

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

FORM 10-Q

(Mark One)

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934
For the quarterly period ended March 31, 2001

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: 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

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 May 11, 2001 the registrant had 23,265,453 shares of \$0.01 par value common stock outstanding.

MYRIAD GENETICS, INC.

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MYRIAD GENETICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

| | (Unaudited) March 31, 2001 | June 30, 2000 |
|---|-------------------------------|---------------|
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 96,201,023 | \$ 56,214,736 |
| Marketable investment securities | 31,851,402 | 24,286,955 |
| Trade accounts receivables, less allowance for doubtful accounts of \$245,000 at March 31, 2001 and \$145,000 at June 30, 2000 | 3,505,557 | 2,352,154 |
| Prepaid expenses | 1,635,360 | 2,678,984 |
| Other receivables | 277,655 | 398,947 |
| Total current assets | 133,470,997 | 85,931,776 |
| Equipment and leasehold improvements: | | |
| Equipment | 20,636,181 | 16,965,545 |
| Leasehold improvements | 3,485,680 | 4,005,729 |
| Less accumulated depreciation and amortization | 24,121,861 | 20,971,274 |
| Net equipment and leasehold improvements | 11,606,467 | 9,719,556 |
| Long-term marketable investment securities | 12,515,394 | 11,251,718 |
| Other assets | 12,778,982 | 8,154,153 |
| | 3,479,846 | 1,037,658 |
| | \$162,245,219 | \$106,375,305 |
| Liabilities and Stockholders' Equity | | |
| Current liabilities: | | |
| Accounts payable | \$ 5,421,861 | \$ 4,262,359 |
| Accrued liabilities | 2,937,437 | 4,905,857 |
| Deferred revenue | 14,654,552 | 19,500,442 |
| Total current liabilities | 23,013,850 | 28,668,658 |
| Stockholders' equity: | | |
| Common stock, \$0.01 par value, 60,000,000 shares authorized; issued and outstanding 23,260,811 at March 31, 2001 and 21,866,482 at June 30, 2000 | 232,608 | 218,666 |
| Additional paid-in capital | 196,385,286 | 130,235,403 |
| Accumulated other comprehensive income (loss) | 263,409 | (85,440) |
| Accumulated deficit | (57,649,934) | (52,661,982) |
| Total stockholders' equity | 139,231,369 | 77,706,647 |
| | \$162,245,219 | \$106,375,305 |

See accompanying notes to condensed consolidated financial statements.

MYRIAD GENETICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

| | (Unaudited) Three Months Ended March 31, | | (Unaudited) Nine months Ended March 31, | |
|---|---|---------------|--|---------------|
| | 2001 | 2000 | 2001 | 2000 |
| Revenues: | | | | |
| Research revenue | \$ 6,652,289 | \$ 7,287,880 | \$ 22,409,558 | \$ 18,791,397 |
| Predictive medicine revenue | 4,914,950 | 2,426,886 | 11,930,856 | 6,065,043 |
| Total revenues | 11,567,239 | 9,714,766 | 34,340,414 | 24,856,440 |
| Costs and expenses: | | | | |
| Predictive medicine cost of revenue | 2,149,029 | 1,068,511 | 5,181,389 | 2,860,598 |
| Research and development expense | 8,428,402 | 8,333,149 | 26,570,236 | 20,325,418 |
| Selling, general and administrative expense | 4,247,554 | 3,337,482 | 12,271,188 | 9,713,413 |
| Total expenses | 14,824,985 | 12,739,142 | 44,022,813 | 32,899,429 |
| Operating loss | (3,257,746) | (3,024,376) | (9,682,399) | (8,042,989) |
| Other income (expense): | | | | |
| Interest income | 2,057,167 | 949,162 | 5,477,560 | 2,259,615 |
| Other | (27,465) | (14,670) | (283,113) | (374,752) |
| Net loss before taxes | (1,228,044) | (2,089,884) | (4,487,952) | (6,158,126) |
| Income taxes | 500,000 | -- | 500,000 | -- |
| Net loss | (\$1,728,044) | (\$2,089,884) | (\$4,987,952) | (\$6,158,126) |
| Basic and diluted loss per share | (\$0.07) | (\$0.10) | (\$0.22) | (\$0.31) |
| Basic and diluted weighted average shares outstanding | 23,219,841 | 20,682,538 | 22,646,020 | 19,929,208 |

See accompanying notes to condensed consolidated financial statements.

MYRIAD GENETICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

| | Nine months Ended | |
|---|-------------------------------|-------------------------------|
| | (Unaudited) March 31, 2001 | (Unaudited) March 31, 2000 |
| Cash flows from operating activities: | | |
| Net loss | (\$4,987,952) | (\$6,158,126) |
| Adjustments to reconcile net loss to net cash provided by (used in) operating activities: | | |
| Depreciation and amortization | 2,735,937 | 2,380,404 |
| Loss on disposition of assets | 283,113 | 374,752 |
| Bad debt expense | 100,000 | 33,007 |
| Increase in trade receivables | (1,253,403) | (747,443) |
| Decrease in other receivables | 121,292 | 1,646,246 |
| (Increase) decrease in prepaid expenses | 1,043,624 | (2,210,263) |
| Increase in other assets | -- | (578,555) |
| Increase (decrease) in accounts payable and accrued expenses | (808,918) | 2,136,043 |
| Increase (decrease) in deferred revenue | (4,845,890) | 15,146,403 |
| Net cash provided by (used in) operating activities | (7,612,197) | 12,022,468 |
| Cash flows from investing activities: | | |
| Capital expenditures | (4,024,914) | (3,453,707) |
| Investment in pharmaceutical company | (2,700,000) | -- |
| Net purchases/sales of marketable investment securities | (12,189,276) | 1,810,637 |
| Net cash used in investing activities | (18,565,341) | (1,643,070) |
| Cash flows from financing activities: | | |
| Net proceeds from issuance of common stock | 66,163,825 | 12,995,422 |
| Net cash provided by financing activities | 66,163,825 | 12,995,422 |
| Net increase in cash and cash equivalents | 39,986,287 | 23,374,820 |
| Cash and cash equivalents at beginning of period | 56,214,736 | 5,404,944 |
| Cash and cash equivalents at end of period | \$ 96,201,023 | \$ 28,779,764 |

See accompanying notes to condensed consolidated financial statements.

MYRIAD GENETICS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS

(1) Basis of Presentation

The accompanying condensed consolidated financial statements have been prepared by Myriad Genetics, Inc. (the "Company") in accordance with generally accepted accounting principles for interim financial information and pursuant to the applicable rules and regulations of the Securities and Exchange Commission. The condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. In the opinion of management, the accompanying financial statements contain all adjustments (consisting of normal and recurring accruals) necessary to present fairly all financial statements. The financial statements herein should be read in conjunction with the Company's audited consolidated financial statements and notes thereto for the fiscal year ended June 30, 2000, included in the Company's Annual Report on Form 10-K and Amendment No. 1 to Form 10-K on Form 10-K/A for the year ended June 30, 2000. Operating results for the three and nine month periods ended March 31, 2001 may not necessarily be indicative of the results to be expected for any other interim period or for the full year.

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(2) Comprehensive Loss (Unaudited)

The components of the Company's comprehensive loss are as follows:

| | Three Months Ended March 31, | | Nine months Ended March 31, | |
|--|------------------------------|---------------|-----------------------------|---------------|
| | 2001 | 2000 | 2001 | 2000 |
| Net loss | (\$1,728,044) | (\$2,089,884) | (\$4,987,952) | (\$6,158,126) |
| Unrealized gain (loss) on available-for-sale securities | 198,779 | 13,406 | 348,849 | (3,463) |
| Comprehensive loss | (\$1,529,265) | (\$2,076,478) | (\$4,639,103) | (\$6,161,589) |

(3) Net Loss Per Common Share

Loss per common share is computed based on the weighted-average number of common shares and, as appropriate, dilutive potential common shares outstanding during the period. Stock options and warrants are considered to be potential common shares.

Basic loss per common share is the amount of loss for the period available to each share of common stock outstanding during the reporting period. Diluted earnings per share is the amount of loss for the period available to each share of common stock outstanding during the reporting period and to each share that would have been outstanding assuming the issuance of common shares for all dilutive potential common shares outstanding during the period.

In calculating loss per common share the net loss and the weighted average common shares outstanding were the same for both the basic and diluted calculation.

As of March 31, 2001 and 2000, there were antidilutive potential common shares of 3,942,576 and 3,085,786, respectively. Accordingly, these potential common shares were not included in the computation of diluted loss per share for the periods presented, but may be dilutive to future basic and diluted earnings per share.

(4) Segment and Related Information

The Company's business units have been aggregated into two reportable segments: (i) research and (ii) predictive medicine. The research segment is focused on the discovery and sequencing of genes related to major common diseases, marketing of subscriptions to proprietary database information, and the development of therapeutic products for the treatment and prevention of major diseases. The predictive medicine segment provides testing to determine predisposition to common diseases.

The accounting policies of the segments are the same as those described in the basis of presentation (note 1). The Company evaluates segment performance based on results from operations before interest income and expense and other income and expense. The Company's assets are not identifiable by segment.

| | Research | Predictive medicine | Total |
|-----------------------------------|--------------|------------------------|--------------|
| | ----- | ----- | ----- |
| Three months ended Mar. 31, 2001: | | | |
| Revenues | \$ 6,652,289 | \$ 4,914,950 | \$11,567,239 |
| Depreciation and amortization | 662,306 | 296,722 | 959,028 |
| Segment operating loss | 2,106,415 | 1,151,331 | 3,257,746 |
| Three months ended Mar. 31, 2000: | | | |
| Revenues | 7,287,880 | 2,426,886 | 9,714,766 |
| Depreciation and amortization | 600,269 | 195,722 | 795,991 |
| Segment operating loss | 1,642,460 | 1,331,916 | 3,024,376 |
| Nine months ended Mar. 31, 2001: | | | |
| Revenues | 22,409,558 | 11,930,856 | 34,340,414 |
| Depreciation and amortization | 1,919,186 | 816,751 | 2,735,937 |
| Segment operating loss | 4,989,752 | 4,692,647 | 9,682,399 |
| Nine months ended Mar. 31, 2000: | | | |
| Revenues | 18,791,397 | 6,065,043 | 24,856,440 |
| Depreciation and amortization | 1,809,643 | 570,761 | 2,380,404 |
| Segment operating loss | 3,921,021 | 4,121,968 | 8,042,989 |

| | Three Months Ended | | Nine months Ended | |
|--|---------------------------|---------------------------|---------------------------|---------------------------|
| | (Unaudited) | (Unaudited) | (Unaudited) | (Unaudited) |
| | Mar. 31, 2001 | Mar. 31, 2000 | Mar. 31, 2001 | Mar. 31, 2000 |
| Total operating loss for reportable segments | (\$3,257,746) | (\$3,024,376) | (\$9,682,399) | (\$8,042,989) |
| Interest income | 2,057,167 | 949,162 | 5,477,560 | 2,259,615 |
| Other | (27,465) | (14,670) | (283,113) | (374,752) |
| Taxes | (500,000) | - | (500,000) | - |
| Net loss | ===== (\$1,728,044) ===== | ===== (\$2,089,884) ===== | ===== (\$4,987,952) ===== | ===== (\$6,158,126) ===== |

(5) Subsequent Events

In April 2001 the Company announced the formation of a new alliance with Hitachi, Ltd., Friedli Corporate Finance A.G., and Oracle Corp. to map the human proteome. The newly-formed entity, Myriad Proteomics, Inc., will market its proprietary database and a set of proteomic materials to pharmaceutical and biotechnology companies for therapeutic and diagnostic product development. The Company will contribute technology valued at \$82 million to the alliance and receive a 50 percent ownership interest in Myriad Proteomics, Inc. Hitachi, Oracle, and Friedli will contribute a combined \$85 million in cash in exchange for the remaining 50 percent interest in Myriad Proteomics, Inc.

(6) Recent Accounting Pronouncements

In December 2000, the Securities and Exchange Commission staff released Staff Accounting Bulletin No. 101, Revenue Recognition, (SAB 101) to provide guidance on the recognition, presentation and disclosure of revenue in financial statements; however, SAB 101 does not change existing literature on revenue recognition. SAB 101 explains the staff's general framework for revenue recognition, stating that four criteria need to be met in order to recognize revenue. The four criteria, all of which must be met, are the following:

- . There must be persuasive evidence of an arrangement;
- . Delivery must have occurred or services must have been rendered;
- . The selling price must be fixed or determinable; and
- . Collectibility must be reasonably assured.

The Company will adopt SAB 101 during the quarter ended June 30, 2001. The Company has evaluated its current revenue recognition policy and believes it is in compliance with this guidance.

MANAGEMENT'S DISCUSSION AND ANALYSIS
OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Overview

We are a leader in the emerging field of proteomics and gene-based medicine focusing on the development of therapeutic and predictive medicine products. We have developed, and will continue to expand upon, a number of proprietary proteomic technologies which permit us, through the use of our bioinformatics and robotics systems, to identify genes and related proteins that may play a role in the onset or progression of major human diseases. We formed two wholly owned subsidiaries, Myriad Pharmaceuticals, Inc. and Myriad Genetic Laboratories, Inc., to commercialize our therapeutic discoveries and predictive medicine discoveries, respectively. Myriad Pharmaceuticals, Inc. focuses on the discovery and development of therapeutic products. Myriad Genetic Laboratories, Inc. focuses on the development of predictive medicine products that assess a person's risk of developing a specific disease and permits physicians and their patients to take appropriate health care measures to reduce the risk.

In April 2001 we announced the formation of a new alliance with Hitachi, Ltd., Friedli Corporate Finance A.G., and Oracle Corp. to map the human proteome. The collaboration will take place within Myriad Proteomics, Inc., a newly formed Delaware corporation of which we own 50 percent. Myriad Proteomics will market its proprietary database and a set of proteomic materials to pharmaceutical and biotechnology companies for therapeutic and diagnostic product development.

We have devoted substantially all of our resources to maintaining our research and development programs, supporting collaborative research agreements, operating a predictive medicine business and undertaking drug discovery and development. Our revenues have consisted primarily of research payments received pursuant to collaborative agreements, upfront fees, milestone payments, and sales of predictive medicine products. We have yet to attain profitability and, for the three months ended March 31, 2001, we had a net loss of \$1,728,044 and as of March 31, 2001 had an accumulated deficit of \$57,649,934.

In September 1995, we commenced a five-year collaborative research and development arrangement with Bayer Corporation. The total equity investment, research funding and potential milestone payments under this collaboration may provide us with up to \$71,000,000. In November 1997, December 1998, and December 2000, we announced expansions of our collaborative research and development arrangement with Bayer. The expanded collaboration and extensions may provide us with additional research funding and potential milestone payments of up to \$137,000,000. We granted Bayer an exclusive worldwide license to human therapeutic products developed from this collaboration. We are entitled to receive royalties from sales of therapeutic products commercialized by Bayer for a term of ten years following the first commercial sale or 20 years following discovery of a disease gene, whichever is longer. We have received approximately \$37,000,000 in non-refundable research payments to date under this agreement.

In October 1996, we announced the introduction of BRACAnalysis(R), a comprehensive predictive medicine test for breast and ovarian cancer. In January 1998, we announced the introduction of CardiaRisk(R), which may assist physicians both in identifying which hypertensive patients are at a significantly increased risk of developing cardiovascular disease and identifying which patients are likely to respond to low salt diet therapy and antihypertensive drug therapy. In September 2000, we announced the launch of COLARIS(TM), a predictive medicine test for colon cancer and uterine cancer. We, through our wholly owned subsidiary Myriad Genetic Laboratories, Inc., recognized predictive medicine revenues of \$4,914,950 for the three months ended March 31, 2001.

In October 1998, we entered into a five-year collaboration with Schering AG, to utilize ProNet(R) for drug discovery and development. Under the agreement, we will have an option to co-promote all new therapeutic products in North America and receive 50 percent of the profits from North American sales of

all new drugs discovered using ProNet(R). Outside of North America, we granted Schering AG an exclusive license to therapeutic products developed from this collaboration. The total research funding, license fees, subscription fees, option payments and potential milestone payments under this collaboration may provide us with up to \$51,000,000. If we choose to co-promote a drug developed by Schering AG as a 50 percent partner, we are required to pay funds to Schering AG to establish equal ownership. If we do not choose to co-promote a drug developed under this collaboration, Schering AG will receive a worldwide exclusive license to therapeutic products developed from this collaboration from which we may receive future royalty payments. Royalty terms are tied to either the life of any patents that may result from this research or ten years following the first commercial sale of a therapeutic product, whichever is longer. In October 1999, we received \$5,000,000 in the form of an equity investment and announced the expansion of our collaboration with Schering AG to include research in the field of cardiovascular disease.

In November 1998, we entered into a 15 month collaboration with Pharmacia Corporation to utilize ProNet(R) for drug discovery and development. We granted Pharmacia non-exclusive access to proteins contained in the pathways analyzed under the collaboration and an option to obtain an exclusive, worldwide license to therapeutic products developed from this collaboration. In December 1999, Pharmacia exercised its option to extend the research term for an additional 12 months and exercised its option to expand the research funding. The total research funding, option payments, license fees and potential milestone payments under this collaboration may provide us with up to \$28,000,000. In addition, we are entitled to receive royalties from sales of therapeutic products commercialized by Pharmacia for a term of the later of 15 years from the first commercial sale or the life of any resulting patent. We received approximately \$1,000,000 in non-refundable research payments under this agreement, of which the research portion was successfully concluded during the current quarter.

In July 1999, we entered into a two-year collaboration and license agreement with Syngenta. The genomic collaboration focuses on the discovery of the genetic structure of cereal crops. We will have joint ownership with Syngenta to all data developed under this agreement and a right to receive 50 percent of all proceeds derived from the sale of the data. Myriad and Syngenta each have a royalty-free worldwide co-exclusive right for commercial use of any resulting data. Myriad and Syngenta each intend to jointly offer commercial access to the genomic databases and share equally in any resulting proceeds. In January 2001 we announced completion of DNA sequencing of the entire rice genome ahead of schedule. Remaining collaboration funding will be used to expand the scope of the existing agreement to include the use of our ProNet(R) technology. We have received approximately \$33,500,000 in non-refundable research payments to date under this agreement.

In December 1999, we entered into an 18 month collaboration with Hoffmann-LaRoche Inc. to utilize ProNet(R) for drug discovery and development in the area of cardiovascular disease. The total research funding, license fees and potential milestone payments under this collaboration may provide us with up to \$13,000,000. We granted Roche exclusive access to proteins contained in the pathways analyzed under this collaboration and an option to obtain an exclusive, worldwide license to the therapeutic and diagnostic products developed from this collaboration. In addition, we are entitled to receive royalties from sales of therapeutic products commercialized by Roche for a term of ten years from the first commercial sale. We have received approximately \$500,000 in non-refundable research payments to date under this agreement.

In May 2000, we entered into a three-year strategic alliance with Hitachi Ltd. Under the terms of the agreement, we will work with Hitachi to commercialize the ProNet(R) technology together in Japan and Hitachi will establish a designated ProNet(R) facility to expedite the discovery of novel protein-protein interactions for Japanese customers. We granted Hitachi an exclusive, royalty-bearing license in Japan to the ProNet(R) database and technology. Total payments under this collaboration are expected to provide us with \$26,000,000. In addition, we are entitled to receive royalties from sales of the database in Japan

and from sales of therapeutic products commercialized by Hitachi. We are entitled to receive royalties for a period of ten years. We have received approximately \$7,500,000 in non-refundable research payments to date under this agreement.

In December 2000, we acquired from Encore Pharmaceuticals, Inc. worldwide, exclusive rights to develop, manufacture, and market a drug aimed at the prevention and treatment of prostate, colon, and other cancers. The compound, which will be known as MPC-7869, has completed Phase IIa human clinical trials, demonstrating a promising safety profile in both healthy individuals and prostate cancer patients. We made an equity investment in Encore of \$2.7 million, paid \$300,000 in non-equity funding, and agreed to pay Encore future development milestones and a royalty on any future sales of the drug.

We expect to incur losses for at least the next several years, primarily due to expansion of our research and development programs, expansion of our drug discovery and development efforts, increased staffing costs and expansion of our facilities. We expect to incur substantial sales, marketing and other expenses in connection with building our predictive medicine business. Additionally, we intend to enter into further collaborative relationships to identify disease genes and discover protein networks associated with other common diseases as well as to continue to fund internal research projects. We may be unable to enter into additional collaborative relationships on terms acceptable to us. We expect that losses will fluctuate from quarter to quarter and that such fluctuations may be substantial.

Results of Operations for the Three Months Ended March 31, 2001 and 2000

Research revenues for the quarter ended March 31, 2001 were \$6,652,289 as compared to \$7,287,880 for the same quarter of 2000. The decrease in research revenue of 9% is primarily attributable to greater emphasis on our internal research and drug development programs and reduced research collaboration expenses. Research revenue from the research collaboration agreements is recognized as related costs are incurred. Consequently, as these programs progress and costs increase or decrease, revenues increase or decrease proportionately.

Predictive medicine revenues of \$4,914,950 were recognized in the quarter ended March 31, 2001, an increase of 103% or \$2,488,064 over the same quarter of the prior year. Our sales and marketing efforts, together with the increased demand as a result of wider acceptance of the test by the medical community, have resulted in increased testing volume and increased revenues for the quarter ended March 31, 2001. There can be no assurance, however, that predictive medicine revenues will continue to increase at the historical rate, if at all.

Research and development expenses for the quarter ended March 31, 2001 were \$8,428,402 as compared to \$8,333,149 for the same quarter in 2000. This increase was primarily due to an increase in research activities as a result of the ongoing internal drug discovery efforts of Myriad Pharmaceuticals, our wholly-owned subsidiary.

Selling, general and administrative expenses for the quarter ended March 31, 2001 were \$4,247,554 as compared to \$3,337,482 for the same quarter in 2000. The increase of 27% was primarily attributable to costs associated with the ongoing sales and promotion of our predictive medicine products. We expect our selling, general and administrative expenses will continue to fluctuate as needed in support of our research and drug development efforts and our predictive medicine business.

Cash, cash equivalents, and marketable investment securities increased \$80,344,228 or 133% from \$60,487,179 at March 31, 2000 to \$140,831,407 at March 31, 2001. This increase in cash, cash equivalents, and marketable investment securities is primarily attributable to the private sale of an aggregate of approximately \$87 million worth of our Common Stock, as well as the receipt of advance payments from our collaborators. These cash receipts were offset by expenditures incurred in the

ordinary course of business. As a result of our increased position in interest-bearing investments, interest income for the quarter ended March 31, 2001 was \$2,057,167 compared to \$949,162 for the same quarter in 2000. The loss on disposition of assets of \$27,465 in the quarter ended March 31, 2001 is the result of retiring unproductive assets. Income taxes of \$500,000 represent withholdings by the Japanese government on collaboration payments from Hitachi.

Results of Operations for the Nine months Ended March 31, 2001 and 2000

Research revenues for the nine months ended March 31, 2001 were \$22,409,558 as compared to \$18,791,397 for the same period in 2000. The increase in research revenue of 19% is primarily attributable to revenue recognized from our new collaborations, including Hitachi and a fully established Syngenta project. These increases were partially offset by a greater emphasis on our internal research and drug development programs. Research revenue from the research collaboration agreements is recognized as related costs are incurred. Consequently, as these programs progress and costs increase or decrease, revenues increase or decrease proportionately.

