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

FORM 10-K

☑ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

for the fiscal year ended December 31, 2013

or

☐ **Transition Report Under Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from to

Commission File Number: 001-34058

CAPRICOR THERAPEUTICS, INC.
(Exact Name Of Registrant As Specified In Its Charter)

Delaware	**88-0363465**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California
(Address of principal executive offices)

90211
(Zip Code)

(310) 358-3200
(Registrant's telephone number, including area code)

Not applicable.

(Former name, former address and former fiscal year, if changed since last report)

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

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, par value $0.001 per share
Warrants (expiring April 21, 2015)

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☑ No ☐

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

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

Large accelerated filer Accelerated filer ☐	Accelerated filer ☐
Non-accelerated filer ☐	Smaller reporting company ☑

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

As of June 30, 2013: $1,698,139

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the last practicable date.

As of March 26, 2014, there were 11,690,859 shares of the issuer's common stock, par value $0.001 per share, issued and outstanding.

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References to "the Company", "Capricor Therapeutics", "we", "us" or "our" in this Annual Report on Form 10-K refer to Capricor Therapeutics, Inc., a Delaware corporation, and its subsidiaries, unless the context indicates otherwise.

FORWARD-LOOKING STATEMENTS

This Form 10-K contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, or the Exchange Act. The forward-looking statements are only predictions and provide our current expectations or forecasts of future events and financial performance and may be identified by the use of forward-looking terminology, including the terms "believes," "estimates," "anticipates," "expects," "plans," "potential," "projects," "intends," "may," "will" or "should" or, in each case, their negative, or other variations or comparable terminology, though the absence of these words does not necessarily mean that a statement is not forward-looking. Forward-looking statements include all matters that are not historical facts and include, without limitation, statements concerning our business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, obtaining financing of our operations, our research and development programs and planning for and timing of any clinical trials, the possibility, timing and outcome of submitting regulatory filings for our products under development, potential investigational new drug applications, or INDs, new drug applications, or NDAs, and biologics license applications, or BLAs, research and development of particular drug products, the development of financial, clinical, manufacturing and marketing plans related to the potential approval and commercialization of our drug products, and the period of time for which our existing resources will enable us to fund our operations. These statements are subject to risks and uncertainties that could cause actual results and events to differ materially from those expressed or implied by such forward-looking statements. We caution the reader not to place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date of this Annual Report on Form 10-K.

We intend that all forward-looking statements be subject to the safe-harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are subject to many risks and uncertainties that could cause our actual results to differ materially from any future results expressed or implied by the forward-looking statements. Pharmaceutical and biotechnology companies have suffered significant setbacks in advanced clinical trials, even after obtaining promising earlier trial results. Data obtained from such clinical trials are susceptible to varying interpretations, which could delay, limit or prevent regulatory approval. Readers are expressly advised to review and consider certain risk factors, which include risks associated with (1) our ability to successfully conduct clinical and pre-clinical trials for our product candidates, (2) our ability to obtain required regulatory approvals to develop and market our product candidates, (3) our ability to raise additional capital or to license our products on favorable terms, (4) our ability to execute our development plan on time and on budget, (5) our ability to identify and obtain additional product candidates, and (6) our ability to raise enough capital to fund our operations. Although we believe that the assumptions underlying the forward-looking statements contained in this Annual Report on Form 10-K are reasonable, any of the assumptions could be inaccurate, and therefore there can be no assurance that such statements will be accurate. In light of the significant uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation by us or any other person that the results or conditions described in such statements or our objectives and plans will be achieved. Furthermore, past performance in operations and share price is not necessarily indicative of future performance. Except to the extent required by applicable laws or rules, we do not undertake to update any forward-looking statements or to announce publicly revisions to any of our forward-looking statements, whether resulting from new information, future events or otherwise.

The following discussion should be read together with our consolidated financial statements and related consolidated notes contained in this Annual Report on Form 10-K. Results for the year ended December 31, 2013 are not necessarily indicative of results that may be attained in the future.

Reverse Stock Split

On November 20, 2013, we effected a reverse split of our common stock, par value $0.001 per share, at a ratio of one-for-fifty. Unless otherwise indicated, all share amounts, per share data, share prices, exercise prices and conversion rates set forth in this Annual Report on Form 10-K have, where applicable, been adjusted retroactively to reflect this reverse stock split.

PART I

ITEM 1. BUSINESS

Company Overview

Overview of the Company

Capricor Therapeutics, Inc. is a development stage, biopharmaceutical company whose mission is to develop and commercialize regenerative medicine and large molecule products for the treatment of disease. Our initial pipeline products were developed to treat heart disease and its complications. We were originally incorporated in Delaware in August 2005 under the name Nile Pharmaceuticals, Inc. and we changed our name to Nile Therapeutics, Inc., or Nile Therapeutics, in January 2007. On September 17, 2007, we were acquired by SMI Products, Inc., or SMI, which was then a public shell company, in a reverse merger transaction whereby a wholly-owned subsidiary of SMI merged with and into Nile Therapeutics, with Nile Therapeutics remaining as the surviving corporation and a wholly-owned subsidiary of SMI in accordance with the terms of this transaction, the stockholders of Nile Therapeutics exchanged all of their shares of Nile Therapeutics common stock for shares of SMI common stock, which immediately following the transaction represented approximately 95 percent of the issued and outstanding common stock of SMI. Upon completion of the merger, the sole officer and director of SMI resigned and was replaced by the officers and directors of Nile Therapeutics. Additionally, following the merger, Nile Therapeutics, or Old Nile, was merged into SMI, and SMI changed its name to Nile Therapeutics, Inc., or Nile, and adopted the business plan of Old Nile. On November 20, 2013, pursuant to that certain Agreement and Plan of Merger and Reorganization, dated as of July 7, 2013, as amended by that certain First Amendment to Agreement and Plan of Merger and Reorganization, dated as of September 27, 2013 (as amended, the Merger Agreement), by and among Nile, Nile's wholly-owned subsidiary, Bovet Merger Corp., a Delaware corporation, or Merger Sub, and Capricor, Inc., or Capricor, a Delaware corporation, Merger Sub merged with and into Capricor and Capricor became a wholly-owned subsidiary of Nile (referred to herein as the Merger). Immediately prior to the effective time of the Merger and in connection therewith, Nile filed certain amendments to its certificate of incorporation which, among other things, (i) effected a 1-for-50 reverse split of its common stock (the Reverse Stock Split), (ii) changed its corporate name from "Nile Therapeutics, Inc." to "Capricor Therapeutics, Inc.," and (iii) effected a reduction in the total number of authorized shares of common stock from 100,000,000 to 50,000,000, and a reduction in the total number of authorized shares of preferred stock from 10,000,000 to 5,000,000.

