or [***] under Section 9.3(d) and Section 9.3(e).

**9.4 Company Royalty Obligations** . As further consideration for the rights granted hereunder, Company shall pay to MacroGenics royalties on the aggregate annual Net Sales of each Product at the rates set forth in this Section 9.4, in each case, subject to Section 9.5, Section 9.6 and Section 9.10 below.

**(a) Royalties if no Co-Funding** . In the event that MacroGenics does not exercise the Co-Funding Option prior to the Co-Funding Option Deadline in accordance with Section 8.2(a), then Company shall pay to MacroGenics, with respect to Net Sales of each Product in each country in the Territory during the applicable Royalty Term for such Product in such country, royalties at the following rates:

| Annual Net Sales | Royalty Rate |
|---|---|
| On the portion of worldwide annual Net Sales of such Product less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] and less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] | [***] |

**(b) Royalties during Co-Funding Term** . In the event that MacroGenics exercises the Co-Funding Option prior to the Co-Funding Option Deadline in accordance with Section 8.2(a), then Company shall pay to MacroGenics during the Co-Funding Term royalties at the rates set forth below in this Section 9.4(b).

**(i)** ***Initial Product*** . With respect to Net Sales of the Initial Product in each country in the Territory during the applicable Royalty Term for the Initial Product in such country, excluding Net Sales of the Initial Product in the Northern American Territory, royalties at the following royalty rates:

| Annual Net Sales of the Initial Product | Royalty Rate |
|---|---|
| On the portion of worldwide annual Net Sales of the Initial Product (excluding Net Sales of the Initial Product in the Northern American Territory) less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of the Initial Product (excluding Net Sales of the Initial Product in the Northern American Territory) greater than [***] and less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of the Initial Product (excluding Net Sales of the Initial Product in the Northern American Territory) greater than [***] | [***] |



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For the avoidance of doubt, the aggregate annual Net Sales of the Initial Product in the Northern American Territory during the Co-Funding Term shall be excluded from the calculation of the royalty thresholds set forth above and on royalties payable to MacroGenics pursuant to this Section 9.4(b)(i).

**(ii)** ***Products other than Initial Product*** . With respect to Net Sales of any Product other than the Initial Product in each country in the Territory during the applicable Royalty Term for such Product in such country, royalties at the following royalty rates:

| **Annual Net Sales of any Product other than Initial Product** | **Royalty Rate** |
|---|---|
| On the portion of worldwide annual Net Sales of such Product less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Initial Product greater than [***] and less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] | [***] |

**(c) Royalties after Co-Funding Term** .

***MacroGenics exercises Co-Funding Opt-Out and does not elect GDC Repayment Option*** . In the event that MacroGenics exercises the Co-Funding Option in accordance with Section 8.2(a), but MacroGenics thereafter exercises the Co-Funding Opt-Out in accordance with Section 8.2(e) and does not elect the GDC Repayment Option, then Company shall pay MacroGenics during any part of the Term after the Co-Funding Term (x) with respect to Net Sales of the Initial Product in the Northern American Territory, royalties at the rates set forth in the second column of the following table and (y) with respect to (1) Net Sales of the Initial Product in any country outside the Northern American Territory and (2) Net Sales of any Product other than the Initial Product in any country in the Territory,



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royalties at the rates set forth in the third column of the following table, in each case ((x) and (y)) during the applicable Royalty Term for such Product in such country:

| Annual Net Sales | (a) Royalty Rate for Northern American Territory Net Sales of the Initial Product | (b) Royalty Rate for (i) outside Northern American Territory Net Sales of the Initial Product and (b) Territory Net Sales of each Product other than the Initial Product |
|---|---|---|
| On the portion of worldwide annual Net Sales of such Product less than or equal to [***] | [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] and less than or equal to [***] | [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] | [***] | [***] |

**(i)** ***MacroGenics exercises Co-Funding Opt-Out and elects GDC Repayment Option; Termination of Co-Funding for Cause*** . In the event that MacroGenics exercises the Co-Funding Option in accordance with Section 8.2(a) and (x) MacroGenics thereafter exercises the Co-Funding Opt-Out in accordance with Section 8.2(e) and elects the GDC Repayment Option or (y) the Co-Funding Term is thereafter terminated pursuant to Section 8.2(f), then, in each case ((x) and (y)), during any part of the Term after the Co-Funding Term, Company shall pay to MacroGenics, with respect to Net Sales of each Product in each country in the Territory during the applicable Royalty Term for such Product in such country, royalties at the following rates:

| Annual Net Sales | Royalty Rate |
|---|---|
| On the portion of worldwide annual Net Sales of such Product less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] and less than or equal to [***] | [***] |
| On the portion of worldwide annual Net Sales of such Product greater than [***] | [***] |

**(d) Examples of Royalty Calculation for Initial Product** . By way of example, if global aggregate annual Net Sales of the Initial Product is [***], MacroGenics did not exercise the Co-Funding Option and no royalty rate reduction under Section 9.6 or 9.10 applies, then the royalty payable by Company to MacroGenics for the Initial



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Product for such Calendar Year, subject to other applicable reductions, would be as follows:

| Global Net Sales | Royalty Tier | Royalty Due |
|---|---|---|
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |

**(e)** **No Multiple Royalties** . For each Net Sale of a Product, only one royalty under Section 9.4(a), 9.4(b)(i), 9.4(b)(ii), 9.4(c)(i) or 9.4(c)(ii) shall be payable.

**9.5 Royalty Term** . Royalties under Section 9.4 shall be payable on Net Sales on a Product-by-Product and country-by-country basis beginning upon the First Commercial Sale of the relevant Product in the relevant country in the Territory until the expiration of the Royalty Term for such Product in such country. Following the expiration of the Royalty Term with respect to a Product in a country of the Territory, subject to the terms and conditions of this Agreement, Company shall have a perpetual, irrevocable, non-exclusive, fully-paid and royalty-free right and license, with the right to grant sublicenses, under the MacroGenics Technology to Exploit such Product in the Field in such country of the Territory.

**9.6 Royalty Rate Reductions** . The royalty rates set forth in Section 9.4 shall be subject to reduction as follows:

**(a)** the royalty rates shall be reduced by [***], on a country-by-country basis and Product-by-Product basis, in each country in which, at any given time, both (i) no Valid Claim of MacroGenics Patents [***] of the applicable Product in such country, and (ii) either (x) [***] Product in such country [***] or (y) [***] Product in such country;

**(b)** the royalty rates shall be reduced by [***], on a country-by-country and Product-by-Product basis, in each country in which, at any given time, (i) no [***] of the applicable Product in such country, and (ii) there is [***] Product in such country and [***];

**(c)** in the event that the royalty rate reduction in Section 9.6(b) applies to a Product in a country and [***] Product in such country [***] [***], the reductions set forth in Section 9.6(a) shall thereafter apply to such Product in such country;

**(d)** in the event that Company does not [***] in a country in which [***] and MacroGenics does not elect to [***] in accordance with Section 10.3(b) which would have been at its sole expense, the requirements set forth in clause (i) of



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Sections 9.6(a) and 9.6(b) shall not be deemed to have been satisfied, and there shall be no reduction in the applicable royalty rates until the global expiration date of the family of such [***]; and

**(e)** in no event shall the cumulative effect of all reductions available to Company under this Agreement decrease the royalty rate to [***] of the otherwise applicable rates.

**9.7 Manner of Royalty Payment** . Within [***]following the end of each Calendar Quarter after the First Commercial Sale of a Product in the Territory (but excluding a First Commercial Sale in the Northern American Territory that occurs during the Co-Funding Term), Company shall provide MacroGenics with a report setting forth, on a Product-by-Product and country-by-country basis (excluding any country in the Northern American Territory during the Co-Funding Term), the Net Sales of such Product in such country, a reasonably detailed statement of the [***] and a calculation of the royalty payment due with respect to such Net Sales. Such report shall also include the exchange rates and other methodology used in converting Net Sales into U.S. Dollars from the currencies in which such sales were made for purposes of calculating the appropriate royalty rate and the royalty payment due, and the application of the reductions, if any, made in accordance with the terms of Section 9.6 or Section 9.10. Company shall pay all amounts due to MacroGenics pursuant to Section 9.4 with respect to Net Sales by Company, its Affiliates and their respective sublicensees for such Calendar Quarter in U.S. Dollars at the time the submission of such quarterly report is due.

**9.8 Currency** . All payments under this Agreement shall be payable in U.S. Dollars. With respect to sales of a Product invoiced and Commercialization Expenses incurred in a currency other than U.S. Dollars, such amounts and the amounts payable hereunder shall be expressed in their U.S. Dollars equivalent calculated using the Currency Hedge Rates described below. For each Calendar Year during which royalties become due under Section 9.4, Company shall provide MacroGenics: (a) the [***]to be used for the [***]of each country in the Territory in which any royalty-bearing Net Sales are expected to occur; and (b) the details of each such [***], in each case ((a) and (b)), in writing no later than [***] after the [***] are available from [***] or its Affiliates, which is customarily at the [***]. Each [***]will remain constant throughout the upcoming Calendar Year. Company shall use the [***] to convert Net Sales to U.S. Dollars for the purpose of calculating royalty payments and N.A. Profit/Loss hereunder.

**9.9 Allocation of N.A. Profit/Loss** . During the Co-Funding Term, N.A. Profit/Loss for the Initial Product shall be allocated [***] to Company and [***] to MacroGenics.

**(a)** **Expense Report** . Within [***] after the end of each Calendar Quarter following the First Commercial Sale of the Initial Product in the Northern American Territory during the Co-Funding Term, each Party shall submit to the other Party a [***] of [***] Party during such Calendar Quarter. Within [***] after the end of each Calendar Quarter following the First Commercial Sale of the Initial Product in the Northern American Territory during the Co-Funding Term, each Party shall submit to the other Party a written report setting forth in reasonable detail the

Commercialization Expenses incurred by such Party during such Calendar Quarter, provided that the Commercialization Expenses incurred by either Party during the Co-Funding Term before the First Commercial Sale in the Northern American Territory shall be included in the first Commercialization Expense report submitted by the Parties and shall be used to determine the allocation of N.A. Profit/Loss between the Parties for such Calendar Quarter. Each Party shall have the right to review and submit any reasonable objection to the Commercialization Expenses set forth in the other Party's report within [***] following its receipt of the Commercialization Expenses report from the other Party. Disputes with respect to a Commercialization Expense that are not resolved by the Parties within [***] after such dispute is first raised shall be referred to the JSC for attempted resolution; provided , however , that such dispute shall [***]. If the JSC does not resolve such dispute within [***], the provisions of ARTICLE 14 shall apply. Until the resolution of such dispute pursuant to ARTICLE 14, [***].

**(b)** **N.A. Profit/Loss Reports** . Within [***] after the end of each Calendar Quarter following the First Commercial Sale of the Initial Product in the Northern American Territory, and for the remainder of the Co-Funding Term, Company shall submit to MacroGenics a report setting forth in reasonable detail all [***] (with the detail set forth in Section 9.7, *mutatis mutandis* ) and an allocation of profits or losses between the Parties (the " **Quarterly N.A. Profit/Loss Report** "). Company shall pay all amounts due to MacroGenics pursuant to this Section 9.9 at the time of submission of the Quarterly N.A. Profit/Loss Report; provided , however , that if the Quarterly N.A. Profit/Loss Report indicates a loss for such Calendar Quarter, MacroGenics shall pay the amount due to Company pursuant to this Section 9.9 within [***] following its receipt of such Quarterly N.A. Profit/Loss Report.

**(c)** **Financial Report Formats and Timing** . Upon the request of either Party, the finance teams of the Parties will meet and attempt to agree in good faith on alternative financial report formats and timetables to use in lieu of the reports and deadlines described in Section 9.9(a).

**9.10 Third Party Financial Obligations** .

**(a)** MacroGenics shall be solely responsible for the payment of any royalties, sublicense revenues, milestones or other payments due by either Party, their Affiliates or sublicensees to Third Parties arising with respect to [***] (each, a " **Third Party Obligation** "), (i) to the extent such Third Party [***], or (ii) to the extent such Third Party Obligation [***]. If MacroGenics fails to pay any amount of a Third Party Obligation related to the DART Platform, a Compound and/or a Product and such payment [***] or the failure to make such payment [***], upon [***] prior notice, Company may elect, in its sole discretion, to make such payment



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to such Third Party on behalf of MacroGenics. If Company makes such payment to such Third Party, Company may deduct the amount of such payment from any payments that are owed or that become owed to MacroGenics under this Agreement or, if such deduction is not applicable, MacroGenics shall reimburse Company the amount of such payment within [***] after Company makes such payment.

**(b)** Except for Third Party Obligations set forth in Section 9.10(a), Company shall be responsible for all Third Party Obligations (including any licenses for [***]). Company may credit [***] of any Third Party Obligation resulting from Patents and/or Know-How owned by Third Parties that is paid by Company pursuant to this Section 9.10(a) against any royalties payable to MacroGenics under Section 9.4. Company shall take such credit during any Calendar Quarter for which royalties are payable hereunder, provided that in no event will such credit, together with any reductions under Section 9.6, reduce the royalties payable to MacroGenics for such Calendar Quarter by more than [***]. Any share of such Third Party Obligations that remains uncredited due to the application of such floor may be carried forward to subsequent Calendar Quarters.

**9.11 Taxes** .

Company will make all payments to MacroGenics under this Agreement without deduction or withholding for Taxes, except to the extent that any such deduction or withholding is required by Applicable Law in effect at the time of payment. Any Tax required to be withheld on amounts payable under this Agreement will be paid by Company on behalf of MacroGenics to the appropriate Governmental Authority, and Company will furnish MacroGenics with proof of payment of such Tax. Any such Tax required to be withheld will be an expense of and borne by MacroGenics. If any such Tax is assessed against and paid by Company, then MacroGenics will indemnify and hold harmless Company from and against such Tax.

**(a)** Company and MacroGenics will cooperate with respect to all documentation required by any taxing authority or reasonably requested by Company to secure a reduction in the rate of applicable withholding Taxes.

If Company assigns its rights and obligations hereunder to an Affiliate or Third Party in compliance with Section 16.4 and if such Affiliate or Third Party shall be required by Applicable Law to withhold any additional taxes from or in respect of any amount payable under this Agreement as a result of such assignment, then any such amount payable under this Agreement shall be increased to take into account the additional taxes withheld as may be necessary so that, after making all required withholdings, MacroGenics receives an amount equal to the sum it would have received had no such assignment been made. The foregoing sentence shall not apply to any additional taxes withheld to the extent MacroGenics may obtain a foreign tax credit therefor.



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**9.12 Tax Returns**.

**(a)** The Parties hereby agree that each Party's share of Global Development Costs, including amounts paid under Section 8.2(d), shall be accounted for by each Party separately for research tax credit and orphan drug credit purposes.

**(b)** The Parties hereby agree that [***]of any deductions for tax purposes attributable to amounts paid or incurred by MacroGenics pursuant to this Agreement shall be deductible or amortizable solely by MacroGenics, and [***]of any deductions for tax purposes attributable to amounts paid or incurred by Company pursuant to this Agreement shall be deductible or amortizable solely by Company. All Tax returns reflecting any such amounts shall be filed (and any available elections to effect such intent, including a remedial allocation election, shall be made) consistent with the foregoing.

**9.13 Audit**. Each Party shall maintain complete and accurate records in the ordinary course of such Party's operations in order to permit the other Party to confirm the accuracy of the calculation of royalties, milestones, profits, losses, Global Development Costs, FTE Costs, Third Party Expenses and other payments under this Agreement. Upon reasonable prior notice, but not more than [***], such records shall be available during regular business hours for a period of [***] from the end of the Calendar Year to which they pertain for examination by an independent certified public accountant selected by the requesting Party and reasonably acceptable to the other Party for the sole purpose of verifying the accuracy of the financial reports and correctness of the payments furnished by the other Party pursuant to this Agreement. Any such auditor shall not disclose the other Party's Confidential Information, except to the extent such disclosure is necessary to verify the accuracy of the financial reports furnished by the other Party or the amount of payments due by the other Party under this Agreement. Any amounts shown to be owed but unpaid shall be paid within [***] from the accountant's report, plus interest, as set forth in Section 9.14 from the original due date. Any amounts shown to have been overpaid shall be refunded within [***] from the accountant's report. The requesting Party shall bear the full cost of such audit unless such audit discloses an underpayment by the other Party of more than [***] of the amount due (except to the extent caused by improper reporting of the requesting Party), in which case the other Party shall bear the full cost of such audit.

**9.14 Late Payment**. All payments due to a Party hereunder shall be made in U.S. Dollars by wire transfer of immediately available funds into an account designated by the receiving Party. If a Party does not receive payment of any sum due to it on or before the due date, simple interest shall thereafter accrue on the sum due to such Party until the date of payment at the per annum rate of [***] over the then-current prime rate quoted by [***] or the maximum rate allowable by Applicable Law, whichever is lower.



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**ARTICLE 10**
**INTELLECTUAL PROPERTY MATTERS**

**10.1 Ownership of Inventions** . Each Party shall own any Inventions made solely by its (or its Affiliates') own employees, agents, or independent contractors in the course of conducting its activities under this Agreement, together with all intellectual property rights therein (" **Sole Inventions** "). The Parties shall jointly own any Inventions for which the inventors include at least one employee, agent, or independent contractor of each Party (or its respective Affiliates) in the course of performing activities under this Agreement, together with all intellectual property rights therein (" **Joint Inventions** "). Inventorship shall be determined in accordance with U.S. patent laws. Subject to any licenses granted under this Agreement, each Party will have the right to practice and Exploit any Joint Inventions without the duty of accounting to any other Party or seeking consent (for licensing, assigning or otherwise exploiting Joint Inventions) from the other Party by reason of the joint ownership thereof; and each Party hereby waives any right such Party may have under the laws of any jurisdiction to require any such approval or accounting and, to the extent there are any Applicable Laws that prohibit such a waiver, each Party will be deemed to have so consented. In furtherance thereof, at the reasonable written request of a Party, the other Party will in writing grant such consents and confirm that no such accounting is required to effect the foregoing regarding Joint Inventions.

**10.2 Disclosure of Inventions** . Each Party shall promptly disclose to the other Party any Invention that is necessary or useful to Exploit Compounds or Products in the Field in the Territory during the Term. With respect to any Joint Invention, each Party shall promptly disclose to the other Party any invention disclosures, or other similar documents, submitted to it by its employees, agents or independent contractors describing the Joint Invention, and all Information relating to such Invention to the extent necessary for the use of such Invention in the Development or Commercialization of the Compounds or the Products in the Field and, to the extent patentable, for the preparation, filing and maintenance of any Patent with respect to such Invention.

**10.3 Prosecution of Patents** .

**(a)** **MacroGenics Platform Patents** . Except as otherwise provided in this Section 10.3(a), as between the Parties, MacroGenics shall have the sole right and authority to prepare, file, prosecute and maintain the MacroGenics Platform Patents on a worldwide basis at its sole expense. MacroGenics shall provide Company a reasonable opportunity to review and comment on its efforts to prepare, file, prosecute and maintain MacroGenics Platform Patents in the Territory, including by providing Company with a copy of material communications from any patent authority in the Territory regarding any MacroGenics Platform Patent, and by providing drafts of any material filings or responses to be made to such patent authorities in advance of submitting such filings or responses. MacroGenics shall consider Company's comments regarding such communications and drafts in good faith.



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**(b)** **MacroGenics Product Patents.** The Parties shall jointly prepare, file, prosecute and maintain the MacroGenics Product Patents on a worldwide basis through outside counsel selected by Company and acceptable to MacroGenics, provided that Company shall reasonably consider utilizing the outside counsel currently prosecuting the MacroGenics Product Patents. Company shall reimburse MacroGenics for MacroGenics Out-of-Pocket Patent Costs incurred in the filing, prosecution and maintenance of MacroGenics Product Patents. The Parties shall use good faith efforts to agree upon the Patent strategy with respect to the MacroGenics Product Patents, including the scope of protection to be sought in such Patents and the countries in which such Patents are to be maintained. If the Parties disagree with respect to the preparation, filing, prosecution or maintenance of any MacroGenics Product Patent, such disagreement shall be [***], and such [***] provide a potential resolution for the dispute; provided , however , that if such disagreement relates to whether or not [***], then such disagreement shall [***] and the Party that desires to file or maintain such [***] shall have the right [***]. If the Parties agree with such potential resolution, such resolution shall be final and binding. If the Parties do not agree with such potential resolution, [***] with respect to the disputed matter. Each Party shall have access to copies of all documents relating to the preparation, filing, prosecution and maintenance of the MacroGenics Product Patents and shall be permitted to access such documents in a timely manner.

**(c)** **Company Patents** . Company shall have the sole right and authority to prepare, file, prosecute and maintain the Company Patents on a worldwide basis at its own expense. Company shall provide MacroGenics a reasonable opportunity to review and comment on its efforts to prepare, file, prosecute and maintain Company Patents in the Territory, including by providing MacroGenics with a copy of material communications from any patent authority regarding any Company Patent in the Territory, and by providing drafts of any material filings or responses to be made to such patent authorities in advance of submitting such filings or responses.Company shall consider MacroGenics' comments regarding such communications and drafts in good faith.

**(d)** **Joint Patents** . Except as otherwise provided in this Section 10.30, Company shall have the primary right and authority to prepare, file, prosecute and maintain the Patents included in the Joint Inventions (" **Joint Patents** ") on a worldwide basis at its own expense. Company shall provide MacroGenics with a reasonable opportunity to review and comment on its efforts to prepare, file, prosecute and maintain Joint Patents, including by providing MacroGenics with a copy of material communications from any patent authority regarding any Joint Patent, and by providing drafts of any material filings or responses to be made in advance of submitting such filings or responses. Company shall consider MacroGenics' comments regarding such communications and drafts in good faith. If Company determines in its discretion to abandon or not maintain any Joint Patent(s) in any



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country(ies) of the world, then Company shall provide MacroGenics with written notice of such determination within a period of time reasonably necessary to allow MacroGenics to determine its interest in such Joint Patent(s) (which notice from Company shall be given no later than [***] prior to any final deadline for any pending action or response that may be due with respect to such Joint Patent(s) with the applicable patent authority). If MacroGenics provides written notice expressing its interest in obtaining such Joint Patent(s), Company shall, free of charge, assign and transfer to MacroGenics the ownership of, and interest in, such Joint Patent(s) in such country(ies), at MacroGenics' own expense, and Company shall cooperate with MacroGenics for assignment and transfer of such Joint Patent(s) in such country. Thereafter, all such assigned and transferred Patents will be deemed MacroGenics Platform Patents and MacroGenics shall have the right to prepare, file, prosecute and maintain such Patents as set forth in Section 10.3(a).