Predictive medicine revenues of \$11,930,856 were recognized in the nine months ended March 31, 2001, an increase of 97% or \$5,865,813 over the same period in the prior year. Our sales and marketing efforts, together with the increased demand as a result of wider acceptance of the test by the medical community, have resulted in increased testing volume and increased revenues for the nine months ended March 31, 2001. There can be no assurance, however, that predictive medicine revenues will continue to increase at the historical rate, if at all.

Research and development expenses for the nine months ended March 31, 2001 were \$26,570,236 as compared to \$20,325,418 for the same period in 2000. This increase of 31% was primarily due to an increase in research activities as a result of the ongoing internal drug discovery efforts of Myriad Pharmaceuticals, our wholly-owned subsidiary.

Selling, general and administrative expenses for the nine months ended March 31, 2001 were \$12,271,188 as compared to \$9,713,413 for the same period in 2000. The increase of 26% was primarily attributable to costs associated with the sales and ongoing promotion of our predictive medicine products, including COLARIS(TM), a predictive medicine test for colon and uterine cancer launched in September 2000. We expect our selling, general and administrative expenses will continue to fluctuate as needed in support of our research and drug development efforts and our predictive medicine business.

Cash, cash equivalents, and marketable investment securities increased \$80,344,228 or 133% from \$60,487,179 at March 31, 2000 to \$140,831,407 at March 31, 2001. This increase in cash, cash equivalents, and marketable investment securities is primarily attributable to the private sale of an aggregate of approximately \$87 million worth of our Common Stock, as well as the receipt of advance payments from our collaborators. These cash receipts were offset by expenditures incurred in the ordinary course of business. As a result of our increased position in interest-bearing investments, interest income for the nine months ended March 31, 2001 was \$5,477,560 compared to \$2,259,615 for the same period in 2000. The loss on disposition of assets of \$283,113 in the nine months ended March 31, 2001 is the result of retiring unproductive assets. Income taxes of \$500,000 represent withholdings by the Japanese government on collaboration payments from Hitachi.

Liquidity and Capital Resources

Net cash used in operating activities was \$7,612,197 during the nine months ended March 31, 2001 compared to \$12,022,468 provided by operating activities during the same period of the prior fiscal year. Trade receivables for the nine months ended March 31, 2001 increased \$1,253,403. This increase is

primarily attributable to increased predictive medicine revenue for the nine month period ended March 31, 2001. Prepaid expenses decreased by \$1,043,624 during the nine months ended March 31, 2001 due to the use of lab supplies previously purchased. Accounts payable and accrued expenses decreased by \$808,918, primarily as a result of payments for equipment and lab supplies that were accrued in the prior year. Deferred revenue, representing the difference in collaborative payments received and research revenue recognized, decreased by \$4,845,890 during the nine months ended March 31, 2001.

Our investing activities used cash of \$18,565,341 and \$1,643,070 in the nine months ended March 31, 2001 and 2000, respectively. Investing activities were comprised primarily of changes to marketable investment securities, plus capital expenditures for research equipment and an equity investment in Encore Pharmaceuticals, Inc. During the nine months ended March 31, 2001, we shifted a portion of our investments from cash and cash equivalents to marketable investment securities in order to take advantage of favorable interest rates.

Financing activities provided \$66,163,825 during the nine months ended March 31, 2001. In August 2000 we sold 350,000 shares of our Common Stock in a private placement for an aggregate purchase price of \$22 million. In October 2000 we sold an additional 400,000 shares of our Common Stock in a private placement for an aggregate purchase price of \$41 million. We subsequently registered these 750,000 shares with the Securities and Exchange Commission, as required under the respective registration rights agreements. Additional cash was provided from the exercise of stock options during the nine months ended March 31, 2001.

We anticipate that our existing capital resources will be adequate to maintain our current and planned operations for at least the next two years, although no assurance can be given that changes will not occur that would consume available capital resources before such time. Our future capital requirements will be substantial and will depend on many factors, including progress of our research and development programs and drug discovery and drug development programs; the cost of human clinical trials and regulatory approval of our drug candidates; the cost of developing and launching additional predictive medicine products; the costs of filing, prosecuting and enforcing patent claims; competing technological and market developments; payments received under collaborative agreements and changes in collaborative research relationships; the costs associated with potential commercialization of our gene discoveries, if any, including the development of manufacturing, marketing and sales capabilities; the cost and availability of third-party financing for capital expenditures and administrative and legal expenses. Because of our significant long-term capital requirements, we intend to raise funds when conditions are favorable, even if we do not have an immediate need for additional capital at such time.

Quantitative and Qualitative Disclosures About Market Risk

We maintain an investment portfolio in accordance with our Investment Policy. The primary objectives of our Investment Policy are to preserve principal, maintain proper liquidity to meet operating needs and maximize yields. Our Investment Policy specifies credit quality standards for our investments and limits the amount of credit exposure to any single issue, issuer or type of investment.

Our investments consist of securities of various types and maturities of three years or less, with a maximum average maturity of 12 months. These securities are classified either as available-for-sale or held-to-maturity. Available-for-sale securities are recorded on the balance sheet at fair market value with unrealized gains or losses reported as part of accumulated other comprehensive income (loss). Held-to-maturity securities are recorded at amortized cost, adjusted for the amortization or accretion of premiums or discounts. Gains and losses on investment security transactions are reported on the specific-identification method. Dividend and interest income are recognized when earned. A decline in the market value of any available-for-sale or held-to-maturity security below cost that is deemed other than temporary results in a charge to earnings and establishes a new cost basis for the security. Premiums and

discounts are amortized or accreted over the life of the related held-to-maturity security as an adjustment to yield using the effective-interest method.

The securities held in our investment portfolio are subject to interest rate risk. Changes in interest rates affect the fair market value of the available-for-sale securities. After a review of our marketable securities as of March 31, 2001, we have determined that in the event of a hypothetical ten percent increase in interest rates, the resulting decrease in fair market value of our marketable investment securities would be insignificant to our financial statements as a whole.

Certain Factors That May Affect Future Results of Operations

Some of the matters discussed in this Quarterly Report on Form 10-Q include "forward-looking statements" as that term is defined in the Private Securities Litigation Reform Act of 1995. In some cases you can identify forward-looking statements by terminology such as "may", "will", "should", "potential", "continue", "expects", "anticipates", "intends", "plans", "believes", "estimates", and similar expressions. We have based these forward-looking statements on our current expectations and projections about future events. We caution investors that actual results may vary significantly and are subject to a number of factors and uncertainties, including, but not limited to, the following: intense competition related to the discovery and development of therapeutic products and the discovery and development of predictive medicine products; uncertainties as to whether we and our collaborators will be successful in developing and obtaining regulatory approval for, and commercial acceptance of, therapeutics based on the discovery of disease-related genes and proteins; uncertainties as to our ability to develop therapeutic lead compounds; and the risk that markets will not exist for therapeutic lead compounds that we develop or if such markets exist, that we will not be able to sell compounds which we develop at acceptable prices; difficulties inherent in developing predictive medicine products; our limited experience in operating a predictive medicine business; our limited marketing and sales experience and the risk that predictive medicine products which we have or may develop may not be marketed at acceptable prices or receive commercial acceptance in the markets that we are targeting or expect to target; uncertainty as to whether there will exist adequate reimbursement for our products from government, private healthcare insurers and third-party payors; and uncertainties as to the extent of future government regulation of our business.

These forward-looking statements are made as of the date of this report and actual results may differ. In light of these assumptions, risks, and uncertainties, the results and events discussed in the forward-looking statements contained in this Quarterly Report on Form 10-Q might not occur. We undertake no duty to update any of these forward-looking statements after the date of this report to conform these statements to actual results or to changes in our expectations, except as required by law.

PART II - Other Information

Item 1. Legal Proceedings.

Neither the Company nor any of its subsidiaries is a party to any material legal proceedings.

Item 2. Changes in Securities.

(c) Sales of Unregistered Securities

During the three months ended March 31, 2001, the Company issued a total of 82,874 shares of Common Stock, \$0.01 par value per share, to a director of the Company and a consultant pursuant to the exercise of stock options at a weighted average price of \$1.51 per share.

The securities issued in the foregoing transactions were either (i) offered and sold in reliance upon exemptions from the Securities Act of 1933 ("Securities Act") registration requirements set for in Sections 3(b) and 4(2) of the Securities Act, and any regulations promulgated thereunder, relating to sales by an issuer not involving any public offering, or (ii) in the case of certain options to purchase shares of commons stock and shares of common stock issued upon the exercise of options, such offers and sales were made in reliance upon an exemption from registration under Rule 701 promulgated under Section 3(b) of the Securities Act. No underwriters were involved in the foregoing sales of securities.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Submission of Matters to a Vote of Security Holders.

None.

Item 5. Other Information.

None.

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

(a) Exhibits

- (10.1) Lease Agreement, dated March 31, 2001, between Boyer Research Park Associates VI, by its general partner, The Boyer Company, L.C. and the Company.
- (10.2) Agreement, dated March 31, 2001, between Boyer Research Park Associates VI, by its general partner, The Boyer Company, L.C. and the Company.
- (10.3) License Agreement, dated December 7, 2000, between Encore Pharmaceuticals, Inc. and the Company. The Company has omitted from this Exhibit 10.3 portions of the License Agreement

for which the Company has requested confidential treatment from the Securities and Exchange Commission. The portions of the 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.

(b) Reports on Form 8-K

No reports on Form 8-K were filed during the quarter ended March 31, 2001.

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: May 15, 2001

By: /s/ Peter D. Meldrum

Peter D. Meldrum
President and Chief Executive Officer

Date: May 15, 2001

By: /s/ Jay M. Moyes

Jay M. Moyes
Vice President of Finance
Principal financial and chief accounting officer

EXHIBIT 10.1

LEASE AGREEMENT

LANDLORD: BOYER RESEARCH PARK ASSOCIATES VI,
BY ITS GENERAL PARTNER, THE BOYER
COMPANY, L.C.

TENANT: MYRIAD GENETICS, INC.
PHASE III

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|----------|-----|-------------------------------------|----|-------------------------------------|
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| | | - - - - - | | |
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|-------------|---|
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LEASE AGREEMENT

RESEARCH PARK BUILDING - PHASE III

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of this 31st day of March, 2001 by and between BOYER RESEARCH PARK ASSOCIATES VI, BY ITS GENERAL PARTNER, THE BOYER COMPANY, L.C. (the "Landlord"), and MYRIAD GENETICS, INC. (the "Tenant").

For and in consideration of the rental to be paid by tenant and of the covenants and agreements herein set forth to be kept and performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Leased Premises (as hereafter defined), at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

I. PREMISES

1.1 Description of Premises. Landlord does hereby demise, lease and let unto Tenant, and Tenant does hereby take and receive from Landlord the following:

(a) That certain floor area containing approximately 57,243 gross rentable square feet (the "Leased Premises"), more particularly, 19,555 gross rentable square feet on Floor One, 19,318 gross rentable square feet on Floor Two, and 18,370 gross rentable square feet on the Floor Three in the three story office building (the "Building") located at approximately 320 Wakara Way in Salt Lake City, Utah, on the real property (the "Property") described on Exhibit "A" attached hereto and by this reference incorporated herein. The Building to be constructed is described on the Plans and Specifications attached as Exhibit "B."

(b) Such non-exclusive rights-of-way, easements and similar rights with respect to the Building and Property as may be reasonably necessary for access to and egress from, the Leased Premises.

(c) The exclusive right to use One Hundred Sixty (160) designated stalls in the parking structure under the building for which Tenant shall pay Landlord the sum of \$21,675.00 per month and shall be subject to annual adjustments as specified in Section 1.3 of the Lease.

1.2 Work of Improvement. The obligation of Landlord and Tenant to perform the work and supply the necessary materials and labor to prepare the Leased Premises for occupancy are described in detail on Exhibit "C". Landlord and Tenant shall expend all funds and do all acts required of them as described on Exhibit "C" and shall perform or

have the work performed promptly and diligently in a first class and workmanlike manner.

1.3 Construction of Shell Building. Landlord shall, at its own cost and expense, construct and complete a three story 57,243 gross rentable square foot building and cause all of the construction which is to be performed by it in completing the Building and performing its work (including the Tenant Finish work) as set forth on Exhibit "C", to be substantially completed as evidenced by a Certificate of Occupancy, and the Leased Premises ready for Tenant's occupancy as soon as reasonably possible, but in no event later than July 1, 2002 ("Target Date"). In the event that Landlord's construction of obligation has not been fulfilled upon the expiration of the "Target Date", Tenant shall have the right to exercise any right or remedy available to it under this Lease, including the right to terminate this Lease and the right to charge Landlord and cause Landlord to pay any increased costs associated with Tenant's current leases due to holding over in such space or moving to temporary space; provided that under no circumstances shall Landlord be liable to Tenant resulting from delay in construction covered by circumstances beyond Landlord's direct control.

1.4 Construction of Leased Premises. Upon completion of Tenant Finish plans as contemplated by Exhibit "C," Landlord shall provide a budget for Tenant's approval prior to the commencement of construction of the Leased Premises (see Exhibit "E"). Landlord shall itemize each part of the construction and its associated estimated cost. Tenant shall be obligated for all costs shown on Exhibit "E". Upon acceptance by Tenant of the budget, Landlord shall construct in accordance with Exhibit "C" all items pertaining to the Tenant Finish, including the obligation to pay for all cost changes not initiated by Tenant.

II. TERM

2.1 Length of Term. The term of this Lease shall be for a period of fifteen (15) years plus the partial calendar month, if any, occurring after the Commencement Date (as hereinafter defined) if the Commencement Date occurs other than on the first day of a calendar month.

2.2 Commencement Date; Obligation to Pay Rent. The term of this Lease and Tenant's obligation to pay rent hereunder shall commence on the first to occur of the following dates ("Commencement Date"):

(a) The date Tenant occupies the Premises and conducts business.

(b) The date fifteen (15) days after the Landlord, or Landlord's supervising contractor, notified Tenant in writing that Landlord's construction obligations respecting the Leased Premises have been fulfilled and/or that the Leased Premises are ready for

occupancy and/or performance of Tenant's work. Such notice shall be accompanied by an occupancy permit and a certificate from the Building Architect stating that remaining punch list items can be completed within fifteen (15) days and will not materially interfere with Tenant's business. Prior to Commencement Date, it is contemplated that Tenant shall be able to perform its construction obligation as per Exhibit C II(H).

2.3 Renewal Option. If this Lease then remains in full force and effect, Tenant shall have the option to renew this Lease for two five (5) year options commencing on the expiration date. Each option must be exercised by written notice to Landlord one hundred and eighty (180) days from the expiration of the previous term and once exercised is irrevocable. Base rent during each renewal term shall be mutually agreed upon between Landlord and Tenant within Sixty (60) days after Tenant has exercised the respective renewal option.

2.4 Acknowledgment of Commencement Date. Landlord and Tenant shall execute a written acknowledgment of the commencement Date in the form attached hereto as Exhibit "D".

III. BASIC RENTAL PAYMENTS

3.1 Basic Annual Rent. Tenant agrees to pay to Landlord as basic annual rent (the "Basic Annual Rent") at such place as Landlord may designate, without prior demand therefore and without any deduction or set off whatsoever, the sum of Nine Hundred Eighty Six Thousand Seven Hundred Six and no/100 Dollars (\$986,706.00). Said Basic Annual Rent shall be due and payable in twelve (12) equal monthly installments to be paid in advance on or before the first day of each calendar month during the term of the Lease. Basic Annual Rent shall escalate at the beginning of the fourth year and every three (3) years thereafter using either a 3% annually compounded rate or the change in the All Urban Index, whichever is less (each such anniversary being referred to as an "adjustment date"). For purposes of this Lease the term "All Urban Index" shall mean the Consumer Price Index for All Urban Consumers-U.S. City Average-all Items (1982-1984 equals 100 base) as published by the United States Bureau of Labor Statistics or any successor agency or any other index hereinafter employed by the Bureau of Labor Statistics in lieu of said index. The price index for the third month preceding the month in which the Lease commences shall be considered the Basic Price Index. Therefore, the beginning of the fourth year and every three years thereafter, the Basic Annual Rent set forth in this Section 3.1 shall be adjusted by multiplying such rental by a fraction, the numerator of which is the Price Index for the third month preceding the beginning of the anniversary (or each such adjustment date) and the denominator of which is the Basic Price Index.

In no event shall Basic Annual Rent be reduced. In the event the Commencement Date occurs on a day other than the first day of a calendar month, then rent shall be paid

on the Commencement Date for the initial fractional calendar month prorated on a per-diem basis (based upon a thirty (30) day month).

3.2 Additional Monetary Obligations. Tenant shall also pay as rental (in addition to the Basic Annual Rent) all other sums of money as shall become due and payable by Tenant to Landlord under this Lease. Landlord shall have the same remedies in the case of a default in the payment of said other sums of money as are available to Landlord in the case of a default in the payment of one or more installments of Basic Annual Rent.

IV. ADDITIONAL RENT

4.1 Basic Annual Rent. It is the intent of both parties that the Basic Annual Rent herein specified shall be absolutely net to the Landlord throughout the term of this Lease, and that all costs, expenses and obligations relating to Tenant's pro-rata share of the Building, Property and/or Building, Property and/or Leased Premises which may arise or become due during the term shall be paid by Tenant in the manner hereafter provided.

For purposes of this Part IV and the Lease in general, the following words and phrases shall have the meanings set forth below:

(a) "Basic Costs" shall mean all actual costs and expenses incurred by Landlord in connection with the ownership, operation, management and maintenance of the Building and Property and related improvements located thereon (the "Improvements"), including, but not limited to, all expenses incurred by Landlord as a result of Landlord's compliance with any and all of its obligations under this Lease other than the performance by Landlord of its work under Sections 1.2, 1.3 and 1.4 of this Lease or similar provisions of leases with other tenants. In explanation of the foregoing, and not in limitation thereof, Basic Costs shall include: all real and personal property taxes and assessments (whether general or special, known or unknown, foreseen or unforeseen) and any tax or assessment levied or charged in lieu thereof, whether assessed against Landlord and/or Tenant and whether collected from Landlord and/or Tenant; snow removal, trash removal, supplies, insurance, license, permit and inspection fees, cost of services of independent contractors, cost of compensation (including employment taxes and fringe benefits) of all persons who perform regular and recurring duties connected with day-to-day operation, maintenance, repair, and replacement of the Building, its equipment and the adjacent walk, and landscaped area (including, but not limited to janitorial, scavenger, gardening, security, parking, elevator, painting, plumbing, electrical, mechanical, carpentry, window washing, structural and roof repairs and reserves (Landlord may collect up to one percent (1%) of total Basic Costs as a contribution toward reserves), signing and advertising, and rental expense or a reasonable allowance for depreciation of personal property

used in the maintenance, operation and repair of the Building. Basic Costs shall not include expenses incurred in connection with leasing, renovating, or improving space for tenant, expenses incurred for repairs resulting from damage by fire, windstorm or other casualty, to the extent such repairs are paid for by insurance proceeds, expenses paid by any tenant directly to third parties, or as to which Landlord is otherwise reimbursed by any third party or Tenant; expenses which, by generally accepted accounting principles, are treated as capital items except that if, as a result of governmental requirements, laws or regulations, Landlord shall expend monies directly or indirectly for improvements, additions or alterations to the Building which, by generally accepted accounting principles, are treated as a capital expenditures, the amortization of such capital expenditures based on a life acceptable to the appropriate taxing authority together with interest at the rate of 9% per annum shall be considered Basic Costs. The foregoing notwithstanding, Basic Costs shall not include depreciation on the Building and Tenant Finish; amounts paid toward principal or interest of loans of Landlord; nor shall Basic Costs include "Direct Costs" as defined in Section 4.1(b) below.

(b) "Direct Costs" shall mean all actual costs and expense incurred by Landlord in connection with the operation, management, maintenance, replacement, and repair of tenants' premises, including but not limited to janitorial services (if Landlord is responsible to provide this service), maintenance, repairs, supplies, utilities, heating, ventilation, air conditioning, and property management fees, which property management fees shall be equal to a percentage of Tenant's Basic Annual Rent and Estimated Costs including electricity, which percentage shall not exceed four percent (4%) of the sum of Basic Annual Rent, Estimated Costs and cost of electricity for the Leased Premises.

(c) "Estimated Costs" shall mean the projected amount of Tenant's Direct Costs and Basic Costs, excluding the costs of electricity provided to Tenant's Leased Premises. The Estimated Costs for the calendar year in which the Lease commences are \$256,968, and are not included in the Basic Annual Rent. If the Estimated Costs as of the date Tenant takes occupancy are greater than Tenant's Estimated Costs at the time this Lease is executed, the Estimated Costs shall be increased to equal the Estimated Costs as of the date of Tenant's occupancy.

(d) "Tenant's Proportionate Share of Basic Costs" shall mean the percentage derived from the fraction, the numerator of which is the gross rentable square footage of the Lease premises (57,243), the denominator of which is the gross rentable square footage of the building (57,243). In this Lease, Tenant's Proportionate Share of Basic Costs shall be 100% of the Basic Costs for the Leased Premises.

4.2 Report of Basic Costs and Statement of Estimated Costs.

(a) After the expiration of each calendar year occurring during the term of this Lease, Landlord shall furnish Tenant a written statement of Tenant's Proportionate Share of Basic Costs (Section 4.1(d)) and the Tenant's Direct Costs occurring during the previous calendar year. The written statement shall specify the amount by which Tenant's Direct Costs and Basic Costs exceed or are less than the amounts paid by Tenant during the previous calendar year pursuant to Section 4.3(b) below.

(b) At the same time specified in Section 4.2(a) above, Landlord shall furnish Tenant a written statement of the Estimated Costs for the then current calendar year.

4.3 Payment of Additional Rent. Tenant shall pay as additional rent ("Additional Rent") Tenant's Direct Costs and Tenant's Proportionate Share of Basic Costs. The Additional Rent shall be paid as follows:

(a) With each monthly payment of Basic Annual Rent due pursuant to Section 3.1 above, Tenant shall pay to Landlord, without offset or deduction, one-twelfth (1/12th) of the Estimated Costs as defined in Section 4.1(c).

(b) Within thirty (30) days after delivery of the written statement referred to in section 4.2(a) above, Tenant shall pay to Landlord the amount by which Tenant's Direct Costs and Basic Costs, as specified in such written statements, exceed and aggregate of Estimated Costs actually paid by Tenant for the year at issue. Tenant shall have the right to audit Landlord's books upon reasonable notice. Tenant shall pay costs associated with the audit unless Tenant finds that Landlord has inflated expenses by more than ten percent (10%), in which case, Landlord will pay audit charges. Payments by Tenant shall be made pursuant to this Section 4.3(b) notwithstanding that a statement pursuant to Section 4.2(a) is furnished to Tenant after the expiration of the term of this Lease.

(c) If the annual statement of costs indicates that the Estimated Costs paid by Tenant pursuant to subsection (b) above for any year exceeded Tenant's actual Direct Costs and Basic Costs for the same year, Landlord, at its election, shall either (i) promptly pay the amount of such excess to Tenant, or (ii) apply such excess against the next installment of Basic Annual Rental or Additional Rent due hereunder.