Our wholly-owned subsidiary, Capricor, Inc., or Capricor, was founded in 2005 as a Delaware corporation based on the innovative work of its founder, Eduardo Marbán, M.D., Ph.D. First located in Baltimore, Maryland, adjacent to The Johns Hopkins University, or JHU, where Dr. Marbán was chief of cardiology, Capricor moved to Los Angeles, California in 2007 when Dr. Marbán was recruited to become Director of the Heart Institute at Cedars-Sinai Medical Center, or CSMC. Capricor's labs are located in space that Capricor leases from CSMC.

Our corporate headquarters are located at 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California 90211. Our telephone number is (310) 358-3200 and our internet address is *www.capricor.com*. The information on, or accessible through, our website is not part of this Annual Report on Form 10-K.

The initial discovery by Dr. Marbán and his colleagues was that a novel progenitor cell type called a CDC, or cardiosphere derived cell, can be isolated from heart tissue after passing through a cardiosphere phase and expanded into doses that can be delivered directly to the patient. These cells come from the heart and are potentially well-suited to treat the heart. Capricor believes that CDCs have anti-fibrotic, anti-apoptotic and angiogenic-functions that may reduce damage caused by myocardial ischemia and encourage blood vessel development in those areas of injury. This combination of properties may be able to treat other disease processes that cause the development of scar tissue. Capricor is evaluating the possibilities of applying these cells or similar cells into other therapeutic areas. Capricor has exclusively licensed intellectual property for CDCs and Capricor's other product candidate, cardiospheres, or CSps, from three academic institutions and also maintains its own intellectual property relating to these product candidates.

Capricor's proprietary methods center on producing therapeutic doses of cardiac-derived stem cells to boost the regenerative capacity of the heart and, with that, to perhaps improve cardiac function. A significant number of patients who suffer a heart attack eventually go on to develop heart failure. Heart attacks are one of the most common causes of heart failure. In patients with heart failure, the main pumping function of the heart is often diminished and results in symptoms and signs of poor cardiac function including shortness of breath, pulmonary congestion, diminished ability to perform activities of daily life (ADL) and, in some cases, death.

When a patient suffers a heart attack, also called a myocardial infarction (MI), blood cannot reach the area due to an artery being blocked, preventing blood from reaching the distal tissue. The tissue that is downstream of the blockage quickly dies. The dead tissue is now a scar, and the bigger the size of the scar, the greater the chance that a patient will have additional complications. CDCs have been shown in pre-clinical and clinical studies to reduce scar size following myocardial infarction. Further, it has been demonstrated that new tissue is generated in response to cell delivery. Capricor researchers believe that the reduced scar and new tissue may improve heart function so that it will work more efficiently. Should Capricor's CDCs prove to be effective at reducing the damage done to the heart by a heart attack, it is possible that fewer people may develop heart failure and suffer its devastating consequences.

The first trial using CDCs was CADUCEUS, sponsored by CSMC in collaboration with JHU. CADUCEUS was a twenty-five patient randomized open-label study using 25 million autologous CDCs (i.e. CDCs derived from the patient's own heart tissue) injected down the coronary artery thirty to ninety days after MI. Seventeen patients received CDCs and eight received standard of care for post heart attack patients. Sixteen of the seventeen patients treated with CDCs showed a reduction in infarct (scar) size and generation of new heart tissue. To the best of Capricor's knowledge, CADUCEUS is the first trial in the field of cardiac stem cell therapy that showed a significant reduction in scar size and new heart muscle as determined by blinded MRI analysis.

The precise mechanism of action of CDCs is not definitively understood. Capricor believes that CDCs work by harnessing and augmenting the natural healing powers that exist within the heart and that the cells act by recruiting the endogenous pool of stem cells to come to the site of injury and assist in repairing the damage that has been done. These natural healing effects may be enough for daily wear and tear on the heart but may not be strong enough for catastrophic injury like a heart attack. Capricor believes that the CDCs track to the area of injury and release growth factors and cytokines (molecules that stimulate specific cell responses) that signal the heart to repair itself. The CADUCEUS trial provides preliminary validation to the potential regenerative properties of CDCs.

Capricor's core technology is based in cardiospheres, or CSps, which are multi-cell clusters of cardiac derived cells that have been demonstrated to process regenerative properties in pre-clinical studies. The size of CSps is sufficiently large that injecting them directly into the infarct related artery is not feasible due to potential for impairment of blood flow. Capricor's lead product candidate, the CDC, is the single cell monolayer product of the CSps. CDCs are small enough that within acceptable dose limits, they can be injected down a coronary artery without damaging the heart muscle. Capricor has done studies to establish the range of doses that are safe to deliver to the heart. Capricor is not now actively developing CSps for clinical use although it has experimented with direct intra-myocardial injection. CSps appear to be no more effective than CDCs for the presently considered indications. It is possible that at some time in the future, the Company may evaluate the use of CSps for other indications.

Both CSps and CDCs are derived from either a deceased human donor (allogeneic source) or from heart tissue taken directly from recipient patients themselves (autologous source). The manufacturing method for both allogeneic and autologous CSps or CDCs is similar though the starting material comes from different sources. Capricor has data to demonstrate that CSps and CDCs can be readily grown from heart tissue of humans.