**(e)** **Cooperation in Prosecution** . Each Party shall provide the other Party all reasonable assistance and cooperation in the Patent prosecution efforts provided above in this Section 10.3, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution, as well as further actions as set forth below. Such assistance and cooperation shall include making a Party's inventors and other scientific advisors reasonably available to assist the other Party's Patent prosecution efforts.

**(i)** The Parties shall respectively prepare, file, maintain and prosecute the MacroGenics Patents, the Company Patents and the Joint Patents as set forth in this Section 10.3. As used herein, "prosecution" of such Patents shall include all communication and other interaction with any patent office or patent authority having jurisdiction over a patent application in connection with pre-grant proceedings.

**(ii)** All communications between the Parties relating to the preparation, filing, prosecution or maintenance of the MacroGenics Patents, the Company Patents and the Joint Patents, including copies of any draft or final documents or any communications received from or sent to patent offices or patenting authorities with respect to such Patents, shall be considered Confidential Information of the Party Controlling the relevant Patent and subject to the confidentiality provisions of ARTICLE 12.

**(iii)** Assignments in the MacroGenics Patents, Joint Patents and Company Patents shall be effected as follows: (i) employees or agents of MacroGenics (or its Affiliates) that are named as inventors on the MacroGenics Patents shall assign their interest in such Patents to MacroGenics or its Affiliate; (ii) employees or agents of Company or MacroGenics (or their respective Affiliates) that are named as inventors on the Joint Patents shall assign their interest in such Patents to their respective employer; and (iii) employees or agents of Company (or its Affiliates) that are named as inventors on the Company Patents shall assign their interests in such Patents to Company or its Affiliate.



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**10.4 Patent Term Extensions in the Territory** . Company shall decide for which, if any, of the MacroGenics Product Patents, Joint Patents, Company Patents or other Patents Controlled by Company, its Affiliates or designees the Parties should seek patent term extensions, supplemental protection certificates or their equivalents (each a " **Patent Extension** " and collectively " **Patent Extensions** ") in the Territory and Company shall have the right to seek such Patent Extensions. In the event that the opportunity to seek a Patent Extension, supplemental protection certificate or an equivalent becomes available for a Product in the Territory based on [***] and if Company, its Affiliates or designees do not seek a Patent Extension for [***], subject to the provisions of this Section 10.4, MacroGenics shall have the right, but not the obligation, to [***] and Company shall reasonably cooperate with MacroGenics in [***]. MacroGenics shall not seek any Patent Extension that is reasonably likely to have a material adverse effect on the Commercialization of the Product or if there is a good faith dispute between the Parties as to whether a Patent Extension is being sought for a Patent that does not Cover the applicable Product (a " **Good Faith Dispute** "). In the event that Company does not intend to seek Patent Extensions for any [***], it shall so inform MacroGenics in writing in sufficient time to permit MacroGenics to seek a Patent Extension. MacroGenics shall not seek any such Patent Extension unless it first engages in good faith discussions with Company regarding Company's reasons for not seeking Patent Extensions and MacroGenics' rationale and plans for seeking Patent Extensions, but, unless a Good Faith Dispute still exists, thereafter shall have the right to seek such Patent Extensions. The Party that does not apply for a Patent Extension hereunder will cooperate fully with the other Party in making such filings or actions, including making available all required regulatory data and Information and executing any required authorizations to apply for such Patent Extension. All expenses incurred in connection with activities of each Party with respect to the Patent(s) for which such Party seeks Patent Extension pursuant to this Section 10.4 shall be entirely borne by such Party.

**10.5 Infringement of Patents by Third Parties** .

**(a) Notification** . Each Party shall promptly notify the other Party in writing of any existing, alleged or threatened infringement of any MacroGenics Patent, Joint Patent or Company Patent of which it becomes aware, and shall provide all Information in such Party's possession or control demonstrating such infringement.

**(b) Infringement of MacroGenics Patents or Joint Patents** .

**(i)** Company, subject to Section 10.5(b)(ii) through 10.5(b)(vii), shall have the first right, but not the obligation, to bring an appropriate suit or other action against any Third Party engaged in any existing, alleged or threatened infringement of any: (i) MacroGenics Product Patent or Joint Patent; and (ii) MacroGenics Platform Patent with respect to a Competitive Infringement.



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**(ii)** Company shall notify MacroGenics of its election to take any action in accordance with Section 10.5(b)(i) within the earlier of: (i[***] after the first notice under Section 10.5(a); or (ii) [***] before any time limit set forth in Applicable Law or regulation, including the time limits set forth under the Hatch-Waxman Act. Notwithstanding the foregoing sentence, Company shall not initiate any such suit or take such other action with respect to any MacroGenics Product Patent or Joint Patent without first consulting with MacroGenics and giving good faith consideration to any reasonable objection from MacroGenics regarding Company's proposed course of action, and Company shall not initiate any such suit or take such other action with respect to a MacroGenics Platform Patent without the prior written consent of MacroGenics, such consent not to be unreasonably withheld, delayed or conditioned. Should MacroGenics reasonably withhold such consent, MacroGenics shall keep Company reasonably informed of any enforcement efforts with respect to the MacroGenics Platform Patents and shall consider Company's comments regarding such enforcement in good faith. MacroGenics shall cooperate in the prosecution of any suit under this Section 10.5 as may be reasonably requested by Company. In the event that Company elects not to initiate a lawsuit or take other reasonable action with respect to an infringement described in Section 10.5(b)(i), MacroGenics shall have the right, but not the obligation, to initiate such suit or take such other action, after providing [***] notice to Company and giving good faith consideration to Company's reason(s) for not initiating a suit or taking other action.

**(iii)** If one Party elects to bring suit or take action under this Section 10.5(b) against an infringement, then the other Party shall have the right, prior to commencement of the suit or action, to join any such suit or action.

**(iv)** Each Party shall provide to the Party enforcing any such rights under this Section 10.5(b) reasonable assistance in such enforcement, at such enforcing Party's request and expense, including joining such action as a party plaintiff if required by Applicable Law to pursue such action. The enforcing Party shall keep the other Party regularly informed of the status and progress of such enforcement efforts, shall reasonably consider the other Party's comments on any such efforts, and shall consult the other Party in any important aspects of such enforcement, including determination of material litigation strategy and filing of important papers to the competent court.

**(v)** Each Party shall bear all of its own internal costs incurred in connection with its activities under this Section 10.5(b). In the event that the Parties are joined in suit or action against the infringement or the non-enforcing Party elects to join such suit or action and, in either case, elects to be represented by the same outside counsel as the enforcing Party, then the enforcing Party shall be responsible for all expenses arising from such outside counsel, provided that the enforcing Party consents to such joint representation by outside counsel, such consent not to be unreasonably withheld, delayed or conditioned.



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**(vi)** The Party not bringing an action with respect to infringement in the Territory under this Section 10.5(b) shall be entitled to separate representation in such matter by counsel of its own choice and at its own expense, but such Party shall at all times cooperate fully with the Party bringing such action.

**(vii)** Neither Party shall settle any claim, suit or action that it brought under this Section 10.5 involving MacroGenics Product Patents or Joint Patents without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned.

**(c)** **Infringement of Company Patents** . For any and all infringement of any Company Patent, Company shall have the sole and exclusive right, but not the obligation, to bring, at Company's expense and in its sole control, an appropriate suit or other action against any person or entity engaged in such infringement of the Company Patent.

**(d)** **Allocation of Proceeds** . If either Party recovers monetary damages from any Third Party in a suit or action brought under Section 10.5 (b), 10.7(a) or 10.7(b) or any royalties, milestones or other payments from a license agreement with a Third Party related to any alleged infringement related to a Product, whether such damages or royalties result from the infringement of MacroGenics Patents, Joint Patents or Company Patents, such recovery (" **Infringement Recovery** ") shall be allocated first to the reimbursement of any expenses incurred by the Parties in such litigation, action or license negotiations, and any remaining amounts shall be allocated as follows:

**(i)** with respect to suits or actions brought by Company resulting in an Infringement Recovery relating to the Initial Product in the Northern American Territory during the Co-Funding Term, [***] to Company and [***] to MacroGenics;

**(ii)** with respect to suits or actions brought by Company resulting in an Infringement Recovery relating to (w) the Initial Product outside the Northern American Territory during the Co-Funding Term, (x) the Initial Product in the Northern American Territory after the Co-Funding Term if the Co-Funding Term is terminated, (y) the Initial Product anywhere in the world if MacroGenics does not exercise the Co-Funding Option or (z) any Product other than the Initial Product anywhere in the world, then (1) if the reward is based on lost profits, an amount equal to the royalty that would be payable pursuant to Section 9.4 on the imputed amount of Net Sales of the relevant Product(s) in the country(ies) where such infringement occurred, or (y) if the reward reflects royalty payments, such reward shall be considered Net Sales and subject to the applicable royalty in accordance with Section 9.4; and

**(iii)** with respect to suits or actions brought by MacroGenics, the Infringement Recovery shall be retained by MacroGenics.



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**10.6 Infringement of Third Party Rights in the Territory** .

**(a) Notice** . If any Product used or sold by either Party, its Affiliates, or sublicensees in the Field becomes the subject of a Third Party's claim or assertion of infringement of a Patent granted by a jurisdiction within the Territory, the Party first having notice of the claim or assertion shall promptly notify the other Party.

**(b) Defense** .

**(i)** Company shall have the first right, but not the obligation, to defend any such Third Party claim or assertion of infringement, other than a [***], of a Patent as described in Section 10.6(a), at Company's expense. If Company does not commence actions to defend such claim within [*** ]after it receives notice thereof (or within [***] after it should have given notice thereof to MacroGenics as required by Section 10.6(a)), then, to the extent allowed by Applicable Law, MacroGenics shall have the right, but not the obligation, to control the defense of such claim by counsel of its choice, at MacroGenics' expense. The non-defending Party shall reasonably cooperate with the Party conducting the defense of the claim or assertion, including if required to conduct such defense, furnishing a power of attorney.

**(ii)** MacroGenics shall have the first right, but not the obligation, to defend any [***] at MacroGenics' expense. If MacroGenics does not commence actions to defend or settle such [***]within [***]after it receives notice thereof, then, to the extent allowed by Applicable Law, Company shall have the right, but not the obligation, to control the defense of such claim by counsel of its choice, at MacroGenics' expense. The non-defending Party shall reasonably cooperate with the Party conducting the defense of the claim or assertion, including if required to conduct such defense, furnishing a power of attorney.

**(c) Settlement; Licenses** . MacroGenics shall not enter into any settlement of any claim described in this Section 10.6 that affects Company's rights or interests without Company's prior written consent, such consent not to be unreasonably withheld, delayed or conditioned. For purposes of clarification, MacroGenics shall not be required to obtain Company's consent to enter into a settlement of a [***] that it elects to settle under Section 10.6(b)(ii), provided that Company is given prior notice of such proposed settlement with a reasonable amount of time to review and comment and, unless such settlement is likely to detrimentally affect Company's material rights or interest, as communicated to MacroGenics by Company. Except for a settlement of a [***] that MacroGenics declined to defend or settle under Section 10.6(b)(ii), Company shall not enter into any settlement of any claim described in this Section 10.6 that detrimentally affects MacroGenics'



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material rights or interests without MacroGenics' written consent, such consent not to be unreasonably withheld, delayed or conditioned. Each Party shall have the right to decline to defend or to tender defense of any claim described in this Section 10.6 upon reasonable notice to the other Party, including if the other Party fails to agree to a settlement that the declining Party proposes. In the event that it is determined by any court of competent jurisdiction that the research, Development, Manufacture, or Commercialization of a Product, conducted in accordance with the terms and conditions of this Agreement, infringes, or Company determines reasonably and in good faith that such activities are likely to infringe, any Patent, copyright, trademark, data exclusivity right or trade secret right arising under Applicable Law of any Third Party, Company shall use Commercially Reasonable Efforts to: [***]. To the extent such a license relates to the Commercialization of a Product, the cost of such license shall be considered a Third Party Obligation and allocated between the Parties in accordance with Section 9.10. In the event that Company decides that neither of the foregoing alternatives is reasonably available or commercially feasible, Company may, at its discretion, terminate this Agreement for the Product affected in accordance with Section 13.2.

**10.7 Patent Oppositions and Other Proceedings** .

**(a)** **Third Party Patent Rights** . If either Party desires to bring an opposition, action for declaratory judgment, nullity action, interference, declaration for non-infringement, reexamination or other attack upon the validity, title or enforceability of a Patent owned or controlled by a Third Party and having one or more claims that Cover a Product, or the use, sale, offer for sale or importation of a Product (except insofar as such action is a counterclaim to or defense of, or accompanies a defense of, a Third Party's claim or assertion of infringement under Section 10.6, in which case the provisions of Section 10.6 shall govern), such Party shall so notify the other Party and the Parties shall promptly confer to determine whether to bring such action or the manner in which to settle such action. Company shall have the exclusive right, but not the obligation, to bring, at its own expense and in its sole control, such action in the Territory. If Company does not bring such an action in the Territory within [***] of notification thereof pursuant to this Section 10.7(a) (or earlier, if required by the nature of the proceeding), then MacroGenics shall have the right, but not the obligation, to bring such action, at MacroGenics' own expense. The Party not bringing an action under this Section 10.7(a) shall be entitled to separate representation in such proceeding by counsel of its own choice and at its own expense, and shall cooperate fully with the Party bringing such action. Any awards or amounts received in bringing any such action shall be first allocated to reimburse the initiating Party's expenses in such action, and any remaining amounts shall be allocated between the Parties as provided in Section 10.5(d).



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**(b)** **Parties' Patent Rights** . If any MacroGenics Product Patent or Joint Patent becomes the subject of any proceeding commenced by a Third Party within the Territory in connection with an opposition, reexamination request, action for declaratory judgment, nullity action, interference or other attack upon the validity, title or enforceability thereof (a " **Third Party Patent Challenge** ") (except insofar as such action is a counterclaim to or defense of, or accompanies a defense of, an action for infringement against a Third Party under Section 10.6, in which case the provisions of Section 10.6 shall govern), then the Party responsible for filing, preparing, prosecuting and maintaining such Patent as set forth in Section 10.3 hereof shall control such defense at its own expense. The controlling Party shall permit the non-controlling Party to participate in the proceeding to the extent permissible under Applicable Law, and to be represented by its own counsel in such proceeding, at the non-controlling Party's expense. If either Party decides that it does not wish to defend against such action, then the other Party shall have a backup right to assume defense of such Third Party action at its own expense. Any awards or amounts received in defending any such Third Party action shall be allocated between the Parties as provided in Section 10.5(d). MacroGenics shall have the sole discretion whether to defend and shall solely control any defense of a Platform Patent which is the subject of a Third Party Patent Challenge, provided that MacroGenics shall keep Company reasonably informed regarding such enforcement and shall consider Company's comments regarding such enforcement in good faith.

## ARTICLE 11
## REPRESENTATIONS, WARRANTIES AND COVENANTS

**11.1 Mutual Representations, Warranties and Covenants** . Each of the Parties hereby represents and warrants to the other Party as of the Execution Date and, as applicable, hereinafter covenants that:

**(a)** **Organization** . It is a corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization, and has all requisite power and authority, corporate or otherwise, to execute, deliver, and perform this Agreement.

**(b)** **Binding Agreement** . This Agreement is a legal and valid obligation binding upon such Party and enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other laws of general application affecting the enforcement of creditor rights, judicial principles affecting the availability of specific performance, and general principles of equity (whether enforceability is considered a proceeding at law or equity).

**(c)** **Authorization** . The execution, delivery, and performance of this Agreement by such Party have been duly authorized by all necessary corporate action and do not



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conflict with any agreement, obligation, instrument, or understanding, oral or written, to which it is a party or by which it is bound, nor violate any Applicable Law or any order, writ, judgment, injunction, decree, determination, or award of any Governmental Authority presently in effect applicable to such Party.

**(d)** **No Further Approval** . It is not aware of any government authorization, consent, approval, license, exemption of or filing or registration with any Governmental Authority under any Applicable Law, currently in effect, necessary for, or in connection with, the transactions contemplated by this Agreement or any other agreement or instrument executed in connection herewith, or for the performance by it of its obligations under this Agreement and such other agreements (save for Regulatory Approvals and similar authorizations from Governmental Authorities necessary for the Exploitation of the Compounds and Products as contemplated hereunder), except as may be required to obtain clearance of this Agreement under the HSR Act.

**(e)** **No Inconsistent Obligations** . It is not under any obligation, contractual or otherwise, to any Person that conflicts with or is inconsistent in any material respect with the terms of this Agreement, or that would impede the diligent and complete fulfillment of its obligations hereunder.

**11.2** **Additional Representations and Warranties of MacroGenics** . MacroGenics represents and warrants as of the Execution Date and, as applicable, covenants to Company that:

**(a)** MacroGenics (or its Affiliates) is the sole and exclusive owner of, or otherwise Controls pursuant to an existing Third Party agreement, the MacroGenics Technology and the Regulatory Materials. MacroGenics has all rights necessary to grant the licenses under the MacroGenics Technology and rights of cross-reference under Regulatory Materials that it grants to Company in this Agreement. During the Term, MacroGenics shall not, and shall cause its Affiliates not to, grant to any Third Party rights that encumber or conflict with the rights granted to Company hereunder with respect to the MacroGenics Technology or Regulatory Materials.

**(b)** The Patents set forth in Exhibit C (" **Licensed Patents** ") represent all Patents that MacroGenics or any of its Affiliates owns or Controls that Cover or disclose any invention necessary or used for the Exploitation of the Compounds or Products in the Territory in the Field as of the Execution Date. The Licensed Patents are free and clear of liens, charges or encumbrances other than licenses granted to Third Parties that are not inconsistent with the rights and licenses granted to Company hereunder. No Third Party has challenged or threatened in writing to challenge the scope, validity or enforceability of any Licensed Patent (including, by way of example, through opposition or the institution or written threat of institution of interference, nullity or similar invalidity proceedings before the U.S. Patent and Trademark Office or any analogous foreign Governmental Authorities). MacroGenics or its Affiliates have timely paid all filing and renewal fees payable



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with respect to any Licensed Patents for which MacroGenics controls prosecution and maintenance. The development of the Licensed Patents has not been funded, in whole or in part, by the U.S. government.

**(c)** MacroGenics or any of its Affiliates owns or Controls all MacroGenics Know-How necessary or useful for the Exploitation of the Compounds or Products in the Territory in the Field. The MacroGenics Know-How is free and clear of liens, charges or encumbrances other than licenses granted to Third Parties that are not inconsistent with the rights and licenses granted to Company hereunder. MacroGenics and its Affiliates have taken commercially reasonable measures consistent with industry practices to protect the secrecy, confidentiality and value of all MacroGenics Know-How that constitutes trade secrets under Applicable Law (including requiring all employees, consultants and independent contractors to execute binding and enforceable agreements requiring all such employees, consultants and independent contractors to maintain the confidentiality of such MacroGenics Know-How). The development of the MacroGenics Know-How has not been funded, in whole or in part, by the U.S. government.

**(d)** There is no actual or, to MacroGenics' Knowledge, threatened infringement or misappropriation of the MacroGenics Technology by any Person in the Territory. MacroGenics has not received any written notice or threat of any material suit, legal claim, action, proceeding or investigation against MacroGenics or any of its Affiliates that relates to the MacroGenics Technology, and no judgment or settlement is owed by MacroGenics or any of its Affiliates in connection with the MacroGenics Technology.

**(e)** The MacroGenics Technology collectively constitutes all intellectual property Controlled by MacroGenics that is necessary or useful for the Exploitation of the Compounds and the Products. To MacroGenics' Knowledge, except as otherwise disclosed by MacroGenics to Company, or discussed by the Parties, during the course of preparing this Agreement, the Exploitation of the Compounds or Products in the Field in the Territory does not and will not infringe or misappropriate the Patents (including any Third Party patent application published as of the Execution Date, when and if the claims thereunder issue in their current form) or other intellectual property or proprietary rights of any Third Party in the Territory.

**(f)** All current and former officers, employees, agents, advisors, consultants, contractors or other representatives of MacroGenics or any of its Affiliates who are inventors of or have otherwise contributed in a material manner to the creation or development of any MacroGenics Technology have executed and delivered to MacroGenics or any such Affiliate a valid and enforceable assignment or other agreement regarding the protection of proprietary Information and the assignment to MacroGenics or any such Affiliate of such person's entire right, title and interest in and to any MacroGenics Technology. To MacroGenics' Knowledge, no current



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officer, employee, agent, advisor, consultant or other representative of MacroGenics or any of its Affiliates is in violation of any term of any assignment or other agreement regarding the protection of MacroGenics Patents or other MacroGenics Technology or of any employment contract or any other contractual obligation relating to the relationship of any such Person with MacroGenics or any such Affiliate. Company shall have no obligation to contribute to any remuneration of any inventor employed or previously employed by MacroGenics or any of its Affiliates in respect of any such inventions, Information and discoveries and intellectual property rights therein that are so assigned to MacroGenics or its Affiliate(s). MacroGenics will pay all such remuneration due to such inventors with respect to such inventions and other Know-How and intellectual property rights therein.

