

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

FORM 10-Q/A  
AMENDMENT NO. 1

(Mark One)

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

For the quarterly period ended September 30, 1996  
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TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the transaction period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 0-26642  
-----

MYRIAD GENETICS, INC.  
(Exact name of registrant as specified in its charter)

Delaware  
-----

87-0494517  
-----

(State or other jurisdiction  
of incorporation or organization)

(I.R.S. Employer Identification No.)

320 Wakara Way, Salt Lake City, UT  
-----

84108  
-----

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: (801) 584-3600

390 Wakara Way, Salt Lake City, Utah  
-----

(Former address, if changed since last report)

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

As of November 5, 1996, the registrant had 8,730,725 shares of common stock outstanding.

The Purpose of this Form 10-Q/A Amendment No. 1 is to amend the previously filed Form 10-Q of Myriad Genetics, Inc. for the quarterly period ended September 30, 1996 by augmenting Item 6(a) of Part II thereto to include revised Exhibits 10.1 and 10.4 which are herewith resubmitted and redacted pursuant to that certain Confidentiality Request of Myriad Genetics, Inc. filed with the Securities and Exchange Commission on November 12, 1996, as amended by letter dated December 23, 1996. Such item is set forth in this Form 10-Q/A Amendment No. 1

Item 6. Exhibits and Reports on Form 8-K.

(a) Exhibits  
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The following is a list of exhibits filed as part of this Quarterly Report on Form 10-Q.

| Exhibit<br>Number<br>----- | Description<br>-----                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10.1                       | Patent and Technology License Agreement dated September 26, 1996 among the Board of Regents of The University of Texas System, The University of Texas M.D. Anderson Cancer Center and the Company. The Company has excluded from this Exhibit 10.1 portions of the Patent and Technology License Agreement for which the Company has requested confidential treatment from the Securities and Exchange Commission. The portions of the Patent and Technology License Agreement for which confidential treatment has been requested are marked "[ ]" and such confidential portions have been filed separately with the Securities and Exchange Commission.                                                               |
| 10.2                       | Lease Agreement, dated October 12, 1995, between The Boyer Research Park Associates V, by its general partner, The Boyer Company and the Company.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 10.3                       | Amendment to Lease Agreement, dated March 29, 1996, between The Boyer Research Park Associates V, by its general partner, The Boyer Company and the Company.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10.4                       | Letter Agreement, dated March 4, 1996, among The University of Utah, Genetic Epidemiology and the Company regarding Extension of Standard Research Agreement and Form of License Agreement between the Company and The University of Utah, effective January 1, 1993, as amended (Genes Predisposing to Cancer). The Company has omitted from this Exhibit 10.4 portions of the Letter Agreement for which the Company has requested confidential treatment from the Securities and Exchange Commission. The portions of the Letter Agreement for which confidential treatment has been requested are marked "[ ]" and such confidential portions have been filed separately with the Securities and Exchange Commission. |
| 11.1                       | Statement Regarding Computation of Net Loss Per Share                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 27.1                       | Financial Data Schedule                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

(b) Reports on Form 8-K  
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No reports on Form 8-K were filed during the quarter ended September 30, 1996.

SIGNATURES

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

MYRIAD GENETICS, INC.

Date: April 17, 1997  
-----

/s/ Jay M. Moyes  
-----

Jay M. Moyes  
Vice President of Finance  
(principal financial and accounting officer)

MYRIAD GENETICS, INC.

EXHIBIT INDEX

| Exhibit<br>Number<br>----- | Description<br>-----                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| 27.1                       | Financial Data Schedule                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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MYRIAD GENETICS, INC. HAS OMITTED FROM THIS EXHIBIT 10.1 PORTIONS OF THE AGREEMENT FOR WHICH MYRIAD GENETICS, INC. HAS REQUESTED CONFIDENTIAL TREATMENT FROM THE SECURITIES AND EXCHANGE COMMISSION. THE PORTIONS OF THE AGREEMENT FOR WHICH CONFIDENTIAL TREATMENT HAS BEEN REQUESTED ARE MARKED "[ ]" AND SUCH CONFIDENTIAL PORTIONS HAVE BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

PATENT AND TECHNOLOGY LICENSE AGREEMENT

This thirteen (13) page AGREEMENT ("AGREEMENT") is made on this 26th day of September, 1996 by and between the BOARD OF REGENTS ("BOARD") of THE UNIVERSITY OF TEXAS SYSTEM ("SYSTEM"), an agency of the State of Texas, whose address is 201 West 7th Street, Austin, Texas 78701, THE UNIVERSITY OF TEXAS M. D. ANDERSON CANCER CENTER ("MDA"), a component Institution of the SYSTEM and Myriad Genetics, Inc., a Delaware corporation having a principal place of business located at 390 Wakara Way, Salt Lake City, Utah 84108 ("LICENSEE").