Our Product Candidates

We currently have five drug candidates in various stages of development:

- **CAP-1002:** Capricor's lead product candidate consists of allogeneic cardiosphere-derived cells, or CDCs. CAP-1002 is currently being tested in Capricor's ALLSTAR Phase I/II clinical trial which will determine if the cells can lead to reduction in scar size in patients who have had a heart attack. It is a dual cohort clinical trial that has two independently recruiting strata: the first are patients who have recently experienced a myocardial infarction, or MI (30-90 days post MI); the second are patients who have suffered an MI within one year (90 days to one-year post MI) to see if the cells can reduce the size of older, more established scar. In addition to measuring scar size, ALLSTAR will also look at a variety of clinical and quality of life endpoints. Phase I of the ALLSTAR trial was a 14 patient trial conducted at three sites to determine if allogeneic CDCs are safe for patients. Phase I of the trial was funded in large part by a grant received from the National Institutes of Health, or NIH. The primary endpoints focused on acute effects of cell delivery and potential immune consequences of allogeneic cell delivery. Patient enrollment was completed for the Phase I portion of the trial on October 11, 2013. On December 15, 2013, Capricor received notification from the National Heart Lung and Blood Institute (NHLBI) Gene and Cell Therapy (GST) Data Safety Monitoring Board (DSMB) that the 14-patient Phase I portion had met its safety endpoints and that Capricor was cleared to begin the Phase II portion of the trial. Capricor began enrollment of the Phase II portion of the ALLSTAR study in the first quarter of 2014. Phase II is an estimated 300 patient, double-blind, randomized, placebo-controlled trial which is powered to detect a reduction in infarct (scar) size as measured by MRI in both groups of patients, those with recent and chronic MI, at the one year follow-up. As infarct size was reduced significantly in the CADUCEUS patients at six months, Capricor intends to get a preliminary readout of ALLSTAR at six months post infusion. Phase II of ALLSTAR is being funded in large part through the support of the California Institute for Regenerative Medicine, or CIRM.

  Capricor has been awarded a grant from the NIH to support further development of the CAP-1002 product. Dr. Eduardo Marbán of CSMC, and Capricor's founder, has received approval on a new IND for a trial named "DYNAMIC" (dilated cardiomyopathy intervention with allogeneic myocardially-regenerative cells). Presently, Capricor is in discussions with the NIH with respect to the possible use of the funds subject to the grant for other clinical purposes. It is possible that Capricor will deploy this grant to fund the Phase I portion of the DYNAMIC trial. The Phase I portion of the DYNAMIC trial would use CAP-1002 to treat patients with advanced heart failure and a recent hospitalization for such. Capricor's decision to become involved in the DYNAMIC trial will depend on multiple factors, including, but not limited to: approval by the NHLBI to utilize the grant monies to fund the DYNAMIC trial, the ability of Capricor to reach an agreement with CSMC regarding the clinical operations aspect of the trial, and the assessment by Capricor of the appropriateness of DYNAMIC with respect to the Company's pipeline development plan.

- **CAP-1001:** CAP-1001 consists of autologous CDCs. This product was used in the Phase I CADUCEUS clinical trial, which was sponsored and conducted by CSMC in collaboration with JHU. In that study, 25 patients were enrolled, of which 17 patients received autologous CDCs. 16 of the 17 treated patients showed a mean reduction of approximately 45% in scar mass and an increase in viable heart muscle one-year post heart attack. The eight patients in the control group had no significant change in infarct (scar) size. At present there is no plan for another clinical trial for CAP-1001. The data from CADUCEUS, using autologous CDCs, suggests that the cells are effective in reducing scar within several months of a heart attack. The ALLSTAR trial is designed to validate the results of CADUCEUS using an allogeneic product while also looking for potential efficacy in patients between 90 days and one year post MI with a more chronic scar, a patient population that CADUCEUS was not designed to study.

- **CSps:** CSps are multicellular clusters called cardiospheres, a 3D micro-tissue from which CDCs are derived and have shown significant healing effects in pre-clinical models of heart failure. While Capricor considers the CSps an important product, at present there is no plan for a clinical trial for CSps.

- **Cenderitide *(CD-NP)*:** Cenderitide is a chimeric natriuretic peptide that is being considered for the treatment of heart failure. To date, we have explored the use of cenderitide in acute heart failure admissions as well as in the setting of patients in the vulnerable post-hospitalization phase. The current clinical plan is to consider cenderitide for the treatment of patients for up to 90 days at home following admission for acute decompensated heart failure, or ADHF. We refer to this setting as the "post-acute" period. In 2011, we completed a 58-patient Phase I clinical trial of cenderitide in the post-acute setting. We conducted this clinical trial in collaboration with Medtronic, Inc., or Medtronic, delivering cenderitide through continuous intravenous infusion using Medtronic's pump technology. Following that Phase I clinical trial, we had planned to initiate a Phase II clinical trial of cenderitide, pending availability of capital resources. Any further development of cenderitide is subject to our ability to either raise additional capital or enter into a strategic transaction in which a strategic partner provides the capital necessary to continue development activities. In addition to treating heart failure, we believe cenderitide may be useful in several other cardiovascular and renal indications. We are currently evaluating whether to proceed with further clinical development of this product.

- **CU-NP**: CU-NP is a pre-clinical rationally-designed natriuretic peptide that consists of amino acid chains identical to those produced by the human body, specifically the ring structure of C-type natriuretic peptide, or CNP, and the N- and C-termini of Urodilatin, or URO. Any further development of CU-NP is subject to our ability to either raise additional capital or enter into a strategic transaction in which a strategic partner provides the capital necessary to continue development activities. We are currently evaluating whether to proceed with further clinical development of this product.