**(g)** MacroGenics has (i) prepared, maintained and retained all Regulatory Materials for the Compounds and the Products in the Territory pursuant to and in accordance in all material respects with all Applicable Law, including, as applicable, GLP, and such Regulatory Materials do not contain any materially false and misleading statements; (ii) MacroGenics has conducted, and has used Commercially Reasonable Efforts to cause its contractors and consultants to conduct, all studies, tests and pre-clinical trials of the Compounds and the Products conducted prior to, or being conducted on, the Execution Date in accordance with the applicable experimental protocols, procedures and controls pursuant to accepted professional scientific standards, accepted ethical standards and Applicable Law, including, as applicable, GLP; (iii) except as disclosed in writing by MacroGenics to Company prior to the Execution Date, no adverse event involving human subjects has occurred in connection with any study, test or pre-clinical trial of the Compounds or the Products; and (iv) MacroGenics has disclosed to Company all material data and other information in its control generated in the design, approval, undertaking and reporting of any study or pre-clinical trial involving the Compounds or the Products.

**(h)** Neither MacroGenics nor any of its Affiliates has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any similar sanction of other Governmental Authorities in the Territory, and neither MacroGenics nor any of its Affiliates has used, in any capacity, any Person who either has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any such similar sanction. MacroGenics shall not engage, in any capacity in connection with this Agreement or any ancillary agreements, any Person who either has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any such similar sanction. MacroGenics shall inform Company in writing promptly if it or any Person engaged by MacroGenics or any of its Affiliates who is performing services under this Agreement or any ancillary agreements is debarred or is the subject of a conviction described in Section 306 of the FFDCA, or if any action,



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suit, claim, investigation or legal or administrative proceeding is pending or, to MacroGenics' Knowledge, is threatened, relating to the debarment or conviction of MacroGenics, any of its Affiliates or any such Person performing services hereunder or thereunder.

**11.3 Additional Representations and Warranties of Company** . Company represents and warrants as of the Execution Date and covenants to MacroGenics that:

**(a)** Neither Company nor any of its Affiliates has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any similar sanction of other Governmental Authorities in the Territory, and neither Company nor any of its Affiliates has used, in any capacity, any Person who either has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any such similar sanction. Company shall not engage, in any capacity in connection with this Agreement or any ancillary agreements, any Person who either has been debarred by the FDA, is the subject of a conviction described in Section 306 of the FFDCA or is subject to any such similar sanction. Company shall inform MacroGenics in writing promptly if it or any Person engaged by Company or any of its Affiliates who is performing services under this Agreement or any ancillary agreements is debarred or is the subject of a conviction described in Section 306 of the FFDCA, or if any action, suit, claim, investigation or legal or administrative proceeding is pending or, to Company's Knowledge, is threatened, relating to the debarment or conviction of Company, any of its Affiliates or any such Person performing services hereunder or thereunder.

**(b)** Company is not subject to any agreement with any Third Party which would limit or restrict its ability to perform its obligations under this Agreement in any material respect.

**11.4 No Other Representations or Warranties** . EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 11, THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF NON-INFRINGEMENT OR AS TO THE VALIDITY OF ANY PATENTS. EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE DEVELOPMENT, MANUFACTURE OR COMMERCIALIZATION OF ANY PRODUCT PURSUANT TO THIS AGREEMENT WILL BE SUCCESSFUL OR THAT ANY PARTICULAR SALES LEVEL WITH RESPECT TO ANY PRODUCT WILL BE ACHIEVED.



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## ARTICLE 12
## CONFIDENTIALITY

**12.1 Nondisclosure**. Each Party agrees that, during the Term and for a period of [***] thereafter, the Party (the "**Receiving Party**") receiving Confidential Information of the other Party (the "**Disclosing Party**") shall (a) maintain in confidence such Confidential Information using not less than the efforts such Receiving Party uses to maintain in confidence its own confidential or proprietary Information of similar kind and value, (b) not disclose such Confidential Information to any Third Party without the prior written consent of the Disclosing Party, except for disclosures expressly permitted below, and (c) not use such Confidential Information for any purpose except those permitted by this Agreement (it being understood that this Section 12.1 shall not create or imply any rights or licenses not expressly granted under this Agreement). Notwithstanding anything to the contrary in the foregoing, the obligations of confidentiality and non-use with respect to any trade secret within such Confidential Information shall survive such [***] period for so long as such Confidential Information remains protected as a trade secret under Applicable Law.

**12.2 Exceptions**. The obligations in Section 12.1 shall not apply with respect to any portion of the Confidential Information that the Receiving Party can show by competent evidence:

**(a)** is publicly disclosed by the Disclosing Party, either before or after it is disclosed to the Receiving Party hereunder;

**(b)** is known to the Receiving Party or any of its Affiliates, without any obligation to keep it confidential or any restriction on its use, in each case, to the Disclosing Party, prior to disclosure to the Receiving Party or any of its Affiliates by the Disclosing Party;

**(c)** is subsequently disclosed to the Receiving Party or any of its Affiliates on a non-confidential basis by a Third Party that, to the Receiving Party's Knowledge, is not bound by a similar duty of confidentiality or restriction on its use, in each case, to the Disclosing Party;

**(d)** is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party or any of its Affiliates in violation of this Agreement, generally known or available, either before or after it is disclosed to the Receiving Party by the Disclosing Party;

**(e)** is independently discovered or developed by or on behalf of the Receiving Party or any of its Affiliates without the use of or reference to the Confidential Information belonging to the Disclosing Party; or

**(f)** is the subject of written permission to disclose provided by the Disclosing Party.



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**12.3 Authorized Disclosure** . The Receiving Party may disclose Confidential Information belonging to the Disclosing Party only to the extent such disclosure is reasonably necessary in the following instances:

**(a)** filing, prosecuting, maintaining, enforcing or defending Patents as permitted by this Agreement;

**(b)** as reasonably required in generating Regulatory Materials and obtaining Regulatory Approvals;

**(c)** prosecuting or defending litigation, including responding to a subpoena in a Third Party litigation;

**(d)** complying with Applicable Law or court or administrative orders;

**(e)** complying with any obligation under this Agreement;

**(f)** in communications with existing or bona fide prospective acquirers, merger partners, financing sources, investment bankers, lenders or investors, and consultants and advisors of the Receiving Party in connection with transactions or bona fide prospective transactions with the foregoing, in each case on a need to know basis and under appropriate confidentiality provisions substantially equivalent to those of this Agreement; provided , however , that the Receiving Party shall remain responsible for any violation of such confidentiality provisions by any Third Party receiving such Confidential Information; or

**(g)** to its Affiliates, sublicensees or prospective sublicensees, subcontractors or prospective subcontractors, consultants, agents and advisors on a "need-to-know" basis in order for the Receiving Party to exercise its rights or fulfill its obligations under this Agreement, each of whom prior to disclosure must be bound by obligations of confidentiality and restrictions on use of such Confidential Information that are no less restrictive than those set forth in this ARTICLE 12; provided , however , that, in each of the above situations, the Receiving Party shall remain responsible for any failure by any Person who receives Confidential Information pursuant to this Section 12.3(g) to treat such Confidential Information as required under this ARTICLE 12.

If and whenever any Confidential Information is disclosed in accordance with this Section 12.3, such disclosure shall not cause any such information to cease to be Confidential Information except to the extent that such disclosure results in a public disclosure of such information (other than by breach of this Agreement). Notwithstanding the foregoing, in the event a Party is required to make a disclosure of the other Party's Confidential Information pursuant to Section 12.3(a) through Section 12.3(e), it will, except where impracticable or not legally permitted, give reasonable advance notice to the other Party of such disclosure and use not less than the same efforts to secure confidential treatment of such information as it would to protect its own confidential information from disclosure.



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**12.4 Terms of this Agreement** . The Parties acknowledge that this Agreement and all of the respective terms of this Agreement shall be treated as Confidential Information of both Parties, subject to the provisions of Sections 12.3(f), 12.3(g) and 12.6.

**12.5 Publicity** .

**(a)** Each Party may, but is not obligated to, make a public announcement of the execution of this Agreement in the form attached as Exhibit F to this Agreement, which shall be issued at a time to be mutually agreed by the Parties, but no later than [***] after the Execution Date. Except as required to comply with Applicable Law or as set forth in subsection (b), each Party agrees not to issue any other press release or other public statement disclosing other information relating to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned.

**(b)** The Parties acknowledge the importance of supporting each other's efforts to publicly disclose results and significant developments regarding the Products and other activities in connection with this Agreement that may include information that is not otherwise permitted to be disclosed under this ARTICLE 12, and that may be beyond what is required by Applicable Law, but in each case consistent with the need to keep investors informed regarding such Party's business in accordance with customary investor relations, and each Party may request to the right to make such disclosures from time to time. Such disclosures may include achievement of milestones, significant events in the Development and regulatory process, Commercialization activities and the like. Except for the initial press release(s) described in subsection (a), whenever a Party (the " **Requesting Party** ") elects to make any such public disclosure, it shall first notify the other Party (the " **Cooperating Party** ") of such planned press release or public announcement and provide a draft for review at least [***] in advance of issuing such press release or making such public announcement (or, with respect to press releases and public announcements that are required by Applicable Law, or by regulation or rule of any public stock exchange (including NASDAQ), with as much advance notice as possible under the circumstances if it is not possible to provide notice at least [***] in advance). The Requesting Party and Cooperating Party will discuss such proposed public disclosure in good faith. Unless otherwise permitted pursuant to Section 12.6 or required by Applicable Law, or by regulation or rule of any public stock exchange (including NASDAQ), the Requesting Party will not issue such press release or make such public announcement without the prior written consent of the Cooperating Party, not to be unreasonably withheld, conditioned or delayed, provided that a Party may issue such press release or make such public announcement if: (i) the contents of such press release or public announcement have



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previously been made public other than through a breach of this Agreement by the Requesting Party, (ii) such press release or public announcement does not materially differ from the previously issued press release or other publicly available information, (iii) such press release or public announcement does not contain the Cooperating Party's name and (iv) the Requesting Party notifies the Cooperating Party reasonably in advance of issuance. The principles to be observed in such disclosures shall include accuracy, compliance with applicable Law and regulatory guidance documents, reasonable sensitivity to potential negative reactions of the FDA (and its foreign counterparts), the need to protect competitively sensitive information regarding the Products and the need to keep investors informed regarding the Requesting Party's business.

**12.6 Securities Filings** . Notwithstanding anything to the contrary in this ARTICLE 12, in the event either Party proposes to file with the Securities and Exchange Commission or the securities regulators of any state or other jurisdiction a registration statement or any other disclosure document that describes or refers to the terms and conditions of this Agreement or any related agreements between the Parties, or requires the filing of this Agreement as an exhibit to such registration, statement or disclosure document, such Party shall notify the other Party of such intention and shall provide the other Party with a copy of relevant portions of the proposed filing at least [***]prior to such filing (and any revisions to such portions of the proposed filing a reasonable time prior to the filing thereof), including any exhibits thereto that refer to the other Party or the terms and conditions of this Agreement or any related Agreements between the Parties. The Party making such filing shall cooperate in good faith with the other Party to obtain confidential treatment of the terms and conditions of this Agreement or any related Agreements between the Parties that the other Party reasonably requests be kept confidential or otherwise afforded confidential treatment, and shall only disclose Confidential Information that it is advised by outside counsel is legally required to be disclosed. Each Party acknowledges that the other Party may be required by securities regulators, including the Securities and Exchange Commission, or advised by such other Party's outside counsel that the financial terms, including the milestone amounts and/or royalty rates must be included in such filings. No notice shall be required under this Section 12.6 if the description of or reference to this Agreement or a related agreement between the Parties contained in the proposed filing has been included in any previous filing made by either Party in accordance with this Section 12.6 or otherwise approved by the other Party.

**12.7 Relationship to Confidentiality Agreement** . This Agreement supersedes the Prior CDA; provided , however , that all "Confidential Information" disclosed or received by the Parties and their Affiliates thereunder shall be deemed Confidential Information hereunder and shall be subject to the terms and conditions of this Agreement.

**12.8 Equitable Relief** . Given the nature of the Confidential Information and the competitive damage that could result to a Party upon unauthorized disclosure, use or transfer of its Confidential Information to any Third Party, the Parties agree that monetary damages may not be a sufficient remedy for any breach of this ARTICLE 12. In addition to all other remedies, a Party shall be entitled to seek specific performance and injunctive and other equitable relief as a remedy for any breach or threatened breach of this ARTICLE 12.



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**12.9 Publications** . Company shall have the right to publish results of all Clinical Trials conducted with respect to a Compound or a Product; provided , however , that MacroGenics shall have the right to review all proposed publications prior to submission of such publication, solely for the purposes of identifying any relevant intellectual property or Confidential Information of MacroGenics. Company shall provide MacroGenics with a copy of the applicable proposed abstract, manuscript, or presentation no less than [***] in the case of abstracts) prior to its intended submission for publication. MacroGenics shall respond in writing promptly and in no event later than [***] in the case of abstracts) after receipt of the proposed material with any concerns regarding patentability or protection of MacroGenics' Confidential Information. In the event of concern over patent protection, Company agrees not to submit such publication or to make such presentation that contains such information until MacroGenics is given a reasonable period of time, and in no event less than [***], to seek patent protection for any material in such publication or presentation which it believes is patentable, unless Company reasonably determines that publication of such information is required by Applicable Law. Subject to Section 12.3, any Confidential Information of MacroGenics shall, if requested by the reviewing Party, be removed by Company from such publication or presentation, except to the extent inclusion of such Confidential Information is required to comply with Johnson & Johnson's clinical trial publication policy.

## ARTICLE 13
## TERM AND TERMINATION

**13.1 Term** . This Agreement shall become effective as of the Execution Date and, unless earlier terminated pursuant to this ARTICLE 13, shall continue in full force and effect as long as Company continues to Exploit the Compounds or the Products in accordance with the terms and conditions of this Agreement (the " **Term** "). The provisions of ARTICLE 1 (Definitions), ARTICLE 11 (Representations, Warranties and Covenants), ARTICLE 12 (Confidentiality), ARTICLE 14 (Dispute Resolution), ARTICLE 15 (Indemnification) and ARTICLE 16 (Miscellaneous), and Section 13.3 (Termination for Material Breach) and Section 13.6 (HSR Filing; Termination Upon HSR Denial), shall become effective on the Execution Date; the other provisions of this Agreement shall not become effective until the Effective Date.

**13.2 Unilateral Termination by Company** . Company shall have the right to terminate this Agreement in its entirety, or on a Product-by-Product basis, at any time after the Execution Date, for any or no reason, upon providing [***] prior written notice to MacroGenics. Notwithstanding the foregoing, in the event that Company provides such a notice of termination, MacroGenics may, in its sole discretion, reduce the [***] notice period to a period determined by MacroGenics by written notice to Company.

**13.3 Termination for Material Breach** .

**(a)** Either Party (the " **Terminating Party** ") may terminate this Agreement in its entirety, or on a country-by-country and Product-by-Product basis, in the event the



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other Party (the " **Breaching Party** ") has materially breached this Agreement, and such material breach has not been cured within [***] after receipt of written notice of such breach by the Breaching Party from the Terminating Party (the " **Cure Period** "). The written notice describing the alleged material breach shall provide sufficient detail to put the Breaching Party on notice of such material breach. Any termination of this Agreement pursuant to this Section 13.3(a) shall become effective at the end of the Cure Period, unless the Breaching Party has cured any such material breach prior to the expiration of such Cure Period (or, if such material breach is reasonably able to be cured within the Cure Period, the Breaching Party has notified the Terminating Party of its plan for curing such and has commenced and sustained its efforts to cure such material breach during the Cure Period). The right of either Party to terminate this Agreement as provided in this Section 13.3(a) shall not be affected in any way by such Party's waiver of or failure to take action with respect to any previous breach under this Agreement.

**(b)** If the Parties reasonably and in good faith disagree as to whether there has been a material breach or a cure thereof, the Party that disputes whether there has been a material breach or a cure may contest the allegation in accordance with ARTICLE 14. Notwithstanding anything to the contrary contained in Section 13.3(a), the Cure Period for any material breach that is the subject of a Dispute will run from the date that written notice was first provided to the Breaching Party by the Terminating Party through the resolution of such Dispute pursuant to ARTICLE 14 and for [***] thereafter, and it is understood and acknowledged that, during the pendency of a Dispute pursuant this Section 13.3(b), all of the terms and conditions of this Agreement shall remain in effect, and the Parties shall continue to perform all of their respective obligations under this Agreement, except that all payment obligations from one Party to the other Party under this Agreement which are subject to the Dispute shall be tolled until the resolution of such Dispute in accordance with ARTICLE 14.

**13.4 Termination by Company for Safety Reasons** . Company shall have the right to terminate this Agreement, at any time after the Effective Date, with respect to a Product in the Territory at any time upon providing [***] prior written notice to MacroGenics: (a) if senior executives responsible for Company's pharmacovigilance and clinical science functions determine in good faith that the risk/benefit profile of the Product is such that the Product cannot continue to be Developed or administered to patients safely; or (b) upon the occurrence of serious adverse events related to the use of the Product that cause Company to conclude that the continued use of the Product by patients will result in patients being exposed to a product in which the risks outweigh the benefits.

**13.5 Termination** [***]. MacroGenics may terminate this Agreement with respect to a Product (or this Agreement in its entirety if such Product is the only Product for which this Agreement is applicable), [***] provided , however , MacroGenics acknowledges and agrees that nothing in this Section 13.5 [***] in this Section 13.5 and, provided further that MacroGenics shall not have the right to terminate if Company:

**(a)** [***] any [***]

**(b)** [***] MacroGenics, its Affiliates, sublicensees, successors or designers [***] and/or

**(c)** either (i) [***] that [***]

**13.6 HSR Filing; Termination Upon HSR Denial** . If Company and MacroGenics determine that an HSR Filing is necessary, each Party shall, within [***] of the Execution Date (or such later time as may be agreed to in writing by the Parties), file with the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice, and/or with equivalent foreign authorities, any HSR Filing required of it under the HSR Act in the reasonable opinion of either Party with respect to the transactions contemplated hereby. Each Party will use reasonable efforts to do, or cause to be done, all things necessary, proper and advisable to, as promptly as practicable, take all actions necessary to make the filings required of such Party or its Affiliates under the HSR Act. The Parties shall cooperate with one another to the extent necessary in the preparation of any such HSR Filing. Each Party shall be responsible for its own costs, expenses, and filing fees associated with any HSR Filing; provided , however , that Company shall be solely responsible for any fees (other than penalties that may be incurred as a result of actions or omissions on the part of MacroGenics) required to be paid to any governmental agency in connection with making any such HSR Filing. If the Parties make an HSR Filing hereunder, then this Agreement shall terminate (a) at the election of either Party, immediately upon notice to the other Party, if the U.S. Federal Trade Commission or the U.S. Department of Justice, or an equivalent authority in the European Union, seeks a preliminary injunction under the Antitrust Laws against Company and MacroGenics to enjoin the transactions contemplated by this Agreement; or (b) at the election of either Party, immediately upon notice to the other Party, in the event that the HSR Clearance Date shall not have occurred on or prior to [***] after the effective date of the HSR Filing. In the event of such termination, this Agreement shall be of no further force and effect.

**13.7 Termination for Bankruptcy .**

**(a)** Either Party may terminate this Agreement in its entirety upon providing written notice to the other Party on or after the time that such other Party makes a general assignment for the benefit of creditors, files an insolvency petition in bankruptcy, petitions for or acquiesces in the appointment of any receiver, trustee or similar officer to liquidate or conserve its business or any substantial part of its assets, commences under the laws of any jurisdiction any proceeding involving its insolvency, bankruptcy, reorganization, adjustment of debt, dissolution, liquidation or any other similar proceeding for the release of financially distressed debtors, or becomes a party to any proceeding or action of the type described above (each, an "Insolvency Event"), and such proceeding or action remains un-dismissed or un-stayed for a period of more than [***].



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**(b)** All rights and licenses granted under or pursuant to this Agreement, including, for the avoidance of doubt, the licenses granted to Company pursuant to Section 3.1, are, and shall otherwise be deemed to be, for purposes of Section 365(n) of Title 11 of the U.S. Code and other similar laws in any jurisdiction outside the U.S. (collectively, the " **Bankruptcy Laws** "), licenses of rights to "intellectual property" as defined under the Bankruptcy Laws. Upon the occurrence of any Insolvency Event with respect to a Party (the " **Insolvent Party** "), the Insolvent Party agrees that the other Party (the " **Non-Insolvent Party** "), as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Laws. Further, each Party agrees and acknowledges that all payments hereunder, other than the milestone payments pursuant to Section 9.3, the royalty payments pursuant to Section 9.4, and the payments pursuant to Section 9.9, do not constitute royalties within the meaning of Section 365(n) of the Bankruptcy Code or relate to licenses of intellectual property hereunder **.** Each Party shall, during the term of this Agreement, create and maintain current copies or, if not amenable to copying, detailed descriptions or other appropriate embodiments, to the extent feasible, of all such intellectual property (MacroGenics Technology in the case of MacroGenics and Company Technology in the case of Company). Each Party agrees and acknowledges that "embodiments" of intellectual property within the meaning of Section 365(n) include, without limitation, laboratory notebooks, cell lines, product samples and inventory, research studies and data, Regulatory Approvals and Regulatory Materials in each case to the extent related to the Compounds and Products. If (i) a case is commenced during the Term by or against a Party under the Bankruptcy Laws, (ii) this Agreement is rejected as provided for under the Bankruptcy Laws, and (iii) the Non-Insolvent Party elects to retain its rights hereunder as provided for under the Bankruptcy Laws, then the Insolvent Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 trustee), shall (x) provide to the Non-Insolvent Party immediately upon the Non-Insolvent Party's written request copies of all such intellectual property (including embodiments thereof) held by the Insolvent Party and such successors and assigns, or otherwise available to them, and (y) not interfere with the Non-Insolvent Party's rights under this Agreement, or any related agreements between the Parties, to such intellectual property (including such embodiments), including any right to obtain such intellectual property (or such embodiments) from another entity, to the extent provided in the Bankruptcy Laws. Whenever the Insolvent Party or any of its successors or assigns provides to the Non-Insolvent Party any of the intellectual property licensed hereunder (or any embodiment thereof) pursuant to this Section 13.7(b), the Non-Insolvent Party shall have the right to perform the Insolvent Party's obligations hereunder with respect to such intellectual property, but neither such provision nor such performance by the Non-Insolvent Party shall release the



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Insolvent Party from liability resulting from rejection of the license or the failure to perform such obligations. All rights, powers and remedies of the Non-Insolvent Party as provided herein are in addition to and not in substitution for any and all other rights, powers and remedies now or hereafter existing at law or in equity (including the Bankruptcy Laws) in the event of the commencement of a case by or against a Party under the Bankruptcy Laws. In particular, it is the intention and understanding of the Parties to this Agreement that the rights granted to the Parties under this Section 13.7 are essential to the Parties' respective businesses and the Parties acknowledge that damages are not an adequate remedy. The Parties agree that they intend the following rights to extend to the maximum extent permitted by Applicable Law, and to be enforceable under Section 365(n) of Title 11 of the U.S. Code: (A) the right of access to any intellectual property (including embodiments thereof) of the Insolvent Party, or any Third Party with whom the Insolvent Party contracts to perform an obligation of the Insolvent Party under this Agreement, and, in the case of the Third Party, which is necessary for the Exploitation of Compounds or Products; and (B) the right to contract directly with any Third Party to complete the contracted work upon failure of the Insolvent Party to comply with its applicable obligations.