4.4 Resolution of Disagreement. Every statement given by Landlord pursuant to Section 4.2 shall be conclusive and binding upon Tenant unless within sixty (60) days after the receipt of such statement Tenant shall notify Landlord that it disputes the correctness thereof, specifying the particular respects in which the statement is claimed to be incorrect. If such dispute shall not have been settled by agreement, the parties hereto

shall submit the dispute to arbitration within ninety (90) days after Tenant's receipt of statement. Pending the determination of such dispute by agreement or arbitration as aforesaid, Tenant shall, within thirty (30) days after receipt of such statement, pay Additional Rent in accordance with Landlord's statement, and such payment shall be without prejudice to Tenant's position. If the dispute shall be determined in Tenant's favor, Landlord shall forthwith pay Tenant the amount of Tenant's overpayment of rents resulting from compliance with Landlord's statement, including interest on disputed amounts at prime plus two percent (2%). Landlord agrees to grant Tenant reasonable access to Landlord's books and records for the purpose of verifying Basic Costs and Direct Costs for operating expenses incurred by Landlord.

4.5 Limitations. Nothing contained in this Part IV shall be construed at any time so as to reduce the monthly installments of Basic Annual Rent payable hereunder below the amount set forth in Section 3.1 of this Lease.

V. SECURITY DEPOSIT

Waived

VI. USE

6.1 Use of Leased Premises. The Leased Premises shall be used and occupied by Tenant for laboratory and general office purposes only and for no other purpose whatsoever without the prior written consent of Landlord.

6.2 Prohibition of Certain Activities or Uses. The Tenant shall not do or permit anything to be done in or about, or bring or keep anything in the Leased Premises which is prohibited by this Lease or will, in any way or to any extent:

(a) Adversely affect any fire, liability or other insurance policy carried with respect to the Building, the Leased Premises or any of the contents of the Building (except with Landlord's express written permission, which will not be unreasonably withheld, but which may be contingent upon Tenant's agreement to bear any additional costs, expenses or liability for risk that may be involved).

(b) Conflict with or violate any law, statute, ordinance, rule, regulation or requirement of any governmental unit, agency or authority (whether existing or enacted as promulgated in the future, known or unknown, foreseen or unforeseen).

(c) Adversely overload the floors or otherwise damage the structural soundness of the Leased Premises or Building, or any part thereof (except with

Landlord's express written permission, which will not be unreasonably withheld, but which may be contingent upon Tenant's agreement to bear any additional costs, expenses or liability for risk that may be involved).

6.3 Affirmative Obligations with Respect to Use.

(a) Tenant will comply with all governmental laws, ordinances, regulations, and requirements, now in force or which hereafter may be in force, of any lawful governmental body or authorities having jurisdiction over the Leased Premises, will keep the Leased Premises and every part thereof in a clean, neat, and orderly condition, free of objectionable noise, odors, or nuisances, will in all respects and at all times fully comply with all applicable health and policy regulations, and will not suffer, permit, or commit any waste.

(b) At all times during the term hereof, Tenant shall, at Tenant's sole cost and expense, comply with all statutes, ordinances, laws, orders, rules, regulations and requirements of all applicable federal, state, county, municipal and other agencies or authorities, now in effect or which may hereafter become effective, which shall impose any duty upon Landlord or Tenant with respect to the use, occupation or alterations of the Leased Premises (including, without limitation, all applicable requirements of the Americans with Disabilities Act of 1990 and all other applicable laws relating to people with disabilities, and all rules and regulations which may be promulgated thereunder from time to time and whether relating to barrier removal, providing auxiliary aids and services or otherwise) and upon request of Landlord shall deliver evidence thereof to Landlord.

6.4 Suitability. The Leased Premises, Building and Improvements (and each and every part thereof) shall be deemed to be in satisfactory condition unless, within sixty (60) days after the Commencement Date, Tenant shall give Landlord written notice specifying, in reasonable detail, the respects in which the Leased Premises, Building or Improvements are not in satisfactory condition. Landlord further provides warranties as provided in Exhibit C II paragraphs C and E.

6.5 Taxes. Tenant shall pay all taxes, assessments, charges, and fees which during the term hereof may be imposed, assessed or levied by any governmental or public authority against or upon Tenant's use of the Leased Premises or any personal property or fixture kept or installed therein by Tenant and on the value of leasehold improvements to the extent that the same exceed Building allowances.

VII. UTILITIES AND SERVICE

7.1 Obligation of Landlord. During the term of this Lease the Landlord agrees to cause to be furnished to the Leased Premises during normal operating hours, the following utilities and services, the cost and expense of which shall be included in Basic and/or Direct Costs:

(a) Electricity, water, gas and sewer service.

(b) Telephone connection to the building, but not including telephone stations and equipment (it being expressly understood and agreed that Tenant shall be responsible for the ordering and installation of telephone lines and equipment which pertain to the Leased Premises).

(c) Heating and air-conditioning during normal operating hours to such extent and to such levels as is reasonably required for the comfortable use and occupancy of the Leased Premises subject however to any limitations imposed by any government agency.

(d) Janitorial service.

(e) Security (including the lighting of common halls, stairways, entries and restrooms) to such extent as is usual and customary in similar buildings in Salt Lake County, Utah.

(f) Snow removal service.

(g) Landscaping and groundskeeping service.

(h) Elevator service.

(i) The normal operating hours for office portion of the Leased Premises are from 7:00 a.m. to 6:00 p.m., Monday through Friday. Normal operating hours for the laboratory portion is 7 a.m. to 11 p.m., Monday through Friday.

7.2 Tenant's Obligations. Tenant shall arrange for and shall pay the entire cost and expense of all telephone stations, equipment and use charges, electric light bulbs (but not fluorescent bulbs used in fixtures originally installed in the Leased Premises) and all other materials and services not expressly required to be provided and paid for pursuant to the provisions of Section 7.1 above.

7.3 Additional Limitations. If and where heat generating machines devices are used in the Leased Premises which affect the temperature otherwise maintained by the air conditioning system, Landlord reserves the right with Tenant's concurrence to install additional or supplementary air conditioning units

for the Leased premises, and the entire cost of installing, operating, maintaining and repairing the same shall be paid by Tenant to Landlord promptly after demand by Landlord.

7.4 Limitation on Landlord's Liability. Landlord shall not be liable for and Tenant shall not be entitled to terminate this Lease or to effectuate any abatement or reduction of rent by reason of Landlord's failure to provide or furnish any of the foregoing utilities or services if such failure was reasonably beyond the control of Landlord. In no event shall Landlord be liable for loss or injury to persons or property, however, arising or occurring in connection with or attributable to any failure to furnish such utilities or services even if within the control of Landlord, except in the event of Landlord's negligence or intentional conduct.

VIII. MAINTENANCE AND REPAIRS; ALTERATIONS; ACCESS

8.1 Maintenance and Repairs by Landlord. Landlord shall maintain in good order, condition and repair the structural components of the Leased Premises, including without limitation roof, exterior walls and foundations, as well as all repairs covered under construction warranties provided if Landlord is required to make structural repairs by reason of Tenant's negligent acts or omissions, Tenant shall pay Landlord's costs for making such repairs.

8.2 Maintenance and Repairs by Tenant. Tenant, at Tenant's sole cost and expense and without prior demand being made, shall maintain the Leased Premises in good order, condition and repair, and will be responsible for the painting, carpeting or other interior design work of the Leased Premises beyond the initial construction phase as specified in Section 1.4 and Exhibit "C" and "E" of the Lease and shall maintain all equipment and fixtures installed by Tenant. If repainting or recarpeting is required and authorized by Tenant, the cost for such are the sole obligation of Tenant and shall be paid for by Tenant immediately following the performance of said work and a presentation of an invoice for payment.

8.3 Tenant Approval of Management and Maintenance Services. Tenant shall have the right to approve of persons who have or will contract with Landlord for Building and Property management and maintenance services. In addition, in the event that Tenant reasonably believes that another person could (i) provide better property management or maintenance service at the same or less cost than the person currently providing such property management or maintenance service, or (ii) provide equal property management or maintenance service for less cost, then Tenant shall, at its option, provide to Landlord the name and address of such person. Landlord agrees to take reasonable steps to verify that such person referred by Tenant could better or more economically provide the contracted for management and/or maintenance services for the Building and/or Property, then upon such verification, Landlord agrees to contract

with and substitute such person to provide such service. The foregoing applies to services rendered pursuant to Articles 4, 7 and 8.

8.4 Alterations. Tenant shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any fixtures, signs, floor coverings, interior or exterior lighting, plumbing fixtures, or shades or awnings, or make any other changes to the Leased Premises without first obtaining Landlord's written approval, which approval shall not be unreasonably withheld. Tenant shall present to the Landlord plans and specifications for such work at the time approval is sought. In the event Landlord consents to the making of any alterations, additions, or improvements to the Leased Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense. All such work with respect to any alterations, additions, and changes shall be done in a good and workmanlike manner and diligently prosecuted to completion such that, except as absolutely necessary during the course of such work, the Leased Premises shall at all times be a complete operating unit. Any such alterations, additions, or changes shall be performed and done strictly in accordance with all laws and ordinances relating thereto. In performing the work or any such alterations, additions, or changes, Tenant shall have the same performed in such a manner as not to obstruct access to any portion of the Building. Any alterations, additions, or improvements to or of the Leased Premises, including, but not limited to, wallcovering, fume hoods, darkroom, paneling, and built-in cabinet work, but excepting movable furniture and equipment, shall at once become a part of the realty and shall be surrendered with the Premises, unless Landlord and Tenant agree at any time that the specific improvement may be removed by Tenant at the end of the Term provided Tenant restores the premises to its original condition, wear and tear excepted. If there is an agreement to allow removal, such items which are the subject of agreement shall be listed on Exhibit F which agreement, as may be revised by the parties from time to time, shall be made a part of this Lease. The parties have agreed as to the items 1 through 8 listed on Exhibit F.

8.5 Landlord's Access to Leased Premises. Landlord shall have the right to place, maintain, and repair all utility equipment of any kind in, upon, and under the Leased Premises as may be necessary for the servicing of the Leased Premises and other portion of the Building. Landlord shall upon providing adequate notice to Tenant, also have the right to enter the Leased Premises at all times to inspect or to exhibit the same to prospective purchasers, mortgagees, tenants, and lessees, and to make such repairs, additions, alterations, or improvements as Landlord may deem desirable. Landlord shall be allowed to take all material upon said Leased Premises that may be required therefor without the same constituting an actual or constructive eviction of Tenant in whole or in part and the rents reserved herein shall in no wise abate while said work is in progress by reason of loss or interruption of Tenant's business or otherwise, and Tenant shall have no claim for damages unless due to Landlord negligence. During the three (3) months prior to expiration of this Lease or of any renewal term, Landlord may place upon the Leased Premises "For Lease" or "For Sale" signs which Tenant shall permit to remain thereon.

IX. ASSIGNMENT

9.1 Assignment Prohibited. Tenant shall not transfer, assign, mortgage, or hypothecate this Lease, in whole or in part, or permit the use of the Leased Premises by any person or persons other than Tenant, or sublet the Leased Premises, or any part thereof, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, provided sufficient information is provided to Landlord to accurately represent the financial condition of those to whom this Lease will be transferred, assigned, mortgaged, or hypothecated. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any transfer of this Lease from the Tenant by merger, consolidation, transfer of assets, or liquidation shall constitute an assignment for purposes of this Lease. In the event that Tenant hereunder is a corporation, an unincorporated association, or a partnership, the transfer, assignment, or hypothecation of any stock or interest in such corporation, association, or partnership in the aggregate in excess of forty-nine percent (49%) shall be deemed an assignment within the meaning of this Section. The above prohibition of assignment will not apply in the case of a registered offering of shares by Tenant or the public trading of registered shares subsequent to an initial offering.

9.2 Consent Required.

(a) Any assignment or subletting without Landlord's consent shall be void, and shall constitute a default hereunder which, at the option of Landlord, shall result in the termination of this Lease or exercise of Landlord's other remedies hereunder. Consent to any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under, or through Tenant.

(b) Landlord shall have no obligation to consent to the proposed sublease or assignment if the proposed sublessee or assignee or its business is or may be subject to compliance with additional requirements of the law, including any related rules or regulations, commonly known as the "Americans with Disabilities Act of 1990" or similar state or local laws relating to persons with disabilities beyond those requirements which are applicable to the tenant desiring to so sublease or assign".

9.3 Landlord's Right in Event of Assignment. If this Lease is assigned or if the Leased Premises or any portion thereof are sublet or occupied by any person other than the Tenant, Landlord may collect rent and other charges from such assignee or other party, and apply the amount collected to the rent and other charges reserved hereunder, but such collection shall not constitute consent or waiver of the necessity of consent to such assignment, subleasing, or other transfer, nor shall such collection constitute the

recognition of such assignee, sublessee, or other party as the Tenant hereunder or a release of Tenant from the further performance of all of the covenants and obligations, including obligation to pay rent, of Tenant herein contained. In the event that Landlord shall consent to a sublease or assignment hereunder, Tenant shall pay to Landlord reasonable fees, not to exceed \$100.00, incurred in connection with processing of documents necessary to the giving of such consent. In the event Landlord consents to the assignment as provided by paragraph 9.1, then Tenant shall be released from further performance of any covenant and obligation under this Lease.

9.4 Tenant's Right to Assign. For purposes of this Section 9.4, the term "Leases" means this Lease and the following two (2) lease agreements: (i) that certain Lease Agreement dated October 12, 1995 between Boyer-Foothill Associates, Ltd., as Landlord, and Tenant; and (ii) that certain Lease Agreement dated March 1, 1998 between Landlord and Tenant. Notwithstanding any other provision of this Section 9 to the contrary, Tenant shall have the right to assign its entire right, title and interest as tenant under all of the Leases to the University of Utah (the "University"), without first obtaining Landlord's prior written consent; provided, Tenant shall give Landlord not less than thirty (30) days prior written notice of such assignment and shall provide Landlord with copies of all documents, agreements and instruments related to the assignment. In the event of an assignment of the Tenant's rights and obligations to the University, and subject to obtaining the written agreement by the University to assume and perform all of the obligations of Tenant under the Leases (in form and substance reasonably acceptable to Landlord), Landlord shall recognize the University as the successor to Tenant under this Lease and such written agreement shall accomplish the release of Tenant of and from the further performance of any and all covenants and obligations under this Lease. Tenant shall have the right to assign its entire right, title and interest as tenant under all of the Leases to an entity or person which proposes to use the Leased Premises for purposes which are consistent with all covenants, rules, conditions and reversions governing the Research Park, whose net worth is equal to or greater than that of Tenant at the time of Tenant's execution of this Lease and whose credit worthiness is equal to or better than that of Tenant's creditworthiness at the time of Tenant's execution of this Lease (a "Creditworthy Successor Tenant"), subject to the Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed. In connection with such request, Tenant shall furnish Landlord with all information reasonably required to evaluate the net worth or creditworthiness of the proposed assignee and copies of all documents, agreements and instruments relating to the proposed assignment. In the event of an assignment of Tenant's rights and obligations to a Creditworthy Successor Tenant as contemplated herein, and subject to obtaining the written agreement of the assignee to assume and perform all of the obligations of Tenant under the Leases, Landlord shall recognize such assignee as the successor to Tenant under this lease and such written agreement shall accomplish the release of Tenant of and from the further performance of any and all covenants and obligations under this Lease.

X. INDEMNITY

10.1 Indemnification. Tenant and Landlord shall indemnify each other and save each other harmless from and against any and all suits, actions, damage and claims, liability and expense in connection with loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or from the Leased Premises, or occasioned wholly or in part by any act or omission of Tenant or Landlord, their agents, contractors, employees, servants, invitees, licensees or concessionaires. All insurance policies carried by Tenant and Landlord shall include a waiver of subrogation endorsement which specifies that the insurance carrier(s) will waive any right of subrogation against Tenant and/or Landlord arising out of any insurance claim.

10.2 Release of Landlord. Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's personal property or to Tenant's business. Tenant shall store its property in and shall use and enjoy the Leased Premises and all other portions of the Building and Improvements at its own risk, and hereby releases Landlord, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage.

10.3 Notice. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Leased Premises or in the Building of which the Leased Premises are a part or of defects therein or in any fixtures or equipment.

10.4 Litigation. In case Landlord, without fault on its part, shall be made a party to any litigation commenced against Tenant, then Tenant shall protect and hold Landlord harmless and shall pay all costs, expenses, and reasonable attorneys' fees.

XI. INSURANCE

11.1 Fire and "All Risk" Insurance on Tenant's Personal Property and Fixtures. At all times during the term of this Lease, Tenant shall keep in force at its sole cost and expense, fire insurance and "All Risk" insurance (including vandalism and malicious mischief) equal to the replacement cost of Tenant Finish, Tenant's fixtures, furnishings, equipment, and contents upon the Leased Premises and all improvements or additions made by Tenant to the Leased Premises. The Landlord shall be named as an additional insured on all such policies.

11.2 Liability Insurance. Tenant shall, during the entire term hereof, keep in full force and effect a policy of public liability and property damage insurance to include contractual coverage with respect to the Leased Premises and the business operated by Tenant in the Leased Premises, with a combined single limit for personal or bodily injury and property damage of not less than \$1,000,000.00. The policy shall name Landlord, any person, firms, or corporations designated by Landlord, and Tenant as insureds, and

shall contain a clause that the insurer will not cancel or materially change the insurance pertaining to the Leased Premises without first giving Landlord ten (10) days written notice. Tenant shall at all times during the term hereof provide Landlord with evidence of current insurance coverage. All public liability, property damage, and other liability policies shall be written as primary policies, not contributing with coverage which Landlord may carry.

11.3 Property Coverage. Landlord shall obtain and maintain in force an "all-risk type" or equivalent policy form, and shall include fire, theft, extended coverages, vandalism and malicious mischief on the Building during the Lease period and any extension thereof. At the Landlord's discretion coverage for flood and earthquake may be obtained if commercially available at reasonable rates. Such insurance shall also include coverage against loss of rental income. Tenant shall pay Landlord as an expense covered in Basic Costs the cost to purchase the insurance called for in this paragraph.

11.4 Subrogation. Tenant and Landlord each waive its right of subrogation against each other for any reason whatsoever.

11.5 Lender. Any mortgage lender interest in any part of the Building or Improvements may, at Landlord's option, be afforded coverage under any policy required to be secured by Tenant hereunder, by use of a mortgagee's endorsement to the policy concerned.

XII. DESTRUCTION

If the Leased Premises shall be partially damaged by any casualty insured against under any insurance policy maintained by Landlord, Landlord shall, upon receipt of the insurance proceeds, repair the Leased Premises and until repair is complete the Basic Annual Rent and Additional Rent shall be abated proportionately as to that portion of the Leased Premises rendered untenable. Notwithstanding the foregoing, if: (a) the Leased Premises by reason of such occurrence are rendered wholly untenable, or (b) the Leased Premises should be damaged as a result of a risk which is not covered by insurance, or (c) the Leased Premises should be damaged in whole or in part during the last six (6) months of the term or of any renewal hereof, or (d) the Leased Premises or the Building (whether the Leased Premises are damaged or not) should be damaged to the extent of fifty percent (50%) or more of the then-monetary value thereof, then and in any such events, Landlord may either elect to repair the damage or may cancel this Lease by notice of cancellation within Ninety (90) days after such event and thereupon this Lease shall expire, and Tenant shall vacate and surrender the Leased Premises to Landlord. Tenant's liability for rent upon the termination of this Lease shall cease as of the day following Landlord's giving notice of cancellation. In the event Landlord elects to repair any damage, any abatement of rent shall end five (5) days after notice by Landlord to Tenant that the Leased Premises have been repaired. If the damage is caused by the

negligence of Tenant or its employees, agents, invitees, or concessionaires, there shall be no abatement of rent. Unless this Lease is terminated by Landlord, Tenant shall repair and refixture the interior of the Leased Premises to the extent of the Tenant Finish in a manner and in at least a condition equal to that existing prior to the destruction or casualty.

XIII. CONDEMNATION

13.1 Total Condemnation. If the whole of the Leased Premises shall be acquired or taken by condemnation proceeding, then this Lease shall cease and terminate as of the date of title vesting in such proceeding.

13.2 Partial Condemnation. If any part of the Leased Premises shall be taken as aforesaid, and such partial taking shall render that portion not so taken unsuitable for the business of Tenant, then this Lease shall cease and terminate as aforesaid. If such partial taking is not extensive enough to render the Leased Premises unsuitable for the business of Tenant, then this Lease shall continue in effect except that the Basic Annual Rent and Additional Rent shall be reduced in the same proportion that the portion of the Leased Premises (including basement, if any) taken bears to the total area initially demised and Landlord shall, upon receipt of the award in condemnation, make all necessary repairs or alterations to the Building in which the Leased Premises are located, provided that Landlord shall not be required to expend for such work an amount in excess of the amount received by Landlord as damages for the part of the Leased Premises to taken. "Amount received by Landlord" shall mean that part of the award in condemnation which is free and clear to Landlord of any collection by mortgage lenders for the value of the diminished fee.

13.3 Landlord's Option to Terminate. If more than twenty percent (20%) of the Building shall be taken as aforesaid, Landlord may, by written notice to Tenant, terminate this Lease. If this Lease is terminated as provided in this Section, rent shall be paid up to the day that possession is so taken by public authority and Landlord shall make an equitable refund of any rent paid by Tenant in advance.

13.4 Award. Tenant shall not be entitled to and expressly waives all claim to any condemnation award for any taking, whether whole or partial and whether for diminution in value of the leasehold or to the fee, although Tenant shall have the right, to the extent that the same shall not reduce Landlord's award, to claim from the condemnor, but not from the Landlord, such compensation as may be recoverable by Tenant in its own right for damages to Tenant Finish, Tenant's business and fixtures or equipment.

13.5 Definition. As used in this Part XIII the term "condemnation proceeding" means any action or proceeding in which any interest in the Leased Premises is taken for

any public or quasi-public purpose by any lawful authority through exercise of eminent domain or right of condemnation or by purchase or otherwise in lieu thereof.

XIV. LANDLORD'S RIGHTS TO CURE

14.1 General Right. In the event of breach, default, or noncompliance hereunder by Landlord, Tenant shall, before exercising any right or remedy available to it, give Landlord written notice of the claimed breach, default, or noncompliance. If prior to its giving such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of a lender which has furnished any of the financing referred to in Part XV hereof, concurrently with giving the aforesaid notice to Landlord, Tenant shall, by registered mail, transmit a copy thereof to such lender. For the fifteen (15) days following the giving of the notice(s) required by the foregoing portion of this section (or such longer period of time as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be rectified within fifteen (15) days), Landlord shall have the right to cure the breach, default, or noncompliance involved. If Landlord has failed to cure a default within said period, any such lender shall have an additional fifteen (15) days within which to cure the same or, if such default cannot be cured within that period, such additional time as may be necessary if within such fifteen (15) day period said lender has commenced and is diligently pursuing the actions or remedies necessary to cure the breach, default, or noncompliance involved (including, but not limited to, commencement and prosecution of proceedings to foreclose or otherwise exercise its rights under its mortgage or other security instrument, if necessary to effect such cure), in which event this Lease shall not be terminated by Tenant so long as such actions or remedies are being diligently pursued by said lender.

14.2 Mechanic's Lien. Should any mechanic's or other lien be filed against the Leased Premises or any part thereof by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the effect of the same to be cancelled and discharged or bonded over or otherwise within ten (10) days after written notice by Landlord.