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## RECITALS

- A. BOARD owns certain TECHNOLOGY RIGHTS related to LICENSED SUBJECT MATTER, which were developed at MDA, a component institution of SYSTEM.
- B. BOARD desires to have the LICENSED SUBJECT MATTER developed in the LICENSED FIELD and used for the benefit of LICENSEE, BOARD, SYSTEM, MDA, the inventor, and the public as outlined in the Intellectual Property Policy promulgated by the BOARD.
- C. LICENSEE wishes to obtain a license from BOARD to practice LICENSED SUBJECT MATTER.

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

### I. EFFECTIVE DATE

- 1.1 Subject to approval by BOARD, this AGREEMENT shall be effective as of the date written herein above ("EFFECTIVE DATE").

### II. DEFINITIONS

As used in this AGREEMENT, the following terms shall have the meanings indicated:

- 2.1 AFFILIATE shall mean any business entity more than 50% owned by LICENSEE, any business entity which owns more than 50% of LICENSEE, or any business entity that is more than 50% owned by a business entity that owns more than 50% of LICENSEE.
- 2.2 LICENSED FIELD shall mean all human and animal diagnostic, preventive and therapeutic applications within the LICENSED SUBJECT MATTER.
- 2.3 LICENSED PRODUCTS shall mean any product or service SOLD by LICENSEE comprising or making use of LICENSED SUBJECT MATTER pursuant to this AGREEMENT.
- 2.4 LICENSED SUBJECT MATTER shall mean inventions and discoveries defined herein as PATENT RIGHTS or as TECHNOLOGY RIGHTS.
- 2.5 LICENSED TERRITORY shall mean the entire world.
- 2.6 NET SALES shall mean the gross amounts invoiced by LICENSEE

from the SALE of LICENSED PRODUCTS less sales discounts actually granted in amounts customary in the trade, including but not limited to pharmacy incentive programs and all other similar sales incentive programs, all governmental and healthcare rebates, hospital performance incentive program rebates or charge backs, sales and/or use taxes actually paid, import and/or export duties actually paid, outbound transportation actually prepaid or allowed, insurance and postage, amounts actually allowed or credited due to returns (not exceeding the original billing or invoice amount) and any uncollectable amounts owed to LICENSEE from SALES of LICENSED PRODUCTS.

- 2.7 PATENT RIGHTS shall only mean any and all of BOARD'S rights in information or discoveries claimed in invention disclosures, patents, and/or patent applications, whether domestic or foreign, and all divisionals, substitutions, renewals, continuations, continuations-in-part, reissues, reexaminations or extensions thereof, and any letters patent that issue thereon as set forth in Exhibit I hereto, subject to the limitations, if any, set forth therein.
- 2.8 SALE or SOLD shall mean the transfer or disposition of a LICENSED PRODUCT for value to a party other than LICENSEE or an AFFILIATE.
- 2.9 Subject to the limitations, if any, set forth in Exhibit I hereto, TECHNOLOGY RIGHTS shall mean BOARD'S rights in any technical information, know-how, process, procedure, composition, device, method, formula, protocol, technique, software, design, drawing or data created by the inventors listed in Exhibit I hereto and relating to the subject matter of PATENT RIGHTS which is not claimed in PATENT RIGHTS but which is necessary for practicing PATENT RIGHTS.