**13.8 Effects of Termination** . All of the following effects of termination are in addition to the other rights and remedies that may be available to either of the Parties under this Agreement and shall not be construed to limit any such rights or remedies. In the event this Agreement is not terminated in its entirety, but rather is terminated on a Product-by-Product or country-by-country basis with respect to one or more Products as specified herein (each, a " **Terminated Product** ") in one or more country(ies) (each, a " **Terminated Country** "), then, notwithstanding anything to the contrary contained in Sections 13.8(a) or 13.8(b), the consequences of termination described under this Section 13.8 shall only apply to the Terminated Product in the Terminated Country, and this Agreement shall remain in full force and effect in accordance with its terms with respect to all Products other than the Terminated Products, and in all countries of the Territory other than the Terminated Countries.

**(a) Consequences of Termination by MacroGenics or Company** . In the event of termination of this Agreement by (i) MacroGenics pursuant to Section 13.3, 13.5, 13.7 or Section 16.7 or (ii) Company pursuant to Section 13.2, Section 13.4 or Section 16.3, the following provisions of this Section 13.8(a) shall apply from and after the effective date of termination (except to the extent otherwise provided in Section 13.8(a)(vi):

**(i)** Without limiting the effect that such termination shall have on any provisions of this Agreement, other than those provisions that this Agreement expressly provides shall survive such termination, all rights and licenses granted herein to Company shall terminate, and Company shall cease any and all Development, Manufacturing, and Commercialization activities with respect to the Products (to the extent such activities were being performed using such rights and licenses) as soon as is reasonably practicable under Applicable Law.



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**(ii)** All payment obligations hereunder shall terminate, other than those that are accrued and unpaid as of the effective date of such termination and royalties that become due under Section 9.4 with respect to sales of Reverted Products made by Janssen following the effective date of termination pursuant to Section 13.8(a)(vii).

**(iii)** MacroGenics shall have a reversion of all rights previously licensed to Company hereunder for which the relevant licenses have terminated on a fully paid-up and royalty-free basis, itself or with or through an Affiliate or Third Party, to Develop, Manufacture and Commercialize the Products at MacroGenics' discretion, provided that any Third Party Obligation arising pursuant to Section 9.10(a) is passed through to MacroGenics.

**(iv)** Company hereby grants to MacroGenics, effective as of the effective date of such termination, a non-exclusive, transferable, fully paid-up, royalty-free, sublicenseable license in the Field in the Territory, under the Company Applied Technology and Company's right to Joint Inventions and Joint Patents, solely to Exploit any Product that is in active clinical Development or has been Commercialized by Company at the time of termination (each, a " **Reverted Product** "); provided , however , that MacroGenics shall reimburse Company for any amounts paid by Company to any Third Party in connection with MacroGenics' exercise of such license.

**(v)** At MacroGenics' written request, Company shall grant to MacroGenics, effective as of the date of such request, an exclusive, transferable, fully paid-up, royalty free, sublicensable license to use any trademarks owned or Controlled by Company or any of its Affiliates which are solely used in the Commercialization of Reverted Products in the Territory (excluding any Company house marks).

**(vi)** The JSC (if then in existence) or a committee formed by the Parties for purposes of effecting transition of responsibilities (if the JSC is not then in existence) shall coordinate the wind-down of Company's efforts under this Agreement and Company, as soon as reasonably practicable after the effective date of such termination, shall provide to MacroGenics, as applicable and to the extent permitted under any applicable Third Party contract, any material Information, including copies of all Clinical Trial data and results, Controlled by Company to the extent solely relating to the Reverted Products, including control of, and all Information relating to, the global safety database. Company will reasonably cooperate with MacroGenics to provide a transfer of such material Information. Beginning on the date that notice of termination of this Agreement is given by MacroGenics pursuant to Section 13.3, Section 13.7 or Section 16.7 or by Company pursuant to Section 13.2, Section 13.4 or Section 16.3, (A) Company shall have no further obligation to commence or provide funding for any Clinical Trial that has not yet commenced (for purposes of this sentence, "commencement" means the [***])



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on or before such date of notice of termination of this Agreement; and (B) at MacroGenics' request, MacroGenics shall have the right, and Company shall cooperate in good faith with MacroGenics to enable MacroGenics, to commence any such Clinical Trial included in the then-current Global Development Plan prior to the effective date of termination of this Agreement; provided , however , that such cooperation shall not include any obligation to provide funding for such Clinical Trial. At MacroGenics' request, Company shall use reasonable efforts to (x) assign to MacroGenics any and all Third Party agreements to which Company or any of its Affiliates are a party that relate exclusively to the Development, Commercialization and Manufacturing activities conducted in connection with Reverted Products prior to such termination (including agreements relating to the sourcing and Manufacture of a Reverted Product or, to the extent the First Commercial Sale of a Reverted Product has occurred, for sale, promotion, distribution, or use of such Reverted Product) or, (y) if such assignment is not permitted under the relevant Third Party agreement: (1) grant to MacroGenics other rights to provide to MacroGenics the benefit of such non-assignable agreement, at MacroGenics' expense, to the extent permitted under the terms of such non-assignable agreement; or (2) to the extent not permitted under the terms of such non-assignable agreement, the Parties shall discuss in good faith an alternative solution to enable MacroGenics to receive, at MacroGenics' expense, the benefit of the terms of such non-assignable agreement. In the event one or more Reverted Products, or any materials relating to such Reverted Products, are Manufactured by Company or its Affiliate, then, upon the written request of MacroGenics, Company shall supply MacroGenics with such Reverted Product(s) and/or materials at [***] and for a transitional period to be mutually agreed upon by the Parties and, if necessary, provide technical assistance reasonably necessary to assist MacroGenics in the start-up of Manufacturing of such Reverted Product(s) and/or materials, and/or obtaining Regulatory Approval of the Reverted Product(s). In addition to the actions contemplated in this Section 13.8 (a)(vi) Company shall take such other actions and execute such other instruments, assignments and documents as reasonably requested by MacroGenics as may be necessary to effect the transfer of rights to such Product(s) hereunder to MacroGenics.

**(vii)** Subject to the payment of all amounts required under Section 13.8(a)(ii), Company shall have the right to sell or otherwise dispose of any inventory of any Reverted Product on hand at the time of such termination or in the process of Manufacturing; provided , however , at MacroGenics' request, Company shall transfer to MacroGenics any Product that has not been sold or used [***] following such termination, at a cost [***].

**(viii)** Company shall transfer to MacroGenics any and all Regulatory Materials Controlled by Company on the effective date of termination, to the extent such Regulatory Materials relate solely to any Reverted Products, including any INDs, Regulatory Approval Applications or Regulatory Approvals



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solely related to any Reverted Products. Upon MacroGenics' request, Company shall make available to MacroGenics any other relevant Information Controlled by Company on the effective date of termination, to the extent such Information relates to such Regulatory Materials, and shall provide a right of reference to any Regulatory Materials Controlled by Company on the effective date of termination, to the extent such Regulatory Materials are necessary for MacroGenics or its licensees to develop and commercialize Reverted Products and are not transferred to MacroGenics hereunder.

**(ix)** MacroGenics shall have the right to assume all preparation, filing, prosecution, maintenance and enforcement activities under ARTICLE 10 with respect to MacroGenics Patents as to which Company has assumed the right and authority to prepare, file, prosecute, maintain or enforce. Company will cooperate with MacroGenics and provide MacroGenics with reasonable assistance with the preparation, filing, prosecution, maintenance, and enforcement activities with respect to such MacroGenics Patents. The step-in rights granted to MacroGenics with respect to Joint Patents under Sections 0, 10.5(b) and 10.7(a) shall remain in effect, and MacroGenics shall have to the right to enforce the Company Patents, solely to the extent a license is granted under this Section 13.8(a), against Third Party infringers.

**(b) Consequences of Certain Terminations by Company** . In the event of termination of this Agreement by Company pursuant to Section 13.3 or Section 13.7, the following provisions of this Section 13.8(b) shall apply from and after the effective date of termination.

**(i)** Without limiting the effect that such termination shall have on any provisions of this Agreement, other than those provisions that this Agreement expressly provides shall survive such termination, all rights and licenses granted herein to MacroGenics shall terminate (other than the license granted to MacroGenics under Section 3.2(c), which shall survive such termination), and MacroGenics shall cease any and all Development, Manufacturing, and Commercialization activities (including any co-promotion activities) with respect to the Products as soon as is reasonably practicable under Applicable Law.

**(ii)** All payment obligations hereunder shall continue, including those payment obligations that are accrued and unpaid as of the effective date of such termination, provided that Company may pursue remedies under Section 13.9 and offset damages and costs as provided in Section 13.9.

**(iii)** Company shall thereafter continue to have all rights previously licensed to Company hereunder, itself or with a Third Party or through a Third Party sublicensee, to Develop, Manufacture and Commercialize any and all Products at Company's discretion, in accordance with and subject to the terms and conditions of this Agreement.



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**(iv)** All licenses granted to Company shall continue in full force and effect, in accordance with and subject to the terms and conditions of this Agreement, and all rights of MacroGenics with respect to the Co-Promote Option shall cease.

**(v)** The JSC (if then in existence) or a committee formed by the Parties for purposes of effecting transition of responsibilities (if the JSC is not then in existence) shall coordinate the wind-down of MacroGenics' efforts under this Agreement and MacroGenics, as soon as reasonably practicable after the effective date of such termination, shall provide to Company, as applicable and to the extent permitted under any applicable Third Party contract, any material Information, including copies of all Clinical Trial data and results, Controlled by MacroGenics that relates solely to the Products. MacroGenics will cooperate with Company to provide a transfer of such material Information. At Company's request, MacroGenics shall use reasonable efforts to (x) assign to Company any and all Third Party agreements to which MacroGenics or any of its Affiliates are a party that relate exclusively to Development, Commercialization and Manufacture of the Products in the Field in the Territory or (y) if such assignment is not permitted under the relevant Third Party agreement: (1) grant to Company other rights to provide to Company the benefit of such non-assignable agreement, at Company's expense, to the extent permitted under the terms of such non-assignable agreement; or (2) to the extent not permitted under the terms of such non-assignable agreement, the Parties shall discuss in good faith an alternative solution to enable Company to receive, at Company's expense, the benefit of the terms of such non-assignable agreement. In the event one or more Products, or any materials relating to such Products, are Manufactured by MacroGenics or its Affiliate, then, upon the written request of Company, MacroGenics shall supply Company with such Product(s) and/or materials [***] and for a transitional period to be mutually agreed upon by the Parties and, if necessary, provide technical assistance reasonably necessary to assist Company in the start-up of Manufacturing of such Product (s) and/or materials, and/or obtaining Regulatory Approval of such Product(s). In addition to the actions contemplated in this Section 13.8(b), MacroGenics shall take such other actions and execute such other instruments, assignments and documents as reasonably requested by Company as may be necessary to effect the transfer of rights to such Product(s) hereunder to Company.

**13.9 Remedies**. Except as otherwise explicitly set forth in this Agreement, termination or expiration of this Agreement shall not relieve the Parties of any liability or obligation which accrued hereunder prior to the effective date of such termination or expiration, nor prejudice either Party's right to obtain performance of any obligation. Each Party shall be free, pursuant to ARTICLE 14, to seek, without restriction as to the number of times it may seek, damages, costs and remedies that may be available to it under Applicable Law or in equity and shall be entitled to offset the amount of any damages and costs obtained against the other Party in a final determination under Section 14.3, against any amounts otherwise due to such other Party under this Agreement.



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**13.10 Survival** . In the event of termination or expiration of this Agreement, in addition to the provisions of this Agreement that continue in effect in accordance with their terms, the following provisions of this Agreement shall survive: ARTICLE 1 (Definitions) (as applicable), ARTICLE 12 (Confidentiality), ARTICLE 13 (Term and Termination), ARTICLE 14 (Dispute Resolution), ARTICLE 15 (Indemnification) (solely as to activities arising during the Term or as to any activities conducted in the course of a Party's exercise of a license surviving the Term), ARTICLE 16 (Miscellaneous); Sections 3.2(d), 3.4 (No Implied Licenses), 4.5 (Records), 5.3(a) (Company Responsibilities) (solely with respect to activities undertaken prior to the effective date of expiration or termination of this Agreement), 9.8 (Currency), 9.11 (Taxes), 9.12 (Tax Returns), 9.13 (Audit), 9.14 (Late Payment), 10.1 (Ownership of Inventions), Section 10.2 (Disclosure of Inventions) and 11.4 (No Other Representations or Warranties); and any other provisions of this Agreement that are necessary to interpret or effectuate the intent of the foregoing provisions.

## ARTICLE 14
## DISPUTE RESOLUTION

**14.1 Exclusive Dispute Resolution Mechanism** . The Parties agree that the procedures set forth in this ARTICLE 14 shall be the exclusive mechanism for resolving any dispute, controversy or claim between the Parties that may arise from time to time pursuant to this Agreement relating to either Party's rights or obligations hereunder (each, a " **Dispute** ", and collectively, the " **Disputes** ") that is not resolved through good faith negotiation between the Parties. For the avoidance of doubt, this ARTICLE 14 shall not apply to any decision with respect to which a Party has final decision-making authority hereunder. Any Dispute, including Disputes that may involve the parent company, subsidiaries, or affiliates under common control of any Party, shall be resolved in accordance with this ARTICLE 14.

**14.2 Resolution by Executive Officers** . Except as otherwise provided in this ARTICLE 14, in the event of any Dispute regarding the construction or interpretation of this Agreement or the rights, duties or liabilities of either Party hereunder, the Parties shall first attempt in good faith to resolve such Dispute by negotiation and consultation between themselves. In the event that such Dispute is not resolved on such basis within [***] (unless otherwise agreed by the Parties), either Party may, by written notice to the other Party, refer the Dispute to the Executive Officers for attempted resolution by good faith negotiation within [***] after such notice is received (unless otherwise agreed by the Parties). Each Party may, in its discretion, seek resolution of any and all Disputes that are not resolved under this Section 14.2 in accordance with Section 14.3.

**14.3 Arbitration** . If the Parties fail to resolve the Dispute pursuant to Section 14.2, and a Party desires to pursue resolution of the Dispute, the Dispute shall be submitted by either Party for resolution in arbitration pursuant to the then current [***], except where they conflict with these provisions, in which case these provisions control. The arbitration will be held in [***]. All aspects of the arbitration shall be treated as confidential.



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**(a) Arbitrators** .

**(i)** The arbitrators will be chosen from the [***], unless a candidate not on such panel is approved by both Parties. Each arbitrator shall be a lawyer with at least [***] experience with a law firm or corporate law department of over [***] lawyers or who was a judge of a court of general jurisdiction. To the extent that the Dispute requires special expertise, the Parties will so inform CPR prior to the beginning of the selection process.

**(ii)** The arbitration tribunal shall consist of [***] arbitrators, of whom each Party shall designate one in accordance with the "screened" appointment procedure provided in CPR Rule 5.4. The chair will be chosen in accordance with CPR Rule 6.4. If, however, the aggregate award sought by the Parties is less than [***] and equitable relief is not sought, a single arbitrator shall be chosen in accordance with the CPR Rules.

**(iii)** The Parties agree to select the arbitrator(s) within [***] of initiation of the arbitration.

**(b) Procedures** .

**(i)** The hearing will be concluded within [***] after selection of the arbitrator(s) and the award will be rendered within [***] of the conclusion of the hearing, or of any post-hearing briefing, which briefing will be completed by both sides within [***] after the conclusion of the hearing. In the event the Parties cannot agree upon a schedule, then the arbitrator(s) shall set the schedule following the time limits set forth above as closely as practical.

**(ii)** The hearing will be concluded in [***] or less. Multiple hearing days will be scheduled consecutively to the greatest extent possible. A transcript of the testimony adduced at the hearing shall be made and shall be made available to each Party.

**(iii)** The arbitrator(s) shall be guided, but not bound, by the [***] (" **Protocol** "). The Parties will attempt to agree on modes of document disclosure, electronic discovery, witness presentation, etc. within the parameters of the Protocol. If the Parties cannot agree on discovery and presentation issues, the arbitrator(s) shall decide on presentation modes and provide for discovery within the Protocol, understanding that the Parties contemplate reasonable discovery.

**(iv)** The arbitrator(s) shall decide the merits of any Dispute in accordance with the law governing this Agreement, without application of any principle of conflict of laws that would result in reference to a different law. The arbitrator(s) may not apply principles such as "amiable compositeur" or "natural justice and equity."

**(v)** The arbitrator(s) are expressly empowered to decide dispositive motions in advance of any hearing and shall endeavor to decide such motions as would a United States District Court Judge sitting in the jurisdiction whose substantive law governs.



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**(vi)** The arbitrator(s) shall render a written opinion stating the reasons upon which the award is based. The Parties consent to the jurisdiction of the United States District Court for the district in which the arbitration is held for the enforcement of these provisions and the entry of judgment on any award rendered hereunder. Should such court for any reason lack jurisdiction, any court with jurisdiction may act in the same fashion.

**14.4 Provisional Remedies** . Each Party has the right to seek from the appropriate court provisional remedies such as attachment, preliminary injunction, replevin, etc. to avoid irreparable harm, maintain the *status quo* , or preserve the subject matter of the Dispute. [***] does not apply to this Agreement

**14.5 Confidentiality** . Any and all activities conducted under this ARTICLE 14 shall be deemed Confidential Information of each of the Parties, and shall be subject to ARTICLE 12 above.

## ARTICLE 15
## INDEMNIFICATION

**15.1 Indemnification by Company.** Company hereby agrees to defend, indemnify and hold harmless MacroGenics and its Affiliates, and each of their respective directors, officers, employees, agents and representatives (each, a " **MacroGenics Indemnitee** ") from and against any and all claims, suits, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and attorneys' fees (collectively, the " **Losses** "), to which any MacroGenics Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any Third Party (each, a " **Claim** "), to the extent such Losses arise directly or indirectly out of: (a) the practice by Company or its Affiliate or sublicensee of any license granted to it under this Agreement; (b) the manufacture, use, handling, storage, sale, marketing, export, import or other disposition of any Compound or Product by Company or its Affiliate or sublicensee; (c) the breach by Company of any warranty, representation, covenant or agreement made by Company in this Agreement or, if MacroGenics exercises the Co-Promote Option, the Co-Promotion Agreement; or (d) the gross negligence, illegal conduct or willful misconduct (including to the extent such gross negligence, illegal conduct or willful misconduct gives rise to product liability Claims under any legal theory) of Company or its Affiliate or sublicensee, or any officer, director, employee, agent or representative thereof; except, with respect to each of clauses (a) through (d) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any MacroGenics Indemnitee or the breach by MacroGenics of any warranty, representation, covenant or agreement made by MacroGenics in this Agreement. Notwithstanding the foregoing, this Section 15.1 shall not apply to any Losses of a MacroGenics Indemnitee that arise during the Co-Funding Term, to the extent such Losses are Commercialization Expenses that are included in MacroGenics' allocation of the N.A. Profit/Loss.



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**15.2 Indemnification by MacroGenics** . MacroGenics hereby agrees to defend, indemnify and hold harmless Company and its Affiliates and each of their respective directors, officers, employees, agents and representatives (each, a " **Company Indemnitee** ") from and against any and all Losses to which any Company Indemnitee may become subject as a result of any Claim to the extent such Losses arise directly or indirectly out of: (a) the practice by MacroGenics or its Affiliate or its licensee (other than Company or its Affiliates or sublicensee) of any retained or reverted license right under ARTICLE 3 to Develop, Manufacture or Commercialize any Compound or Product pursuant to the terms of this Agreement or, if MacroGenics exercises its Co-Promote Option, any Co-Promotion Agreement; (b) the manufacture, use, handling, storage, sale or other disposition of any Compound or Product by MacroGenics or its Affiliate or its licensee (other than Company or its Affiliate or sublicensee); (c) the breach by MacroGenics of any warranty, representation, covenant or agreement made by MacroGenics in this Agreement, or, if MacroGenics exercises the Co-Promote Option, the Co-Promotion Agreement; or (d) the gross negligence, illegal conduct, or willful misconduct (including to the extent such gross negligence, illegal conduct or willful misconduct gives rise to product liability Claims under any legal theory) of MacroGenics or its Affiliate or its licensee (other than Company or its Affiliate or sublicensee), or any officer, director, employee, agent or representative thereof; except, with respect to each of clauses (a) through (d) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any Company Indemnitee or the breach by Company of any warranty, representation, covenant or agreement made by Company in this Agreement. Notwithstanding the foregoing, this Section 15.2 shall not apply to any Losses of a Company Indemnitee that arise during the Co-Funding Term, to the extent such Losses are Commercialization Expenses that are included in Company's allocation of N.A. Profit/Loss.