The following table summarizes our product development programs:

Product	Indications	Commercial Rights	Ongoing Studies / Status
CAP-1002	Cardiovascular	Capricor	ALLSTAR Phase II is currently open for enrollment. This study is an estimated 300 patient, double blind, placebo controlled, multi-center trial.
CAP-1001	Cardiovascular	Capricor	CSMC and JHU sponsored Phase I CADUCEUS trial has been completed. Funded by the NHLBI Specialized Centers for Cell-based Therapy.
CSps	Cardiovascular	Capricor	Preclinical.
Cenderitide	Cardiovascular	Capricor Therapeutics	Completed single -blind, placebo-controlled Phase I study of cenderitide in chronic heart failure patients in October 2011. Continued development and future clinical trials are being evaluated.
CU-NP	Cardiovascular	Capricor Therapeutics	Preclinical. Continued development and future clinical trials are being evaluated.

Intellectual Property and Proprietary Technology

Our goal is to obtain, maintain and enforce patent protection for our products, formulations, processes, methods and other proprietary technologies, preserve our trade secrets, and operate without infringing on the proprietary rights of other parties, both in the United States and abroad. Our policy is to actively seek to obtain, where appropriate, the broadest intellectual property protection possible for our current product candidates and any future product candidates, proprietary information and proprietary technology through a combination of contractual arrangements and patents, both in the United States and abroad. Even patent protection, however, may not always afford us with complete protection against competitors who seek to circumvent our patents. If we fail to adequately protect or enforce our intellectual property rights or secure rights to patents of others, the value of our intellectual property rights would diminish. To this end, we require all of our employees, consultants, advisors and other contractors to enter into confidentiality agreements that prohibit the disclosure and use of confidential information and, where applicable, require disclosure and assignment to us of the ideas, developments, discoveries and inventions important to our business.

The development of complex biotechnology products such as ours typically includes the early discovery of a technology platform – often in an academic institution – followed by increasingly focused development around a product opportunity, including identification and definition of a specific product candidate and development of scalable manufacturing processes, formulation, delivery and dosage regimens. As a result, biotechnology products are often protected by several families of patent filings that are made at different times of the development cycle and cover different aspects of the product. Earlier filed broad patent applications directed to the discovery of the platform technology thus usually expire ahead of patents covering later developments such as scalable manufacturing processes and dosing regimens. Patent expirations on products may therefore span several years and vary from country to country based on the scope of available coverage. There are also limited opportunities to obtain extensions of patent coverage in certain countries.

Capricor's Technology - CAP-1002, CAP-1001 and CSps

Capricor has entered into exclusive license agreements for intellectual property rights related to cardiac derived cells with Università Degli Studi Di Roma at la Sapienza (the University of Rome), JHU and CSMC. In addition, Capricor has filed patent applications related to enhancements or validation of the technology developed by its own scientists.

University of Rome License Agreement

Capricor and the University of Rome entered into a License Agreement, dated June 21, 2006 (the Rome License Agreement), which provides for the grant of an exclusive, world-wide, royalty-bearing license by the University of Rome to Capricor (with the right to sublicense) to develop and commercialize licensed products under the licensed patent rights in all fields. With respect to any new or future patent applications assigned to the University of Rome utilizing cardiac stem cells in cardiac care, Capricor has a first right of negotiation for a certain period of time to obtain a license thereto.

Pursuant to the Rome License Agreement, Capricor paid the University of Rome a license issue fee, as well as minimum annual royalties, and is obligated to pay a royalty received as a result of sublicenses granted. The minimum annual royalties are creditable against future royalty payments.

The Rome License Agreement will, unless extended or sooner terminated, remain in effect until the later of the last claim of any patent or until any patent application comprising licensed patent rights has expired or been abandoned. Under the terms of the Rome License Agreement, either party may terminate the agreement should the other party become insolvent or file a petition in bankruptcy. Either party shall have up to 90 days to cure its material breach.

The foregoing description of the Rome License Agreement is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the Rome License Agreement, which, subject to any confidential treatment requested, is filed as an exhibit to this Annual Report on Form 10-K for the period ended December 31, 2013.

The Johns Hopkins University License Agreement

Capricor and JHU entered into an Exclusive License Agreement, effective June 22, 2006 (the JHU License Agreement), which provides for the grant of an exclusive, world-wide, royalty-bearing license by JHU to Capricor (with the right to sublicense) to develop and commercialize licensed products and licensed services under the licensed patent rights in all fields and a nonexclusive right to the know-how. In May 2009, the JHU License Agreement was amended to add additional patent rights to the License Agreement in consideration of a payment to JHU and reimbursement of patent costs. Capricor and JHU executed a Second Amendment to the JHU License Agreement, effective as of December 20, 2013, pursuant to which, among other things, certain definitions were added or amended, the timing of certain obligations was revised and other obligations of the parties were clarified.

Pursuant to the JHU License Agreement, JHU was paid an initial license fee and, thereafter, Capricor is required to pay minimum annual royalties on the anniversary dates of the JHU License Agreement. The minimum annual royalties are creditable against running royalties on net sales of products and net service revenues which Capricor is also required to pay under the JHU License Agreement. In addition, Capricor is required to pay a certain percentage of the consideration received by it from sublicenses granted, and is required to pay JHU certain defined development milestone payments upon the successful completion of certain phases of its clinical studies and upon receiving FDA approval.

The JHU License Agreement will, unless sooner terminated, continue in effect in each applicable country until the date of expiration of the last to expire patent within the patent rights, or, if no patents are issued, then for twenty years from the effective date. Under the terms of the JHU License Agreement, either party may terminate the agreement should the other party become insolvent or file a petition in bankruptcy, or fail to cure a material breach within 30 days after notice. In addition, Capricor may terminate for any reason upon 60 days' written notice.

The foregoing description of the JHU License Agreement, as amended, is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the JHU License Agreement, and the amendments thereto, all of which, subject to any confidential treatment requested, are filed as an exhibit to this Annual Report on Form 10-K for the period ended December 31, 2013.

Cedars-Sinai Medical Center License Agreement

On January 4, 2010, Capricor entered into an Exclusive License Agreement with CSMC (the CSMC License Agreement), for certain intellectual property rights. In 2013, the CSMC License Agreement was amended twice resulting in, among other things, a reduction in the percentage of sublicense fees which would have been payable to CSMC. Effective December 30, 2013, Capricor entered into an Amended and Restated Exclusive License Agreement with CSMC (the Amended CSMC License Agreement) pursuant to which, among other things, certain definitions were added or amended, the timing of certain obligations was revised and other obligations of the parties were clarified.