### III. LICENSE

- 3.1 BOARD, through MDA, hereby grants to LICENSEE a royalty-bearing, exclusive license under LICENSED SUBJECT MATTER to make, have made, use and/or sell LICENSED PRODUCTS within LICENSED TERRITORY for use within LICENSED FIELD and, subject to Paragraph 4.5 herein, shall extend to BOARD'S undivided interest in any LICENSED SUBJECT MATTER developed during the term of this AGREEMENT and jointly owned by BOARD and LICENSEE. This grant shall be subject to Paragraph 14.2 and 14.3, herein below, the payment by LICENSEE to BOARD of all consideration as provided in Paragraph 4.2 of this AGREEMENT, and shall be further subject to rights retained by BOARD and MDA to:

- (a) Publish the general scientific findings from research related to LICENSED SUBJECT MATTER, subject to ARTICLE V herein under; and
  - (b) Subject to the provisions of ARTICLE XI herein below, use any information contained in LICENSED SUBJECT MATTER for research, teaching, patient care, and other educationally related purposes.
- 3.2 LICENSEE shall have the right to extend the license granted herein to any AFFILIATE provided that such AFFILIATE consents to be bound by all of the terms and conditions of this AGREEMENT.
- 3.3 Subject to the Paragraph 3.4 herein below, LICENSEE shall have the right to grant sublicenses under LICENSED SUBJECT MATTER consistent with the terms of this AGREEMENT provided that LICENSEE shall be responsible for its sublicensees relevant to this AGREEMENT, and for diligently collecting all amounts due LICENSEE from sublicensees. In the event a sublicensee pursuant hereto becomes bankrupt, insolvent or is placed in the hands of a receiver or trustee, LICENSEE, to the extent allowed under applicable law and in a timely manner, agrees to use its best reasonable efforts to collect any and all consideration owed to LICENSEE and to have the sublicense agreement confirmed or rejected by a court of proper jurisdiction.
- 3.4 LICENSEE agrees to deliver to MDA a true and correct copy of each sublicense granted by LICENSEE, and any modification or termination thereof, within thirty (30) days after execution, modification, or termination.
- 3.5 Upon termination of this AGREEMENT, BOARD and MDA agree to accept as successors to LICENSEE, existing sublicensees in good standing at the date of termination provided that such sublicensees consent in writing to be bound by all of the terms and conditions of this AGREEMENT.

#### IV. CONSIDERATION, PAYMENTS AND REPORTS

- 4.1 In consideration of rights granted by BOARD to LICENSEE under this AGREEMENT, LICENSEE agrees to pay MDA the following:
- (a) All out-of-pocket expenses incurred by MDA in filing, prosecuting, enforcing and maintaining PATENT RIGHTS licensed hereunder, for so long as, and in such

countries as, this AGREEMENT remains in effect. MDA will invoice LICENSEE upon a quarterly basis for expenses incurred by MDA, and the amounts invoiced will be due and payable by LICENSEE within thirty (30) days thereafter, and

- (b) A non-refundable license documentation fee in the amount of [ ] which shall not reduce the amount of any other payment provided for in this ARTICLE IV, and which shall be due and payable within thirty (30) days after approval of this AGREEMENT by BOARD as invoiced by MDA; and
- (c) A milestone payment in the amount of [ ] which shall be due and payable within thirty (30) days after the [ ] [ ] set forth in Exhibit I is isolated by LICENSEE and MDA, and a patent application is filed.
- (d) A running royalty equal to [ ] of LICENSEE'S NET SALES of LICENSED PRODUCTS in LICENSED FIELD of therapeutics, and a running royalty equal to [ ] of LICENSEE'S NET SALES of LICENSED PRODUCTS in LICENSED FIELD of diagnostics, in national political jurisdictions in the LICENSED TERRITORY where LICENSED SUBJECT MATTER is covered by one (1) or more issued patents or pending patent applications. Such royalties shall be reduced to [ ] of above applicable rates respectively for LICENSEE'S NET SALES of LICENSED PRODUCTS in national political jurisdictions in the LICENSED TERRITORY where BOARD and LICENSEE decide not to file patent applications and therefore LICENSED SUBJECT MATTER is not covered by one (1) or more issued patents or pending patent applications.
- (e) [ ] of all consideration (royalties not included) other than Research and Development ("R&D") money and direct equity investment received by LICENSEE from (i) any sublicensee pursuant to Paragraphs 3.3 and 3.4 herein above and (ii) any assignee pursuant to Paragraph 12.1 herein below, including but not limited to up-front payments, marketing, distribution, franchise, option, license, or documentation fees, bonus and milestone payments, plus [ ] of NET SALES of sublicensee and LICENSEE (if applicable) in the LICENSED FIELD of the therapeutics and [ ] of NET SALES of sublicensee and LICENSEE (if applicable) in the LICENSED FIELD of diagnostics, all payable within thirty (30) days after