**15.3 Indemnification Procedures** .

**(a)** **Notice** . Promptly after a MacroGenics Indemnitee or a Company Indemnitee (each, an " **Indemnitee** ") receives notice of a pending or threatened Claim, such Indemnitee shall give written notice of the Claim to the Party from whom the Indemnitee is entitled to receive indemnification pursuant to Sections 15.1 or 15.2, as applicable (the " **Indemnifying Party** "). However, an Indemnitee's delay in providing or failure to provide such notice shall not relieve the Indemnifying Party of its indemnification obligations, except to the extent it can demonstrate prejudice due to the delay or lack of notice.

**(b)** **Defense** . Upon receipt of notice under this Section 15.3 from the Indemnitee, the Indemnifying Party will have the duty to either compromise or defend, at its own expense and by counsel (reasonably satisfactory to Indemnitee) such Claim. The Indemnifying Party will promptly (and in any event not more than [***] after receipt of the Indemnitee's original notice) notify the Indemnitee in writing that it acknowledges its obligation (which acknowledgment shall not be deemed or construed as an admission of liability, either under this ARTICLE 15 or otherwise) to indemnify the Indemnitee with respect to the Claim pursuant to this ARTICLE 15 and of its intention to compromise or defend such Claim. Once the



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Indemnifying Party gives such notice to the Indemnitee, the Indemnifying Party is not liable to the Indemnitee for the fees of other counsel or any other expenses subsequently incurred by the Indemnitee in connection with such defense, other than the Indemnitee's reasonable Third Party expenses related to its investigation and cooperation. As to all Claims as to which the Indemnifying Party has assumed control under this Section 15.3(b), the Indemnitee shall have the right to employ separate counsel and to participate in the defense of a Claim (as reasonably directed by the Indemnifying Party) at its own expense.

**(c)** **Cooperation** . The Indemnitee will cooperate fully with the Indemnifying Party and its legal representatives in the investigation and defense of any Claim. The Indemnifying Party shall keep the Indemnitee informed on a reasonable and timely basis as to the status of such Claim (to the extent the Indemnitee is not participating in the defense of such Claim) and conduct the defense of such Claim in a prudent manner.

**(d)** **Settlement** . If an Indemnifying Party assumes the defense of a Claim, no compromise or settlement of such Claim may be effected by the Indemnifying Party without the Indemnitee's written consent (such consent not to be unreasonably withheld, delayed or conditioned), unless: (1) there is no finding or admission of any violation of law or any violation of the rights of any Person and no effect on any other claims that may be made against the Indemnitee; (2) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (3) the Indemnitee's rights under this Agreement are not adversely affected. If the Indemnifying Party fails to assume defense of a Claim within a reasonable time, the Indemnitee may settle such Claim on such terms as it deems appropriate with the consent of the Indemnifying Party (such consent not to be unreasonably withheld, delayed or conditioned), and the Indemnifying Party shall be obligated to indemnify the Indemnitee for such settlement as provided in this ARTICLE 15.

**(e)** **Product Liability Claims** . Solely for purposes of coordinating the defense of any claims of a Third Party involving or that could result in Product Liabilities included in the definition of Global Development Costs, such claims will be treated as if they were Claims covered by this Section 15.3 and Company shall be deemed to be the "Indemnifying Party" under this Section 15.3 for such claims.

**15.4 Insurance** . Each Party shall, at its own expense, procure and maintain during the period commencing on the Execution Date through the period of Commercialization and for a period of [***] thereafter, insurance policies, including product liability insurance, adequate to cover its obligations hereunder and which are consistent with normal business practices of prudent companies similarly situated; provided , however , that in no event shall such product liability insurance be written in amounts less than [***] and annual aggregate. All such insurance shall include worldwide coverage. Prior to the initiation of any Clinical Trial, the Party responsible for such Clinical Trial shall secure, and maintain in full force and effect, clinical trial insurance as required by Applicable Law in those territories where such Clinical Trial shall be conducted.



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Upon request, each Party shall provide the other Party with a certificate of insurance evidencing the coverage required under this Section 15.4. Such insurance shall not be construed to create a limit of a Party's liability with respect to its indemnification obligations under this ARTICLE 15. Each Party shall provide the other Party with prompt written notice of cancellation, non-renewal or material change in such insurance that could materially adversely affect the rights of such other Party hereunder, and shall provide such notice within [***] after any such cancellation, non-renewal or material change. The Parties acknowledge and agree that Company may meet its obligations under this Section 15.4 through self-insurance.

**15.5 Limitation of Liability** . EXCEPT TO THE EXTENT INCLUDED IN LOSSES RESULTING FROM A THIRD PARTY CLAIM FOR WHICH ONE PARTY IS OBLIGATED TO INDEMNIFY THE OTHER PARTY (OR AN INDEMNITEE OF SUCH OTHER PARTY) PURSUANT TO THIS ARTICLE 15 AND ANY BREACH OF ARTICLE 12 (CONFIDENTIALITY), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE OTHER PARTY'S AFFILIATES OR SUBLICENSEES) IN CONNECTION WITH THIS AGREEMENT FOR LOST REVENUE, LOST PROFITS, LOST SAVINGS, LOSS OF USE, DAMAGE TO GOODWILL, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES UNDER ANY THEORY, INCLUDING CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

## ARTICLE 16
## MISCELLANEOUS

**16.1 Notices** . All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given on the date delivered, if delivered personally, or on the next Business Day after being sent by reputable overnight courier (with delivery tracking provided, signature required and delivery prepaid), in each case, to the Parties at the following addresses, or on the date sent and confirmed by electronic transmission to the telecopier number specified below (or at such other address or telecopier number for a Party as shall be specified by notice given in accordance with this Section 16.1).

**(a)** If to Company:

Janssen Biotech, Inc.
800/850 Ridgeview Drive
Horsham, PA 19044
Attention: [***]
Fax: [***]

with copies to:

Johnson & Johnson Law Department
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Attention: [***]
Fax: [***]



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**(b)** If to MacroGenics:

MacroGenics, Inc.
9640 Medical Center Drive
Rockville, MD 20850
Attention: [***]

with copies to:

MacroGenics, Inc.
9640 Medical Center Drive
Rockville, MD 20850
Attention: [***]

**16.2 Governing Law**. This Agreement and all disputes arising out of or related to this Agreement or any breach hereof shall be governed by and construed under the laws of the State of [***], without giving effect to any choice of law principles that would require the application of the laws of a different state.

**16.3 Change of Control of MacroGenics**.

**(a)** MacroGenics (or its successor) shall provide notice to Company of any Change of Control of MacroGenics within [***] after the date upon which the Change of Control closes or otherwise becomes effective.

**(b)** On or before the date that is [***] after the date upon which a Change of Control of MacroGenics closes or otherwise becomes effective, Company may terminate this Agreement in its entirety; or, in Company's sole and absolute discretion, Company may require (and MacroGenics, or its successor, shall perform, as applicable) any one or more of the following actions: (1) the Parties shall dissolve the JSC and after such dissolution Company shall solely have all rights (including all decision-making rights) and shall perform all activities assigned by this Agreement to the JSC; or (2) MacroGenics and its successor shall adopt reasonable written procedures, approved by Company, to prevent disclosure of Company's Confidential Information.

**16.4 Assignment**. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other Party (it being understood that neither a merger in respect of which such Party is a constituent corporation or entity, nor a change in the beneficial ownership of the voting securities of such Party, shall be deemed to be an assignment for purposes of this Section 16.4), except that a Party may make such an assignment



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without the other Party's consent to (a) an Affiliate or (b) subject to Section 16.3 above, an acquirer of all or substantially all of the property and assets of the Party in a sale of assets or other similar transaction. Any successor or assignee of rights and/or obligations permitted hereunder shall, in writing to the other Party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this Section 16.4 shall be null, void and of no legal effect.

**16.5 Designation of Affiliates**. Each Party may discharge any obligation and exercise any right hereunder through delegation of its obligations or rights to any of its Affiliates. Each Party hereby guarantees the performance by its Affiliates of such Party's obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by a Party's Affiliate of any of such Party's obligations under this Agreement shall be deemed a breach by such Party, and the other Party may proceed directly against such Party without any obligation to first proceed against such Party's Affiliate.

**16.6 Relationship of the Parties**. It is expressly agreed that MacroGenics, on the one hand, and Company, on the other hand, are independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither MacroGenics nor Company shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other, without the prior written consent of the other Party to do so. All individuals employed by a Party shall be employees of that Party and not of the other Party and all costs and obligations incurred by reason of such employment shall be for the account and expense of such Party.

**16.7 Force Majeure**. Both Parties shall be excused from the performance of their obligations under this Agreement to the extent that such performance is prevented by Force Majeure and the nonperforming Party promptly provides notice of such Force Majeure circumstances to the other Party. Such excuse shall be continued so long as the condition constituting Force Majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. Notwithstanding the foregoing, a Party shall not be excused from making payments owed hereunder because of a Force Majeure affecting such Party. If a Force Majeure persists for more than [***], then the Parties shall discuss in good faith the modification of the Parties' obligations under this Agreement in order to mitigate the delays caused by such Force Majeure. In the event a Party is prevented from performing its obligations under this Agreement due to Force Majeure for more than [***] according to this Section 16.7, the other Party shall have the right to terminate this Agreement upon [***] notice after the expiration of such period. A termination under this Section 16.7 by either Party shall be treated as a termination under Section 13.3 above and the corresponding provisions for termination under Section 13.3 shall apply except to the extent the affected Party is prevented from performing due to the Force Majeure.

**16.8 Entire Agreement; Amendments**. This Agreement, including the Exhibits and Schedules hereto, sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties with respect to the subject matter hereof and supersedes, as of the Execution Date, all prior



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and contemporaneous agreements and understandings between the Parties with respect to the subject matter hereof, including the Prior CDA. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth herein and therein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party. In the event of any inconsistency between the body of this Agreement and either any Exhibits or Schedules to this Agreement or any subsequent agreements ancillary to this Agreement, unless otherwise express stated to the contrary in such Exhibit, Schedule or ancillary agreement, the terms contained in this Agreement shall control.

**16.9 Severability**. If any one or more of the provisions of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make good faith efforts to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Agreement may be realized.

**16.10 English Language**. This Agreement shall be written in and executed in, and all other communications under or in connection with this Agreement shall be in, the English language. Any translation into any other language shall not be an official version hereof or thereof, and in the event of any conflict in interpretation between the English version and such translation, the English version shall control.

**16.11 Waiver and Non-Exclusion of Remedies**. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. The waiver by either Party of any right hereunder or of the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by such other Party whether of a similar nature or otherwise. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by Applicable Law or otherwise available except as expressly set forth herein.

**16.12 Further Assurance**. Each Party shall duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents, and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof.

**16.13 Headings**. The headings of each Article and Section in this Agreement have been inserted for convenience of reference only and are not intended to limit or expand on the meaning of the language contained in the particular Article or Section.

**16.14 Construction**. Whenever this Agreement refers to a number of days without using a term otherwise defined herein, such number refers to calendar days. Except where the context otherwise requires, (a) wherever used, the singular shall include the plural, the plural shall include



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the singular; (b) the use of any gender shall be applicable to all genders; (c) the terms “including,” “include,” “includes” or “for example” shall not limit the generality of any description preceding such term and, as used herein, shall have the same meaning as “including, but not limited to,” and/or “including, without limitation”; (d) the words “herein”, “hereof” and hereunder”, and words of similar import, refer to this Agreement in its entirety and not to any particular provision hereof; (d) the word “or” has the inclusive meaning that is typically associated with the phrase “and/or”; (e) the word “will” means “shall”; (f) if a period of time is specified and dates from a given day or Business Day, or the day or Business Day of an act or event, it is to be calculated exclusive of that day or Business Day; (g) “Dollar”, “USD” or “$” means U.S. Dollars; (h) references to a particular Person include such Person’s successors and assigns to the extent not prohibited by this Agreement; (i) a capitalized term not defined herein but reflecting a different part of speech than a capitalized term which is defined herein shall be interpreted in a correlative manner; and (j) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein). The language of this Agreement shall be deemed to be the language mutually chosen by the Parties and no rule of strict construction shall be applied against either Party. Each Party represents that it has been represented by legal counsel in connection with this Agreement and acknowledges that it has participated in the drafting hereof.

**16.15 Counterparts** . This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by .pdf or other electronically transmitted signatures and such signatures shall be deemed to bind each Party as if they were the original signatures.

**SIGNATURE PAGE FOLLOWS**



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**IN WITNESS WHEREOF** , the Parties have signed this Agreement as of the date(s) set forth below.

**Janssen Biotech, Inc.**

By: /s/ Scott White
Name: Scott White
Title: Vice President, North America Oncology
Date: December 19, 2014

**MacroGenics, Inc.**

By: /s/ Scott Koenig, M.D., Ph.D.
Name: Scott Koenig, M.D., Ph.D.
Title: President and CEO
Date: December 19, 2014

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**EXHIBIT A**

**Commercialization Expenses**

" **Advertising and Market Research Expenses** " means all Third Party Expenses related to: (a) conducting and monitoring professional and consumer appraisals of the [***] in the Northern American Territory, such as market share services (e.g., IMS data), pricing analysis, special research testing and focus groups; and (b) advertising and promotion of the Initial Product in the Northern American Territory [***] associated with Product advertising.

" **Commercialization Expenses" means those expenses incurred by either Party (as detailed below) for the purpose of, and directly and specifically attributable to, the Commercialization of the Initial Product in the Northern American Territory, to the extent such expenses are incurred by either Party or for such Party's account and are: (i) [***] Expenses, (ii) any fees per-Detail paid to MacroGenics pursuant to the Co-Promotion Agreement, (iii) [***] (xiii) any losses, damages, fees, costs and other liabilities associated with [***] arising (except to the extent one of the Parties is solely responsible [***] provided , however , that any such expenses incurred by MacroGenics shall be deemed to be Commercialization Expenses only to the extent that MacroGenics is permitted to conduct the underlying activity pursuant to the Agreement or the Co-Promotion Agreement or to the extent that the Parties mutually agree that MacroGenics may conduct the underlying activity. For purposes of clarity [***].**

Commercialization Expenses shall not include: (a) any Development expenses including [***] in the Northern American Territory; [***]. In addition, there shall be no double counting of any expense (or deduction from Net Sales) that could fall within multiple categories of Commercialization Expenses.

" **Company Detailing Expenses** " means Selling Costs incurred by a Party in performance of Details, where such Selling Costs shall be calculated on the basis of [***].

" **Cost Per PDE** " means the [***].

" **Distribution Expenses** " means [***] of Net Sales of the Initial Product in the Northern American Territory. It is understood that such amount shall be deemed to cover all Third Party Expenses and FTE Costs identifiable to the distribution of the Initial Product in the Northern American Territory, [***].

" **EAP Expenses** " means Third Party Expenses and FTE Costs to conduct early access programs, named patient programs, and compassionate use programs for the [***] in the Northern American Territory.

" **Education Expenses** " means all Third Party Expenses specifically incurred to educate health care professionals licensed to practice in the Northern American Territory with respect to the [***] in the Northern American Territory through any means not covered in the definition of "Advertising and Marketing Research Expenses", but including [***]

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" **Manufacturing Expenses** " means, with respect to the Initial Product, the reasonable and necessary internal and Third Party invoiced costs, determined in accordance with GAAP and the terms and conditions of this Agreement, incurred in Manufacturing or acquisition of the Initial Product for sale in the Northern American Territory. Manufacturing costs and acquisition costs are comprised of Standard Cost of Goods Manufactured, Cost Variances and Other Costs Not Included in Standard, where:

**(a)** " **Standard Cost of Goods Manufactured** " are budgeted unit costs established to facilitate inventory evaluation, planning and budgetary control as well as to motivate optimal productivity and efficiency, including [***]

**(b)** " **Cost Variances** " are actual costs of manufacturing versus Standard Cost of Goods Manufactured and include [***]; and

**(c)** " **Other Costs Not Included in Standard** " are actual costs of manufacturing which are incurred in the normal course of business but are not included in the Standard Cost of Goods Manufactured including [***]

For clarity, royalty payments due to MacroGenics under this Agreement shall not be included in Manufacturing Expenses.

" **Marketing Expenses** " means the sum of Marketing Management Expenses, Advertising and Market Research Expenses and Education Expenses.

" **Marketing Management Expenses** " means Commercial FTE Costs of either Party arising from the management of Commercialization activities for the [***] provided that, in each case, such costs may be allocated to the [***] within and across Company's operating units and, provided further , that such allocation is made no less favorable to the [***] than to the internal allocation to Company's other products.

" **Medical Affairs Expenses** " means (a) Third Party Expenses and FTE Costs reasonably necessary and identifiable to the [***] incurred with respect to: medical and scientific information and response [***]

" **Other Costs** " means including both product costs and administrative costs that are [***] excluding funding allocated [***] (to the extent such [***], provided that, if either [***] Commercialization of the [***], then the finance teams of the Parties will align on the inclusion and the appropriate allocation methodology for such [***] legal costs directly related to, and specifically attributable to, [***]

" **PDE** " means a primary detailing equivalent, [***] provided , however , that, prior to the First Commercial Sale of the Initial Product in the Northern American Territory, the JSC shall determine how to adjust the value of [***].

" **Phase 4 Trial Expenses** " means all Third Party Expenses incurred for the Northern American Territory by Company related to a Phase 4 Trial for the Initial Product in the Northern American Territory, including expenses arising from: (a) the activities related to the performance

of the Phase 4 Trial; (b) Manufacturing Expenses for Product used in connection with such Phase 4 Trial; (c) preparation, filing, and maintenance of related Regulatory Documentation; and (d) any Product Liabilities relating to a Product being used in the course of such Phase 4 Trial, provided that [***] and shall be treated as the responsibility of such [***], provided that Phase 4 Trial Expenses shall not include expenses relating to: [***] Phase 4 Trials which address [***] requirements for a [***] in which there are [***] any Phase 4 Trial intended [***] For purposes of clarity, Phase 4 Trial Expenses shall not include [***] for Phase 4 Trials but shall include the costs for [***].

" **Recall Expenses** " means Third Party Expenses and FTE Costs directly associated with notification, retrieval and return of the Initial Product in the Northern American Territory, destruction of such returned Initial Product, replacement Initial Product and distribution of the replacement Initial Product, in each case that are incurred with respect to a recall conducted in accordance with Section 5.4 of the Agreement, provided that the foregoing Recall Expenses are limited to recalls that are not caused by the gross negligence, illegal conduct or willful misconduct of a Party.

" **Sales Rep PDE Total** " means the total number of PDEs that one full time equivalent Sales Rep FTE is planned to deliver in a Calendar Year, which number shall be approved by the JSC prior to the beginning of each Calendar Year.

" **Sales Rep FTE** " means [***] hours of work devoted to or in direct support of Detailing the Initial Product in the Northern American Territory that is carried out by (a) one or more qualified employees or contractors or consultants of Company or its Affiliates or (b) one or more qualified employees of MacroGenics or its Affiliates, [***].

" **Sales Rep FTE Rate** " means a rate of [***] per Sales Rep FTE per Calendar Year (prorated for the period beginning on the Effective Date and ending on the last day of the first Calendar Year of the Term); provided , however , that such rate shall be increased or decreased annually beginning on January 4, 2016 by the [***]. The Sales Rep FTE Rate is "fully burdened" and covers employee salaries, benefits, travel and other costs.

" **Selling Costs** " means the total number of PDEs delivered by or on behalf of a Party multiplied by the Cost Per PDE.

" **Third Party Obligation Expenses** " means Third Party Obligations incurred by a Party with respect to the Initial Product for the Northern American Territory, provided that, with respect to any Third Party Obligation that is not specifically allocated to the Initial Product and/or the Northern American Territory, Company shall use a reasonable method to allocate a portion of such Third Party Obligation to the Initial Product in the Northern American Territory for purposes of determining the Third Party Obligation Expenses.

Nothing in this Exhibit A is intended to modify or alter MacroGenics' rights or obligations, or to grant additional rights to MacroGenics, to perform Development or Commercialization activities pursuant to the Agreement.