The Amended CSMC License Agreement provides for the grant of an exclusive, world-wide, royalty-bearing license by CSMC to Capricor (with the right to sublicense) to conduct research using the patent rights and know-how and develop and commercialize products in the field using the patents rights and know-how. In addition, Capricor has the exclusive right to negotiate for an exclusive license to any future rights arising from related work conducted by or under the direction of Dr. Eduardo Marbán on behalf of CSMC. In the event the parties fail to agree upon the terms of an exclusive license, Capricor shall have a non-exclusive license to such future rights, subject to royalty obligations.

Pursuant to the CSMC License Agreement, CSMC was paid a license fee and Capricor was obligated to reimburse CSMC for certain fees and costs incurred in connection with the prosecution of certain patent rights. Additionally, Capricor was required to meet certain spending and development milestones. Pursuant to the Amended CSMC License Agreement, Capricor remains obligated to pay royalties on sales of royalty-bearing products as well as a percentage of the consideration received from any sublicenses or other grant of rights. In 2010, Capricor discontinued its research under some of the patents.

The Amended CSMC License Agreement will, unless sooner terminated, continue in effect on a country by country basis until the last to expire of the patents covering the patent rights or future patent rights. Under the terms of the Amended CSMC License Agreement, unless waived by CSMC, the agreement shall automatically terminate: (i) if Capricor ceases, dissolves or winds up its business operations; (ii) in the event of the insolvency or bankruptcy of Capricor or if Capricor makes an assignment for the benefit of its creditors; (iii) if performance by either party jeopardizes the licensure, accreditation or tax exempt status of CSMC or the agreement is deemed illegal by a governmental body; (iv) within 30 days for non-payment of royalties; (v) within 90 days if Capricor fails to undertake commercially reasonable efforts to exploit the patent rights or future patent rights; (vi) if a material breach has not been cured within 90 days; or (vii) if Capricor challenges any of the CSMC patent rights. Capricor may terminate the agreement if CSMC fails to cure any material breach within 90 days after notice.

The foregoing description of the Amended CSMC License Agreement is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the Amended CSMC License Agreement which, subject to any confidential treatment requested, is filed as an exhibit to this Annual Report on Form 10-K for the period ended December 31, 2013.

Collaboration Agreement with Janssen Biotech, Inc.

On December 27, 2013, Capricor entered into a Collaboration Agreement and Exclusive License Option with Janssen Biotech, Inc., or Janssen, a wholly-owned subsidiary of Johnson & Johnson. Under the terms of the agreement, Capricor and Janssen agreed to collaborate on the development of Capricor's cell therapy program for cardiovascular applications, including its lead product, CAP-1002. Capricor and Janssen further agreed to collaborate on the development of cell manufacturing in preparation for future clinical trials. Under the agreement, Capricor was paid $12.5 million, and Capricor will contribute to the costs of development of a chemistry, manufacturing and controls (CMC) package. In addition, Janssen has the exclusive right to enter into an exclusive license agreement pursuant to which Janssen would receive a worldwide, exclusive license to exploit CAP-1002 as well as certain allogeneic cardiospheres and cardiosphere-derived cells in the field of cardiology. Janssen has the right to exercise the option at any time until 60 days after the delivery by Capricor of the six-month follow-up results from Phase II of Capricor's ALLSTAR clinical trial for CAP-1002. If Janssen exercises its option rights, Capricor would receive an upfront license fee and additional milestone payments which may total up to $325 million. In addition, a double-digit royalty would be paid on sales of licensed products.

The foregoing description of the Collaboration Agreement and Exclusive License Option is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the Collaboration Agreement and Exclusive License Option, which, subject to any confidential treatment requested, is filed as an exhibit to this Annual Report on Form 10-K for the period ended December 31, 2013.

Company's Technology – Cenderitide and CU-NP

The Company has entered into an exclusive license agreement for intellectual property rights related to natriuretic peptides with the Mayo Foundation for Medical Education and Research and a Clinical Trial Funding Agreement with Medtronic, Inc., which also includes certain intellectual property licensing provisions.

Mayo License Agreement

The Company and the Mayo Foundation for Medical Education and Research, or Mayo, previously entered into a Technology License Agreement with respect to cenderitide on January 20, 2006, which was filed as Exhibit 10.6 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission, or SEC, on September 21, 2007 and which was amended on June 2, 2008 (as so amended, the CD-NP Agreement). On June 13, 2008, the Company and Mayo entered into a Technology License Agreement with respect to CU-NP (the CU-NP Agreement), which was filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2008. On November 14, 2013, the Company entered into an Amended and Restated License Agreement with Mayo (the Amended Mayo Agreement). The Amended Mayo Agreement amends and restates in its entirety each of the CD-NP Agreement and the CU-NP Agreement, and creates a single amended and restated license agreement between the Company and Mayo with respect to CD-NP and CU-NP.

The Amended Mayo Agreement provides for the grant of an exclusive, world-wide, royalty-bearing license by Mayo to the Company (with the right to sublicense) under the Mayo patents, patent applications and improvements, and a nonexclusive right under the know-how, for the development and commercialization of CD-NP and CU-NP in all therapeutic indications. With respect to any future patents and any improvements related to cenderitide and CU-NP owned by or assigned to Mayo, the Company has the exclusive right of first negotiation for the exclusive or non-exclusive rights (at the Company's option) thereto. Such exclusive right of negotiation shall be effective as of June 1, 2016, or such earlier date when the Company has satisfied certain payment obligations to Mayo.