March 31, June 30, September 30, and December 31 of each year during the term of this AGREEMENT, at which time LICENSEE shall also deliver to BOARD and MDA a true and accurate report, giving such particulars of the business conducted by LICENSEE and its sublicensees, if any exist, during the preceding three (3) calendar months under this AGREEMENT as necessary for BOARD to account for LICENSEE'S payments hereunder. Such report shall include all pertinent data, including, but not limited to: (a) the total quantities of LICENSED PRODUCTS produced; (b) the total SALES, (c) the calculation of royalties thereon; (d) the total royalties (or minimum royalties) so computed and due MDA; and (e) all other amounts due MDA herein. Simultaneously with the delivery of each such report, LICENSEE shall pay to MDA the amount, if any, due for the period of such report. If no payments are due, it shall be so reported. Should LICENSEE be obligated to pay running royalties to third parties to avoid infringing such third parties' patent rights which otherwise because of infringement would preclude LICENSEE from practicing LICENSED SUBJECT MATTER, LICENSEE may reduce the running royalty due MDA by such running royalties to such third parties, provided, however, the running royalty due MDA shall in no case be less than one-half the rates stated herein.

4.2 During the Term of this AGREEMENT and for one (1) year thereafter, LICENSEE shall keep complete and accurate records of its and its sublicensees' SALES and NET SALES of LICENSED PRODUCTS to enable the royalties payable hereunder to be determined. LICENSEE shall permit MDA or its representatives, at MDA's expense, to periodically examine its books, ledgers, and records once annually during regular business hours and with reasonable advanced notice for the purpose of and to the extent necessary to verify any report required under this AGREEMENT. In the event that the amounts due to MDA are determined to have been underpaid in an amount equal to or greater than five percent (5%) of the total amount due during the period of time so examined, LICENSEE shall pay the cost of such examination, and accrued interest at the highest allowable rate.

4.3 Upon the request of MDA but not more often than once per calendar year, LICENSEE shall deliver to MDA a written report as to LICENSEE'S (and sublicensees') efforts and accomplishments during the preceding year in diligently commercializing LICENSED SUBJECT MATTER in the LICENSED TERRITORY and LICENSEE'S (and sublicensees') commercialization plans for the upcoming year.

- 4.4 All amounts payable hereunder by LICENSEE shall be payable in United States funds without deductions for taxes, assessments, fees, or charges of any kind. Checks shall be made payable to The University of Texas M. D. Anderson Cancer Center and mailed by U.S. Mail to Box 297402, Houston, Texas 77297 Attention: Manager, Sponsored Programs.
- 4.5 No payments due or royalty rates under this AGREEMENT shall be reduced as the result of co-ownership of LICENSED SUBJECT MATTER by BOARD and another party, including LICENSEE.

#### V. PUBLICATION

- 5.1 MDA shall have the right to publish the general scientific findings related to the LICENSED SUBJECT MATTER, provided such publication, presentation or public disclosure is submitted to LICENSEE at least sixty (60) days prior to submitting it to a journal, editor, or other third party. LICENSEE shall have sixty (60) days after receipt to review the proposed publication, presentation or public disclosure.
- 5.2 MDA and LICENSEE shall jointly decide on the content and timing of any publication, presentation or public disclosure of any jointly owned inventions or discoveries that result from the LICENSED SUBJECT MATTER.

#### VI. PATENTS AND INVENTIONS

- 6.1 If after consultation with LICENSEE it is agreed by MDA and LICENSEE that a new patent application should be filed for LICENSED SUBJECT MATTER, MDA will prepare and file appropriate patent applications, and LICENSEE will pay the cost of searching, preparing, filing, prosecuting and maintaining same. If LICENSEE notifies MDA that it does not intend to pay the cost of an application, or the prosecution or maintenance thereof in a national political jurisdiction, then MDA may file, prosecute or maintain such application at its own expense and LICENSEE shall have no rights to such patent application or patent in that national political jurisdiction. MDA shall provide LICENSEE with a copy of the application for which LICENSEE has paid the cost of filing, as well as copies of any documents received or filed during prosecution thereof.