*** = *Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.*

**EXHIBIT B**

**Global Development Plan**

***

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# EXHIBIT C

## MacroGenics Patents

| Title | Pending Application Number | Foreign Rights |
|---|---|---|
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | [***] |
| [***] | [***] | |

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**EXHIBIT D**

**MGD011**

[***]

[***]

[***]

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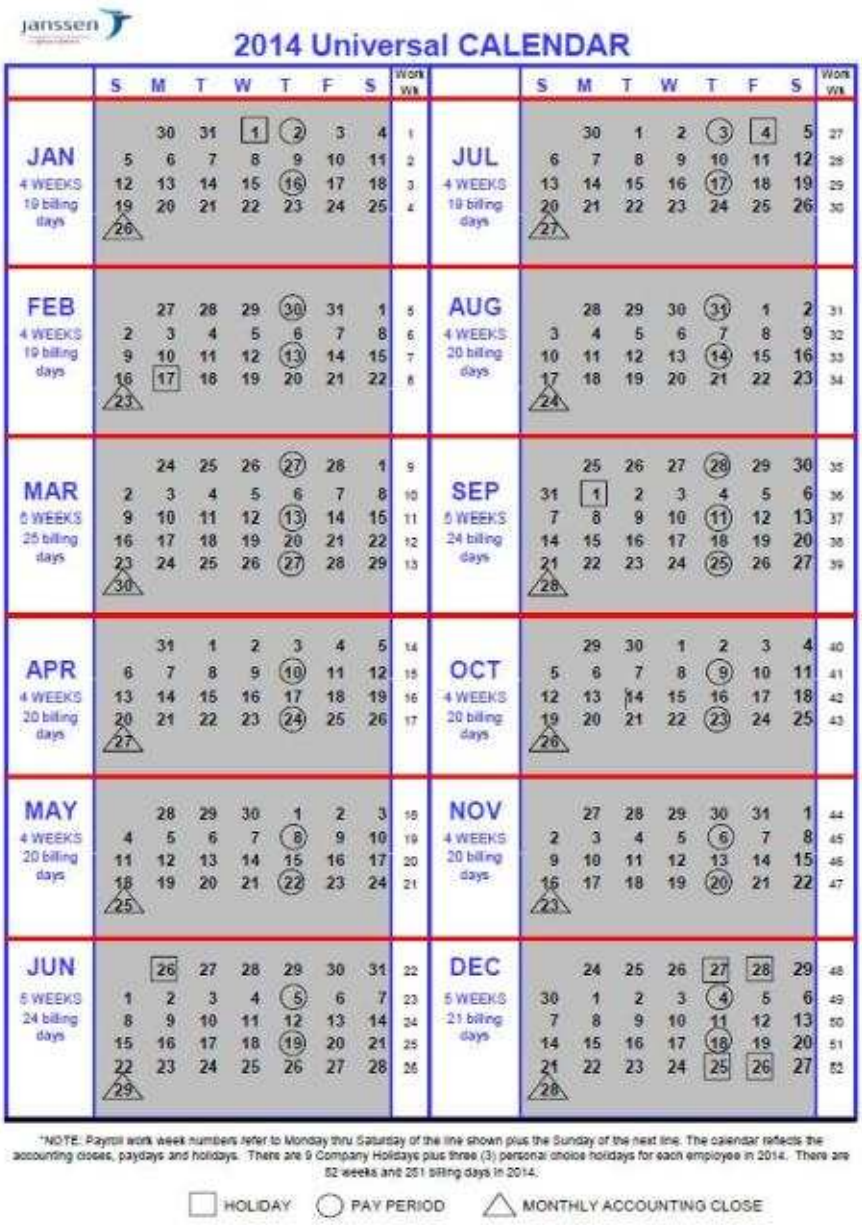
**EXHIBIT E**

**J&J Universal Calendar**

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janssen

## 2015 Universal CALENDAR

| | S | M | T | W | T | F | S | Work Wk |
|---|---|---|---|---|---|---|---|---|
| **JAN** 4 WEEKS 18 billing days | | 29 | 30 | 31 | [1] | [2] | 3 | 1 |
| | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 2 |
| | 11 | 12 | 13 | 14 | (15) | 16 | 17 | 3 |
| | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 4 |
| | △25 | | | | | | | |
| **FEB** 4 WEEKS 19 billing days | | 26 | 27 | 28 | (29) | 30 | 31 | 5 |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 6 |
| | 8 | 9 | 10 | 11 | (12) | 13 | 14 | 7 |
| | 15 | [16] | 17 | 18 | 19 | 20 | 21 | 8 |
| | △22 | | | | | | | |
| **MAR** 5 WEEKS 25 billing days | | 23 | 24 | 25 | (26) | 27 | 28 | 9 |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 10 |
| | 8 | 9 | 10 | 11 | (12) | 13 | 14 | 11 |
| | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 12 |
| | 22 | 23 | 24 | 25 | (26) | 27 | 28 | 13 |
| | △29 | | | | | | | |
| **APR** 4 WEEKS 20 billing days | | 30 | 31 | 1 | 2 | 3 | 4 | 14 |
| | 5 | 6 | 7 | 8 | (9) | 10 | 11 | 15 |
| | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 16 |
| | 19 | 20 | 21 | 22 | (23) | 24 | 25 | 17 |
| | △26 | | | | | | | |
| **MAY** 4 WEEKS 20 billing days | | 27 | 28 | 29 | 30 | 1 | 2 | 18 |
| | 3 | 4 | 5 | 6 | (7) | 8 | 9 | 19 |
| | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 20 |
| | 17 | 18 | 19 | 20 | (21) | 22 | 23 | 21 |
| | △24 | | | | | | | |
| **JUN** 5 WEEKS 24 billing days | | [25] | 26 | 27 | 28 | 29 | 30 | 22 |
| | 31 | 1 | 2 | 3 | (4) | 5 | 6 | 23 |
| | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 24 |
| | 14 | 15 | 16 | 17 | (18) | 19 | 20 | 25 |
| | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 26 |
| | △28 | | | | | | | |

| | S | M | T | W | T | F | S | Work Wk |
|---|---|---|---|---|---|---|---|---|
| **JUL** 4 WEEKS 19 billing days | | 29 | 30 | 1 | (2) | [3] | 4 | 27 |
| | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 28 |
| | 12 | 13 | 14 | 15 | (16) | 17 | 18 | 29 |
| | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 30 |
| | △26 | | | | | | | |
| **AUG** 4 WEEKS 20 billing days | | 27 | 28 | 29 | (30) | 31 | 1 | 31 |
| | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 32 |
| | 9 | 10 | 11 | 12 | (13) | 14 | 15 | 33 |
| | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 34 |
| | △23 | | | | | | | |
| **SEP** 5 WEEKS 24 billing days | | 24 | 25 | 26 | (27) | 28 | 29 | 35 |
| | 30 | 31 | 1 | 2 | 3 | 4 | 5 | 36 |
| | 6 | [7] | 8 | 9 | (10) | 11 | 12 | 37 |
| | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 38 |
| | 20 | 21 | 22 | 23 | (24) | 25 | 26 | 39 |
| | △27 | | | | | | | |
| **OCT** 4 WEEKS 20 billing days | | 28 | 29 | 30 | 1 | 2 | 3 | 40 |
| | 4 | 5 | 6 | 7 | (8) | 9 | 10 | 41 |
| | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 42 |
| | 18 | 19 | 20 | 21 | (22) | 23 | 24 | 43 |
| | △25 | | | | | | | |
| **NOV** 4 WEEKS 20 billing days | | 26 | 27 | 28 | 29 | 30 | 31 | 44 |
| | 1 | 2 | 3 | 4 | (5) | 6 | 7 | 45 |
| | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 46 |
| | 15 | 16 | 17 | 18 | (19) | 20 | 21 | 47 |
| | △22 | | | | | | | |
| **DEC** 6 WEEKS 26 billing days | | 23 | 24 | 25 | [26] | [27] | 28 | 48 |
| | 29 | 30 | 1 | 2 | (3) | 4 | 5 | 49 |
| | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 50 |
| | 13 | 14 | 15 | 16 | (17) | 18 | 19 | 51 |
| | 20 | 21 | 22 | 23 | 24 | [25] | 26 | 52 |
| | 27 | 28 | 29 | 30 | (31) | [1] | 2 | 53 |
| | △3 | | | | | | | |

*NOTE: Payroll work week numbers refer to Monday thru Saturday of the line shown plus the Sunday of the next line. The calendar reflects the accounting closes, paydays and holidays. There are 9 Company Holidays plus three (3) personal choice holidays for each employee in 2015. There are 53 weeks and 255 billing days in 2015.

□ HOLIDAY ○ PAY PERIOD △ MONTHLY ACCOUNTING CLOSE

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**EXHIBIT F**

**Form of Press Release**

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# MacroGenics Enters Collaboration and License Agreement with Janssen to Develop MGD011 for Multiple B-Cell Malignancies

- **MacroGenics licenses MGD011 (CD19 x CD3 DART®) to Janssen**
- **$50 million upfront license fee paid to MacroGenics, and a $75 million equity investment by Johnson & Johnson Innovation – JJDC, Inc.**
- **MacroGenics may elect to fund a portion of late-stage development costs in exchange for a U.S. and Canada profit share**
- **MacroGenics may elect to co-promote in the United States**

ROCKVILLE, Maryland – December 22, 2014 – MacroGenics, Inc. (Nasdaq: MGNX), a clinical-stage biopharmaceutical company focused on discovering and developing innovative monoclonal antibody-based therapeutics for the treatment of cancer, as well as various autoimmune disorders and infectious diseases, today announced a global collaboration and license agreement for MGD011 with Janssen Biotech, Inc. This product candidate incorporates MacroGenics' proprietary platform for Dual-Affinity Re-Targeting (DART®) to simultaneously target CD19 and CD3 for the potential treatment of B-cell malignancies.

Under the terms of the agreement and subject to the termination or expiration of any applicable waiting periods under Hart-Scott-Rodino Act, MacroGenics will receive a $50 million upfront license fee and Johnson & Johnson Innovation – JJDC, Inc. will invest $75 million to purchase 1,923,077 new shares of MacroGenics at a price of $39.00 per share. Janssen will be fully responsible for developing MGD011 following submission of the IND, which is planned for 2015. Assuming successful development and commercialization, MacroGenics could receive up to an additional $575 million in clinical, regulatory and commercialization milestone payments. MacroGenics may elect to fund a portion of late-stage clinical development in exchange for a profit share in the U.S. and Canada. If commercialized, MacroGenics would be eligible to receive double-digit royalties on any global net sales and has the option to co-promote the molecule with Janssen in the U.S.

"MGD011 is a promising product candidate and one that we believe is meaningfully differentiated from competing CD19-directed therapies," said Scott Koenig, M.D., Ph.D., President and CEO of MacroGenics. "Janssen represents the ideal partner for this product candidate, given their track record of successfully developing and commercializing transformative oncology therapies and their experience in the B-cell malignancy area. We look forward to working with Janssen to significantly expand the development of MGD011 and maximize its value."

**About MGD011**

MGD011, a humanized CD19 x CD3 bispecific DART protein, is being developed for the treatment of B-cell hematological malignancies. CD19, a lymphocyte-specific marker expressed from early B-lymphocyte development through mature memory B cells, is highly represented in B-cell malignancies. This makes it attractive for targeted interventions. MGD011 is designed to redirect T cells, via their CD3 component, to eliminate CD19-expressing cells found in many hematological malignancies. MGD011 has been engineered to address half-life challenges posed by other programs targeting CD19 and CD3. This product candidate has an Fc domain, which allows for extended pharmacokinetic properties and convenient dosing at a once-a-week or longer interval. In addition, MGD011 and the Company's other DART molecules that redirect

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T cells against cancer targets are manufactured using a conventional antibody platform without the complexity of having to genetically modify T cells from individual patients as required by approaches such as chimeric antigen receptor (CAR) T-cells.

**About MacroGenics, Inc.**

MacroGenics is a clinical-stage biopharmaceutical company focused on discovering and developing innovative monoclonal antibody-based therapeutics for the treatment of cancer, as well as autoimmune disorders and infectious diseases. The Company generates its pipeline of product candidates from its proprietary suite of next-generation antibody-based technology platforms. The combination of MacroGenics' technology platforms and protein engineering expertise has allowed the Company to generate promising product candidates and enter into several strategic collaborations with global pharmaceutical and biotechnology companies. For more information, please see the Company's website at www.MacroGenics.com. MacroGenics and DART are registered trademarks of MacroGenics, Inc.

**Cautionary Note on Forward-Looking Statements**

Any statements in this press release about future expectations, plans and prospects for the Company, including statements about the Company's strategy, future operations, clinical development of the Company's therapeutic candidates, milestone or opt-in payments from the Company's collaborators, the Company's future expectations and plans and prospects and other statements containing the words "anticipate," "believe," "estimate," "expect," "intend," "may," "plan," "predict," "project," "target," "potential," "will," "would," "could," "should," "continue," and similar expressions, constitute forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. Actual results may differ materially from those indicated by such forward-looking statements as a result of various important factors, including: the uncertainties inherent in the initiation and enrollment of future clinical trials, expectations of expanding ongoing clinical trials, availability and timing of data from ongoing clinical trials, expectations for regulatory approvals, other matters that could affect the availability or commercial potential of the Company's product candidates and other risk factors described in the Company's filings with the Securities and Exchange Commission, including those discussed in the "Risk Factors" section of the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 20, 2014 and the subsequent Quarterly Reports on Form 10-Q. In addition, the forward-looking statements included in this press release represent the Company's views as of the date hereof. The Company anticipates that subsequent events and developments will cause the Company's views to change. However, while the Company may elect to update these forward-looking statements at some point in the future, the Company specifically disclaims any obligation to do so. These forward-looking statements should not be relied upon as representing the Company's views as of any date subsequent to the date hereof.

###

CONTACT:

Jim Karrels, Vice President, CFO
MacroGenics, Inc.
1-301-251-5172, info@MacroGenics.com

Karen Sharma, Vice President
MacDougall Biomedical Communications on behalf of MacroGenics, Inc.

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**SCHEDULE 7.1**

**MacroGenics' Estimated, Non-Binding Manufacturing Costs**

**Estimated** fully burdened manufacturing cost for single clinical production lot of MGD011:

| | |
|---|---|
| [***] | [***] |
| [***] | [***] |
| [***] | [***] |
| [***] | [***] |

[***]

This estimate is based on expanded capacity that MacroGenics will be creating over [***]. Since production under the additional capacity will be a new circumstance, this estimate is still subject to change.

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**Exhibit 10.26**

***Execution Version***

# STOCK PURCHASE AGREEMENT

**By and Between**

**JOHNSON & JOHNSON INNOVATION-JJDC, INC.**

**AND**

**MACROGENICS, INC.**

**Dated as of December 19, 2014**

**TABLE OF CONTENTS**

**STOCK PURCHASE AGREEMENT**

THIS STOCK PURCHASE AGREEMENT (this " **Agreement** "), dated as of December 19, 2014, by and between Johnson & Johnson Innovation-JJDC, Inc. (the " **Investor** "), a New Jersey corporation with its principal place of business at 410 George Street, New Brunswick, New Jersey 08901, and MacroGenics, Inc. (the " **Company** "), a Delaware corporation, with its principal place of business at 9640 Medical Center Drive, Rockville, MD 20850.

WHEREAS, pursuant to the terms and subject to the conditions set forth in this Agreement, the Company desires to issue and sell to the Investor, and the Investor desires to subscribe for and purchase from the Company, certain shares of common stock, par value $0.01 per share, of the Company (the " **Common Stock** "); and

WHEREAS, simultaneously with the execution of this Agreement, the Company and Janssen Biotech, Inc. (" **Janssen** "), an Affiliate of the Investor, are entering into the Collaboration Agreement.

NOW, THEREFORE, in consideration of the following mutual promises and obligations, and for good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Investor and the Company agree as follows:

1. Definitions .

1.1 Defined Terms . When used in this Agreement, the following terms shall have the respective meanings specified therefor below:

" **Affiliate** " shall mean, with respect to any Person, another Person that controls, is controlled by or is under common control with such Person; provided , that with respect to the Investor, "Affiliate" shall mean the Investor's subsidiaries that are wholly-owned directly or indirectly, by the Investor and any Person that wholly-owns, directly or indirectly, the Investor. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. Without limiting the generality of the foregoing, a Person shall be deemed to control another Person if any of the following conditions is met: (i) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares having the right to vote for the election of directors, and (ii) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50%) of the equity interest with the power to direct the management and policies of such non-corporate entities. For the purposes of this Agreement, in no event shall the Investor or any of its Affiliates be deemed Affiliates of the Company or any of its Affiliates, nor shall the Company or any of its Affiliates be deemed Affiliates of the Investor or any of its Affiliates.

" **Agreement** " shall have the meaning set forth in the Preamble, including all Exhibits attached hereto.

“ **Business Day** ” shall mean a day other than Saturday, Sunday or any other day that is designated as a J&J holiday in the J&J Universal Calendar (a copy of which for the years 2014 and 2015 is attached as Exhibit E to the Collaboration Agreement and a copy of which prior to the beginning of each such year for succeeding years shall be provided to the Company).

“ **Collaboration Agreement** ” shall mean the Collaboration and License Agreement, of even date herewith, between Janssen and the Company.

“ **Collaboration Assets** ” shall mean the Compound and any of the Company’s assets and Intellectual Property rights related to the Products or the Compound, each as defined in the Collaboration Agreement.

“ **Collaboration Material Adverse Effect** ” shall mean any effect that, individually or when taken together with all other Effects, has had, or would reasonably be expected to have, (i) a material adverse effect on the Collaboration Assets, taken as a whole, or (ii) a material adverse effect on the Company’s ability to perform its obligations under the Collaboration Agreement.

“ **DOJ** ” means the U.S. Department of Justice.

“ **Effect** ” shall have the meaning set forth in the definition of “Material Adverse Effect.”

“ **FTC** ” means the U.S. Federal Trade Commission.

“ **Governmental Authority** ” shall mean any court, agency, authority, department, regulatory body or other instrumentality of any government or country or of any national, federal, state, provincial, regional, county, city or other political subdivision of any such government or country or any supranational organization of which any such country is a member.

“ **Intellectual Property** ” shall mean trademarks, trade names, trade dress, service marks, copyrights, and similar rights (including registrations and applications to register or renew the registration of any of the foregoing), patents and patent applications, trade secrets, and any other similar intellectual property rights.

“ **Intellectual Property License** ” shall mean any license, permit, authorization, approval, contract or consent granted, issued by or with any Person relating to the use of Intellectual Property.

“ **Investor Agreement** ” shall mean that certain Investor Agreement between the Investor and the Company, to be dated as of the Closing Date, in substantially the form of Exhibit A attached hereto, as the same may be amended from time to time.

“ **Law** ” or “ **Laws** ” shall mean all laws, statutes, rules, regulations, orders, judgments, injunctions and/or ordinances of any Governmental Authority.

" **Material Adverse Effect** " shall mean any change, event or occurrence (each, an " **Effect** ") that, individually or when taken together with all other Effects, has had, or would reasonably be expected to have, (i) a material adverse effect on the business, financial condition, assets or results of operations of the Company and its subsidiaries, taken as a whole, or (ii) a material adverse effect on the Company's ability to perform its obligations, or consummate the Transaction, in accordance with the terms of this Agreement, except in the case of (i) to the extent that any such Effect results from or arises out of: (A) changes in conditions in the United States or global economy or capital or financial markets generally, including changes in interest or exchange rates, (B) changes in general legal, regulatory, political, economic or business conditions or changes in generally accepted accounting principles in the United States or interpretations thereof, (C) acts of war, sabotage or terrorism, or any escalation or worsening of any such acts of war, sabotage or terrorism, (D) earthquakes, hurricanes, floods or other natural disasters, (E) the announcement of this Agreement or the Transaction, (F) any change in the Company's stock price or trading volume or any failure to meet internal projections or forecasts or published revenue or earnings projections of industry analysts (provided that the underlying events giving rise to any such change shall not be excluded), (G) any breach, violation or non-performance by the Investor or any of its Affiliates under the Collaboration Agreement, provided , however , that the Effects excluded in clauses (A), (B), (C) and (D) shall only be excluded to the extent such Effects are not disproportionately adverse on the Company and its subsidiaries as compared to other companies operating in the Company's industry.

" **Organizational Documents** " shall mean (i) the Restated Certificate of Incorporation of the Company, as amended through the date of this Agreement and (ii) the Amended and Restated Bylaws of the Company, as amended through the date of this Agreement.

" **Per Share Purchase Price** " shall mean $39.00; provided , however , that in the event of any stock dividend, stock split, combination of shares, recapitalization or other similar change in the capital structure of the Company after the date hereof and on or prior to the Closing which affects or relates to the Common Stock, the Per Share Purchase Price shall be appropriately adjusted.

" **Person** " shall mean any individual, partnership, limited liability company, firm, corporation, trust, unincorporated organization, government or any department or agency thereof or other entity, as well as any syndicate or group that would be deemed to be a Person under Section 13(d)(3) of the Exchange Act.

" **Third Party** " shall mean any Person (other than a Governmental Authority) other than the Investor, the Company or any Affiliate of the Investor or the Company.

" **Trading Market** " means The Nasdaq Stock Market.

" **Transaction** " means the issuance and sale of the Shares by the Company, and the purchase of the Shares by the Investor, in accordance with the terms hereof.

" **Transaction Agreements** " shall mean this Agreement and the Investor Agreement.

1.2 Additional Defined Terms . In addition to the terms defined in Section 1.1, the following terms shall have the respective meanings assigned thereto in the sections indicated below:

| Defined Term | Section |
|---|---|
| Aggregate Purchase Price | Section 2 |
| Closing | Section 3.1 |
| Closing Date | Section 3.1 |
| Common Stock | Preamble |
| Company | Preamble |
| Company Rights | Section 4.21(b) |
| Company SEC Documents | Section 4.11(a) |
| Exchange Act | Section 4.11(a) |
| GAAP | Section 4.11(c) |
| HSR Act | Section 4.7 |
| Investor | Preamble |
| LAS | Section 4.7 |
| Permits | Section 4.10 |
| Proprietary Rights | Section 4.21(b) |
| Rule 144 | Section 5.9 |
| SEC | Section 4.7 |
| Securities Act | Section 4.11(a) |
| Shares | Section 2 |
| Subsidiaries | Section 4.3 |
| Termination Date | Section 9.1(b) |
| Transfer Agent | Section 10.5(c) |

2. Purchase and Sale of Common Stock . Subject to the terms and conditions of this Agreement, at the Closing, the Company shall issue and sell to the Investor, free and clear of all liens, other than any liens arising as a result of any action by the Investor, and the Investor shall purchase from the Company, a number of shares of Common Stock (the " **Shares** ") equal to the amount obtained by dividing the aggregate purchase price of US $75,000,000.00 (the " **Aggregate Purchase Price** ") by the Per Share Purchase Price.

3. Closing Date; Deliveries .

3.1 Closing Date . Subject to the satisfaction or waiver of all the conditions to the Closing set forth in Sections 6, 7 and 8 hereof, the closing of the purchase and sale of the Shares hereunder (the " **Closing** ") shall be held on the third (3 rd ) Business Day after the satisfaction of the conditions to Closing set forth in Sections 6, 7 and 8 (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction at such time of such conditions), at 9:00 a.m. Boston time, at the offices of Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, Massachusetts 02109, or at such other time, date and location as the parties may agree. The date the Closing occurs is hereinafter referred to as the " **Closing Date** ."

3.2 Deliveries .

(a) Deliveries by the Company . At the Closing, the Company shall deliver to the Investor the Shares, registered in the name of the Investor, and the Company shall instruct its transfer agent to register such issuance at the time of such issuance. The Company shall also deliver at the Closing: (i) a certificate in form and substance reasonably satisfactory to the Investor and duly executed on behalf of the Company by an authorized executive officer of the Company, certifying that the conditions to Closing set forth in Sections 6 and 8.2 of this Agreement have been fulfilled; (ii) a duly executed Investor Agreement; and (iii) a certificate of the secretary of the Company dated as of the Closing Date certifying (A) that attached thereto is a true and complete copy of the Amended and Restated Bylaws of the Company as in effect at the time of the actions by the Board of Directors of the Company referred to in clause (B) below, and on the Closing Date; (B) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors of the Company authorizing the execution, delivery and performance of the Transaction Agreements and the Transaction and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby as of the Closing Date; (C) that attached thereto is a true and complete copy of the Company's Restated Certificate of Incorporation as in effect at the time of the actions by the Board of Directors of the Company referred to in clause (B) above, and on the Closing Date; and (D) as to the incumbency and specimen signature of any officer of the Company executing a Transaction Agreement on behalf of the Company.