Under each of the previous CD-NP Agreement and CU-NP Agreement, the Company paid Mayo up-front cash payments and the Company agreed to make certain performance-based cash payments to Mayo upon successful completion of certain milestones. Additionally, the Company issued certain amounts of common stock of the Company to Mayo under each agreement. The Amended Mayo Agreement restructured the economic arrangements of the CD-NP Agreement and CU-NP Agreement by, among other things, eliminating certain milestone payments and decreasing the royalty percentages payable upon the commercial sale of the products. Pursuant to the terms of the Amended Mayo Agreement, the Company agreed to pay to Mayo an annual license maintenance fee and to issue to Mayo an additional 18,000 shares of the Company's common stock as additional consideration for the grant of certain rights. Mayo also agreed to waive or defer the payment of certain fees owed to Mayo. All breaches and defaults by the Company under the terms of the CD-NP Agreement and CU-NP Agreement were waived by Mayo in the Amended Mayo Agreement.

The Amended Mayo Agreement will, unless sooner terminated, expire on the later of (i) the expiration of the last to expire valid claim contained in the Mayo patents, or (ii) the 20th anniversary of the Amended Mayo Agreement. Under the terms of the Amended Mayo Agreement, Mayo may terminate the agreement earlier (i) for the Company's material breach of the agreement that remains uncured after 90 days' written notice to the Company, (ii) for the Company's insolvency or bankruptcy, (iii) if the Company challenges the validity or enforceability of any of the patent rights in any manner, or (iv) if the Company has not initiated either the next clinical trial of cenderitide within two years of the effective date of the Amended Mayo Agreement or a clinical trial of CU-NP within two and one-half years of the effective date. The Company may terminate the Amended Mayo Agreement without cause upon 90 days' written notice.

The foregoing description of the Amended Mayo Agreement is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the Amended Mayo Agreement, which, subject to any confidential treatment requested, is filed as an exhibit to this Annual Report on Form 10-K for the period ended December 31, 2013.

Medtronic Clinical Trial Funding Agreement

In February 2011, the Company entered into a Clinical Trial Funding Agreement with Medtronic, Inc. (Medtronic). Pursuant to the agreement, Medtronic provided funding and equipment necessary for us to conduct a Phase I clinical trial to assess the pharmacokinetics and pharmacodynamics of cenderitide when delivered to heart failure patients through continuous subcutaneous infusion using Medtronic's pump technology.

The agreement provided that intellectual property conceived in or otherwise resulting from the performance of the Phase I clinical trial will be jointly owned by the Company and Medtronic (the Joint Intellectual Property), and that the Company is to pay royalties to Medtronic based on the net sales of a product covered by the Joint Intellectual Property. The agreement further provided that, if the parties fail to enter into a definitive commercial license agreement with respect to cenderitide, each party will have a right of first negotiation to license exclusive rights to any Joint Intellectual Property.

Pursuant to its terms, the agreement expired in February 2012, following the completion of the Phase I clinical trial and the delivery of data and reports related to such study. Nile received the final reimbursement of $195,500 in February 2012 and a total of $1,550,000 over the life of the agreement. Although the Medtronic agreement expired, there are certain provisions that survive the expiration of the agreement, including the obligation to pay royalties on products that might be covered by the Joint Intellectual Property. Neither party has exercised its right to negotiate for exclusive rights to the Joint Intellectual Property.

Employees

Currently, we have 19 full-time employees, although several of them also perform part-time services for CSMC, including our Chief Executive Officer, Dr. Linda Marbán, who provides services on a part-time basis to CSMC. None of our employees are covered by a collective bargaining agreement. We believe that our relations with our employees are satisfactory. We have also retained several consultants to serve in various operational and administrative positions.

All former employees of Nile were terminated upon consummation of the merger between Nile and Capricor, a wholly-owned subsidiary of Nile. The employees of Capricor are continuing their employment relationship with Capricor. Certain officers of Capricor are also serving as officers of the Company.

Manufacturing

Capricor presently maintains its laboratory and research facilities in leased premises located at CSMC. Such premises are being leased on a month-to-month basis and may be terminated upon 30 days' notice to Capricor. Capricor presently manufactures its cells in an accredited GMP facility which is owned by and located within CSMC. Capricor's intention is to manufacture cells at this facility for its Phase II trial of CAP-1002. If the lab lease is terminated or if CSMC revokes its permission to allow Capricor to utilize the GMP facility, Capricor would have to secure alternative facilities in which to operate its research and development activities and/or manufacture its products, which would involve a significant monetary investment and would negatively impact the progress of Capricor's clinical trials and regulatory approvals. In addition, Capricor would have to build out its own manufacturing facility for any Phase III trial or establish a collaboration agreement with a third party.

CAP-1001:

The manufacturing process begins with a biopsy of cardiac tissue from the patient taken during a simple outpatient procedure. This tissue is taken to the lab where the cells are isolated, expanded, and processed through a series of proprietary unit operations. After release testing and quality review of the manufacturing data, this drug product is then administered into the same patient. The time frame for autologous manufacturing is 6-8 weeks post-biopsy until the product can be administered to the patient.

CAP-1002:

The process for manufacturing CAP-1002 differs very little from the CAP-1001 process, except that it can be executed at a significantly larger scale. This is because the starting material is from an entire heart taken from a donor, and collected from an organ procurement organization (OPO), rather than a small biopsy taken from the patient. After expanding, processing, release testing and quality review, the CAP-1002 product becomes available for administration to patients. CAP-1002 is cryo-preserved, enabling us to produce large lots that can be frozen and then administered to patients as needed. The shelf life of the product is currently one year after freezing. We believe that the allogeneic nature of CAP- 1002 enables us to create a commercially scalable stem cell product.

Cenderitide and CU-NP:

We do not currently manufacture cenderitide or CU-NP in-house, nor do we have the capacity to do so. Accordingly, we will need to establish relationships with third-party manufacturers and other service providers to perform these services for us.