XV. FINANCING; SUBORDINATION

15.1 Subordination. Tenant acknowledges that it might be necessary for Landlord or its successors or assigns to secure mortgage loan financing or refinancing affecting the Leased Premises. Tenant also acknowledges that the lender interested in any given loan may desire that Tenant's interest under this Lease be either superior or subordinate to the mortgage then held or to be taken by said Lender. Accordingly, Tenant agrees that at the request of Landlord at any time and from time to time Tenant shall execute and deliver to Landlord an instrument, in form reasonably acceptable to Landlord and Tenant, whereby Tenant subordinates its interest under this Lease and in the Leased

Premises to such of the following encumbrances as may be specified by Landlord: Any mortgage or trust deed and customary related instruments are herein collectively referred to merely as a "Mortgage" and securing a loan obtained by Landlord or its successors or assigns for the purpose of enabling acquisition of the Building and/or construction of additional improvements to provide permanent financing for the Building, or for the purpose of refinancing any such construction, acquisition, standing or permanent loan. Provided, however, that any such instrument or subordination executed by Tenant shall provide that so long as Tenant continues to perform all of its obligations under this Lease its tenancy shall remain in full force and effect notwithstanding Landlord's default in connection with the Mortgage concerned or any resulting foreclosure or sale or transfer in lieu of such proceedings. Tenant shall not subordinate its interests hereunder or in the Leased Premises to any lien or encumbrance other than the Mortgages described in and specified pursuant to this Section 15.1 without the prior written consent of Landlord and of the lender interested under each mortgage then affecting the Leased Premises. Any such unauthorized subordination by Tenant shall be void and of no force or effect whatsoever.

15.2 Attornment. Any sale, assignment, or transfer of Landlord's interest under this Lease or in the Leased Premises including any such disposition resulting from Landlord's default under a mortgage, shall be subject to this Lease and also Tenant shall attorn to Landlord's successor and assigns and shall recognize such successor or assigns as Landlord under this Lease, regardless of any rule of law to the contrary or absence of privity of contract.

15.3 Financial Information. As a condition to Landlord's acceptance of this Lease, Tenant shall provide financial information sufficient to verify to Landlord the financial condition of Tenant. Tenant hereby represents and warrants that none of such information contains or will contain any untrue statement of material fact, nor will such information omit any material fact necessary to make the statements contained therein misleading or unreliable. Any financial information provided by Tenant shall be held in confidence and distributed only to Landlord's investors or lenders for the Leased Premises.

XVI. EVENTS OF DEFAULT; REMEDIES OF LANDLORD

16.1 Default by Tenant. Upon the occurrence of any of the following events, Landlord shall have the remedies set forth in Section 16.2:

(a) Tenant fails to pay any installment of Basic Annual Rent or Estimated Costs or any other sum due hereunder within ten (10) days after Tenant receives written notice of rent due.

(b) Tenant fails to perform any other term, condition, or covenant to be performed by it pursuant to this Lease within ten (10) days after written notice of such default shall have been given to Tenant by Landlord or, if cure would reasonably require more than ten (10) days to complete, if Tenant fails to commence performance within the ten (10) day period or fails diligently to pursue such cure to completion.

(c) Tenant shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization, or appointment of a receiver or trustee; or Tenant petitions for or enters into an arrangement; or suffers this Lease to be taken under a writ of execution.

16.2 Remedies. In the event of any default by Tenant hereunder, Landlord may at any time, without waiving or limiting any other right or remedy available to it, terminate Tenant's rights under this Lease by written notice, reenter and take possession of the Premises by any lawful means (with or without terminating this Lease), or pursue any other remedy allowed by law. Tenant agrees to pay to Landlord the cost of recovering possession of the Premises, all costs of reletting, and arising out of Tenant's default, including attorneys' fees. Notwithstanding any reentry, the liability of Tenant for the rent reserved herein shall not be extinguished for the balance of the Term, and Tenant agrees to compensate Landlord upon demand for any deficiency arising from reletting the Premises at a lesser rent than applies under this Lease.

16.3 Past Due Sums; Penalty. If Tenant fails to pay, when the same is due and payable, any Basic Annual Rent, Estimated Costs and electrical charges within ten (10) days after the same is due and payable, or other sum required to be paid by it hereunder, such unpaid amounts shall bear interest from the due date thereof to the date of payment at a fluctuating rate equal to two percent (2%) per annum above the prime rate of interest charged by Zions Bank, Salt Lake City, Utah. In addition thereto, Tenant shall pay a sum of two percent (2%) of such unpaid amounts as a service fee. Notwithstanding the foregoing, however, Landlord's right concerning such interest and service fee shall be limited by the maximum amount which may properly be charged by Landlord for such purposes under applicable law.

XVII. PROVISIONS APPLICABLE AT TERMINATION OF LEASE

17.1 Surrender of Premises. At the expiration of this Lease, except for changes made by Tenant that were approved by Landlord, Tenant shall surrender the Leased Premises in the same condition, less reasonable wear and tear, as they were in upon delivery of possession thereto under this Lease and shall deliver all keys to Landlord. Before surrendering the Leased Premises, Tenant shall remove all of its personal property including, but not limited to, those items showing on Exhibit "F" and trade fixtures and

such property or the removal thereof shall in no way damage the Leased Premises, and Tenant shall be responsible for all costs, expenses and damages incurred in the removal thereof. If Tenant fails to remove its personal property and fixtures upon the expiration of this Lease, the same shall be deemed abandoned and shall become the property of Landlord.

17.2 Holding Over. Any holding over after the expiration of the term hereof or of any renewal term shall be construed to be a tenancy from month to month at such rates as Landlord may designate and on the terms herein specified so far as possible. Landlord may not in any event raise the rent above 110% of the last month's rent.

XVIII. ATTORNEYS' FEES

In the event that at any time during the term of this Lease either Landlord or the Tenant institutes any action or proceeding against the other relating to the provisions of this Lease or any default hereunder, then the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful party.

XIX. ESTOPPEL CERTIFICATE

19.1 Landlord's Right to Estoppel Certificate. Tenant shall, within fifteen (15) days after Landlord's request, execute and deliver to Landlord a written declaration, in form and substance similar to Exhibit "D", in recordable form: (1) ratifying this Lease; (2) expressing the Commencement Date and termination date hereof; (3) certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated); (4) that, if true, all conditions under this Lease to be performed by Landlord have been satisfied; (5) that there are no defenses or offsets against the enforcement of this Lease by the Landlord, or stating those claimed by Tenant; (6) the amount of advance rental, if any, (or none if such is the case) paid by Tenant; (7) the date to which rental has been paid; (8) the amount of security deposited with Landlord; and (9) such other information as Landlord may reasonably request. Landlord's mortgage lenders and/or purchasers shall be entitled to rely upon such declaration.

19.2 Effect of Failure to Provide Estoppel Certificate. Tenant's failure to furnish any Estoppel Certificate within fifteen (15) days after request therefor shall be deemed a default hereunder and moreover, it shall be conclusively presumed that: (a) this Lease is in full force and effect without modification in accordance with the terms set forth in the request; (b) that there are no unusual breaches or defaults on the part of the Landlord; and (c) no more than one (1) month's rent has been paid in advance.

XX. PARKING

Automobiles of Tenant and all visitors associated with Tenant shall be parked only within parking areas designated by Landlord for parking. Landlord or its agents shall, without any liability to Tenant or its occupants, have the right to cause to be removed any automobile that may be wrongfully parked in a prohibited or reserved parking area, and Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all claims, losses, demands, damages and liabilities asserted or arising with respect to or in connection with any such removal of an automobile except due to Landlord's negligence.

XXI. SIGNS, AWNINGS, AND CANOPIES

Tenant shall not place or suffer to be placed or maintained on any exterior door, wall, or window of the Leased Premises, or elsewhere in the Building, any sign, awning, marquee, decoration, lettering, attachment, or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering, or advertising matter on the glass of any window or door of the Leased Premises without obtaining the proper authorization from Salt Lake County prior to installing. Tenant will otherwise be free to install signage of its choice.

XXII. MISCELLANEOUS PROVISIONS

22.1 No Partnership. Landlord does not by this Lease, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.

22.2 Force Majeure. Landlord shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond Landlord's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or service, or acts of God.

22.3 No Waiver. Failure of Landlord or Tenant to insist upon the strict performance of any provision or to exercise any option hereunder shall not be deemed a waiver of such breach by Landlord or Tenant. No provision of this Lease shall be deemed to have been waived unless such waiver be in writing signed by Landlord or Tenant, as the case may be.

22.4 Notice. Any notice, demand, request, or other instrument which may be or is required to be given under this Lease shall be (i) given by facsimile, (ii) delivered in person or (iii) sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at the place specified for payment of rent, and (b) if to Tenant, either at the Leased Premises or at any other current address for Tenant which is

known to Landlord. Either party may designate such other address as shall be given by written notice or by facsimile transmission.

Landlord: BOYER RESEARCH PARK ASSOCIATES VI
C/O THE BOYER COMPANY
127 SOUTH 500 EAST, SUITE 100
SALT LAKE CITY, UTAH 84102
(801) 521-4781/FAX (801) 521-4793
ATTENTION: B. GREG GARDNER

Tenant: MYRIAD GENETICS, INC.
320 WAKARA WAY
SALT LAKE CITY, UTAH 84108
(801) 582-3400/FAX (801) 584-3640
ATTENTION: JAY MOYES

PARSONS, BEHLE & LATIMER
201 SOUTH MAIN
SALT LAKE CITY, UTAH 84111
(801) 532-1234/FAX (801) 536-6111
ATTENTION: JON BUTLER

22.5 Captions; Attachments; Defined Terms.

(a) The captions to the section of this Lease are for convenience of reference only and shall not be deemed relevant in resolving questions of construction or interpretation under this Lease.

(b) Exhibits referred to in this Lease, and any addendums and schedules attached to this Lease shall be deemed to be incorporated in this Lease as though part thereof.

22.6 Recording. Tenant may record this Lease or a memorandum thereof with the written consent of Landlord, which consent shall not be unreasonably withheld. Landlord, at its option and at any time, may file this Lease for record with the Recorder of the County in which the Building is located.

22.7 Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

22.8 Broker's Commissions. Tenant and Landlord represent and warrant to each other that there are no claims for brokerage commissions or finder's fees in connection with this Lease and agree to indemnify each other against and hold them harmless from all liabilities arising from such claim, including any attorneys' fees connected therewith.

22.9 Tenant Defined: Use of Pronouns. The word "Tenant" shall be deemed and taken to mean each and every person or party executing this document as a Tenant herein. If there is more than one person or organization set forth on the signature line as the Tenant, their liability hereunder shall be joint and several. If there is more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Landlord or Tenant shall be deemed a proper reference even though Landlord or Tenant may be an individual, a partnership, a corporation, or a group of two or more individuals or corporation. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and to corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

22.10 Provisions Binding, Etc. Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, heirs, successors, and assigns. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition. In the event of a sale or assignment (except for purposes of security or collateral) by Landlord of all of (i) the Building, (ii) the Leased Premises, or (iii) this Lease, to an unrelated third party (the "Buyer") reasonably acceptable to Tenant, Landlord shall, from and after the date of such sale or assignment, be entirely relieved of all of its obligations under this Lease, provided that (i) such Buyer fully assumes all of the obligations of Landlord under this Lease, and (ii) Tenant's rights and benefits under this Lease continue in full force and effect following the date of such sale or assignment.

22.11 Entire Agreement, Etc. This Lease and the Exhibits, Riders, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. All Exhibits, riders, or addenda mentioned in this Lease are incorporated herein by reference. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed. Submission of this Lease for examination does not constitute an option for the Leased Premises and becomes effective as a lease only upon execution and delivery thereof by Landlord to Tenant. If any provision contained in the rider or addenda is inconsistent with a provision in the body of this Lease, the provision contained in said rider or addenda shall control. The captions and Section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any section or paragraph.

22.12 Governing Law. The interpretation of this Lease shall be governed by the laws of the State of Utah. The parties hereto expressly and irrevocably agree that either party may bring any action or claim to enforce the provisions of this Lease in the State of Utah, County of Salt Lake, and each party irrevocably consents to personal jurisdiction in the State of Utah for the purposes of any such action or claim. Each party further irrevocably consents to service of process in accordance with the provisions of the laws of the State of Utah. Nothing herein shall be deemed to preclude or prevent the parties hereto from bringing any action or claim to enforce the provisions of this Lease in any other appropriate place or forum.

22.13 Ground Lease Notice. Landlord shall provide notice to Tenant within three (3) business days of the occurrence of either of the following under the ground lease pursuant to which Landlord leases the Property described on Exhibit "A" and/or the documents evidencing a construction or a permanent loan secured by the Property: (i) an event of default on the part of Landlord or (ii) Landlord's receipt of notice that (A) Landlord is in default under such documents or (B) that with the passage of time Landlord will be in default under such documents.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Lease on the day first set forth above.

LANDLORD: BOYER RESEARCH PARK ASSOCIATES
VI, BY ITS GENERAL PARTNER, THE
BOYER COMPANY, L.C.

By: /s/ H. Roger Boyer

H. Roger Boyer
Chairman and Manager

TENANT: MYRIAD GENETICS, INC.

By: /s/ Jay Moyes

Jay Moyes
Chief Financial Officer

NOTARY

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On this _____ day of _____, 200____, personally appeared before me H. ROGER BOYER, who duly acknowledged to me that he executed the foregoing Lease as the CHAIRMAN AND MANAGER of THE BOYER COMPANY, L. C., A UTAH LIMITED LIABILITY COMPANY, the managing partner of BOYER RESEARCH PARK ASSOCIATES VI.

My commission Expires:

Notary Public
Residing at SALT LAKE COUNTY

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 200____, personally appeared before me JAY MOYES, who being duly sworn, did say that he is the CHIEF OPERATING OFFICER of MYRIAD GENETICS, INC., a DELAWARE Corporation, and that said instrument was signed in behalf of said corporation by authority of its by-laws or a resolution of its Board of Directors, and said JAY MOYES acknowledged to me that said corporation executed the same.

My Commission Expires:

Notary Public
Residing at _____

RIDER

THIS RIDER IS INCORPORATED INTO
THE LEASE AGREEMENT AND MADE A PART THEREOF

A. Tenant's Right of First Refusal to Purchase Building

Landlord grants to Tenant the right of first refusal exercisable after the Commencement Date during the term of the Lease to purchase the Building (the "Right of First Refusal"). If at any time after the Commencement Date during the term of this Lease Landlord shall desire to accept an offer from a third person to purchase the Building, it shall provide written notice of such intent to Tenant together with a copy of the offer. Tenant shall have twenty (20) days to elect to purchase the Building strictly upon the terms and conditions, including price, as set forth in the offer. If Tenant does not timely exercise the Right of First Refusal, this Right of First Refusal shall expire and Landlord may thereafter sell the Building upon terms and conditions, including price, which are not more favorable to the buyer that is set forth in the offer. If Landlord does not close the sale of the Building to such third person, Tenant's Right of First Refusal shall continue. This Right of First Refusal shall not apply to a foreclosure sale, trustee's sale or deed in lieu of foreclosure by or to a mortgage lender in respect of the Building.

B. Tenant's Option to Purchase Building

1. Commencing as of the Commencement Date and continuing throughout the term of the Lease, Tenant shall have the right and option to purchase all of Landlord's right, title and interest in the Building upon the terms and conditions set forth in this portion of the Rider (the "Purchase Option"). To exercise this Purchase Option, tenant shall give written notice of exercise to Landlord in the manner provided in the Lease. Tenant may exercise the Purchase Option only if no default, or circumstance which with the giving of notice and/or the passage of time would constitute a default, is then existing.
2. The Purchase Price which Tenant shall pay to Landlord for its entire right, title and interest in the Building (the "Purchase Price") shall be the sum of the following:
 - (a) The amount of any prepayment fee, premium or similar charge incurred by Landlord in discharging any lien or encumbrance which secures any monetary obligation on the Building.
 - (b) The greater of:
 - (i) the Fair Market Value (as defined below); and

- (ii) one hundred and six percent (106%) of the Total Project Cost (as defined below).

3. For purposes of this Purchase Option, the following terms shall have the meanings set forth:

(a) "Fair Market Value" means the value of the Building as agreed upon in writing by Landlord and Tenant or, if the Landlord and Tenant cannot agree upon such value within thirty (30) days after the Tenant exercises the Purchase Option, then either Landlord or Tenant may nominate three (3) qualified, independent appraisers to appraise the Building, each of whom shall:

- (i) be a member in good standing of the Utah Chapter of the Appraisal Institute;
- (ii) be state certified under the Utah Real Estate Appraiser Registration and Certification Act; and
- (iii) shall have not less than five (5) years of experience valuing office buildings in Salt Lake County, Utah.

The other party shall then select one (1) of the nominated appraisers to perform an appraisal to determine the Fair Market Value of the Building. The costs and fees of the appraiser shall be paid in equal shares by Landlord and Tenant. In determining the Fair Market Value it shall be assumed that all liens and encumbrances securing obligations to pay loans or other fixed or determinable sums have been discharged.

(b) "Total Project Cost" means any and all "hard" and "soft" direct costs and expenditures incurred by Landlord at any time in connection with the acquisition, design or construction of the Building, including, without limitation:

- (i) all payments or obligations incurred to general and other contractors;
- (ii) all architectural, engineering and other professional fees incurred;
- (iii) all permit and license fees and other charges of governmental authorities incurred;
- (iv) all cost and expense of insurance incurred prior to the Commencement Date;

- (v) all cost incurred prior to the Commencement Date in connection with or arising from the ground lease including, without limitation, legal fees and survey costs;
 - (vi) all legal and accounting fees incurred which are attributable to the development and construction of the Building;
 - (vii) all cost incurred in connection with or arising from or in connection with construction financing including, without limitation, legal fees and survey costs; and
 - (viii) all real estate taxes and assessments (or equivalent privilege tax), utility charges and similar costs and expenses in respect of the Building incurred prior to the Commencement Date.
4. The closing, pursuant to the Purchase Option, shall occur thirty (30) days after the Purchase Price is determined. At the closing:
- (a) Tenant shall pay the Purchase Price in cash.
 - (b) Landlord shall convey title to the Building to Tenant by special warranty deed and shall be obligated to provide at Landlord's cost a standard owner's policy of title insurance.
 - (c) Landlord shall discharge all liens and encumbrances securing obligations to pay loans or other fixed or determinable sums or obligations owing to mechanics or materialmen. Tenant shall take the Building subject to all other encumbrances and exceptions of record.
 - (d) Landlord shall represent and warrant to the best of its knowledge as to customary matters involving the condition of the Building.
 - (e) Each of the parties shall bear its costs and attorneys' fees in connection with the exercise and closing under the Purchase Option; provided, Landlord shall pay the premium on the policy of title insurance delivered to Tenant, and Landlord and Tenant shall each pay one-half (1/2) of the fees of the escrow agent.
5. If the Tenant exercises the Purchase Option but timely fails to close for any reason other than the fault of Landlord, the Purchase Option shall thereafter expire and shall no longer be enforceable.

6. Landlord and Tenant shall jointly record a notice of this Purchase Option and of the Right of First Refusal.

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

TO BE PROVIDED AT A LATER DATE.

EXHIBIT "B"

PLANS AND SPECIFICATIONS OF BUILDING

EXHIBIT "B" TO BE PROVIDED FOLLOWING COMPLETION OF
ARCHITECTURAL PLANS AND SPECIFICATIONS.

B-1

EXHIBIT "C"

WORK LETTER

CONSTRUCTION AND/OR FINISHING OF
IMPROVEMENTS TO LEASED PREMISES

In accordance with the provisions of the body of the Lease to which this Exhibit "C" is attached, the improvements to the Leased Premises shall be constructed and/or finished (as the case may be) in the manner described, and upon all of the terms and conditions contained in the following portion of this Exhibit "C".

I. CONSTRUCTION OF PHASE I BUILDING ("THE BUILDING"):

A. Landlord agrees to erect at its sole cost and expense, the Building described on Exhibit "B." Landlord shall build-out and finish the Leased Premises according to Tenant's plans and specifications at Tenant's cost and expense. The Building and the Leased Premises shall be constructed in a good and workmanlike manner, with any change orders thereto approved by Landlord and Tenant with respect to the Leased Premises pursuant to Article B below, and in compliance with all applicable laws and ordinances. Preliminary Plans shall provide for a completely finished building, of a type and quality that is consistent with newly constructed first-class office buildings in the Salt Lake City, Utah area, and shall include site plans showing all driveways, sidewalks, parking areas that provide parking in an amount equal to two and 85/100 (2.85) cars for every 1,000 Usable Square Feet in the Building, landscaping and other site improvements. Without limiting the generality of the foregoing, Preliminary Plans shall provide for a three (3) story building containing 57,243 rentable square feet of space and shall be generally consistent with the conceptual plans and drawings attached hereto as Exhibit "B" and incorporated herein (the "Conceptual Drawings"). The build-out and interior finish work within the Leased Premises shall be in accordance with plans and specifications that shall be prepared by Landlord's architect, Jensen Haslem Campbell & Hardcastle Architects, and engineers ("Tenant Finish Plans"). Tenant Finish Plans shall be prepared in accordance with the time periods set forth to meet a July 1, 2001 Target Date. The Target Date shall be extended by any period of Tenant's delay in providing decisions that need to be made in connection with the preparation of Tenant Finish Plans.

B. Tenant may make changes to Final Plans only if Tenant signs a change order requesting the change and then only if Landlord approves the change by signing the change order, which approval shall not be unreasonably withheld, conditioned, or delayed. Landlord shall notify Tenant in writing, within five (5) business days of Tenant's change order request, of its approval or detailed reason of its disapproval of such change order and a good faith estimate of the actual cost of such change order and any delay to the Target Date or in achieving substantial completion that would result therefrom. Tenant may, within five (5) business days of its receipt of such estimate, elect to rescind its request for such change order upon written notice to Landlord. Landlord may require changes in Final Plans only if Landlord and Tenant sign a

change order. The cost of any change orders that are necessary to comply with applicable building codes and other laws shall be borne by Landlord, unless such change orders are necessitated only because of (1) other change orders requested by Tenant; (2) Tenant Finish Plans; (3) changes to Tenant Finish Plans; or (4) Tenant's early occupancy to the Building prior to substantial completion of Landlord's Work. Any change order shall be effective only when set forth on a written change order executed by Landlord, Tenant, and the Base Building General Contractor. By approving a change order, Tenant and Landlord shall agree to a delay in Substantial Completion and to the Target Date, as specified therein, if any.

Tenant shall furnish Landlord with a written list of Tenant's authorized construction representatives for Landlord's Work. Only such construction representatives are authorized to sign any change order, receipt, or other document on behalf of Tenant related to Landlord's Work, and without the signature of any one of such authorized construction representatives, no such document shall be binding upon Tenant. Tenant may, from time to time, change or add to the list of authorized construction representatives by giving Landlord written notice of the addition or change. Landlord's authorized representative shall be B. Greg Gardner, and until changed by written notice from Landlord to Tenant, only B. Greg Gardner shall be authorized to sign change orders, receipts, or other documents on behalf of Landlord related to Landlord's Work.

C. The Building Work shall be performed by a general contractor selected by Landlord (the "Base Building General Contractor").

D. Landlord will cause Contractor to provide, at Contractor's expense, an Owner's Protective Liability (OPL) Policy acceptable to Tenant. The Owner's Protective Liability Policy shall name Myriad Genetics, Inc. as the Named Insured. The policy will be provided by an insurance company rated A, Class XV or better by Best's Key Rating Guide system. The policy will maintain a limit of liability of not less than five million dollars (\$5,000,000.00). Such insurance policy must be in force prior to the commencement of construction operation of any kind. The Contractor will also insure the Building at Contractor's expense during the course of construction in an amount equal to or greater than the value of the construction. Insurance coverage shall be provided by an insurance company rated A, Class XV or better by Best's Key Rating Guide system. Insurance coverage shall be provided on a coverage form equal to or more comprehensive than Insurance Services Office (U.S.A.) Special form. Such insurance policy must be in force prior to construction operations of any kind.