(b) Deliveries by the Investor . At the Closing, the Investor shall deliver, or cause to be delivered, to the Company the Aggregate Purchase Price by wire transfer of immediately available United States funds to an account designated by the Company. The Company shall notify the Investor in writing of the wiring instructions for such account not less

than five (5) Business Days before the Closing Date. The Investor shall also deliver, or cause to be delivered, at the Closing: (i) a certificate in form and substance reasonably satisfactory to the Company duly executed by an authorized executive officer of the Investor certifying that the conditions to Closing set forth in Section 7 of this Agreement have been fulfilled; (ii) a duly executed Investor Agreement; and (iii) a certificate of the secretary or assistant secretary of the Investor dated as of the Closing Date certifying as to the incumbency and specimen signature of any officer executing a Transaction Agreement on behalf of the Investor.

4. Representations and Warranties of the Company . The Company hereby represents and warrants to the Investor that:

4.1 Organization, Good Standing and Qualification .

(a) The Company and each of the Subsidiaries is a corporation duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. The Company and each of the Subsidiaries has all requisite corporate power and corporate authority to own, lease and operate its properties and assets, to carry on its business as now conducted, and as proposed to be conducted as described in the Company SEC Documents, the Company has all requisite corporate power and corporate authority to enter into the Transaction Agreements and the Collaboration Agreement, to issue and sell the Shares and to perform its obligations under and to carry out the other transactions contemplated by the Transaction Agreements and the Collaboration Agreement.

(b) The Company and each of the Subsidiaries is qualified to transact business and is in good standing in each jurisdiction in which the character of the properties owned, leased or operated by the Company or Subsidiary, as applicable, or the nature of the business conducted by the Company or Subsidiary, as applicable, makes such qualification necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

4.2 Capitalization and Voting Rights .

(a) The authorized capital of the Company as of the date hereof consists of: (i) 125,000,000 shares of Common Stock of which, as of the date of this Agreement, (x) 27,954,191 shares are issued and outstanding and (y) 4,139,314 shares are reserved for issuance pursuant to the Company's stock incentive plans, of which 3,630,702 shares are issuable upon the exercise of stock options outstanding on the date hereof and (ii) 5,000,000 shares of preferred stock, par value $0.01 per share, of which no shares are issued and outstanding as of the date of this Agreement. All of the issued and outstanding shares of Common Stock (A) have been duly authorized and validly issued, (B) are fully paid and non-assessable and (C) were issued in compliance with all applicable federal and state securities Laws and not in violation of any preemptive rights.

(b) All of the authorized shares of Common Stock are entitled to one (1) vote per share.

(c) Except as described or referred to in Section 4.2(a) above and as provided in the Investor Agreement, as of the date hereof, there are not: (i) any outstanding equity securities, options, warrants, rights (including conversion or preemptive rights) or other agreements pursuant to which the Company is or may become obligated to issue, sell or repurchase any shares of its capital stock or any other securities of the Company or (ii) any restrictions on the transfer of capital stock of the Company other than pursuant to state and federal securities Laws.

(d) Except as provided in the Investor Agreement or as disclosed in the Company SEC Documents, the Company is not a party to or subject to any agreement or understanding relating to the voting of shares of capital stock of the Company or the giving of written consents by a stockholder or director of the Company.

(e) Except as provided in the Investor Agreement or disclosed in the Company SEC Documents, no Person has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company.

(f) The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration.

4.3 Subsidiaries . The Company has disclosed all of its subsidiaries required to be disclosed pursuant to Item 601(b)(21) of Regulation S-K in an exhibit to its Annual Report on Form 10-K (the " **Subsidiaries** "). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

4.4 Authorization .

(a) All requisite corporate action on the part of the Company, its directors and stockholders required by applicable Law for the authorization, execution and delivery by the Company of the Transaction Agreements and the Collaboration Agreement, and the performance of all obligations of the Company hereunder and thereunder, including the authorization, issuance and delivery of the Shares, has been taken.

(b) This Agreement and the Collaboration Agreement have been, and upon the execution and delivery of the Investor Agreement by the Company at the Closing, the Investor Agreement will be, duly executed and delivered by the Company, and upon the due execution and delivery of this Agreement by the Investor and the Collaboration Agreement by Janssen, this Agreement and the Collaboration Agreement will constitute, and upon the due execution and delivery of the Investor Agreement by the Investor, the Investor Agreement will constitute, valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms (except with respect to the Investor

Agreement and the Collaboration Agreement as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other Laws of general application relating to or affecting enforcement of creditors' rights and (ii) rules of Law governing specific performance, injunctive relief or other equitable remedies and limitations of public policy).

(c) No stop order or suspension of trading of the Common Stock has been imposed by Nasdaq, the SEC or any other Governmental Authority and remains in effect.

4.5 No Defaults . The Company is not in default under or in violation of (a) its Organizational Documents, (b) any provision of applicable Law or any ruling, writ, injunction, order, Permit, judgment or decree of any Governmental Authority or (c) any agreement, arrangement or instrument, whether written or oral, by which the Company or any of its assets are bound, except, in the case of subsections (b) and (c), as would not have a Material Adverse Effect. There exists no condition, event or act which after notice, lapse of time, or both, would constitute a default or violation by the Company under any of the foregoing, except, in the case of subsections (b) and (c), as would not have a Material Adverse Effect.

4.6 No Conflicts . The execution, delivery and performance of the Transaction Agreements and the Collaboration Agreement, and compliance with the provisions hereof and thereof by the Company do not and shall not: (a) violate any provision of applicable Law or any ruling, writ, injunction, order, permit, judgment or decree of any Governmental Authority, (b) constitute a breach of, or default under (or an event which, with notice or lapse of time or both, would become a default under) or conflict with, or give rise to any right of termination, cancellation or acceleration of, any agreement, arrangement or instrument, whether written or oral, by which the Company or any of its assets are bound, (c) violate or conflict with any of the provisions of the Company's Organizational Documents or (d) result in any encumbrance upon any of the Shares, other than restrictions pursuant to the Investor Agreement or securities Laws, or on any of the properties or assets of the Company or any Subsidiary, except, in the case of subsections (a) and (b), as would not have a Material Adverse Effect with respect to this Agreement or the Investor Agreement or a Collaboration Material Adverse Effect with respect to the Collaboration Agreement.

4.7 No Governmental Authority or Third Party Consents . No consent, approval, authorization or other order of, or filing with, or notice to, any Governmental Authority or other Third Party is required to be obtained or made by the Company in connection with the authorization, execution and delivery by the Company of any of the Transaction Agreements or the Collaboration Agreement, or with the authorization, issue and sale by the Company of the Shares, except (i) such filings as may be required to be made with the Securities and Exchange Commission (the " **SEC** ") and with any state blue sky or securities regulatory authority, which filings shall be made in a timely manner in accordance with all applicable Laws, (ii) as required pursuant to the Hart-Scott-Rodino Antitrust Improvements Act, as amended (the " **HSR Act** ") and (iii) with respect to the Shares, the filing with The Nasdaq Stock Market LLC of, and the absence of unresolved issues with respect to, a Notification Form: Listing of Additional Shares (the " **LAS** ").

4.8 Valid Issuance of Shares . When issued, sold and delivered at the Closing in accordance with the terms hereof for the Aggregate Purchase Price, the Shares shall be duly authorized, validly issued, fully paid and nonassessable, free from any liens, encumbrances or restrictions on transfer, including preemptive rights, rights of first refusal or other similar rights, other than as arising pursuant to the Transaction Agreements, as a result of any action by the Investor or under federal or state securities Laws.

4.9 Litigation . Except as set forth in the Company SEC Documents filed prior to the date of this Agreement, there is no action, suit, proceeding or investigation pending (of which the Company has received notice or otherwise has knowledge) or, to the Company's knowledge, threatened, against the Company or which the Company intends to initiate which has had or is reasonably likely to have a Material Adverse Effect.

4.10 Licenses and Other Rights; Compliance with Laws . The Company has all franchises, permits, licenses and other rights and privileges (" **Permits** ") necessary to permit it to own its properties and to conduct its business as presently conducted and is in compliance thereunder, except where the failure to be in compliance does not and would not have a Material Adverse Effect. The Company has not taken any action that would interfere with the Company's ability to renew all such Permit(s), except where the failure to renew such Permit(s) would not have a Material Adverse Effect. The Company is and has been in compliance with all Laws applicable to its business, properties and assets, and to the products and services sold by it, except where the failure to be in compliance does not and would not have a Material Adverse Effect.

4.11 Company SEC Documents; Financial Statements; Nasdaq Stock Market .

(a) Since October 1, 2013, the Company has timely filed all required reports, schedules, forms, statements and other documents (including exhibits and all other information incorporated therein), and any required amendments to any of the foregoing, with the SEC (the " **Company SEC Documents** "). As of their respective filing dates, each of the Company SEC Documents complied in all material respects with the requirements of the Securities Act of 1933, as amended (the " **Securities Act** "), and the Securities Exchange Act of 1934, as amended (the " **Exchange Act** "), and the rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Documents, and no Company SEC Documents when filed, declared effective or mailed, as applicable, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(b) As of the date of this Agreement, there are no outstanding or unresolved comments in comment letters received from the SEC or its staff. As of the date of this Agreement, none of the Company's Subsidiaries is subject to the reporting requirements of Section 13(a) or 15(d) under the Exchange Act.

(c) The consolidated financial statements of the Company included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2013 and in its quarterly reports on Form 10-Q for the quarterly periods ended September 30, 2014, June 30, 2014, and March 31, 2014 comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with United States generally accepted accounting principles (" **GAAP** ") applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended. The interim, unaudited financial statements of the Company for the two-month period ended November 30, 2014 and as of November 30, 2014, as provided to the Investor have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the period then ended. Except (i) as set forth in the Company SEC Documents or (ii) for liabilities incurred in the ordinary course of business subsequent to the date of the most recent balance sheet contained in the Company SEC Documents, the Company has no liabilities, whether absolute or accrued, contingent or otherwise, other than those that would not, individually or in the aggregate, have a Material Adverse Effect. There are no material unconsolidated subsidiaries of the Company or any material off-balance sheet arrangements of any type (including any off balance sheet arrangements required to be disclosed pursuant to Item 303(a)(4) of Regulation S-K promulgated under the Securities Act) that have not been so described in the Company SEC Reports filed prior to the date hereof nor any obligations to enter into any such arrangements.

(d) The Common Stock is listed on The Nasdaq Global Select Market, and the Company has taken no action designed to, or which is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting the Common Stock from The Nasdaq Global Market. The Company has not received any notification that, and has no knowledge that, the SEC or The Nasdaq Stock Market LLC is contemplating terminating such listing or registration.

(e) The Company has implemented and maintains a system of internal control over financial reporting (to the extent required by Rule 13a-15(a) under the Exchange Act) that is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes, and, to the knowledge of the Company, such system of internal control over financial reporting is effective. For purposes of this Section 4.11(e), "knowledge of the Company" means the actual knowledge of the Chief Executive Officer and the Chief Financial Officer of the Company. The Company has implemented and maintains disclosure controls and procedures (to the extent required by Rule 13a-15(a) of the Exchange Act) that are designed to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported within the timeframes specified by the SEC's rules and forms (and such disclosure controls and procedures are effective), and has disclosed, based on its most recent evaluation of its system of internal control over financial

reporting prior to the date of this Agreement, to the Company's outside auditors and the audit committee of the Company Board (i) any significant deficiencies and material weaknesses known to it in the design or operation of its internal control over financial reporting (as defined in Rule 13a-15 (f) of the Exchange Act) that would reasonably be expected to adversely affect the Company's ability to record, process, summarize and report financial information and (ii) any fraud known to it, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

(f) To the knowledge of the Company, as of the date hereof, no employee of the Company or its subsidiaries has provided since January 1, 2012 or is providing information to any law enforcement agency regarding the violation of any applicable Law of the type described in Section 806 of the Sarbanes-Oxley Act by the Company or its Subsidiaries. Neither the Company nor its Subsidiaries have discharged, demoted or suspended an employee of the Company or its Subsidiaries in the terms and conditions of employment because of any lawful act of such employee described in Section 806 of the Sarbanes-Oxley Act.

4.12 Absence of Certain Changes .

(a) Except as disclosed in the Company SEC Documents, since December 31, 2013, there has not occurred any event that has caused or would reasonably be expected to cause a Material Adverse Effect.

(b) Except as set forth in the Company SEC Documents filed prior to the date hereof, since December 31, 2013, the Company has not (i) declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock, or (ii) sold, exchanged or otherwise disposed of any of its material assets or rights.

(c) Since December 31, 2013, the Company has not admitted in writing its inability to pay its debts generally as they become due, filed or consented to the filing against it of a petition in bankruptcy or a petition to take advantage of any insolvency act, made an assignment for the benefit of creditors, consented to the appointment of a receiver for itself or for the whole or any substantial part of its property, or had a petition in bankruptcy filed against it, been adjudicated a bankrupt, or filed a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other laws of the United States or any other jurisdiction.

4.13 Offering . Subject to the accuracy of the Investor's representations set forth in Sections 5.5, 5.6, 5.7, 5.9 and 5.10, the offer, sale and issuance of the Shares to be issued in conformity with the terms of this Agreement constitute transactions which are exempt from the registration requirements of the Securities Act and from all applicable state registration or qualification requirements. Neither the Company nor any Person acting on its behalf will take any action that would cause the loss of such exemption.

4.14 No Integration . The Company has not, directly or through any agent, sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of, any security (as defined in the Securities Act) which is or will be integrated with the Shares sold pursuant to this Agreement in a manner that would require the registration of the Shares under the Securities Act.

4.15 Brokers' or Finders' Fees . No broker, finder, investment banker or other Person is entitled to any brokerage, finder's or other fee or commission from the Company in connection with the transactions contemplated by the Transaction Agreements and the Collaboration Agreement.

4.16 Investment Company . The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Shares, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

4.17 No General Solicitation . Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Shares by any form of general solicitation or general advertising. The Company has offered the Shares for sale only to the Investor.

4.18 Foreign Corrupt Practices . Neither the Company, nor to the knowledge of the Company, any agent or other person acting on behalf of the Company, has: (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of the Foreign Corrupt Practices Act of 1977, as amended, or any applicable non-U.S. anti-bribery Law.

4.19 Regulation M Compliance . The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Shares, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Shares, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

4.20 Office of Foreign Assets Control . Neither the Company nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department.

4.21 Intellectual Property .

(a) The Intellectual Property that is owned by the Company or any subsidiary is owned free from any liens or restrictions (other than any restrictions set forth in any Intellectual Property License relating to such Intellectual Property), and all of the Company's

and its subsidiaries' material Intellectual Property Licenses are in full force and effect in accordance with their terms, are free of any liens or restrictions, and neither the Company nor to the Company's knowledge any other party thereto, is in material breach of any such material Intellectual Property License, and no event has occurred that with notice or lapse of time or both would constitute such a breach or default thereunder or would result in the termination thereof or would cause or permit the acceleration or other change of any right or obligation of the loss of any benefit thereunder by the Company except (i) for such failures to be in full force and effect, such liens or restrictions, and such material breaches that would not reasonably be expected to have a Material Adverse Effect, or (ii) as set forth in any such Intellectual Property License. Except as set forth in the Company SEC Documents filed prior to the date hereof, there is no material legal claim or demand of any Person pertaining to, or any proceeding which is pending (of which the Company has received notice or otherwise has knowledge) or, to the knowledge of the Company, threatened, (i) challenging the right of the Company in respect of any Company Intellectual Property, or (ii) that claims that any default exists under any Intellectual Property License, except, in the case of (i) and (ii) above, where any such claim, demand or proceeding would not have or reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth in the Company's SEC Documents: (i) the Company or one of its subsidiaries owns, free and clear of any lien or encumbrance, or has a valid license to, or has an enforceable right to use, as it is used or held for use, all U.S. and non-U.S. patents, trade secrets, know-how, trademarks, service marks, copyrights, and other proprietary and intellectual property rights, and all grants and applications with respect to the foregoing (collectively, the **"Proprietary Rights"** ) necessary for the conduct of the Company's business, the absence of which would not have or reasonably be expected to have a Material Adverse Effect (such Proprietary Rights owned by or licensed to the Company collectively, the " **Company Rights** "); and (ii) the Company and its subsidiaries have taken reasonable measures to protect the Company Rights, consistent with prudent commercial practices in the biotechnology industry, except where failure to take such measures would not have or reasonably be expected to have a Material Adverse Effect.

4.22 Full Disclosure . As of the date hereof, and other than the transactions that are the subject of this Agreement and the Collaboration Agreement, no material fact or circumstance exists that would be required to be disclosed in a current report on Form 8-K or in a registration statement filed under the Securities Act, were such a registration statement filed on the date hereof, that has not been disclosed in an SEC Report filed on or after March 20, 2013.

5. Representations and Warranties of the Investor . The Investor hereby represents and warrants to the Company that:

5.1 Organization; Good Standing . The Investor is a corporation duly organized, validly existing and in good standing under the laws of New Jersey. The Investor has or will have all requisite power and authority to enter into the Transaction Agreements, to purchase the Shares and to perform its obligations under and to carry out the other transactions contemplated by the Transaction Agreements.

5.2 Authorization . All requisite action on the part of the Investor and its directors and stockholders, required by applicable Law for the authorization, execution and delivery by the Investor of the Transaction Agreements, and the performance of all of its obligations thereunder, including the subscription for and purchase of the Shares, has been taken. This Agreement has been, and upon the execution and delivery of the Investor Agreement at the Closing by the Investor, the Investor Agreement will be, duly executed and delivered by the Investor and upon the due execution and delivery thereof by the Company, will constitute valid and legally binding obligations of the Investor, enforceable against the Investor in accordance with their respective terms (except as such enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium or other Laws of general application relating to or affecting enforcement of creditors' rights and (b) rules of Law governing specific performance, injunctive relief or other equitable remedies and limitations of public policy).

5.3 No Conflicts . The execution, delivery and performance of the Transaction Agreements and compliance with the provisions thereof by the Investor do not and shall not: (a) violate any provision of applicable Law or any ruling, writ, injunction, order, permit, judgment or decree of any Governmental Authority, (b) constitute a breach of, or default under (or an event which, with notice or lapse of time or both, would become a default under) or conflict with, or give rise to any right of termination, cancellation or acceleration of, any agreement, arrangement or instrument, whether written or oral, by which the Investor or any of its assets, are bound, or (c) violate or conflict with any of the provisions of the Investor's organizational documents (including any articles or memoranda of organization or association, charter, bylaws or similar documents), except as would not impair or adversely affect the ability of the Investor to consummate the Transactions and perform its obligations under the Transaction Agreements and except, in the case of subsections (a) and (b) as would not have a material adverse effect on the Investor's ability to perform its obligations or consummate the Transaction in accordance with the terms of this Agreement.

5.4 No Governmental Authority or Third Party Consents . No consent, approval, authorization or other order of any Governmental Authority or other Third Party is required to be obtained by the Investor in connection with the authorization, execution and delivery of any of the Transaction Agreements or with the subscription for and purchase of the Shares, except as required pursuant to the HSR Act.

5.5 Purchase Entirely for Own Account . The Shares shall be acquired for investment for the Investor's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and the Investor has no present intention of selling, granting any participation or otherwise distributing the Shares. The Investor does not have and will not have as of the Closing any contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participation to a Person any of the Shares.

5.6 Disclosure of Information . The Investor has received all the information from the Company and its management that the Investor considers necessary or appropriate for deciding whether to purchase the Shares hereunder. The Investor further represents that it has had an opportunity to ask questions and receive answers from the Company regarding the Company, its financial condition, results of operations and prospects and the terms and conditions of the offering of the Shares sufficient to enable it to evaluate its investment.

5.7 Investment Experience and Accredited Investor Status . The Investor is an "accredited investor" (as defined in Regulation D under the Securities Act). The Investor has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in the Shares to be purchased hereunder.

5.8 Acquiring Person . As of the date of this Agreement and immediately prior to the Closing, neither the Investor nor any of its Affiliates beneficially owns, or will beneficially own (as determined pursuant to Rule 13d-3 under the Exchange Act without regard for the number of days in which a Person has the right to acquire such beneficial ownership, and without regard to Investor's rights under this Agreement), any securities of the Company, except for securities that may be owned by employee benefit plans of the Investor or any of its Affiliates.

5.9 Restricted Securities . The Investor understands that the Shares, when issued, shall be "restricted securities" under the federal securities Laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such Laws the Shares may be resold without registration under the Securities Act only in certain limited circumstances. The Investor represents that it is familiar with Rule 144 of the Securities Act (" **Rule 144** "), as presently in effect.

5.10 Legends . The Investor understands that any certificates representing the Shares shall bear the following legends:

(a) "These securities have not been registered under the Securities Act of 1933. They may not be sold, offered for sale, pledged or hypothecated in the absence of a registration statement in effect with respect to the securities under the Securities Act or an opinion of counsel (which counsel shall be reasonably satisfactory to MacroGenics, Inc.) that such registration is not required or unless sold pursuant to Rule 144 of the Securities Act.";

(b) any legend required by applicable state securities Laws; and

(c) "The securities represented by this certificate are subject to and shall be transferable only upon the terms and conditions of an Investor Agreement dated as of December 19, 2014, by and between MacroGenics, Inc. and Johnson & Johnson Innovation-JJDC, Inc., a copy of which is on file with the Secretary of MacroGenics, Inc."

5.11 Financial Assurances . As of the date hereof and as of the Closing Date, the Investor has and will have access to cash in an amount sufficient to pay to the Company the Aggregate Purchase Price.

5.12 Stock Ownership . As of the date hereof, neither the Investor nor any of its Affiliates (excluding for this purpose any employee benefit plan of the Investor) own any shares of capital stock of the Company.