## VII. INFRINGEMENT BY THIRD PARTIES

- 7.1 LICENSEE shall have the obligation of enforcing at its expense any patent exclusively licensed hereunder against infringement by third parties and shall be entitled to retain recovery from such enforcement. LICENSEE shall pay MDA a royalty on any monetary recovery to the extent that such monetary recovery by LICENSEE is held to be damages or a reasonable royalty in lieu thereof. In the event that LICENSEE does not file suit against a substantial infringer of such patents within six (6) months of knowledge thereof, then BOARD and MDA shall have the right to enforce any patent licensed hereunder on behalf of itself and LICENSEE, with MDA retaining all recoveries from such enforcement.
- 7.2 In any suit or dispute involving an infringer, the parties shall cooperate fully, and upon the request and at the expense of the party bringing suit, the other party shall make available to the party bringing suit at reasonable times and under appropriate conditions all relevant personnel, records, papers, information, samples, specimens, and the like which are in its possession.
- 7.3 In the event that an action for infringement is brought against LICENSEE, its AFFILIATES or sublicensees by a third party because of manufacture, use or sale of LICENSED PRODUCTS, LICENSEE shall defend, at its own cost, any such third party claim or action. MDA shall cooperate fully in such defense and furnish to LICENSEE all evidence and assistance.

## VIII. PATENT MARKING

- 8.1 LICENSEE agrees that all packaging containing individual LICENSED PRODUCT(S), and documentation therefor, sold by LICENSEE, SUBSIDIARIES, and sublicensees of LICENSEE will be marked permanently and legibly with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent law, including Title 35, United States Code.

## IX. INDEMNIFICATION

- 9.1 LICENSEE shall hold harmless and indemnify BOARD, SYSTEM, MDA, its Regents, officers, employees, students, and agents from and against any claims, demand, or causes of action whatsoever, costs of suit and reasonable attorney's fees, including without limitation, those costs arising on account of any injury or death of persons or damage to property

caused by, or arising out of, or resulting from, the exercise or practice of the license granted hereunder by LICENSEE or its officers, employees, agents or representatives.

X. USE OF BOARD AND COMPONENT'S NAME

10.1 LICENSEE shall not use the name of (or the name of any employee of) MDA, SYSTEM or BOARD without the advance, express written consent of BOARD secured through:

The University of Texas  
M. D. Anderson Cancer Center  
Office of Public Affairs  
1515 Holcombe Boulevard  
Box 229  
Houston, Texas 77030  
ATTENTION: Stephen C. Stuyck

XI. CONFIDENTIAL INFORMATION

11.1 MDA and LICENSEE each agree that all information contained in documents marked "confidential" which are forwarded to one by the other shall be received in strict confidence, used only for the purposes of this AGREEMENT, and not disclosed by the recipient party (except as required by law or court order), its agents or employees without the prior written consent of the other party, unless such information (a) was in the public domain at the time of disclosure, (b) later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors or assigns, (c) was lawfully disclosed to the recipient party by a third party having the right to disclose it, (d) was already known by the recipient party at the time of disclosure, (e) was independently developed or (f) is required to be submitted to a government agency pursuant to any preexisting obligation.

11.2 MDA'S and LICENSEE'S obligation of confidence hereunder shall be fulfilled by using the same degree of care with the other party's confidential information as it uses to protect its own confidential information. This obligation shall exist while this AGREEMENT is in force and for a period of three (3) years thereafter.

## XII. ASSIGNMENT

12.1 Except in connection with merger, consolidation or sale of substantially all of LICENSEE'S assets to a third party, this AGREEMENT may not be assigned by LICENSEE without the prior written consent of BOARD.

## XIII. TERMS AND TERMINATION

13.1 Subject to Articles 13.2, 13.3 and 13.4 herein below, the term of this AGREEMENT shall extend from the Effective Date set forth herein above to (i) the full end of the term or terms for which PATENT RIGHTS have not expired, or (ii) if only TECHNOLOGY RIGHTS are licensed and no PATENT RIGHTS are applicable, for a term of fifteen (15) years.