II. TENANT FINISH PLANS:

A. Landlord shall cause Jensen Haslem Campbell & Hardcastle Architects (the "Architect") to prepare plans and specifications for the interior improvement of the Building and the Leased Premises as necessary to render the Leased Premises in first-class condition and suitable for the conduct of Tenant's business (such improvement being referred to herein as the "Tenant Finish"). Landlord shall require the Architect to meet periodically with Tenant in connection with the preparation of the plans and, upon Landlord's approval thereof (which approval shall not be unreasonably withheld), to incorporate Tenant's requested features and specifications into the plans. Landlord shall submit a complete draft of the plans to Tenant by

September 1, 2001 (the "Base Line Date"). Tenant shall within seven (7) days after the plans are submitted to them, either approve the plans in writing or submit to Landlord a written itemization of all objections which Tenant may have to the plans. If Tenant approves the plans, the plans shall be deemed final. If Tenant submits to Landlord a written itemization of objections to the plans, Landlord and Tenant shall negotiate in good faith to resolve Tenant's objections to their mutual satisfaction. If Landlord and Tenant are able to resolve all of Tenant's objections to their mutual satisfaction, then Landlord and Tenant shall each approve the plans as modified to incorporate the resolution of Tenant's objections and the plans as so modified shall be deemed final.

B. Changes to Plans. After the plans are deemed final, the plans

shall not be subject to further change except as provided under this Paragraph. If either Landlord or Tenant desires any change to the plans after they are deemed final, it shall submit to the other for approval (which approval shall not be unreasonably withheld) a proposed change order, in writing, setting forth the change. Thereupon the other party shall either approve the proposed change order or notify the party submitting the proposed change order of its reason for withholding such approval, within two (2) business days after receipt of the proposed change order for approval. Without limiting the reasons for which approval of any proposed change order may be reasonably withheld, approval shall be deemed to have been reasonably withheld if the proposed change (1) would result in additional construction maintenance repair or replacement costs which could not be fully borne by the party proposing the change, (2) would result in a violation of any applicable law, regulation, ordinance or code, or (3) in the case of a change proposed by Landlord would materially reduce the usable area of the Building or would materially adversely affect the aesthetics of the Leased Premises or the usability thereof for the conduct of Tenant's business. Upon approval of any proposed change order pursuant to this Paragraph, Landlord shall cause the plans and construction contracts to be modified or amended as necessary to reflect such change order.

C. Landlord's Construction Responsibilities. Landlord shall be

fully responsible for the installation and construction of Tenant Finish, including, without limitation, the following: (1) the obtaining of all building and sign permits, licenses and other approvals required to construct the Tenant Finish; (2) the management and supervision of all architects, contractors, subcontractors and material providers participating in the construction of the Tenant Finish; (3) all necessary coordination with governmental entities having jurisdiction over the Lease Premises and utility companies; (4) enforcement of construction contracts; (5) security with respect to the Leased Premises during the construction period; (6) quality control and inspection of work; (7) construction clean up and refuse disposal; (8) construction timetables and deadlines as necessary to comply with the Lease; (9) compliance with applicable laws, regulations, ordinances and codes; and (10) all other matters relating to the construction of the Tenant Finish, except as otherwise expressly provided in the Lease. Landlord represents and covenants that upon the completion of the Tenant Finish, the Leased Premises shall conform to the Tenant Finish Plans and shall be in compliance with all applicable laws, regulations, ordinances, and codes, including, without limitation, applicable building codes and environmental laws. Tenant shall be entitled at any time during the construction period to inspect the construction of the Tenant Finish, provided that such inspection does not unreasonably interfere with the construction of the Tenant Finish. No failure of Tenant to

conduct such inspections or to discover or assert any defect in connection therewith shall constitute a waiver by Tenant of, or preclude Tenant from thereafter asserting, any rights it may have with respect to any representation, warranty or covenant made by Landlord with respect to the Leased Premises or the Tenant Finish.

D. Construction Contracts. Landlord shall act as general

contractor with respect to, or install and construct using its own personnel, all or portions of the Tenant Finish, provided, however, Landlord shall contract with and use licensed, qualified and reputable companies or persons for the performance of all such work to the extent Landlord is not licensed and fully qualified to perform the same. Landlord shall be entitled to select all contractors and material providers to perform work with respect to the Tenant Improvements which Landlord does not elect to perform directly and to negotiate the terms and conditions of the contracts with such contractors and material providers. Notwithstanding Paragraphs C and D, Tenant may choose its own contractor to perform Landlord's work pursuant to Paragraphs C and D.

E. Warranty. Unless Tenant substitutes the contractor pursuant to

Paragraph D above, Landlord warrants to Tenant for one (1) year after the Commencement Date of the Lease, that Tenant Finish shall be completed by Landlord in a good and workmanlike manner, free from faulty materials, in accordance with all applicable legal requirements, and sound engineering standards, and in accordance with the Final Plans and Tenant Finish Plans. Such warranty includes, without limitation, the repair or replacement (including labor), for one (1) year at Landlord's sole cost, of all materials, fixtures and equipment which are defective or which are defectively installed by Landlord or its agents in connection with Landlord's Work. In addition, Landlord shall obtain manufacturer's warranties, including, without limitation, for air conditioner, compressors, and the roof of the Building.

F. Commencement Date Agreement. When the Commencement Date has been

determined, Landlord and Tenant shall execute Exhibit D (attached) expressly confirming the Commencement Date and the expiration date of the Initial Term of this Lease and confirming, to the best knowledge of Tenant and Landlord, that Substantial Completion has occurred.

G. Tenant's Construction Obligations. Except as provided in

paragraph C and D above, Tenant shall be fully responsible for the installation of all of Tenant's trade fixtures, equipment, furnishings or decorations, except to the extent such installation is contemplated or provided for in the Plans. Landlord shall provide Tenant reasonable access to the Leased Premises for such purposes.

EXHIBIT "D"

ACKNOWLEDGMENT OF COMMENCEMENT DATE

AND TENANT ESTOPPEL CERTIFICATE

TO:

DATE:

RE: _____

Gentlemen:

The undersigned, as Tenant, has been advised that the Lease has been or will be assigned to you as a result of your financing of the above-referenced property, and as an inducement therefor hereby confirms the following:

1. That it has accepted possession and is in full occupancy of the Premises, that the Lease is in full force and effect, that Tenant has received no notice of any default of any of its obligations under the Lease, and that the Lease Commencement Date is _____.
2. That the improvements and space required to be furnished according to the Lease have been completed and paid for in all respects, and that to the best of its knowledge, Landlord has fulfilled all of its duties under the terms, covenants and obligations of the Lease and is not currently in default thereunder.
3. That the Lease has not been modified, altered, or amended, and represents the entire agreement of the parties, except as follows:

4. That there are no offsets, counterclaims or credits against rentals, nor have rentals been prepaid or forgiven, except as provided by the terms of the Lease.

5. That said rental payments commenced or will commence to accrue on _____, and the Lease term expires _____. The amount of the security deposit and all other deposits paid to Landlord is \$_____.
6. That Tenant has no actual notice of a prior assignment, hypothecation or pledge of rents of the Lease, except: _____
_____.
7. That this letter shall inure to your benefit and to the benefit of your successors and assigns, and shall be binding upon Tenant and Tenant's heirs, personal representatives, successors and assigns. This letter shall not be deemed to alter or modify any of the terms, covenants or obligations of the Lease.

The above statements are made with the understanding that you will rely on them in connection with the purchase of the above-referenced property.

Very truly yours,

Date of Signature: _____ By: _____

EXHIBIT "E"

COST TO CONSTRUCT LEASED PREMISES

TENANT: MYRIAD GENETICS, INC.

DATE: MARCH 2001

SQUARE FOOTAGE: 57,243

| ITEM - - - - - | COST ESTIMATE ----- |
|--|------------------------|
| 1. Building Permit | \$ _____ |
| 2. Mechanical | _____ |
| 3. Electrical | _____ |
| 4. Walls | _____ |
| 5. Doors, Frames, Hardware | _____ |
| 6. Painting | _____ |
| 7. Floorcovering | _____ |
| 8. Base | _____ |
| 9. Ceiling | _____ |
| 10. Glass | _____ |
| 11. Exterior Blinds | _____ |
| 12. Millwork/Plumbing | _____ |
| 13. Clean Up | _____ |
| 14. Contingency | _____ |
| 15. Supervision | _____ |
| 16. Architect | _____ |
| 17. Engineer | _____ |
| 18. Other | _____ |
| Shelving | _____ |
| Wallcovering | _____ |
| Stain of Woodwork | _____ |
| TOTAL COST | \$ _____ |
| TENANT CONSTRUCTION COST OBLIGATION | \$ _____ |

EXHIBIT "F"

IMPROVEMENT REMOVAL AGREEMENT

Landlord and Tenant agree that the following may be removed by Tenant at end of the term, or at Landlord's election, Tenant will sell to Landlord at a mutually agreeable price the following:

1. Built-in Cabinets and Lab Benches
2. Dark Room Door
3. Fume Hoods
4. DI Water System and Fixtures
5. DI Reservoir Tanks
6. Networking Equipment
7. Telephone and Computer Equipment
8. Lab Plumbing Fixtures Including Gas and Vacuum Connections
9. Projection equipment, multi-media equipment, including but not limited to audio visual equipment
10. White Boards

Notwithstanding the above, if Tenant removes the fixtures and any walls, ceilings, or flooring are damaged by such removal, then Tenant at Tenant's expense shall repair the damage.

AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into this 31st day of March, 2001, between BOYER RESEARCH PARK ASSOCIATES VI, L.C., BY ITS GENERAL PARTNER THE BOYER COMPANY, L.C., a Utah limited liability company ("Owner"), and MYRIAD GENETICS, INC. ("Myriad").

RECITALS:

A. Contemporaneously with the execution of this Agreement, Owner, as Landlord, and Myriad, as Tenant, executed a Lease Agreement dated March 31, 2001 (the "Lease") pertaining to space in a building (Phase III) to be constructed at 320 Wakara Way, Salt Lake City, Utah.

B. As part of the negotiations leading to the amendment of the Lease Agreement, Owner has agreed to pay to Myriad participation in Owner's net operating cash flow from the Building upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Myriad agree as follows:

1. Definitions. Certain terms are defined in this Agreement prior

to this Section 1. As used in this Agreement, the following additional terms shall have the meanings set forth:

(a) "Basic Annual Rent" is defined in the Lease.

(b) "Building" means the Phase III building to be constructed by

Owner at 320 Wakara Way, Salt Lake City, Utah, in which the premises covered by the Lease are located.

(c) "Myriad's Share of Operating Cash Flow" means, for any

specified period, the lesser of:

(i) The Setoff Percentage multiplied by the Basic Annual Rent for the period; or

(ii) The Operating Cash Flow for the period.

(d) "Myriad's Termination Share" means an amount determined as

follows:

(i) First, project Myriad's Share of Operating Cash Flow in each Lease Year following the Termination Date (but not including any renewal or extension terms subsequent to the then term of the Lease, unless and then only to the extent that Myriad has validly exercised its right to renew or extend the then term of the Lease) as being equal to Myriad's Share of Operating Cash Flow for the twelve (12) months prior to the Termination Date increased by the lesser of CPI or three percent (3%) per annum on the regular adjustment dates specified in Section 3.1 for adjustment of Basic Annual Rent.

(ii) Second, based on the assumption that Myriad's Share of Operating Cash Flow for each Lease Year following the Termination Date, as projected in subsection (i) above, is received by Myriad on the last day of the seventh (7th) month of such Lease Year (or in the case of a Lease Year which is less than seven (7) months long, on the last day of such Lease Year), calculate the present value of such projected amounts as of the Termination Date. The discount rate to be used in such present value calculation shall be ten and one-half percent (10 1/2%) per annum.

(e) "Expenditures" means all reasonable costs, expenses and -----
fees incurred by Boyer in connection with the ownership, financing, improvement, operation leasing, management, maintenance and repair of the Building but only to the extent paid directly or indirectly out or Rent.

(f) "Lease Year" is defined in the Lease.

(g) "Operating Cash Flow" means for a specified period all Rent -----
less all Expenditures.

(h) "Rent" means all rents and charges received by Owner from ----
the tenants of the Building, but excluding receipts from loans, contributions to capital of Owner, insurance proceeds, recoveries in connection with eminent domain proceedings or recoveries in connection with other actions (but including as part of Rent recoveries of any unpaid Rent).

(i) "Setoff Percentage" means 3.85%.

(j) "Termination Date" means, if but only if Owner exercises -----
the option set forth in Section 3, the date of the closing of the sale or other transfer of title to the Building by Owner.

2. Payment of Myriad's Share of Operating Cash Flow. During the term -----

of the Lease, Owner shall pay Myriad's Share of Operating Cash Flow to Myriad, as follows:

(a) Prior to then end of each calendar quarter during the term of the Lease, Owner shall pay Myriad Myriad's Share of Operating Cash Flow for the quarter, less any amounts Myriad has deducted from Basic Annual Rent pursuant to Section 2(b).

(b) Until a lender having a lien recorded or security interest filed in respect of the Building first exercises a remedy of any kind with respect to a default on the part of Owner to such lender, Myriad may deduct from each monthly installment of Basic Annual Rent pursuant to the Lease an amount equal to Myriad's Share of Operating Cash Flow. Owner shall notify Myriad in writing of the amount of the projected Operating Cash Flow if such cash flow is projected to be less than the Setoff Percentage multiplied by Basic Annual Rent.

(c) Notwithstanding any other provision of this Agreement, Owner shall have no obligation to pay any amount to Owner while Owner is in default under the terms of the Lease.

3. Termination of Myriad's Participation Upon Sale of Building.

Upon a sale of the Building, Owner may, at its sole option upon written notice to Myriad, terminate all of Myriad's right, title and interest under this Agreement and in and to Operating Cash Flow as of the Termination Date except as prescribed by this Section 3. If Owner exercises such option and the sale closes, Owner shall pay to Myriad, promptly following the Termination Date, Myriad's Termination Share. If, but only if, Owner does not exercise the option set forth in this Section 3 and the Building is conveyed to a third party, such third party shall succeed to all of the rights and obligations of Owner under this Agreement including, without limitation, the provisions of this Section 3 with respect to a subsequent sale.

4. Refinancing of Building. Owner may finance or refinance the

construction and operation of the Building at such time or times and upon such terms and conditions, including, but not limited to interest rate and payment terms, as it determines; provided, without the consent of Myriad, no refinancing of the Building shall result in projected annual Operating Cash Flow which is less than the Setoff Percentage multiplied by the Basic Annual Rent.

5. No Representation, Warranty or Guaranty. The amount of

Operating Cash Flow will depend on economic and other factors beyond Owner's control, including, without limitation, the amount and terms of financing, lease rates, real estate values, insurance, taxes and other operating costs and the timing of Building lease-up. Accordingly, neither Owner, its members nor any affiliates of Owner or its members have made any representation, warranty or guaranty with respect to the amount or timing of any Operating Cash Flow to be paid to Myriad.

6. Nature of Myriad's Rights Pursuant To This Agreement. Owner

and Myriad do not by this agreement intend to create a partnership, joint venture or similar relationship. All obligations of Owner to Myriad created pursuant to this Agreement are unsecured. Myriad shall have no ownership or security interest of any type in the Building or in the rents, profits or revenue thereof. All right, title and interest of Myriad under this Agreement and in and to Operating Cash Flow shall be, and are hereby made, subject, subordinate, inferior and junior to

the lien of any mortgage, deed of trust, assignment of leases and rents, security agreement, financing statement or similar security instrument encumbering the Building, and all renewals, modifications, amendments, consolidations, replacements and extensions of any such instrument. Such subordination shall be effective without the execution, delivery or recordation of any other agreement or instrument. Notwithstanding the foregoing, Myriad shall execute such agreements or instruments as may be necessary or appropriate or as may otherwise be requested by any mortgage lender to evidence, confirm or accomplish such subordination. The rights and obligations set forth in the Lease are severable from and independent of any rights and obligations pursuant to this Agreement and, except for the limited right of setoff granted Myriad pursuant to Section 2(b) which may be terminated under certain conditions in said Section, Myriad shall not, and shall not have the right to, offset against or deduct from any amount owed or claimed to be owed to it pursuant to this Agreement any rent, charge or other obligation due pursuant to the Lease.

7. Miscellaneous. This Agreement may be executed in any number of ----- counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument. The captions that precede the Section of this Agreement are for convenience only and shall in no way affect the manner in which any provision hereof is construed. There are no representations, warranties or covenants between the parties other than as set forth in this Agreement. None of the provisions of this Agreement may be altered or modified except by an instrument in writing signed by the parties. All of the terms, provisions, agreements and undertakings in this Agreement shall be binding upon and shall inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties to this Agreement. The parties shall do such further acts and things and execute and deliver such additional agreements and instruments as either of them may reasonably require to consummate, evidence or confirm the agreements contained in this Agreement in the manner contemplated by this agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Neither party may assign or transfer its rights under this Agreement to any other entity or person without first obtaining the consent of the other party. References in this Agreement to a Section by number shall be deemed to be a reference to the corresponding Section in this Agreement unless the context clearly requires a reference to another agreement.

IN WITNESS WHEREOF, Owner and Myriad have executed this Agreement on the respective dates set forth below, to be effective as of the date first set forth above.

[SIGNATURES ON THE FOLLOWING PAGE]

"OWNER":

BOYER RESEARCH PARK ASSOCIATES VI,
L.C., BY ITS GENERAL PARTNER THE BOYER
COMPANY, L.C., a Utah limited liability
company, by its Manager:

By: /s/ H. Roger Boyer

H. Roger Boyer
Chairman and Manager

"Myriad":

MYRIAD GENETICS, INC., a Utah corporation

By: /s/ Jay M. Moyes

Name: Jay M. Moyes

Title: C.F.O.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and entered into effective as of December 7, 2000, by and between Myriad Genetics, Inc., a Delaware corporation, having its principal place of business at 320 Wakara Way, Salt Lake City, Utah 84108 ("Myriad"), and Encore Pharmaceuticals, Inc., a Delaware corporation having its principal place of business at 2285 East Ojai Avenue, Ojai, California 93023 ("Licensor").

RECITALS

WHEREAS, Licensor has developed the Licensed Compound for the treatment, prevention, and diagnosis of cancer and other diseases;

WHEREAS, the inventors of the Licensed Compound assigned all of their right, title and interest in and to the Licensed Compound to Loma Linda University Medical Center ("LLUMC") and LLUMC thereby became the legal owner of the Licensed Compound;

WHEREAS, Licensor entered into a license agreement (the "LLUMC License Agreement") with LLUMC dated as of December 21, 1998 pursuant to which LLUMC granted Licensor an exclusive license to the Licensed Compound;

WHEREAS, Myriad has specialized experience in, among other things, the development and commercialization of healthcare products and services;

WHEREAS, concurrently herewith, Myriad is entering into a stock purchase agreement (the "Stock Purchase Agreement"), a services agreement (the "Services Agreement") and an investor rights agreement (the "Investor Rights Agreement") with Licensor and certain Third Parties, all as of the date hereof (such agreements are collectively the "Related Agreements"); and

WHEREAS, Licensor desires to grant a license to Myriad, and Myriad desires to obtain a license, to further develop and commercialize the Licensed Compound.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I
Definitions

Unless otherwise specifically provided herein, the following terms shall have the following meanings:

1.1 "Affiliate" with respect to a Person, shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such Person. For the purposes of this Section 1.1 only, "control" shall refer to (a) the possession, directly or indirectly, of the power to direct the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, or (b) the ownership, directly or indirectly, of at least fifty percent (50%) of the voting securities or other ownership interest of a Person.

1.2 "Commercialization Date" shall mean the earlier of (a) December 31, 2006 or (b) the date of the First Commercial Sale in a Major Pharmaceutical Market.

1.3 "Competing Product" shall mean any product that contains a label claim which provides an application or use which is comparable to that of the Licensed Product or which, if manufactured, used or sold in the United States would be an infringement of a Licensor Patents.

1.4 "Competition" shall mean sales by a Third Party of a Competing Product in any country that (a) do not infringe the Myriad Know-How, the Myriad Patents, the Licensor Know-How, the Licensor Patents, the Joint Know-How, or the Joint Patents, or (b) infringe the Myriad Know-How, the Myriad Patents, the Licensor Know-How, the Licensor Patents, the Joint Know-How, or the Joint Patents but there exists, in the opinion of counsel reasonably acceptable to Licensor and Myriad, no effective intellectual property protection of such Know-How or Patents in such country.

1.5 "Confidential Information" shall have the meaning set forth in Section 6.3.

1.6 "Control" shall mean, with respect to any item of Information and Invention or any intellectual property right, possession of the ability, whether by ownership or license, to assign, grant a license or sublicense as provided for herein to such item or under such right without violating the terms of any agreement or other arrangement with any Third Party.

1.7 "Effective Date" shall mean the effective date of this Agreement as set forth in the first paragraph hereof.

1.8 "Europe" shall mean the European Union as it may be constituted from time to time.

1.9 "Fair Market Value" shall mean the average closing price of Myriad common stock on the NASDAQ stock exchange for the twenty (20) consecutive business days immediately preceding the date on which such stock is transferred from Myriad to Licensor pursuant to Article IV hereof.

1.10 "FDA" shall mean the United States Food and Drug Administration, and any successor agency thereto.

1.11 "Field" shall mean the use of the Licensed Product to treat, prevent, or diagnose any disease, injury or condition in humans or animals.

1.12 "First Commercial Sale" shall mean the first sale to a Third Party for use or consumption by the general public of the Licensed Product in a country after all Regulatory Approvals have been obtained in such country.

1.13 "First Milestone Event" shall have the meaning set forth in Section 4.2 hereof.

1.14 "Fiscal Quarter" shall mean each period of three consecutive calendar months ending on September 30, December 31, March 31 and June 30.

1.15 "Fiscal Year" shall mean each successive period of twelve months commencing on July 1 and ending on June 30.

1.16 "Fourth Milestone Event" shall have the meaning set forth in Section 4.2 hereof.

1.17 "Improvement" shall mean any modification to the Licensed Compound or a Licensed Product including, without limitation, any enhancement in the Manufacture, ingredients, preparation, presentation, means of delivery, dosage or packaging of a product or any discovery or development of a new indication for a product. Chemical modifications of a Licensed Compound or a Licensed Product shall be considered to be within the definition of "Improvement" if such chemical modifications are covered by a claim within the Licensor Patents, either literally or under the doctrine of equivalents.

1.18 "IND" shall mean an investigational new drug application filed with the FDA for approval to commence human clinical trials, and its equivalent in other countries or regulatory jurisdictions.

1.19 "Information and Invention" shall mean any data results, information, inventions, know-how, formula, trade secrets, techniques, methods, procedures, development, material, or compositions of matter of any type or kind, whether or not patentable.

1.20 "In-License Agreement" shall mean a license of technology relating to the Licensed Compound from a Third Party to Licensor.

1.21 "Invoiced Sales" shall have the meaning set forth in Section 1.38.