Research and Development

Capricor's research and development program has been funded in large part through Federal grants totaling approximately $7.0 million. In addition, Capricor has been granted a loan award in the approximate amount of $19.8 million from the California Institute for Regenerative Medicine, or CIRM, to fund Phase II of the ALLSTAR trial. The Company's research and development efforts to date have led to the development of three product candidates which have reached various stages of clinical development, autologous CDCs, allogeneic CDCs and cenderitide. We are currently evaluating whether the third candidate, cenderitide, will continue to be pursued. Ongoing research focuses on in-depth product characterization, expanded use of current products, development of next generation products and identification of new technologies. Capricor aims to create a pipeline of regenerative medicine products potentially capable of improving the healing capacity of injured tissue. Capricor's research continues to explore the growth factors and cytokines that have been shown to reduce both infarct (scar) size and promote regeneration of heart muscle or other tissues injured by ischemia. Our research and development program for cenderitide and CU-NP is currently under review. Our Board of Directors will determine whether we will proceed with any future development of these products. Capricor spent approximately $5.2 million and $2.6 million on research and development activities for the years ended December 31, 2013 and 2012, respectively.

Competition

We are engaged in fields that are characterized by extensive worldwide research and competition by pharmaceutical companies, medical device companies, specialized biotechnology companies, hospitals, physicians and academic institutions, both in the United States and abroad. The pharmaceutical industry is highly competitive, with a number of established, large pharmaceutical companies, as well as many smaller companies. Many of the organizations competing with us have substantially greater financial resources, larger research and development staffs and facilities, longer drug development history in obtaining regulatory approvals, and greater manufacturing and marketing capabilities than we do. There are many pharmaceutical companies, biotechnology companies, public and private universities, government agencies, and research organizations actively engaged in research and development of products which may target the same indications as our product candidates. We expect any future products and product candidates we develop to compete on the basis of, among other things, product efficacy and safety, time to market, price, extent of adverse side effects, and convenience of treatment procedures. The biotechnology and pharmaceutical industries are subject to rapid and significant technological change. The drugs that we are attempting to develop will have to compete with existing therapies. Our future success will depend in part on our ability to maintain a competitive position with respect to evolving cell therapies as well as other novel technologies. There can be no assurance that existing or future therapies developed by others will not render our potential products obsolete or noncompetitive. In addition, companies pursuing different but related fields represent substantial competition. These organizations also compete with us to attract qualified personnel and parties for acquisitions, joint ventures, or other collaborations.

Government Regulation

The research, development, testing, manufacture, labeling, promotion, advertising, distribution and marketing, among other things, of our product candidates are extensively regulated by governmental authorities in the United States and other countries. In the United States, the Food and Drug Administration, or FDA, regulates drugs under the Federal Food, Drug, and Cosmetic Act, or the FDCA, and its implementing regulations. Failure to comply with the applicable United States requirements may subject us to administrative or judicial sanctions, such as FDA refusal to approve a pending NDA or BLA, warning letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions and/or criminal prosecution.

Drug Approval Process

A drug or drug candidate may not be marketed or sold in the United States until it has received FDA approval. The process to receiving such approval is long, expensive and risky, and includes the following steps:

- pre-clinical laboratory tests, animal studies, and formulation studies;
- submission to the FDA of an IND for human clinical testing, which must become effective before human clinical trials may begin;
- adequate and well-controlled human clinical trials to establish the safety and efficacy of the drug for each indication;
- submission to the FDA of an NDA or BLA;
- satisfactory completion of an FDA inspection of the manufacturing facility or facilities at which the drug is produced to assess compliance with current good manufacturing practices, or cGMPs; and
- FDA review and approval of the NDA or BLA.

Regulation by United States and foreign governmental authorities is a significant factor affecting our ability to commercialize any of our products, as well as the timing of such commercialization and our ongoing research and development activities. The commercialization of drug products requires regulatory approval by governmental agencies prior to commercialization. Various laws and regulations govern or influence the research and development, non-clinical and clinical testing, manufacturing, processing, packing, validation, safety, labeling, storage, record keeping, registration, listing, distribution, advertising, sale, marketing and post-marketing commitments of our products. The lengthy process of seeking these approvals, and the subsequent compliance with applicable laws and regulations, require expending substantial resources.

Pharmaceutical products such as ours may not be commercially marketed without prior approval from the FDA and comparable regulatory agencies in other countries. In the United States, the process for obtaining FDA approval typically includes pre-clinical studies, the filing of an IND, human clinical trials and filing and approval of either an NDA, for chemical pharmaceutical products, or a BLA for biological pharmaceutical products. The results of pre-clinical testing, which include laboratory evaluation of product chemistry and formulation, animal studies to assess the potential safety and efficacy of the product and its formulations, details concerning the drug manufacturing process and its controls, and a proposed clinical trial protocol and other information must be submitted to the FDA as part of an IND that must be reviewed and become effective before clinical testing can begin. The study protocol and informed consent information for patients in clinical trials must also be submitted to an independent Institutional Review Board, or IRB, for approval covering each institution at which the clinical trial will be conducted. Once a sponsor submits an IND, the sponsor must wait 30 calendar days before initiating any clinical trials. If the FDA has comments or questions within this 30-day period, the issue(s) must be resolved to the satisfaction of the FDA before clinical trials can begin. In addition, the FDA, an IRB or Capricor may impose a clinical hold on ongoing clinical trials due to safety concerns. If the FDA imposes a clinical hold, clinical trials can only proceed under terms authorized by the FDA. Our non-clinical and clinical studies must conform to the FDA's Good Laboratory Practice, or GLP, and Good Clinical Practice, or GCP, requirements, respectively, which are designed to ensure the quality and integrity of submitted data and protect the rights and well-being of study patients. Information for certain clinical trials also must be publicly disclosed within certain time limits on the clinical trial registry and results databank maintained by the NIH.

Typically, clinical testing involves a three-phase process; however, the phases may overlap or be combined:

- Phase I clinical trials typically are conducted in a small number of volunteers or patients to assess the early tolerability and safety profile, and the pattern of drug absorption, distribution and metabolism;

- Phase II clinical trials typically are conducted in a limited patient population with a specific disease in order to assess appropriate dosages and dose regimens, expand evidence of the safety profile and evaluate preliminary efficacy; and

- Phase III clinical trials typically are larger scale, multicenter, well-controlled trials conducted on patients with a specific disease to generate enough data to statistically evaluate the efficacy and safety of the product, to establish the overall benefit-risk relationship of the drug and to provide adequate information for the registration of the drug.