13.2 BOARD and MDA shall have the right at any time after two (2) years from the EFFECTIVE DATE of this AGREEMENT to terminate the license granted herein in any national political jurisdiction within the LICENSED TERRITORY if LICENSEE, within ninety (90) days after written notice from MDA of such intended termination, fails to provide written evidence satisfactory to MDA that LICENSEE has commercialized or is actively and effectively attempting to commercialize an invention licensed hereunder within such jurisdiction(s). Accurate, written evidence provided by LICENSEE to MDA within said ninety (90) day period that LICENSEE has an effective, ongoing and active research, development, manufacturing, marketing, or sales program, as appropriate, directed toward obtaining regulatory approval and/or production and/or sale of LICENSED PRODUCTS incorporating PATENT RIGHTS or incorporating TECHNOLOGY RIGHTS within such jurisdiction shall be deemed satisfactory evidence.

13.3 Subject to any rights herein which survive termination, this AGREEMENT will earlier terminate in its entirety:

- (a) automatically if LICENSEE shall become bankrupt or insolvent and/or if the business of LICENSEE shall be placed in the hands of a receiver or trustee, whether by voluntary act of LICENSEE or otherwise; or
- (b) (i) upon thirty (30) days written notice by MDA if LICENSEE shall breach or default on the payment obligations of ARTICLE IV, or use of name obligations of ARTICLE X; or (ii) upon ninety (90) days written notice by MDA if LICENSEE shall breach or default on any other obligation under this AGREEMENT; provided, however, LICENSEE may avoid such termination if before the end of such thirty (30) or ninety (90) day period if LICENSEE provides notice and accurate, written

evidence satisfactory to MDA that such breach has been cured and the manner of such cure; or

- (c) at any time by mutual written agreement between LICENSEE, MDA and BOARD, or without cause upon one hundred eighty (180) days written notice by LICENSEE to MDA and, subject to any terms herein which survive termination.

13.4 Upon termination of this AGREEMENT for any cause:

- (a) nothing herein shall be construed to release either party of any obligation matured prior to the effective date of such termination.
- (b) LICENSEE covenants and agrees to be bound by the provisions of ARTICLES IX, X AND XI of this AGREEMENT.
- (c) LICENSEE may, after the effective date of such termination, sell all LICENSED PRODUCTS and parts therefore that it may have on hand at the date of termination, provided that LICENSEE pays the earned royalty thereon and any other amounts due pursuant to ARTICLE IV of this AGREEMENT.

#### XIV. WARRANTY: SUPERIOR-RIGHTS

14.1 Except for the rights, if any, of the Government of the United States as set forth herein below, BOARD represents and warrants its belief that it is the owner of the entire right, title, and interest in and to LICENSED SUBJECT MATTER, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.

14.2 LICENSEE understands that the LICENSED SUBJECT MATTER may have been developed under a funding agreement with the Government of the United States of America and, if so, that the Government may have certain rights relative thereto. This AGREEMENT is explicitly made subject to the Government's rights under any such agreement and any applicable law or regulation, including P.L. 96-517 as amended by P.L. 98-620. To the extent that there is a conflict between any such agreement, applicable law or regulation and this AGREEMENT, the terms of such Government agreement, applicable law or regulation shall prevail.

14.3 LICENSEE understands and agrees that BOARD, by this

AGREEMENT, makes no representation as to the operability or fitness for any use, safety, efficacy, approvability by regulatory authorities, time and cost of development, patentability, and/or breadth of the LICENSED SUBJECT MATTER. BOARD, by this AGREEMENT, makes no representation as to whether there are any patents now held, or which will be held, by others or by BOARD in the LICENSED FIELD, nor does BOARD make any representation that the inventions contained in PATENT RIGHTS do not infringe any other patents now held or that will be held by others or by BOARD.

14.4 LICENSEE, by execution hereof, acknowledges, covenants and agrees that LICENSEE has not been induced in anyway by BOARD, SYSTEM, MDA or employees thereof to enter into this Agreement, and further warrants and represents that (i) LICENSEE has conducted sufficient due diligence with respect to all items and issues pertaining to Article XIV herein and all other matters pertaining to this Agreement; and (ii) LICENSEE has adequate knowledge and expertise, or has utilized knowledgeable and expert consultants, to adequately conduct such due diligence, and agrees to accept all risks inherent herein.

#### XV. GENERAL

15.1 This AGREEMENT constitutes the entire and only AGREEMENT between the parties for LICENSED SUBJECT MATTER and all other prior negotiations, representations, agreements and understandings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.