1.22 "Joint Know-How" shall mean all Information and Inventions of any kind that (a) are made jointly by employees or agents of Myriad or an Affiliate of Myriad and by employees or agents of Licensor or an Affiliate of Licensor at any time during the term of this Agreement and (b) are necessary or useful for the identification, development, synthesis, characterization, optimization, assaying, formulation, Manufacture, use, or sale of the Licensed Compound, the Licensed Product or any Improvement thereto, or the Manufacturing Processes, but excluding any Information and Inventions to the extent covered or claimed by the Joint Patents.

1.23 "Joint Patent" shall mean all Patents (a) that name as inventors one or more employees or agents of Myriad or its Affiliates together with one or more employees or agents of Licensors or its Affiliates and (b) that claim or cover the Licensed Compound, the Licensed Product or any Improvement thereto, or the Manufacturing Processes.

1.24 "Joint Steering Committee" shall have the meaning set forth in Section 2.2.

1.25 "Licensed Compound" shall mean all compounds referenced in the Licensors Patents listed on Exhibit 1 as of the date hereof, in both acid and salt forms thereof, including without limitation, R-Flurbiprofen, which is also known according to Licensors designation as "E-7869," and any Improvements to all such compounds.

1.26 "Licensed Product" shall mean a product or products which contain(s) the Licensed Compound as an active ingredient.

1.27 "Licensors Know-How" shall mean all Information and Inventions Controlled by Licensors or its Affiliates as of the Effective Date and at any time prior to the end of the term of this Agreement that are necessary or useful for the identification, development, synthesis, characterization, optimization, assaying, formulation, Manufacture, use, or sale of the Licensed Compound, the Licensed Product or any Improvement thereto, or any Manufacturing Process, but excluding any Information and Inventions to the extent covered or claimed by the Licensors Patents.

1.28 "Licensors Patents" shall mean all Patents Controlled by Licensors or its Affiliates as of the Effective Date and at any time prior to the end of the term of this Agreement that claim or cover the Licensed Compound, the Licensed Product, any Manufacturing Process or any Improvement to any of the foregoing. All Licensors Patents existing as of the date hereof are listed on the attached Exhibit 1.

1.29 "Losses" shall have the meaning set forth in Section 8.1.

1.30 "Major Pharmaceutical Market" shall mean the United States and Europe.

1.31 "Manufacture" and "Manufacturing" shall mean, with respect to a product or compound, the manufacturing, processing, formulating, packaging, labeling, holding, and quality control testing of such compound or product.

1.32 "Manufacturing Process" shall mean any process or step thereof (or any Improvement to such process or step) that is necessary or useful for Manufacturing the Licensed Compound, the Licensed Product, or any Improvements to the Licensed Product, including, without limitation, any device for the administration of the Licensed Compound, the Licensed Product or any Improvements to the Licensed Product.

1.33 "Milestone Consideration" shall have the meaning set forth in Section 4.2.

1.34 "Milestone Event" shall have the meaning set forth in Section 4.2.

1.35 "Myriad Know-How" shall mean all Information and Inventions Controlled by Myriad or an Affiliate of Myriad that (a) are developed or licensed by Myriad or an Affiliate of Myriad during the term of this Agreement and (b) are necessary or useful for the identification, development, synthesis, characterization, optimization, assaying, formulation, Manufacture, use, or sale of the Licensed Compound, the Licensed Product, or any Manufacturing Process, but excluding any Information and Inventions to the extent covered or claimed by the Myriad Patents.

1.36 "Myriad Patents" shall mean all Patents Controlled by Myriad or an Affiliate of Myriad during the term of this Agreement that cover or claim the Licensed Compound, the Licensed Product or any Manufacturing Process.

1.37 "NDA" shall mean a New Drug Application filed pursuant to the requirements of the FDA, as more fully defined in 21 C.F.R.ss.314.5 et seq., and any equivalent application filed with any Regulatory Authority.

1.38 "Net Sales" shall mean, [

]

1.39 "Patents" shall mean all patents and patent applications, including, without limitation, any divisions, continuations, continuations-in-part, reissues, renewals, extensions, supplementary protection certificates, or the like of any such patents or patent application, as well as any certificates of invention or applications therefor.

1.40 "PCT" shall mean the Patent Cooperation Treaty, opened for signature June 19, 1970, 28 U.S.T. 7645.

1.41 "Person" shall mean an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, or other similar entity or organization, including, without limitation, a government or political subdivision, department, or agency of a government.

1.42 "Regulatory Approval" shall mean any and all approvals, including, without limitation, price and reimbursement approvals, licenses, registrations, or authorizations of any federal, national, state, provincial, or local regulatory agency, department, bureau, or other government entity, necessary for the development, Manufacture, use, storage, import, transport, and sale of the Licensed Compound, the Licensed Product, or any Improvement to the Licensed Product in a jurisdiction.

1.43 "Regulatory Authority" shall mean the applicable government or regulatory authorities in each jurisdiction involved in granting the Regulatory Approvals for the Licensed Compound, the Licensed Product or any Improvement to the Licensed Product.

1.44 "Regulatory Documentation" shall mean all agreements, regulatory filings and supporting documents and clinical studies and tests, relating to the Licensed Compound, the Licensed Product and any Improvements thereto, or the Manufacturing Processes, and all data contained therein, including, without limitation, all INDs, NDAs, drug master files, correspondence with Regulatory Authorities, registrations and licenses, regulatory drug lists, advertising, and promotion documents, adverse event files, complaint files, and Manufacturing records.

1.45 "Second Milestone Event" shall have the meaning set forth in Section 4.2 hereof.

1.46 "Sublicensee" shall mean a Person to whom Myriad has granted the right under the Licensor Patents and Licensor Know How to develop, Manufacture, have manufactured, use, market and/or sell the Licensed Product.

1.47 "Sublicense Income" shall mean [

]

1.48 "Third Milestone Event" shall have the meaning set forth in Section 4.2 hereof.

1.49 "Third Party" shall mean any Person other than Myriad, Licensor, and Affiliates of either.

1.50 "Trademark" shall include any word, name, symbol, color, designation or device or any combination thereof, including, without limitation, any trademark, trade dress, brand mark, trade name, brand name, logo, or business symbol.

1.51 "Valid Claim" shall mean, with respect to a particular country, a claim of an issued and unexpired patent that (a) has not been revoked or held unenforceable or invalid by a decision of a court or governmental agency of such country from which no appeal can be taken or, after mutual consultation and agreement, an appeal is not taken within the time allowed for appeal, (b) has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise in such country, and (c) provides exclusive rights to the sale of the Licensed Product in such country.

ARTICLE II Development and Commercialization

2.1 Development and Commercialization Activities. Myriad shall have the sole and exclusive right, but, except as expressly set forth in Section 2.5, not the obligation, to develop and commercialize the Licensed Compound and the Licensed Product on a worldwide basis. Myriad shall be solely responsible for all costs and expenses in connection with such development and commercialization activities; provided, however, that Licensor shall bear, and shall not be

entitled to reimbursement for, any development or commercialization costs or expenses incurred by Licensor prior to the Effective Date with respect to the Licensed Compound, the Licensed Product, or the Manufacturing Processes. Except as provided in Section 2.8 hereof and elsewhere in this Agreement, or as otherwise agreed to in advance and in writing by Myriad, Myriad shall not be required to reimburse Licensor for any costs incurred by Licensor on or after the Effective Date of this Agreement.

2.2 Joint Steering Committees. The Parties shall form a joint steering committee (the "Joint Steering Committee") to review and comment on the pre-Regulatory Approval development efforts undertaken by Myriad with respect to the Licensed Compound and the Licensed Product. The Joint Steering Committee shall be comprised of two (2) representatives from Licensor and three (3) representatives of Myriad. The Joint Steering Committee shall meet on or about the end of each Fiscal Quarter, or more or less frequently as they shall determine. Meetings of the Joint Steering Committee shall be held alternately at Myriad's facility in Salt Lake City and at Licensor's facility in Ojai, California, or at such other location as the parties shall mutually choose. A representative of Myriad shall chair meetings of the Joint Steering Committee. The Chairperson or his or her designee shall keep minutes of the meetings. Recommendations or other actions of the Joint Steering Committee shall be determined by a majority of the members of the Joint Steering Committee. The parties may from time to time

designate new representatives to replace their current representatives on the Joint Steering Committee. The initial members of the Joint Steering Committee are as follows:

Myriad: [], Chairperson
Myriad: to be determined
Myriad: to be determined
Licensor: []
Licensor: []

The Joint Steering Committee shall disband once the Licensed Product has received Regulatory Approval in any Major Pharmaceutical Market. The Parties' shall bear their own costs and expenses arising from their participation in the Joint Steering Committee.

2.3 Regulatory Approvals. All INDs, NDAs and other filings pursuant to or in connection with the Regulatory Approvals shall be made in the name of Myriad or its designee. Myriad shall be solely responsible for all communications with Regulatory Authorities with regard to the Licensed Compound and the Licensed Product.

2.4 Development and Use of Trademarks. Myriad shall have the sole right to determine the Trademarks to be used with respect to the development and commercialization of the Licensed Compound and the Licensed Product on a worldwide basis. Nothing in this Agreement shall be construed as granting Myriad any rights in Trademarks owned or controlled by Licensor or LLUMC.

2.5 Diligence Obligations. Myriad shall use commercially reasonable efforts to obtain Regulatory Approvals for, and to commercialize the Licensed Product in the Field. Myriad and its Sublicensees shall collectively make the following efforts to develop and commercialize the Licensed Compound and Licensed Products:

(a) The combined spending of Myriad and its Sublicensees shall not be less than [] for the development and commercialization of a Licensed Product during each Fiscal Year beginning with the Fiscal Year starting on July 1, 2001 and ending on the date of the First Commercial Sale of a Licensed Product;

(b) The combined spending of Myriad and its Sublicensees shall not be less than an average of [] during any period of two (2) consecutive Fiscal Years on the development and commercialization of a Licensed Product beginning with the Fiscal Year starting on July 1, 2001 and ending on the date of the First Commercial Sale of a Licensed Product; and

(c) Myriad, or a Sublicensee, shall have a First Commercial Sale of a Licensed Product in a Major Pharmaceutical Market no later than the earlier of: (a) December 31, 2006, or (b) one year after notification of approval from the FDA with respect to the first Licensed Product to be so approved; provided,

however, that Myriad may extend the deadline for such a sale for periods of
- -----
twelve (12) months upon notice to Licensor and the payment to Licensor of
[] for each such period of twelve (12) months.

(d) Myriad or a Sublicensee shall, on or before December 31, 2006, submit an IND with the Regulatory Authority in a Major Pharmaceutical Market for a different anticipated indication for use than the anticipated indication for use of the Licensed Product which is the subject of the development and commercialization efforts described in Section 2.5(a), (b) and (c), above; provided, however, that Myriad may extend the deadline for such a filing for

periods of twelve (12) months upon notice to Licensor and the payment to Licensor of [] for each such period of twelve (12) months.

In determining how much money Myriad and its Sublicensees spent during a given period of time on the development and commercialization of a Licensed Product for the purposes of evaluating Myriad's compliance with Section 2.5(a) and Section 2.5(b) above, all payments to Third Parties (including payments made to Licensor and Licensor's officers, directors and employees under the Services Agreement but excluding payments made hereunder and under the Stock Purchase Agreement) in connection with such development and commercialization plus internal costs of such development and commercialization efforts based on their actual, fully-burdened cost, made or incurred during such period of time, shall be included. Within ninety (90) days after the end of each Fiscal Year beginning with the Fiscal Year starting on July 1, 2001 and ending on the date of the First Commercial sale of a Licensed Product, Myriad shall provide a report to Licensor of amounts spent by Myriad and its Sublicensees on the development and commercialization of a Licensed Product. Such reports shall include such detail as is reasonably necessary to enable Licensor to evaluate the validity of the cost attributed to such efforts. Such reports need not include an accounting or description of all efforts made but merely so much as demonstrates Myriad's compliance with Section 2.5(a) and Section 2.5(b) hereof. Myriad shall provide written notice and competent evidence of the date of filing of an IND which satisfies Myriad's obligations under Section 2.5(d) hereof, on or before January 31, 2007.

2.6 Breach of Diligence Obligations. In the event Myriad shall fail to meet its obligations under Section 2.5(a), (b), or (c) hereof, such failure shall constitute a material breach of this Agreement. In the event Myriad shall fail to meet its obligations under Section 2.5(d) hereof, Licensor shall be entitled, by notice to Myriad, to modify the license granted hereunder by redefining the Field to include only the use of the Licensed Product (as indicated in the label, the accompanying package insert and the instructions for use as approved by the relevant Regulatory Authority) to treat, prevent or diagnose all types and forms of cancer and other conditions characterized by aberrant cell proliferation, in humans. Myriad agrees, under such circumstances, to execute and deliver an amendment to this Agreement giving effect to such a redefinition of the Field in accordance herewith.

2.7 Information and Reporting. Myriad shall prepare and maintain complete and accurate information regarding the worldwide development and commercialization of the Licensed Product in the Field and shall make such information available to Licensor in the form of summary reports provided to Licensor every three (3) months. The parties agree that minutes from the meetings of the Joint Steering Committee shall constitute adequate "summary reports" as referred to in the foregoing sentence and that such minutes, once marked "CONFIDENTIAL" and redacted to Myriad's satisfaction to eliminate all references to compounds, products or

technologies other than the Licensed Compound or the Licensed Product, may be shared with LLUMC by Licensor.

2.8 Cooperation of Licensor. Licensor shall cooperate with any and all reasonable requests for assistance from Myriad with respect to the development and commercialization of the Licensed Compound or the Licensed Product, including, without limitation, by making its employees, consultants and other scientific staff available upon reasonable notice during normal business hours at their respective places of employment to consult with Myriad on issues arising during such development and commercialization. Myriad shall provide reasonable reimbursement for any and all reasonable, verifiable expenses incurred by Licensor as a result of providing such cooperation. The parties agree that additional, more specific obligations relating to services to be provided by Licensor and certain of its employees shall be set forth in the Services Agreement.

2.9 Information Disclosure. Promptly after the Effective Date, Licensor shall, and shall cause its Affiliates to, disclose and make available to Myriad, in whatever form Myriad shall reasonably request, all Regulatory Documentation, Licensor Know-How and any Information and Inventions covered or claimed by any Licensor Patents, including, without limitation, all chemical, preclinical, clinical, and other information. Throughout the term of this Agreement, Licensor shall, and shall cause its Affiliates to, disclose and make available to Myriad, in whatever form Myriad shall reasonably request, any and all Licensor Know-How, Joint Know-How and any Information and Inventions covered or claimed by the Licensor Patents or Joint Patents, including, without limitation, the development, making, conception, or reduction to practice of any such Know-How or Information and Inventions immediately upon such development, making, conception, or reduction to practice.

ARTICLE III Licenses and Assignments

3.1 Rights Grant to Myriad. Subject to the other provisions of this Agreement, Licensor and its Affiliates hereby grant to Myriad and its Affiliates:

(a) a sole and exclusive (including with regard to Licensor and its Affiliates), perpetual, royalty-bearing, worldwide license, with the right to grant sublicenses, under Licensor's right, title, and interest in and to the Licensor Patents, the Licensor Know-How, the Joint Patents and the Joint Know-How to develop, modify, improve, make, have made, use, have used, import, export, offer for sale, sell, and have sold the Licensed Compound, the Licensed Product and any Improvements thereto within the Field; and

(b) a sole and exclusive (including with regard to Licensor and its Affiliates), perpetual, royalty-bearing, worldwide license, with the right to grant sublicenses, under Licensor's right, title, and interest in and to the Licensor Patents, the Licensor Know-How, the Joint Patents and the Joint Know-How to use the Manufacturing Processes to Manufacture (A) the Licensed Compound and (B) the Licensed Product and any Improvements thereto.

Notwithstanding the foregoing, Licensor hereby retains for itself and for LLUMC a nontransferable, nonsublicensable right to make and use the Licensed Compound, and to practice under the Licensor Patents, all solely for non-commercial, research and educational purposes only. Myriad hereby agrees that prior to executing and delivering an agreement effectuating a sublicense of its rights hereunder, or any of them, it will provide a copy of such agreement to LLUMC and will provide LLUMC with a reasonable opportunity to review such agreement and to provide comments regarding such agreement to Myriad.

3.2 Assignment of Regulatory Documentation. Licensor hereby assigns to Myriad all of its right, title, and interest in and to all Regulatory Documentation Controlled by Licensor. Licensor shall duly execute and deliver, or cause to be duly executed and delivered, such instruments and shall do and cause to be done such acts and things, including, without limitation, the filing of such assignments, agreements, documents and instruments as Myriad may reasonably request to confirm Myriad's rights under this Section 3.2. In the event that Licensor does not have Control of Regulatory Documentation in which Myriad desires any right, title or interest, Licensor shall use its reasonable best efforts to acquire Control of such Regulatory Documentation and to assign all of its right, title, and interest therein and thereto to Myriad.

3.4 Negative Covenant. Each party covenants to the other party that it shall not practice, exercise, or use any intellectual property rights licensed to it by the other party under this Agreement, except as expressly permitted by the terms hereof.

3.5 Right of First Refusal. Licensor hereby grants to Myriad a right of first refusal in technology which could be used as, or to develop, a product for the treatment, prevention or diagnosis of cancer, conditions characterized by aberrant cell proliferation, Alzheimer's Disease, inflammation, pain and cystic fibrosis, in humans, and all intellectual property rights associated with such technology (such technology and associated intellectual property rights are hereinafter the "Technology"). In the event Licensor develops Technology, Licensor shall promptly provide notice of such development to Myriad, which notice shall set out a description of the Technology and the terms on which Licensor would be willing to grant to Myriad an exclusive, world-wide, royalty-bearing license to develop and commercialize the Technology. The parties shall enter into a period of exclusive negotiations towards such a license of the Technology beginning on the date of receipt of the notice by Myriad and continuing for a period of ninety (90) days; provided, however, that if prior to

the expiration of such ninety (90) day period, Myriad determines that it is not interested in continuing such negotiations, then it shall notify Licensor of such determination as soon as reasonably possible. In the event the parties are unable to agree on the terms for such a license, Licensor shall be free for a period of [] to offer the Technology to Third Parties; provided,

however, that if Licensor does not enter into such an agreement with a Third

Party within such [] period, then such Technology shall again become subject to Myriad's right of first refusal as set forth in this Section 3.5; and, provided, further, that if the Technology is for the treatment of cancer or

Alzheimer's Disease, and Myriad, or a Sublicensee, is at the time of such an offer by Licensor, developing, marketing or selling a Licensed Product for the treatment of the same disease (that is, for cancer or Alzheimer's Disease as applicable), then, in the event Licensor and a Third Party reach an agreement on the terms for such a license or other transfer of rights in such Technology, before Licensor may enter into such an agreement, Licensor shall offer a license or other transfer of rights in such Technology to Myriad on the same terms as were acceptable to such Third Party. Such offer

shall be in writing and shall make specific reference to the parties' rights under this Section 3.5 and shall indicate that Myriad has a period of thirty (30) days from the date of receipt of such notice to respond to such offer. Myriad must either reject or accept such offer within such thirty (30) day period. In the event Myriad shall reject such offer, Licensor shall be free to enter into a license or similar agreement with such Third Party on such terms. In the event that such offer is not accepted by such Third Party, such Technology shall again become subject to Myriad's right of first refusal as set forth in this Section 3.5.

ARTICLE IV
Milestones and Royalties

4.1 Equity Investment. As partial mutual consideration for entering into this Agreement, and subject to the terms and conditions set forth in this Agreement, the parties entered into a Stock Purchase Agreement (the "Stock Purchase Agreement") (a copy of the Stock Purchase Agreement is attached hereto as Annex A and incorporated herein by reference) pursuant to which Myriad shall make an initial [] equity investment in Licensor. Possible additional equity investments may be made in Licensor by Myriad as provided herein and in the Stock Purchase Agreement. The parties agree that [] shall be paid by Myriad directly to LLUMC, and that for purposes of this Agreement, such payment to LLUMC shall be fully credited against Myriad's obligation to make and pay for such equity investment.

4.2 Milestone Consideration. In partial consideration of the license and other rights granted herein and subject to the terms and conditions set forth in this Agreement, upon achievement after the Effective Date of any milestone event listed below (each a "Milestone Event"), Myriad shall pay a milestone consideration (each a "Milestone Consideration") to Licensor within thirty (30) days following achievement of such Milestone Event; provided, however, that the

Milestone Consideration payable in connection with the Fourth Milestone Event shall be payable within ninety (90) days following the achievement of the Fourth Milestone Event, all in accordance with the following:

| Milestone Event | Milestone Consideration |
|-----------------|-------------------------|
| ----- | ----- |
| [| |

]

For clarification, each Milestone Consideration shall be payable only for the first occurrence of each corresponding Milestone Event achieved in respect of the Licensed Product. At Myriad's sole discretion, up to One Hundred Percent (100%) of each Milestone Consideration payable to Licensor may be in the form of a cash investment by Myriad in shares of Series B Preferred Stock, \$.001 par value per share, of the Licensor (the "Series B Preferred Stock"); provided,

however, that Myriad shall purchase not less than the minimum number of Series B
- -----

Preferred Stock as is provided for in the Stock Purchase Agreement. The purchase price for each such investment shall be fully credited on a dollar-for-dollar basis against such Milestone Consideration. Any investments to be made by Myriad in Series B Preferred Stock of Licensor under this Section 4.2 shall be pursuant to the Stock Purchase Agreement. The First Milestone Event shall result in the Second Closing, as defined in the Stock Purchase Agreement. The Second Milestone Event shall result in the Third Closing, as defined in the Stock Purchase Agreement. The Third Milestone Event shall result in the Fourth Closing, as defined in the Stock Purchase Agreement. The Fourth Milestone Event shall result in the Fifth Closing, as defined in the Stock Purchase Agreement. Fifty percent (50%) of each such Milestone Consideration shall, at the sole discretion of Licensor, be payable in the form of cash, or any combination of cash and Myriad common stock. The value of any such Myriad common stock used to pay any Milestone Consideration shall be equal to the Fair Market Value of such common stock.

4.3 Royalty Payments to Licensor. In partial consideration of the license and other rights granted herein and subject to the terms and conditions set forth in this Agreement, Myriad shall pay Licensor the following royalties:

(a) A royalty based on the aggregate Net Sales of all Licensed Products (such aggregate to be comprised solely of Net Sales in countries where the sale of the Licensed Product is covered by at least one Valid Claim of a Licensor Patent, determined on a Licensed Product-by-Licensed Product and country-by-country basis), during each Fiscal Year:

[

]

Commencing on the Commercialization Date, Myriad shall pay to Licensor a minimum annual royalty ("Minimum Annual Royalty") as follows:

[

]

For avoidance of doubt, the maximum Minimum Annual Royalty payable in respect of any year identified above shall be the amount indicated opposite such year, regardless of whether more than one (1) Licensed Product is approved for sale, or whether a Licensed Product is approved for sale in more than one (1) country. The Minimum Annual Royalty payments shall be fully creditable against the other royalties payable to Licensor under this Section 4.3. Myriad may pay the Minimum Annual Royalty payments out of reserves from sales of Licensed Products or another service.

(b) An annual royalty equal to [] of Sublicense Income received by Myriad and its Affiliates during each Fiscal Year.

(c) The parties agree that [] of each of the royalty payments owing under this Section 4.3 shall be paid by Myriad directly to LLUMC, and that for purposes of this Agreement, such payment to LLUMC shall be fully credited against Myriad's obligation to make such royalty payments to Licensor under this Section 4.3.