6. Investor's Conditions to Closing . The Investor's obligation to purchase the Shares at the Closing is subject to the fulfillment as of the Closing of the following conditions (unless waived in writing by the Investor):

6.1 Representations and Warranties . The representations and warranties made by the Company in Section 4 hereof shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such Closing Date, except to the extent such representations and warranties are specifically made as of a particular date, in which case such representations and warranties shall be true and correct as of such date; provided , however , that for purposes of this Section 6.1, all such representations and warranties of the Company (other than Sections 4.1(a), 4.2, 4.3, 4.4, 4.5(a), 4.6(c), 4.8, and 4.11 of this Agreement) shall be deemed to be true and correct for purposes of this Section 6.1 unless the failure or failures of such representations and warranties to be so true and correct, without regard to any "material," "materiality" or "Material Adverse Effect" qualifiers set forth therein, constitute a Material Adverse Effect.

6.2 Representations and Warranties in the Collaboration Agreement . The representations and warranties made by the Company in Sections 11.1 and 11.2 of the Collaboration Agreement shall be true and correct as of the Closing Date as though made on and as of such Closing Date, except to the extent such representations and warranties are specifically made as of a particular date, in which case such representations and warranties shall be true and correct as of such date; provided , however , that for purposes of this Section 6.2, all such representations and warranties of the Company shall be deemed to be true and correct for purposes of this Section 6.2 unless the failure or failures of such representations and warranties to be so true and correct, without regard to any "material" or "materiality" qualifiers set forth therein, individually or in the aggregate, has had or would reasonably be expected to have a Collaboration Material Adverse Effect.

6.3 Covenants . All covenants and agreements contained in this Agreement to be performed or complied with by the Company on or prior to the Closing Date shall have been performed or complied with in all material respects.

6.4 Investor Agreement . The Company shall have duly executed and delivered to the Investor, pursuant to Section 3.2(a) of this Agreement, the Investor Agreement, and (subject to execution by the Investor) such agreement shall be in full force and effect.

6.5 Collaboration Agreement . The Company shall have duly executed and delivered to the Investor the Collaboration Agreement, and there shall have been no termination of the Collaboration Agreement that, as of the Closing, is effective.

6.6 No Material Adverse Effect . From and after the date of this Agreement until the Closing Date, there shall have occurred no event that has caused a Material Adverse Effect or a Collaboration Material Adverse Effect.

6.7 Listing . The Shares shall be eligible and approved for listing on the Nasdaq Global Select Market.

7. Company's Conditions to Closing . The Company's obligation to issue and sell the Shares at the Closing is subject to the fulfillment as of the Closing of the following conditions (unless waived in writing by the Company):

7.1 Representations and Warranties . The representations and warranties made by the Investor in Section 5 hereof shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such Closing Date, except to the extent such representations and warranties are specifically made as of a particular date, in which case such representations and warranties shall be true and correct as of such date, in the case of Sections 5.1-5.4, and 5.11, except where any failure to be true and correct would not have a material adverse effect on the Investor's ability to perform its obligations, or consummate the Transaction in accordance with the terms of this Agreement, in the case of Section 5.5, 5.6 and 5.7, except where any inaccuracy would not result in the issuance of the Shares hereunder failing to qualify as an offering of securities not involving any public offering under the federal securities Laws, and in the case of Section 5.8, except where any inaccuracy would not be material on the Investor's ability to perform its obligations, or consummate the Transaction in accordance with the terms of this Agreement.

7.2 Covenants . All covenants and agreements contained in this Agreement to be performed or complied with by the Investor on or prior to the Closing Date shall have been performed or complied with in all material respects.

7.3 Investor Agreement . The Investor shall have duly executed and delivered to the Company, pursuant to Section 3.2(b) of this Agreement, the Investor Agreement, and (subject to execution by the Company) such agreement shall be in full force and effect.

7.4 Collaboration Agreement . Janssen shall have duly executed and delivered to the Company the Collaboration Agreement, and there shall have been no termination of the Collaboration Agreement that, as of the Closing, is effective.

8. Mutual Conditions to Closing . The obligations of the Investor and the Company to consummate the Closing are subject to the fulfillment as of the Closing Date of the following conditions:

8.1 HSR Act Qualification . The filings required under the HSR Act in connection with this Agreement shall have been made and the required waiting period shall have expired or been terminated as of the Closing Date.

8.2 Absence of Litigation . There shall be no action, suit, proceeding or investigation by a Governmental Authority pending or currently threatened in writing against the Company or the Investor that questions the validity of any of the Transaction Agreements, the right of the Company or the Investor to enter into any Transaction Agreement or to consummate the transactions contemplated hereby or thereby or which, if determined adversely, would impose substantial monetary damages on the Company or the Investor as a result of the consummation of the transactions contemplated by any Transaction Agreement.

8.3 No Prohibition . No provision of any applicable Law and no judgment, injunction (preliminary or permanent), order or decree that prohibits, makes illegal or enjoins the consummation of the Transaction shall be in effect.

9. Termination .

9.1 Ability to Terminate . This Agreement may be terminated at any time prior to the Closing by:

(a) mutual written consent of the Company and the Investor;

(b) either the Company or the Investor, upon written notice to the other no earlier than March 18, 2015 (the " **Termination Date** "), if the Transaction shall not have been consummated by the Termination Date;

(c) either the Company or the Investor, upon written notice to the other, if any of the mutual conditions to the Closing set forth in Section 8 shall have become incapable of fulfillment by the Termination Date and shall not have been waived in writing by the other party within ten business days after receiving receipt of written notice of an intention to terminate pursuant to this clause (c) provided, however, that the right to terminate this Agreement under this Section 9.1(c) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure to consummate the transactions contemplated hereby prior to the Termination Date;

(d) the Company, upon written notice to the Investor, so long as the Company is not then in breach of its representations, warranties, covenants or agreements under this Agreement such that any of the conditions set forth in Section 6.1 or 6.2, as applicable, could not be satisfied by the Termination Date, (i) upon a material breach of any covenant or agreement on the part of the Investor set forth in this Agreement, or (ii) if any representation or warranty of the Investor shall have been or become untrue, in each case such that any of the conditions set forth in Section 7.1, 7.2, 7.3 or 7.4, as applicable, could not be satisfied by the Termination Date;

(e) the Investor, upon written notice to the Company, so long as the Investor is not then in breach of its representations, warranties, covenants or agreements under this Agreement such that any of the conditions set forth in Section 7.1, 7.2 or 7.3, as applicable, could not be satisfied by the Termination Date, upon a breach of any covenant or agreement on the part of the Company set forth in this Agreement, or if any representation or warranty of the Company shall have been or become untrue, in each case such that any of the conditions set forth in Section 6.1, 6.2, 6.3 or 6.4, as applicable, could not be satisfied by the Termination Date.

9.2 Effect of Termination . In the event of the termination of this Agreement pursuant to Section 9.1 hereof, (a) this Agreement (except for this Section 9.2 and Section 11 hereof (other than Section 11.13), and any definitions set forth in this Agreement and used in such sections) shall forthwith become void and have no effect, without any liability on the part of

any party hereto or its Affiliates, and (b) all filings, applications and other submissions made pursuant to this Agreement, to the extent practicable, shall be withdrawn from the agency or other Person to which they were made or appropriately amended to reflect the termination of the transactions contemplated hereby; provided , however , that nothing contained in this Section 9.2 shall relieve any party from liability for fraud or any intentional or willful breach of this Agreement.

10. Additional Covenants and Agreements .

10.1 Market Listing . From the date hereof through the Closing Date, Company shall use all reasonable efforts to (a) maintain the listing and trading of the Common Stock on The Nasdaq Global Market and (b) effect the listing of the Shares on The Nasdaq Global Market, including submitting the LAS to The Nasdaq Stock Market LLC no later than fifteen (15) calendar days prior to the Closing Date.

10.2 Notification under the HSR Act .

(a) As a result of the aggregate consideration being paid by the Investor under this Agreement and the Collaboration Agreement, which satisfies the size of transaction jurisdictional threshold under the HSR Act, the parties shall, as soon as practicable, and, in any event, no later than ten (10) Business Days after the date of this Agreement, file or cause to be filed with the Federal Trade Commission and the Department of Justice the notifications required to be filed under the HSR Act and the rules and regulations promulgated thereunder with respect to the transactions contemplated by this Agreement. The parties will use all reasonable efforts to respond on a timely basis to any requests for additional information made by either of such agencies.

(b) Each of Investor and Company shall: (i) reasonably cooperate with each other in connection with any investigation or other inquiry relating to the transactions contemplated by the Transaction Agreements and the Collaboration Agreement; (ii) reasonably keep the other party informed of any communication received by such party from, or given by such party to, the FTC, the DOJ or any other Merger Control Authority and of any communication received or given in connection with any proceeding by a private party, in each case regarding the transactions contemplated by the Transaction Agreements or the Collaboration Agreement; (iii) promptly respond to and certify substantial compliance with any inquiries or requests received from the FTC or the DOJ for additional information or documentation; (iv) reasonably consult with each other in advance of any meeting or conference with the FTC, the DOJ or any other Merger Control Authority, and to the extent permitted by the FTC, the DOJ or such other Merger Control Authority and reasonably determined by such party to be appropriate under the circumstances, give the other party or their counsel the opportunity to attend and participate in such meetings and conferences; and (v) permit the other party or their counsel to the extent reasonably practicable to review in advance, and in good faith consider the views of the other party or their counsel concerning, any submission, filing or communication (and documents submitted therewith) intended to be given by it to the FTC, the DOJ or any other Merger Control Authority; provided , however , such party shall be under no obligation to reschedule any meetings or conferences with the FTC, the DOJ or any other Merger Control Authority to enable the other party to attend.

(c) Notwithstanding anything to the contrary in this Agreement, the terms "commercially reasonable efforts" or "reasonable efforts" do not require that either party (i) offer, negotiate, commit to or effect, by consent decree, hold separate order, trust or otherwise, the sale, divestiture, license or other disposition of any capital stock, assets, rights, products or businesses of Investor, Company or their respective Affiliates, (ii) agree to any restrictions on the activities of Investor, Company or their respective Affiliates, or (iii) pay any material amount or take any other action to prevent, effect the dissolution of, vacate, or lift any decree, order, judgment, injunction, temporary restraining order, or other order in any suit or proceeding that would otherwise have the effect of preventing or delaying any of the transactions contemplated by the Transaction Agreements or the Collaboration Agreement.

10.3 Assistance and Cooperation . Prior to the Closing, upon the terms and subject to the conditions set forth in this Agreement, each of the parties agrees to use all reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and to assist and cooperate with the other party in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including using all reasonable efforts to accomplish the following: (a) taking all reasonable acts necessary to cause the conditions precedent set forth in Sections 6, 7 and 8 to be satisfied (including, in the case of the Company, promptly notifying the Investor of any notice from The Nasdaq Stock Market LLC with respect to the LAS); (b) taking all reasonable actions necessary to obtain all necessary actions or non-actions, waivers, consents, approvals, orders and authorizations from Governmental Authorities and the making of all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Authorities, if any); (c) taking all reasonable actions necessary to obtain all necessary consents, approvals or waivers from Third Parties; and (d) except as otherwise provided for in Section 10.2, defending any suits, claims, actions, investigations or proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated hereby, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Authority vacated or reversed.

10.4 Form D; Blue Sky Filings . The Company agrees to timely file a Form D with respect to the Shares as required under Regulation D and to provide a copy thereof, promptly upon request of the Investor. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Shares for, sale to the Investor at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of the Investor.

10.5 Legend Removal .

(a) Certificates evidencing the Shares shall not contain the legend set forth in Section 5.10(a): (i) following a sale of such Shares pursuant to a registration statement

covering the resale of such Shares, while such registration statement is effective under the Securities Act, (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the SEC).

(b) Certificates evidencing the Shares shall not contain the legend set forth in Section 5.10(c) following: (i) a sale of such Shares pursuant to a registration statement covering the resale of such Shares, while such registration statement is effective under the Securities Act, (ii) any sale of such Shares pursuant to Rule 144 or (iii) the expiration of the Standstill Term (as defined in the Investor Agreement), the Lock-Up Term (as defined in the Investor Agreement) and the Voting Agreement Term (as defined in the Investor Agreement); provided that any transfer described in clause (i) or (ii) above shall have been in compliance with all applicable provisions of the Investor Agreement.

(c) The Company agrees that at such time as any legend set forth in Section 5.10 is no longer required under this Section 10.5, the Company will, no later than three (3) Business Days following the delivery by the Investor to the Company or the Company's transfer agent (the " **Transfer Agent** ") of a certificate representing Shares issued with such legend, deliver or cause to be delivered to the Investor a certificate representing such Shares that is free from such legend, or, in the event that such shares are uncertificated, remove any such legend in the Company's stock records. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in Section 5.10.

10.6 Conduct of Business . During the period from the date hereof until the Closing, except as consented to in writing by the Investor, the Company shall not (i) declare, set aside or pay any dividend or make any other distribution or payment (whether in cash, stock or property or any combination thereof) in respect of its capital stock, or establish a record date for any of the foregoing, or (ii) make any other actual, constructive or deemed distribution in respect of any shares of its capital stock or otherwise make any payments to stockholders in their capacity as such, except pursuant to repurchases of equity pursuant to the terms of its equity compensation plans.

11. Miscellaneous .

11.1 Governing Law; Submission to Jurisdiction . This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflict of laws principles thereof that would require the application of the Law of any other jurisdiction. Any action brought, arising out of, or relating to this Agreement shall be brought in the Court of Chancery of the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of said Court in respect of any claim relating to the validity, interpretation and enforcement of this Agreement, and hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding in which any such claim is made that it is not subject

thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts, or that the venue thereof may not be appropriate or that this agreement may not be enforced in or by such courts. The parties hereby consent to and grant the Court of Chancery of the State of Delaware jurisdiction over such parties and over the subject matter of any such claim and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 11.3 or in such other manner as may be permitted by law, shall be valid and sufficient thereof.

11.2 Waiver . Waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any subsequent breach of the same or any other provision. No delay or omission by a party in exercising or availing itself of any right, power or privilege hereunder shall preclude the later exercise of any such right, power or privilege by such party. No waiver shall be effective unless made in writing with specific reference to the relevant provision(s) of this Agreement and signed by a duly authorized representative of the party granting the waiver.

11.3 Notices . All notices, instructions and other communications hereunder or in connection herewith shall be in writing, shall be sent to the address of the relevant party set forth on Exhibit B attached hereto and shall be (a) delivered personally, (b) sent by registered or certified mail, return receipt requested, postage prepaid, (c) sent via a reputable nationwide overnight courier service or (d) sent by facsimile transmission or electronic mail, with a confirmation copy to be sent by registered or certified mail, return receipt requested, postage prepaid. Any such notice, instruction or communication shall be deemed to have been delivered upon receipt if delivered by hand, three (3) Business Days after it is sent by registered or certified mail, return receipt requested, postage prepaid, one (1) Business Day after it is sent via a reputable nationwide overnight courier service or when transmitted with electronic confirmation of receipt, if transmitted by facsimile or electronic mail (if such transmission is made during regular business hours of the recipient on a Business Day; or otherwise, on the next Business Day following such transmission). Either party may change its address by giving notice to the other party in the manner provided above.

11.4 Entire Agreement . This Agreement, the Investor Agreement (once executed) and the Collaboration Agreement, contain the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous arrangements or understandings, whether written or oral, with respect hereto and thereto.

11.5 Amendments . No provision in this Agreement shall be supplemented, deleted or amended except in a writing executed by an authorized representative of each of the Investor and the Company.

11.6 Headings; Nouns and Pronouns; Section References . Headings in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice-versa. References in this Agreement to a section or subsection shall be deemed to refer to a section or subsection of this Agreement unless otherwise expressly stated.

11.7 Severability . If, under applicable Laws, any provision hereof is invalid or unenforceable, or otherwise directly or indirectly affects the validity of any other material provision(s) of this Agreement in any jurisdiction (" **Modified Clause** "), then, it is mutually agreed that this Agreement shall endure and that the Modified Clause shall be enforced in such jurisdiction to the maximum extent permitted under applicable Laws in such jurisdiction; provided that the parties shall consult and use all reasonable efforts to agree upon, and hereby consent to, any valid and enforceable modification of this Agreement as may be necessary to avoid any unjust enrichment of either party and to match the intent of this Agreement as closely as possible, including the economic benefits and rights contemplated herein.

11.8 Assignment . Except for an assignment of this Agreement or any rights hereunder by the Investor to an Affiliate, neither this Agreement nor any of the rights or obligations hereunder may be assigned by either the Investor or the Company without (a) the prior written consent of Company in the case of any assignment by the Investor or (b) the prior written consent of the Investor in the case of an assignment by the Company.

11.9 Successors and Assigns . This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

11.10 Counterparts . This Agreement may be executed in counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

11.11 Third Party Beneficiaries . None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including any creditor of any party hereto. No Third Party shall obtain any right under any provision of this Agreement or shall by reason of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against any party hereto.

11.12 No Strict Construction . This Agreement has been prepared jointly and will not be construed against either party.

11.13 Survival of Warranties . The representations and warranties of the Company and the Investor contained in this Agreement shall survive the Closing and the delivery of the Shares.

11.14 Remedies . The rights, powers and remedies of the parties under this Agreement are cumulative and not exclusive of any other right, power or remedy which such parties may have under any other agreement or Law. No single or partial assertion or exercise of any right, power or remedy of a party hereunder shall preclude any other or further assertion or exercise thereof.

11.15 Expenses . Each party shall pay its own fees and expenses in connection with the preparation, negotiation, execution and delivery of the Transaction Agreements.

11.16 No Publicity . The parties hereto agree that the provisions of Section 12.5 of the Collaboration Agreement shall be applicable to the parties to this Agreement with respect to any public disclosures regarding the proposed transactions contemplated by the Purchase Agreement and the Collaboration Agreement or regarding the parties hereto or their Affiliates (it being understood that the provisions of Section 12.5(a) of the Collaboration Agreement shall be read to apply to disclosures of information relating to this Agreement and the transactions contemplated hereby).

11.17 Limitation of Liability . IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE OTHER PARTY'S AFFILIATES OR SUBLICENSEES) IN CONNECTION WITH THIS AGREEMENT FOR LOST REVENUE, LOST PROFITS, LOST SAVINGS, LOSS OF USE, DAMAGE TO GOODWILL, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES UNDER ANY THEORY, INCLUDING CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

( *Signature Page Follows* )

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

**JOHNSON & JOHNSON INNOVATION-JJDC, INC.**

By: /s/ Asish K. Xavier
Name: Asish K. Xavier
Title: Vice President, Venture Investments

**MACROGENICS, INC.**

By: /s/ Scott Koenig, M.D., Ph.D.
Name: Scott Koenig, M.D., Ph.D.
Title: President and CEO

**EXHIBIT A**

**FORM OF INVESTOR AGREEMENT**

**EXHIBIT B**

**NOTICES**

(a) If to the Investor:

Johnson & Johnson Innovation-JJDC, Inc.
410 George Street
New Brunswick, NJ 08901
Attention: General Manager

with a copy to:

Johnson & Johnson Law Department
One Johnson & Johnson Plaza
New Brunswick, NJ 08534
Attention: General Counsel

(b) If to the Company:

MacroGenics, Inc.
9640 Medical Center Drive
Rockville, MD 20850
Attention: CEO

with a copy to:

Wilmer Cutler Pickering Hale & Dorr LLP
60 State Street
Boston, MA 02109
Attention: Steven D. Singer

EXHIBIT 21.1

**Subsidiaries**

| Entity | Jurisdiction of Organization |
| --- | --- |
| MacroGenics UK Limited | United Kingdom |

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the following Registration Statements:

1) Registration Statement (Form S-8 No. 333-192277) pertaining to the 2000 Stock Option Incentive Plan, the 2003 Equity Incentive Plan, and 2013 Equity Incentive Plan of MacroGenics, Inc.; and

2) Registration Statement (Form S-3 No. 333-200092) of MacroGenics, Inc.

of our report dated March 3, 2015, with respect to the consolidated financial statements of MacroGenics, Inc., included in this Annual Report (Form 10-K) for the year ended December 31, 2014.

/s/ Ernst & Young LLP

McLean, VA
March 3, 2015

EXHIBIT 31.1

I, Scott Koenig, certify that:

1. I have reviewed this Annual Report on Form 10-K for the period ended December 31, 2014 of MacroGenics, Inc.;

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

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

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

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

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

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

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

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

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

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

/s/ Scott Koenig
Scott Koenig, M.D., Ph.D.
President and Chief Executive Officer
(Principal Executive Officer)

Dated: March 3, 2015

EXHIBIT 31.2

I, James Karrels, certify that:

1. I have reviewed this Annual Report on Form 10-K for the period ended December 31, 2014 of MacroGenics, Inc.;

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

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

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

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

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

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

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

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

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

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

/s/ James Karrels
James Karrels
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

Dated: March 3, 2015

EXHIBIT 32.1

**Certification of Principal Executive Officer Pursuant to 18 U.S.C. 1350 (Section 906 of the Sarbanes-Oxley Act of 2002)**

I, Scott Koenig, President and Chief Executive Officer (principal executive officer) of MacroGenics, Inc. (the "Registrant"), certify, to the best of my knowledge, based upon a review of the Annual Report on Form 10-K for the period ended December 31, 2014 of the Registrant (the "Report"), that:

(1)The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and

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

/s/ Scott Koenig
Name: Scott Koenig, M.D., Ph.D.
Date: March 3, 2015

EXHIBIT 32.2

**Certification of Principal Financial Officer Pursuant to 18 U.S.C. 1350 (Section 906 of the Sarbanes-Oxley Act of 2002)**

I, James Karrels, Senior Vice President and Chief Financial Officer (principal financial officer) of MacroGenics, Inc. (the "Registrant"), certify, to the best of my knowledge, based upon a review of the Annual Report on Form 10-K for the period ended December 31, 2014 of the Registrant (the "Report"), that:

(1)The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and

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

/s/ James Karrels
Name: James Karrels
Date: March 3, 2015