15.2 Any notice required by this AGREEMENT shall be given by prepaid, first class, certified mail, return receipt requested, and addressed in the case of BOARD to:

BOARD OF REGENTS  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701  
ATTENTION: Office of General Counsel

with copy to: The University of Texas  
M. D. Andersen Cancer Center  
Office of Technology Development  
1020 Holcombe Boulevard, Suite 1405  
Houston, Texas 77030  
ATTENTION: William J. Doty

or in the case of  
LICENSEE to: Myriad Genetics, Inc.  
390 Wakara Way  
Salt Lake City, Utah 84108

ATTENTION: President

or such other address as may be given from time to time under the terms of this notice provision.

- 15.3 LICENSEE covenants and agrees to comply with all applicable federal, state and local laws and regulations in connection with its activities pursuant to this AGREEMENT.
- 15.4 This AGREEMENT shall be construed and enforced in accordance with the laws of the United States of America and of the State of Texas.
- 15.5 Failure of BOARD to enforce a right under this AGREEMENT shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.
- 15.6 Headings included herein are for convenience only and shall not be used to construe this AGREEMENT.
- 15.7 If any provision of this AGREEMENT shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this AGREEMENT.

IN WITNESS WHEREOF, parties hereto have caused their duly authorized representatives to execute this AGREEMENT.

THE UNIVERSITY OF TEXAS  
M. D. ANDERSON CANCER CENTER

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

By /s/ David J. Bachrach  
-----  
David J. Bachrach  
Executive Vice President  
for Administration and Finance

By /s/ Ray Farabee  
-----  
Ray Farabee  
Vice Chancellor and  
General Counsel

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

By /s/ William J. Doty  
-----  
William J. Doty  
Director, Technology  
Development

By /s/ Dudley R. Dobie, Jr.  
-----  
Dudley R. Dobie, Jr.  
Manager, Intellectual  
Property

MYRIAD GENETICS, INC.

By /s/ Peter D. Meldrum  
-----  
Peter D. Meldrum  
President and CEO



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MYRIAD GENETICS, INC. HAS OMITTED FROM THIS EXHIBIT 10.4 PORTIONS OF THE AGREEMENT FOR WHICH MYRIAD GENETICS, INC. HAS REQUESTED CONFIDENTIAL TREATMENT FROM THE SECURITIES AND EXCHANGE COMMISSION. THE PORTIONS OF THE AGREEMENT FOR WHICH CONFIDENTIAL TREATMENT HAS BEEN REQUESTED ARE MARKED "[ ]" AND SUCH CONFIDENTIAL PORTIONS HAVE BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

March 4, 1996

Dr. Lisa Cannon-Albright  
Genetic Epidemiology  
University of Utah  
391 Chipeta Way #D-2  
Salt Lake City, Utah 84108

RE: Sub-contract titled: Isolation and Characterization of Genes Predisposing to Cancer. University Acct. No. 5-20639

Dear Dr. Cannon-Albright:

This modification is made and entered into by and between the University of Utah and Myriad Genetics, Inc. As the original agreement states, any extension must be mutually agreed upon in writing between the parties.

The purpose of this modification is to approve an additional year of funding in the amount of [ ] ([ ] and [ ] costs of [ ])  
(see attached budget) from March 1, 1996 to February 28, 1997.

The Principal Investigator will be Lisa Cannon-Albright for this new year funding.

Approval Signatures: Myriad Genetics, Inc.

/s/ Peter Meldrum  
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Peter Meldrum-President

Genetic Epidemiology

/s/ Dr. Lisa Cannon-Albright  
-----  
Dr. Lisa Cannon-Albright

University of Utah

/s/ Robert G. Glass  
-----  
Acting for  
Nancy V. Dyke, Associate Director  
Office of Sponsored Projects

BUDGET FOR 1996 - 1997

|                               |        |
|-------------------------------|--------|
| Salaries and Wages            | \$ [ ] |
| Fringe Benefits               | \$ [ ] |
| Total Personnel               | \$ [ ] |
| Supplies                      | \$ [ ] |
| Total Direct Costs            | \$ [ ] |
| Indirect Costs<br>( [ ] MTDC) | \$ [ ] |
| Total                         | \$ [ ] |