4.4 Royalty Term. The royalty obligations under Section 4.3 shall terminate on a country-by-country and Licensed Product-by-Licensed Product basis, upon the expiration date in such country of the last to expire of any issued Licensor Patents that includes at least one Valid Claim covering the sale of the Licensed Product in such country. Upon termination of such royalty obligations pursuant to this Section 4.4, the licenses granted to Myriad under Section 3.1 shall automatically become irrevocable, fully-paid-up licenses on a country-by-country and Licensed Product-by-Licensed Product basis.

4.5 Royalty Payments. Running royalties shall be payable on a quarterly basis, within sixty (60) days after the end of each Fiscal Quarter, based upon the Net Sales during such Fiscal Quarter, commencing with the Fiscal Quarter in which the First Commercial Sale of the Licensed Product is made or a further sublicense agreement is executed. Royalties shall be calculated in accordance with U.S. generally accepted accounting principles consistently applied and consistent with the terms of this Article IV.

4.6 Royalty Statements. Each royalty payment hereunder shall be accompanied by a statement showing Invoiced Sales, Net Sales, and Sublicense Income and the amount of royalties due on such Net Sales and Sublicense Income. The statement shall also state the name and address of each Sublicensee and Affiliate who had Net Sales or who paid Sublicense Income during such period. The statement shall be signed by an officer of Myriad or his or her designee. A copy of each such Royalty Statement shall be delivered to LLUMC at the same time it is delivered to Licensor hereunder.

4.7 Effect of Competition. If there is Competition in any country, which is based on sales by a Third Party of a Competing Product, then the royalty rates which would otherwise be applicable to sales of the Licensed Product in such country shall be reduced by []. If there is Competition in any country, which is based on sales by more than one (1) Third Party of a Competing Product, or which is based on the sale by a Third Party of more than one (1) Competing Product, then the royalty rates which would otherwise be applicable to sales of the Licensed Product in such country shall be reduced by [].

4.8 Records Retention. For three (3) years after the period of each statement required by this Article, Myriad shall keep (and shall ensure that its Affiliates and Sublicensees shall keep) true and accurate records in sufficient detail to confirm the accuracy of the royalty calculations hereunder.

4.9 Audit of Royalty Payments.

(a) Upon the written request of Licensor and not more than once in each Fiscal Year, Myriad shall permit an independent certified public accounting firm of nationally recognized standing selected by Licensor, and reasonably acceptable to Myriad, to have access during normal business hours, and upon fifteen (15) business days prior written notice, to such of the records of Myriad as may be reasonably necessary to verify the accuracy of the royalty reports hereunder for any Fiscal Year ending not more than thirty-six (36) months prior to the date of such request. The accounting firm shall disclose to Licensor only whether the royalty reports are correct or incorrect and the specific details concerning any discrepancies. No other information shall be provided to Licensor.

(b) If such accounting firm correctly concludes that additional royalties were owed during such period, Myriad shall pay the additional royalties, with interest from the date originally due at the prime rate, as published in The Wall Street Journal, Eastern U.S. Edition, on the last business day preceding such date, within sixty (60) days after the date on which such accounting firm's written report is delivered to Myriad. Myriad acknowledges that this Section shall not constitute Licensor's agreement to accept such payments after they are due and that such late payment constitutes a breach of this Agreement. The payment of such interest shall not constitute a waiver of Licensor's right to exercise any other remedies it is entitled to hereunder or otherwise. If, and only if, the amount of the underpayment is greater than five percent (5%) of the total amount owed, then Myriad shall reimburse Licensor for all costs related to such audit. If such accounting firm correctly concludes that excess royalties were paid during such period, such overpayment shall be fully credited against future royalties due hereunder.

(c) Licensor shall treat all information subject to review under this Section 4.9 in accordance with the confidentiality provisions of Article VI of this Agreement, and shall cause its accounting firm to enter into an acceptable confidentiality agreement with Myriad obligating such firm to retain all such financial information in confidence pursuant to such confidentiality agreement.

4.10 Mode of Payment. All payments hereunder shall be made by deposit of United States Dollars in the requisite amount to such bank account as Licensor may from time to time designate by notice to Myriad. Payments shall be free and clear of any taxes (other than withholding and other taxes imposed on the receiving party), fees or charges, to the extent applicable. With respect to sales outside the United States, payments shall be calculated based on currency exchange rates for the last Fiscal Quarter for which remittance is made for royalties. For each month and each currency, such exchange rate shall equal the arithmetic average of the daily exchange rates (obtained as described below) during the Fiscal Quarter. Each daily exchange rate shall be obtained from the Reuters Daily Rate Report or The Wall Street Journal, Eastern U.S. Edition, or, if not so available, as otherwise agreed by the parties.

ARTICLE V
Intellectual Property Rights

5.1 Intellectual Property Ownership.

(a) Myriad shall own and retain all right, title, and interest in and to all Regulatory Documentation, the Myriad Patents, and the Myriad Know-How.

(b) Subject to the exclusive license grants granted to Myriad hereunder, as between the parties, Licensor shall own and retain all right, title, and interest in and to all Licensor Patents and Licensor Know-How.

(c) Subject to the license grants granted to Myriad hereunder, the parties shall jointly own and retain all right, title, and interest in and to all Joint Patents and Joint Know-How.

5.2 Patent Prosecution.

(a) Licensor Patents. Subject to Section 5.2(c), Licensor shall be -----
responsible, at its sole cost and expense, for obtaining, prosecuting, and/or maintaining throughout the world the Licensor Patents. In this regard, Licensor shall file, prosecute, and/or maintain patent applications in the United States to secure Patents Rights for the Licensed Compound, the Licensed Product, the Manufacturing Processes (to the extent invented or developed by Licensor), and other Information and Inventions claimed in or covered by the Licensor Patents. Within one (1) year of filing any such United States patent application, Licensor shall file a counterpart international application under the PCT designating all member countries and any additional counterpart national patent applications in non-PCT member countries as the parties shall mutually agree upon.

(b) Myriad Patents and Trademarks. Myriad shall be responsible, at -----
its sole cost and expense, for obtaining, prosecuting, and/or maintaining the Myriad Patents throughout the world. Myriad shall be responsible for obtaining, maintaining, registering and/or extending trademark protection for all Trademarks related to the Licensed Compound and the Licensed Product, throughout the world.

(c) Joint Patents. Myriad shall be responsible for obtaining,

prosecuting, and/or maintaining the Joint Patents throughout the world. Myriad shall also be responsible for the cost and expense for filing, prosecuting, and/or maintaining the Joint Patents. Notwithstanding the above, either party may decline to pay its share of costs for filing, prosecuting, and/or maintaining any Joint Patent(s) in a particular country or particular countries, in which case the declining party shall assign to the other party all of its right, title, and interest in and to any such Joint Patent(s) in the relevant country and upon such assignment such Joint Patent(s) shall become a Myriad Patent(s) or a Licensors Patent(s), as the case may be.

(d) Cooperation. Each party shall regularly provide the other party

with copies of all patent applications filed hereunder and other material submissions and correspondence with any patent authorities, as applicable, in sufficient time to allow for review and comment. In addition, each party shall provide the other and its counsel with an opportunity to consult and comment on the filing and contents of any application, amendment, registration, submission, response or correspondence with any patent authorities. Each party shall, at the other's reasonable request, assist and cooperate in the filing and prosecution of any application, amendment, registration, submission, response or correspondence with respect to any Myriad Patents, Joint Patents, or Trademarks related to the Licensed Compound and the Licensed Product.

(e) Election not to Prosecute. If Licensors elects not to pursue the

initial filing of a Licensors Patent, the PCT international filing or the continued prosecution or maintenance of a Licensors Patent in a particular country, then Licensors shall so notify Myriad promptly in writing and in good time to enable Myriad to meet any deadlines by which an action must be taken to establish or preserve a right in such Licensors Patents in such country. With respect to Licensors Patents scheduled for international filing with respect to a country, Licensors shall notify Myriad in writing at least ninety (90) days before the date required for the filing of such Licensors Patents application or any other deadline by which an action must be taken to establish or preserve a Licensors Patents right in such country.

(i) Upon receipt of any such notice by Licensors, pertaining to a patent to which Licensors holds legal title, Myriad shall have the right, but not the obligation, to pursue the filing or registration, or support the continued prosecution or maintenance, of such Licensors Patents, at its expense in such country. If Myriad elects to pursue such filing or registration, as the case may be, or continue such support, then Myriad shall notify Licensors of such election and (i) no further royalties shall be payable on account of Net Sales generated in such country, and (ii) Licensors shall (A) reasonably cooperate with Myriad in making such filings or registrations, or in continuing such support, and (B) promptly release or assign to Myriad, without consideration, all right, title, and interest in and to such Licensors Patents in such country.

(ii) Upon receipt of such notice by Licensors, pertaining to a patent to which LLUMC or another Third Party holds legal title, Myriad shall have the right, but not the obligation, to support the continued prosecution or maintenance, of such Licensors Patents, at its expense in such country. If Myriad elects to continue such support, then Myriad shall notify Licensors of such election and the cost of such support shall be creditable against further royalties on account of Net Sales generated in such country, and Licensors shall reasonably cooperate with

Myriad in continuing such support. If Myriad elects not to continue such support then Myriad shall have no further rights or obligations under this Agreement with respect to such Licensor Patents in such country and this license shall terminate with respect to such Licensor Patents in such country.

5.3 Enforcement of Patents and Trademarks.

(a) If either party considers that any Licensor Patents, Myriad Patent, or Joint Patent is being infringed by a Third Party's activities, it shall notify the other party and provide it with any evidence of such infringement that is reasonably available. Upon written notice to Licensor, Myriad shall have the first right, but not the obligation, at its own expense to attempt to remove such infringement by commercially appropriate steps, including filing an infringement suit or taking other similar action. If required by law in order for Myriad to prosecute such suit, Licensor shall join such suit as a party, at Myriad's expense. Licensor agrees to use reasonable efforts to obtain any consents required by Third Parties owning Licensor Patents licensed to Licensor in order for Myriad to conduct suits thereunder. In the event Myriad fails to take commercially appropriate steps with respect to an infringement that is likely to have a material adverse effect on the sale of the Licensed Product within three (3) months following notice of such infringement, Licensor shall have the right to do so at Licensor's expense; provided, however, that if

Myriad has commenced negotiations with an alleged infringer for discontinuance of such infringement within such three-month period, Myriad shall have an additional six (6) months to conclude its negotiations before Licensor may bring suit for such infringement and provided further that Myriad shall not be

required to enforce any infringed Licensor Patents or Joint Patent against more than one entity or in more than one country at any one time. The party not enforcing the applicable Licensor Patents or Joint Patent shall provide reasonable assistance to the other party, including providing access to relevant documents and other evidence and making its employees available at reasonable business hours, subject to the enforcing party's reimbursement of any reasonable out-of-pocket expenses incurred by the non-enforcing party. To ensure that no rights of Licensor are compromised in any such action, Myriad shall not settle any such claim, or enter into any settlement agreement that admits that any Third Party product does not infringe the Licensed Patents or that any Licensed Patent is invalid or unenforceable without Licensor's consent, which consent shall not be unreasonably withheld.

(b) Any amounts recovered by either party pursuant to Section 5.3(a), whether by settlement or judgment, shall be used to reimburse the parties for their reasonable out-of-pocket expenses in making such recovery (which amounts shall be allocated pro rata if insufficient to cover the totality of such expenses), with any remainder being retained by or paid to Myriad; provided,

however, that Myriad shall pay to Licensor an amount of monies or cash

equivalents received from any alleged infringer equivalent to royalties which Licensor would have received if such alleged infringer had been a Sublicensee.

(c) Except as otherwise provided by the provisions of Section 5.3(a), each party shall retain the sole and exclusive right to enforce its rights under any Patents and its rights to any Trademarks against all infringers at its sole cost and expense.

5.4 Infringement of Third Party Rights.

(a) If (i) in the opinion of counsel reasonably acceptable to both Licensors and Myriad, one or more Patents covering the research, development, Manufacture, use, or sale of the Licensed Compound or the Licensed Product has issued to a Third Party in any country such that Myriad cannot sell the Licensed Product in such country without infringing such Patent or (ii) as a result of any claim made against Myriad or any of its Affiliates or Sublicensees during the term of this Agreement alleging that the research, development, Manufacture, use, or sale of the Licensed Compound or Licensed Product by such entity infringes or misappropriates any Patent or any other intellectual property right of a Third Party in any country, a judgment is entered by a court of competent jurisdiction from which no appeal is taken within the time permitted for appeal, such that Myriad cannot sell the Licensed Product in such country without infringing the Patent or other proprietary rights of such Third Party, Myriad shall use its reasonable, good faith efforts to negotiate and obtain a license from such Third Party that would permit Myriad to research, develop, Manufacture, use or sell the Licensed Compound or the Licensed Product, as the case may be, in such country; provided, however, that Myriad shall not be

obligated to attempt to negotiate a license if Myriad in good faith believes that such negotiation is likely to be futile. If Myriad obtains such a license in such country, any royalties paid by Myriad, its Affiliates, or Sublicensees under such license with respect to the sale of the Licensed Product in such country shall be totaled at the end of each Fiscal Quarter and shall be creditable against future royalties paid to Licensors hereunder up to an amount equal to [] of the royalties paid to Licensors hereunder in respect of sales made in such country during such Fiscal Quarter. If Myriad is unable to obtain a license or if Myriad in good faith believes that such negotiation is likely to be futile, Myriad shall have the right to terminate this Agreement with respect to such country by written notice to Licensors. Nothing contained in this Section shall be construed to limit Myriad's right to terminate this Agreement pursuant to Section 7.3. If Myriad is unable to obtain such a license, or such consideration to be paid to a Third Party for such license would make the Licensed Product commercially impracticable with respect to such country, then Myriad shall have the right to terminate this Agreement with respect to such country by written notice to Licensors.

(b) In the event that a Third Party institutes a patent, trade secret, or other infringement suit against Myriad or its Affiliates or Sublicensees during the term of this Agreement, alleging that the research, development, Manufacture, use, or sale of the Licensed Compound or the Licensed Product infringes one or more patent or other intellectual property rights held by such Third Party, then Myriad shall have the first right, but not the obligation, at its sole cost and expense, to assume direction and control of the defense of claims arising therefrom but shall not enter into a disposition with respect thereto, or enter into a settlement agreement with respect thereto, which, in either case, admits that any Licensed Product infringes any Third Party right, without Licensors' prior written consent, which consent shall not be unreasonably withheld. If Myriad determines not to assume such direction and control, Licensors shall have the right, at its sole cost and expense, to defend, settle or otherwise dispose of such claims on such terms as Licensors, in its sole discretion, shall deem appropriate; provided, however, that Licensors shall

obtain the written consent of Myriad prior to ceasing to defend, settling, or otherwise disposing of such claims. In the event Myriad controls such defense, all of the reasonable costs and expenses, including, without limitation, damage awards, incurred by

Myriad in connection therewith that are not offset by proceeds therefrom shall be fully creditable against the royalties due under Section 4.3; provided, -----
however, that Myriad may apply such credit in any given Fiscal Quarter against a - -----
maximum of [] of the total royalties payable to Licensor during such Fiscal Quarter. Credits not exhausted in any Fiscal Quarter may be carried into future Fiscal Quarters.

(c) Except as provided in Section 5.4(b), in the event that a Third Party institutes a Patent, trade secret, or other infringement suit against Myriad, Licensor, or their respective Affiliates or Sublicensees during the term of this Agreement, each party shall, at its own cost and expense, use all reasonable efforts to assist and cooperate with the other party in connection with the defense of such suit.

(d) Nothing in this Section 5.4 shall prevent either party, at its own expense, from obtaining any license or other rights from Third Parties it deems appropriate in order to permit the full and unhindered exercise of its rights under this Agreement.

(e) The provisions of this Section 5.4 set forth the parties' exclusive and sole remedies against each other in respect of the subject matter hereof.

ARTICLE VI Confidentiality and Nondisclosure

6.1 Confidentiality Obligations.

(a) Each party shall, at all times during the term of this Agreement and for a ten (10) year period following termination or expiration hereof, keep, and shall ensure that its officers, directors, employees, and agents keep, completely confidential and shall not publish or otherwise disclose and shall not use, directly or indirectly, for any purpose, any Confidential Information furnished to it by the other party, except to the extent such disclosure or use is expressly permitted by the terms of this Agreement or is reasonably necessary for the performance of this Agreement.

(b) Licensor recognizes that by reason of Myriad's status as an exclusive licensee pursuant to the grant under Section 3.1, Myriad has an interest in Licensor's retention in confidence of certain information of Licensor. Accordingly, Licensor shall keep completely confidential, and shall not publish or otherwise disclose, and shall not use directly or indirectly for any purpose, any information of Licensor relating to the terms of this Agreement, the Licensed Product and any Improvements thereto, the Licensed Compound, the Manufacturing Processes or the Regulatory Documentation (the "Licensor Confidential Information"), except to the extent (i) such information is in the public domain through no fault of Licensor, (ii) or such disclosure or use would be permitted under Section 6.2, substituting "Confidential Information" with "Licensor Confidential Information," "receiving party" with "Licensor and "disclosing party" with "Myriad", or (iii) such disclosure or use is otherwise expressly permitted by the terms of this Agreement or is reasonably necessary for the performance of this Agreement, such as for obtaining patent protection in accordance with Section 5.2. For clarification, the

disclosure to Myriad by Licensor of Licensor Confidential Information shall not cause such Information to cease to be Licensor Confidential Information for purposes of this paragraph.

6.2 Permitted Disclosures. Each party may disclose Confidential Information to the extent that such disclosure is:

(a) Made in response to a valid order of a court of competent jurisdiction or other governmental body of a country or any political subdivision thereof of competent jurisdiction; provided, however, that the

receiving party shall first have given notice to the disclosing party and given the disclosing party a reasonable opportunity to quash such order and to obtain a protective order requiring that the Confidential Information and/or documents that are the subject of such order be held in confidence by such court or agency or, if disclosed, be used only for the purposes for which the order was issued; and provided further that if a disclosure order is not quashed or a protective

order is not obtained, the Confidential Information disclosed in response to such court or governmental order shall be limited to that information which is legally required to be disclosed in such response to such court or governmental order;

(b) Otherwise required by law, in the opinion of legal counsel to the receiving party as expressed in an opinion letter in form and substance reasonably satisfactory to the disclosing party, which shall be provided to the disclosing party at least two (2) business days prior to the receiving party's disclosure of the Confidential Information pursuant to this Section 6.2(b);

(c) Made by the receiving party to the Regulatory Authorities as required in connection with applications for Regulatory Approvals for the Licensed Compound or the Licensed Product or any Improvements thereof; provided,

however, that reasonable measures shall be taken to assure confidential

treatment of such information; or

(d) Made by the receiving party to Third Parties as may be necessary in connection with the development and commercialization of the Licensed Compound or the Licensed Product as contemplated by this Agreement, including, without limitation, subcontracting and sublicensing transactions in connection therewith; provided, however, that the receiving party in question shall in each

case obtain from the proposed Third Party recipient a written confidentiality undertaking containing confidentiality obligations no less onerous than those set forth in this Article VI; provided further that, notwithstanding anything to

the contrary in this Article VI, Myriad shall have the right to disclose any Regulatory Documentation relating to the Licensed Compound or the Licensed Product to qualified medical professionals for the purpose of advertising and promotion and conducting medical education initiatives reasonably designed to increase Net Sales of the Licensed Product and; provided further that Licensor

shall have the right to disclose Confidential Information which relates directly to the Licensed Products, Licensed Compound, Licensor Patents, or payments owing hereunder to LLUMC to the extent LLUMC would be obligated to hold such Confidential Information in confidence under the LLUMC License Agreement.

6.3 Confidential Information.

(a) "Confidential Information" means (i) where Licensor is the receiving party, any information relating to the terms of this Agreement, the Licensed Product and any Improvements thereto, the Licensed Compound, the Manufacturing Processes, the Regulatory Documentation, and all development, sales and marketing plans for the Licensed Compound or the Licensed Product and any Improvements thereto, and the business affairs and other activities of Myriad, and (ii) where Myriad is the receiving party, any information relating to the terms of this Agreement, the Licensed Product, the Licensed Compound and the Manufacturing Processes, but not including the development, sales and marketing plans for the Licensed Compound or the Licensed Product or the Regulatory Documentation.

(b) Notwithstanding the foregoing, Confidential Information shall not include any information that:

(i) at the time of disclosure is or later comes into public domain through no fault of receiving party;

(ii) can be demonstrated by documentation or other competent proof to have been in the receiving party's possession prior to disclosure by the disclosing party;

(iii) is subsequently received by the receiving party from a Third Party who is not bound by any obligation of confidentiality with respect to said information; or

(iv) that is independently developed by or for the receiving party without reference to the disclosing party's Confidential Information.

(c) Upon termination of this Agreement, the parties, their Affiliates and Sublicensees shall return all Confidential Information transferred under this Agreement; provided, however, that each party shall be permitted to retain

one complete set of the Confidential Information for archival purposes to monitor compliance with this Section. The parties shall maintain the confidentiality of, and not make any use of, such Confidentiality Information for a period of ten (10) years after the termination of this Agreement.

6.4 Press Releases. Press releases or other public communication by either party relating to this Agreement shall be approved in advance by the other party, which approval shall not be unreasonably withheld, except for those communications required by law, disclosures of information for which consent has previously been obtained or information that has been previously disclosed, or as otherwise set forth in this Agreement.

ARTICLE VII Term and Termination

7.1 Term. This Agreement shall commence upon the Effective Date and shall continue until it is terminated or expires in accordance with this Article VII. Unless earlier

terminated in accordance with this Article VII, this Agreement shall expire upon the termination or expiration of the last Valid Claim under the Licensor Patents.

7.2 Termination of the Agreement for Material Breach. Failure by a party to comply with any of its material obligations contained herein shall entitle the party not in default to give to the party in default notice specifying the nature of the default, requiring it to make good or otherwise cure such default, and stating its intention to terminate if such default is not cured. If such default is not cured within ninety (90) days after the receipt of such notice or, if such default cannot be cured within such 90-day period, if the party in default does not commence and diligently continue actions to cure such default, the party not in default shall be entitled, without prejudice to any of its other rights conferred on it by this Agreement, and in addition to any other remedies available to it by law or in equity, to terminate this Agreement in its entirety; provided, however, that any right to terminate under this Section 7.2

shall be stayed in the event that, during such 90-day period, the party alleged to have been in default shall have initiated dispute resolution in accordance with Section 10.6 with respect to the alleged default, which stay shall last so long as the initiating party diligently and in good faith cooperates in the prompt resolution of such dispute resolution proceedings.

7.3 Termination by Myriad. Myriad may terminate this Agreement in its entirety and in its sole discretion upon three (3) months prior written notice.

7.4 Consequences of Termination or Expiration.

(a) Upon a termination by Myriad:

(i) due to a breach by Licensor, all of Licensor's right, title and interest in and to the Licensor Patents shall immediately revert to LLUMC and this Agreement shall remain in full force and effect. In addition, in the event of such a termination, Myriad agrees to be bound to LLUMC as licensor under the terms and conditions of this Agreement; provided, however, that Myriad

and LLUMC shall promptly negotiate and enter into a license agreement which will contain the same rights and obligations for Myriad, as "Myriad," and for LLUMC, as "Licensor," as are provided in Article III (except that Section 3.5 shall be deleted), Article IV and Article VII hereof, and which shall include such other changes to the remainder of this Agreement as are necessary to substitute LLUMC for Licensor hereunder. Myriad, Licensor and LLUMC agree to execute and deliver such documents as Myriad and LLUMC shall determine to be necessary or convenient to give effect to this Section; and

(ii) pursuant to Section 7.3, this Agreement and all rights and licenses granted hereunder shall terminate.

(b) Upon a termination by Licensor due to a breach by Myriad, this Agreement and all rights and licenses granted hereunder shall terminate.

(c) Upon a termination of this Agreement pursuant to Section 7.4(a)(ii) or Section 7.4(b), the parties shall enter into good faith negotiations towards the price at which Myriad will transfer all of its right, title and interest in and to all Regulatory Documentation to Licensor;

provided, however, that such price shall not exceed an amount equal to []

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of the internal and external cost and expense incurred by Myriad in developing such Regulatory Documentation. Such agreement shall contain commercially reasonable terms for the timing, method and form in which such Regulatory Documentation shall be provided to Licensor. Licensor shall be responsible for Myriad's reasonable costs and expenses incurred in making such transfer.

7.5 Accrued Rights; Surviving Obligations.

(a) Termination or expiration of this Agreement for any reason shall be without prejudice to any rights that shall have accrued to the benefit of a party prior to or on account of such termination, relinquishment, or expiration. All remedies provided hereunder or elsewhere are cumulative. Such termination, relinquishment, or expiration shall not relieve a party from obligations that are expressly indicated to survive the termination or expiration of this Agreement.

(b) Without limiting the foregoing, Sections 4.9, 5.1, 7.5, and 10.4 and Articles 1, 6 and 8 of this Agreement shall survive the termination or expiration of this Agreement for any reason.

7.6 Termination Upon Insolvency. This Agreement may be terminated by either party upon notice to the other should the other party (a) consent to the appointment of a receiver or a general assignment for the benefit of creditors, or (b) file or consent to the filing of a petition under any bankruptcy or insolvency law or have any such petition filed against it which has not been stayed within sixty (60) days of such filing.

7.7 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Licensor are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of right to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. The parties agree that Myriad, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against Licensor under the U.S. Bankruptcy Code, Myriad shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, and same, if not already in its possession, shall be promptly delivered to it (a) upon any such commencement of a bankruptcy proceeding upon their written request therefor, unless Licensor elects to continue to perform all of its obligations under this Agreement or (b) if not delivered under (a) above, following the rejection of this Agreement by or on behalf of Licensor upon written request therefor by Myriad.

7.8 Jointly Owned Improvements and New Inventions

(a) After termination of this Agreement, each party shall have a personal right to make, use, import, offer for sale, and sell all jointly owned Improvements, Patents, and Know-How, without the consent of and without accounting to the other party; provided, however, that any net income from sublicensing shall be treated as follows: (i) net income from sublicensing

by Licensor shall be paid to Myriad until Myriad has been fully reimbursed for the amounts it spent under Section 5.2(c) to obtain, prosecute and or maintain the Joint Patents, (ii) net income from sublicensing by Myriad shall be retained by Myriad until Myriad has been fully reimbursed for the amounts it spent under Section 5.2(c) to obtain, prosecute and or maintain the Joint Patents, and (iii) thereafter, all net income from sublicensing by either party shall be divided equally be the parties. For the purposes of this Section 7.8(a), the term "net income" shall mean the gross amount received by either Licensor or Myriad or either of their Affiliates, directly or indirectly, from Third Parties, for or on account of the grant of sublicenses of jointly owned Improvements, Patents, or Know-How, including, without limitation, royalties, license fees, milestone payments and option fees; provided, however, that payments which would otherwise

be within this definition shall be excluded to the extent they are: (a) debt financing; (b) reimbursement of patent or other expenses; (c) bona fide research and development payments not in excess of the fully-burdened cost for undertaking such research and development; and (d) equity investments to the extent made at fair market value.

(b) If after termination of this Agreement, either party desires to apply for a patent on any jointly owned Improvement or new invention, such party shall advise the other party in writing of its intent, and the other party shall notify the first party in writing within twenty (20) days of such notice whether it elects to not join in seeking patent protection, it shall promptly assign to the first party its entire right, title and interest in and to the jointly owned Improvement or new invention. If the other party elects to join in seeking patent protection, the parties shall jointly select patent counsel to prepare and prosecute the patent application, and all expenses incurred in connection with such filing and prosecution shall be shared equally by Myriad and Licensor, provided, the party providing the original notice of intent to file the application shall have the primary responsibility for directing the patent prosecution. The parties shall fully cooperate with one another and keep each other fully informed as to the preparation, filing and prosecution of all such patent applications. If at any time after the parties, have jointly filed such a patent application, either party decides that it has no further interest in the application or any patent granted thereon, it may assign to the other party its entire right, title and interest in and to the Improvement or new invention that is the subject thereof, the application and any patent granted thereon, and shall thereupon be relieved of any liability for any of the above-mentioned expenses arising subsequent to its assignment.

(c) In the event that after termination of this Agreement, either party desires to bring any legal action against any Third Party for infringement of any jointly owned patent, the other party agrees to cooperate as reasonably necessary in such action, including executing any papers necessary for pursuit of such legal action and jointly as a party to a lawsuit if necessary. Any recovery obtained for the patent infringement shall be retained by the party initiating such action after pro rata reimbursement of each party's reasonable expenses incurred in bringing, participating in or cooperating in such action. If the other party desires to participate in bringing any such action for infringement, the parties shall agree in advance upon a reasonable allocation of fees, costs and recoveries.

(d) In the event that after termination of this Agreement, the validity of any jointly owned patent is challenged in any forum or proceeding, each party shall have the option of defending such challenge. If both parties elect to defend, they shall share equally in the legal

fees, costs, and liabilities incurred in such defense. If either party elects to not defend such patent, or decides at any time during the defense that it has no further interest in the patent, and shall thereupon be relieved of any liability for any legal fees and costs incurred subsequent to its assignment.

ARTICLE VIII Indemnity

8.1 Indemnification of Myriad. Licensor shall indemnify Myriad and its directors, officers, employees and agents, and defend and save each of them harmless, from and against any and all suits, investigations, claims, damages, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "Losses") arising from or occurring as a result of (a) a breach by Licensor of this Agreement or (b) any negligent act or omission or the willful misconduct of Licensor.

8.2 Indemnification of Licensor. Myriad shall indemnify Licensor and its directors, officers, employees and agents, and defend and save each of them harmless, from and against any and all Losses arising from or occurring as a result of (a) the breach by Myriad of this Agreement or (b) the Manufacture, marketing, distribution, or sale of the Licensed Product by Myriad, except for those Losses for which Licensor has an obligation to indemnify Myriad pursuant to Section 8.1.

8.3 Indemnification Procedure.

(a) Each indemnified party agrees to give the indemnifying party prompt written notice of any Losses or discovery of fact upon which such indemnified party intends to base a request for indemnification under Section 8.1 or Section 8.2.

(b) Each party shall furnish promptly to the other party copies of all papers and official documents received in respect of any Losses. The indemnified party shall cooperate with the indemnifying party in providing witnesses and records necessary in the defense against any Losses.

(c) With respect to any Losses relating solely to the payment of money damages and that will not result in the indemnified party's becoming subject to injunctive or other relief or otherwise adversely affecting the business of the indemnified party in any manner, and as to which the indemnifying party shall have acknowledged in writing the obligation to indemnify the indemnified party hereunder, the indemnifying party shall have the sole right to defend, settle, or otherwise dispose of such claim, on such terms as the indemnifying party, in its sole discretion, shall deem appropriate.

(d) The indemnifying party shall obtain the written consent of the indemnified party, which shall not be unreasonably withheld, prior to ceasing to defend, settling, or otherwise disposing of any Losses if as a result thereof the indemnified party would become subject to injunctive or other equitable relief or any remedy other than the payment of money by the indemnifying party.

(e) The indemnifying party shall not be liable for any settlement or other disposition of a Loss by the indemnified party that is reached without the written consent of the indemnifying party.

(f) Except as provided above, the costs and expenses, including fees and disbursements of counsel, incurred by any indemnified party in connection with any claim shall be reimbursed on a Fiscal Quarter basis by the indemnifying party, without prejudice to the indemnifying party's right to contest the indemnified party's right to indemnification and subject to refund in the event the indemnifying party is ultimately held not to be obligated to indemnify the indemnified party.

8.4 Limitation on Damages. IN NO EVENT SHALL EITHER PARTY OR ANY OF THEIR AFFILIATES BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE, ARISING OUT OF (a) THE MANUFACTURE, USE OR SALE OF ANY PRODUCT DEVELOPED OR MARKETING HEREUNDER OR (b) ANY BREACH OF OR FAILURE TO PERFORM ANY OF THE PROVISIONS OF THIS AGREEMENT.

8.5 Insurance. Each party shall have and maintain such type and amounts of liability insurance covering the Manufacture, supply, use, and sale of the Licensed Compound and the Licensed Product as is normal and customary in the pharmaceutical industry generally for parties similarly situated, and will upon request provide the other party with a copy of its policies of insurance in that regard, along with any amendments and revisions thereto.

ARTICLE IX Representations, Warranties and Covenants

9.1 Representations, Warranties and Covenants. Each party hereby represents, warrants, and covenants to the other party as of the Effective Date as follows:

(a) such party (i) has the power and authority and the legal right to enter into the Agreement and perform its obligations hereunder, and (ii) has taken all necessary action on its part required to authorize the execution and delivery of the Agreement and the performance of its obligations hereunder; provided however, that this Agreement shall not be valid and binding unless and

until executed and acknowledged by a duly authorized representative of LLUMC. The Agreement has been duly executed and delivered on behalf of such party and constitutes a legal, valid, binding obligation of such party and is enforceable against it in accordance with its terms subject to the effects of bankruptcy, insolvency, or other laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity, whether enforceability is considered a proceeding at law or equity.

(b) such party is not aware of any pending or threatened litigation (and has not received any communication) that alleges that such party's activities related to this Agreement

have violated, or that by conducting the activities as contemplated herein such party would violate, any of the intellectual property rights of any other person.

(c) all necessary consents, approvals and authorizations of all governmental authorities and other persons or entities required to be obtained by such party in connection with the Agreement have been obtained.

(d) the execution and delivery of the Agreement and the performance of such party's obligations hereunder (i) do not conflict with or violate any requirement of applicable law or regulation or any provision of articles of incorporation, bylaws or limited partnership agreement of such party, as applicable, in any material way, and (ii) do not conflict with, violate, or breach or constitute a default or require any consent under, any contractual obligation or court or administrative order by which such party is bound.

(e) such party will comply at all times with the provisions of the Generic Drug Enforcement Act of 1992 and will upon request certify in writing to the other that none of it, its employees, or any person providing services to such party in connection with the collaboration contemplated by this Agreement have been debarred under the provisions of such Act.

(f) true and correct copies of all filings, correspondence and minutes of meetings with the FDA have been provided to Myriad.

(g) true and correct copies of all preclinical and clinical trial studies, data and results have been provided to Myriad.

(h) to the best of Licensor's knowledge, the Licensor Patents and Licensor Know-How do not infringe and will not infringe any Third Party patent rights.

9.2 Additional Representations, Warranties and Covenants of Myriad. Myriad represents, warrants and covenants to Licensor that Myriad (a) is a corporation duly organized and in good standing under the laws of the State of Delaware, and (b) has full power and authority and the legal right to own and operate its property and assets and to carry on its business as it is now being conducted and as it is contemplated to be conducted by this Agreement. Myriad further represents that all Licensed Products sold by it, its Affiliates and Sublicensees shall bear patent markings appropriate to the jurisdiction in which such sale occurs.

9.3 Additional Representations, Warranties and Covenants of Licensor. Licensor represents, warrants and covenants to Myriad that:

(a) Licensor is a corporation duly organized, validly existing and in good standing under the laws of the state in which it is incorporated, and it has full corporate power and authority and the legal right to own and operate its property and assets and to carry on its business as it is now being conducted and as is contemplated to be conducted by this Agreement.

(b) Licensor has successfully conducted and completed the clinical portion (but not all related documentation) of four (4) clinical trials with respect to the Licensed Product.

Licensors has conducted, or has caused its contractors or consultants to conduct, any and all preclinical and clinical studies related to the Licensed Compound and the Licensed Product in accordance with applicable known or published standards of the FDA. Licensors has employed individuals of appropriate education, knowledge, and experience to conduct or to oversee the conduct of the preclinical and clinical studies with respect to the Licensed Product performed as of the Effective Date.

(c) Licensors has not been debarred and is not subject to debarment and Licensors has not used in any capacity, in connection with the development of the Licensed Compound, any person who has been debarred pursuant to Section 306 of the Federal Food, Drug, and Cosmetic Act, or who is the subject of a conviction described in such section.

(d) Licensors is the exclusive licensee of the Patent Rights listed on Exhibit 1 attached hereto. True and correct copies of all license agreements between Licensors and any Third Party regarding the Patents Rights listed on Exhibit 1, as amended to the date hereof, have been provided to Myriad. The Patent Rights listed on Exhibit 1 constitute all of the Patent Rights that Licensors and its Affiliates own, have under license or have a right to acquire (by option or otherwise) that are necessary or useful for, or otherwise related to, the research, development, modification, improvement, Manufacture, use, import, or sale of the Licensed Compound or the Licensed Product or the use of the Manufacturing Processes. During the term of this Agreement, Licensors shall use its best efforts not to encumber or diminish the rights granted to Myriad hereunder, including, without limitation, by not committing any acts or permitting the occurrence of any omissions that would cause the breach or termination of any In-License Agreement. Licensors shall promptly provide Myriad with notice of any alleged breach of any In-License Agreement. As of the date hereof, Licensors is not in breach of the LLUMC License Agreement.

(e) There are no claims, judgments, or settlements relating to the Licensors Patents or the Licensors Know-How to be paid by Licensors, and no claim has been brought by any person or entity alleging that the Licensors Patents, the Licensors Know-How, or the disclosing, copying, making, licensing, or selling of the Licensors Patents or Licensors Know-How, or products and services embodying the Licensors Patents, or Licensors Know-How, including, without limitation, the Licensed Compound, the Licensed Product, and the Manufacturing Processes, violates, infringes, or otherwise conflicts or interferes with any intellectual property or proprietary right of any Third Party.

(f) Licensors has not previously assigned, transferred, conveyed or otherwise encumbered any right, title or interest in or to the Licensors Patents or the Licensors Know-How and has not granted to any Third Party any license to use the Licensors Patents or the Licensors Know-How in any manner, or any covenant not to sue for any such use of the Licensors Patents or the Licensors Know-How.

(g) Licensors does not know of any infringement by a Third Party of the Licensors Patents or the Licensors Know-How.

(h) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, LICENSORS DISCLAIMS ALL WARRANTIES WHATSOEVER, WITH RESPECT TO THE

LICENSED TECHNOLOGY, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO THE MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, VALIDITY OF PATENT CLAIMS, ISSUED OR PENDING, OR THAT THE MANUFACTURE, USE OR SALE OF THE LICENSED PRODUCT WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER RIGHTS. MYRIAD TAKES THE LICENSED COMPOUND "AS-IS" "WITH ALL FAULTS," AND "WITH ALL DEFECTS" AND EXPRESSLY WAIVES ALL RIGHTS TO MAKE ANY CLAIM WHATSOEVER AGAINST LICENSOR FOR ALL WARRANTY OF ANY KIND RELATING TO THE LICENSED COMPOUND, SUBJECT TO THE REPRESENTATIONS MADE IN SECTIONS 9.1 AND 9.3(a)-(g).

ARTICLE X
Miscellaneous

10.1 Force Majeure. Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the non-performing party including, but not limited to, fires, floods, embargoes, shortages, epidemics, quarantines, war, acts of war (whether war be declared or not), insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority. The non-performing party shall notify the other party of such force majeure within ten (10) days after such occurrence by giving notice to the other party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing party shall use its best efforts to remedy its inability to perform; provided, however, that in the event

the suspension of performance continues for ninety (90) days after the date of the occurrence, the non-performing party may terminate this Agreement by written notice to the other party.

10.2 Assignment. Without the prior written consent of the other party hereto, neither party shall sell, transfer, assign, delegate, pledge, or otherwise dispose of, whether voluntarily, involuntarily, by operation of law or otherwise, this Agreement or any of its rights or duties hereunder; provided,

however, that either party may, without such consent, assign this Agreement and

its rights and obligations hereunder to an Affiliate, to the purchaser of all or substantially all of its assets related to the Licensed Compound, the Licensed Product or the business, or to its successor entity or acquirer in the event of a merger, consolidation or change in control of Licensor or Myriad, as the case may be; provided further, that Licensor may, without consent, assign this Agreement and its rights and obligations hereunder to LLUMC should the LLUMC License Agreement require Licensor to so assign. Any attempted assignment or delegation in violation hereof shall be void and of no effect. All validly assigned and delegated rights and obligations of the parties hereunder shall be binding upon and inure to the benefit of and be enforceable by and against the successors and permitted assigns of Myriad or Licensor, as the case may be. In the event either party seeks and obtains the other party's consent to assign or delegate its rights or obligations to another party, the assignee or transferee shall assume all obligations of its assignor or transferor under this Agreement.

10.3 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any respect, then, to the fullest extent permitted by applicable law, (a) all other provisions hereof shall remain in full force and effect and shall be liberally construed in order to carry out the intent of the parties as nearly as may be possible, and (b) the parties agree to use their best efforts to negotiate a provision, in replacement of the provision held invalid, illegal or unenforceable, that is consistent with applicable law and accomplishes, as nearly as possible, the original intention of the parties with respect thereto. To the fullest extent permitted by applicable law, each party hereby waives any provision of law that would render any provision hereof prohibited or unenforceable in any respect.

10.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to the rules of conflict of laws thereof.

10.5 Notices. All notices or other communications that are required or permitted hereunder shall be in writing and delivered personally, sent by telecopier (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), sent by nationally-recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Licensor, to:

Encore Pharmaceuticals, Inc.
W.J. Wechter, Chairman
2285 E. Ojai Avenue
Ojai, CA 92023
Telecopier: (805) 646-4998

with a copy to:

Knobbe, Martens, Olson & Bear
620 Newport Center Drive
Suite 1600
Newport Beach, CA 92660
Attention: Daniel E. Altman, Esq.
Telecopier: (949) 760-9502

If to Myriad, to:

Myriad Genetics, Inc.
320 Wakara Way
Salt Lake City, Utah 84108
Attention: General Counsel
Telecopier: (801) 584-3640

with a copy to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Place
Boston, MA 02111
Attention: Jonathan L. Kravetz, Esq.
Telecopier (617) 542-2241

or to such other address as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. Any such communication shall be deemed to have been given (i) when delivered, if personally delivered or sent by telecopier on a business day, (ii) on the business day after dispatch, if sent by nationally-recognized overnight courier, and (iii) on the third business day following the date of mailing, if sent by mail. It is understood and agreed that this Section 10.5 is not intended to govern the day-to-day business communications necessary between the parties in performing their duties, in due course, under the terms of this Agreement.

10.6 Arbitration.

(a) Any disputes arising under this Agreement shall be resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The proceedings shall be held in the English language in Salt Lake City, Utah. The parties shall appoint an arbitrator by mutual agreement. If the parties cannot agree on the appointment of an arbitrator within thirty (30) days after receipt of a demand for arbitration, each party shall appoint a arbitrator and the two party-appointed arbitrators shall select a third arbitrator. If the party-appointed arbitrators cannot agree on the third arbitrator, the third arbitrator shall be appointed by the American Arbitration Association. Any fees and expenses payable with respect to the arbitration shall be borne by the party losing the case.

(b) At the request of either party, the arbitrator(s) provided by Section 10.6(a) shall enter a protective order in such form as the parties shall stipulate or as the arbitrators shall determine is suitable in order to protect Confidential Information and any other matter that either party would normally not reveal to Third Parties. Among other things, the protective order shall stipulate that the arbitrators themselves shall receive any information designated as "confidential" solely for purposes of assessing the facts and law in order to issue a ruling or an award and shall not otherwise use or disclose such matter. The protective order shall be entered as an award of the arbitrators.

(c) All arbitral rulings and awards shall be final, binding and nonappealable by the parties.

10.7 Entire Agreement; Modifications. This Agreement sets forth and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and all prior agreements, understanding, promises and representations, whether written or oral, with respect thereto are superseded hereby. Each party confirms that it is not relying on any

representations or warranties of the other party except as specifically set forth herein. No amendment, modification, release or discharge hereof shall be binding upon the parties unless in writing and duly executed by authorized representatives of both parties. Notwithstanding the foregoing, the parties acknowledge the execution and delivery this day of the Related Agreements. The Related Agreements are not superceded by this Agreement.

10.8 Headings. The headings used in this Agreement are intended for convenience only and shall not be considered part of the written understanding between the parties and shall not affect the construction of this Agreement.

10.9 Relationship of the Parties. It is expressly agreed that Licensor, on the one hand, and Myriad, on the other hand, shall be independent contractors and that the relationship between the two parties shall not constitute a partnership, joint venture or agency. Neither Licensor, on the one hand, nor Myriad, on the other hand, 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 consent of the other party to do so. All persons employed by a party shall be employees of such party and not of the other party and all costs and obligations incurred by reason of any such employment shall be for the account and expense of such party.

10.10 Equitable Relief. Notwithstanding anything herein to the contrary, nothing in this Article X shall preclude either party from seeking interim or provisional relief, in the form of a temporary restraining order, preliminary injunction or other interim equitable relief concerning a dispute prior to or during an arbitration pursuant to Section 10.6 necessary to protect the interests of such party.

10.11 Waiver. The waiver by either party hereto of any right hereunder or the failure to perform or 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 said other party whether of a similar nature or otherwise.

10.12 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.

10.13 No Benefit to Third Parties. The representations, warranties, covenants and agreements set forth in this Agreement are for the sole benefit of the parties hereto and their successors and permitted assigns, and they shall not be construed as conferring any rights on any other Persons.

10.14 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, without limitation, 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, or to better assure and confirm unto such other party its rights and remedies under this Agreement.

10.15 Construction. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural the singular, the use of any gender shall be applicable to all genders and the word "or" is used in the inclusive sense. The captions of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. Both parties have participated equally in the formation of this Agreement; the language of this Agreement shall not be presumptively construed against either party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

MYRIAD GENETICS, INC.

ENCORE PHARMACEUTICALS, INC.

By: /s/ Adrian N. Hobden

By: /s/ William J. Wechter

Name: Adrian N. Hobden

Name: William J. Wechter

Title: President, Myriad Pharmaceuticals, Inc.

Title: Chairman & CSO, CEO

ACKNOWLEDGED AND AGREED TO:

Loma Linda University Medical Center agrees and acknowledges: (i) to accept the terms of Section 7.4(a)(i) hereof as binding upon Loma Linda University Medical Center; (ii) that it consents to the execution and delivery of this Agreement by Encore Pharmaceuticals, Inc. and that it hereby waives any right to claim a breach of the LLUMC License Agreement based solely on the execution and delivery of this Agreement by Licensor; and (iii) that Myriad Pharmaceuticals, Inc. is an intended third party beneficiary under Section 11.4(f) of the LLUMC License Agreement.

LOMA LINDA UNIVERSITY MEDICAL CENTER,
a California nonprofit religious corporation

Name: /s/ Donald Pursley

Title: SR, VP, CFO

Name: _____
Title: _____