The results of the pre-clinical and clinical testing, chemistry, manufacturing and control information proposed labeling and other information are then submitted to the FDA in the form of either an NDA or BLA for review and potential approval to begin commercial sales. In responding to an NDA or BLA, the FDA may grant marketing approval, request additional information in a Complete Response Letter, or CRL, or deny the approval if it determines that the NDA or BLA does not provide an adequate basis for approval. A CRL generally contains a statement of specific conditions that must be met in order to secure final approval of an NDA or BLA and may require additional testing. If and when those conditions have been met to the FDA's satisfaction, the FDA will typically issue an approval letter, which authorizes commercial marketing of the product with specific prescribing information for specific indications, and sometimes with specified post-marketing commitments and/or distribution and use restrictions imposed under a REMS program. Any approval required from the FDA might not be obtained on a timely basis, if at all.

Among the conditions for an NDA or BLA approval is the requirement that the manufacturing operations conform on an ongoing basis with current cGMP. In complying with cGMP, we must expend time, money and effort in the areas of training, production and quality control within our own organization and at our contract manufacturing facilities. A successful inspection of the manufacturing facility by the FDA is usually a prerequisite for final approval of a pharmaceutical product. Following approval of the NDA or BLA, we and our manufacturers will remain subject to periodic inspections by the FDA to assess compliance with cGMP requirements and the conditions of approval. We will also face similar inspections coordinated by foreign regulatory authorities.

Post -Approval Requirements

Often times, even after a drug has been approved by the FDA for sale, the FDA may require that certain post-approval requirements be satisfied, including the conduct of additional clinical studies. If such post-approval requirements are not satisfied, the FDA may withdraw its approval of the drug. In addition, holders of an approved NDA or BLA are required to report certain adverse reactions to the FDA, comply with certain requirements concerning advertising and promotional labeling for their products, and continue to have quality control and manufacturing procedures conform to current Good Manufacturing Practices, or cGMP, after approval. The FDA periodically inspects the sponsor's records related to safety reporting and/or manufacturing facilities; this latter effort includes assessment of compliance with cGMP. Accordingly, manufacturers must continue to expend time, money, and effort in the area of production and quality control to maintain cGMP compliance.

Capricor presently manufactures its cells in an accredited GMP facility which is owned by and located within CSMC. Capricor's intention is to manufacture cells at this facility for its Phase II trial. If CSMC were to revoke its permission to allow Capricor to utilize the GMP facility, Capricor would have to secure alternative facilities in which to operate its research and development activities and/or manufacture its products which would involve a significant monetary investment and would negatively impact the progress of Capricor's clinical trials and regulatory approvals. In addition, Capricor would have to build out its own manufacturing facility for the Phase III trial or establish a collaboration agreement with a third party.

If we proceed with the development of cenderitide or CU-NP, we intend to use third-party manufacturers to produce our products in clinical and commercial quantities, and future FDA inspections may identify compliance issues at the facilities of our contract manufacturers that may disrupt production or distribution, or require substantial resources to correct. In addition, discovery of problems with a product after approval may result in restrictions on a product, manufacturer, or holder of an approved NDA or BLA, including withdrawal of the product from the market.

ITEM 1A. RISK FACTORS

RISK FACTORS

Investment in our common stock involves significant risk. You should carefully consider the information described in the following risk factors, together with the other information appearing elsewhere in this annual report, before making an investment decision regarding our common stock. If any of the events or circumstances described in these risks actually occur, our business, financial conditions, results of operations and future growth prospects would likely be materially and adversely affected. In these circumstances, the market price of our common stock could decline, and you may lose all or a part of your investment in our common stock. Moreover, the risks described below are not the only ones that we face.

Risks Relating to Our Business

We need substantial additional funding before we can complete the development of our product candidates. If we are unable to obtain such additional capital, we will be forced to delay, reduce or eliminate our product development programs and may not have the capital required to otherwise operate our business.

Developing biopharmaceutical products, including conducting pre-clinical studies and clinical trials and establishing manufacturing capabilities, is expensive. As of December 31, 2013, we had cash, cash resources, and marketable securities totaling approximately $2.1 million plus approximately $1.4 million restricted cash in loans for our ALLSTAR clinical trial. We have not generated any product revenues, and will not generate any product revenues until, and only if, we receive approval to sell our drug candidates from the FDA and other regulatory authorities for our product candidates.

From inception, we have financed our operations through public and private sales of our equity and debt securities, NIH grants, and a CIRM loan award. We also recently entered into a collaboration agreement with Janssen Biotech, Inc., or Janssen, which provides for funding for the collaboration of our cell therapy program for cardiovascular applications, including CAP-1002. As we have not generated any revenue from operations to date, and we do not expect to generate revenue for several years, if ever, we will need to raise substantial additional capital in order to fund our immediate general corporate activities and, thereafter, to fund our research and development, including our long-term plans for clinical trials and new product development.

We expect our research and development expenses to increase in connection with our ongoing activities, particularly if we continue to develop cenderitide and initiate clinical development of CU-NP. In addition, our expenses could increase beyond expectations if the FDA requires that we perform additional studies to those that we currently anticipate, and the timing of any potential product approval may be delayed. Other than our cash on hand, we currently have no commitments or arrangements for any additional financing to fund the research and development of cenderitide and CU-NP. All further clinical and other development activities for our cenderitide and CU-NP programs are being evaluated by our Board of Directors before further development will be commenced.

We may seek to raise additional funds through various potential sources, such as equity and debt financings, or through strategic collaborations and license agreements. We can give no assurances that we will be able to secure such additional sources of funds to support our operations or, if such funds are available to us, that such additional financing will be sufficient to meet our needs. Moreover, to the extent that we raise additional funds by issuing equity securities, our stockholders may experience additional significant dilution, and debt financing, if available, may involve restrictive covenants. To the extent that we raise additional funds through collaboration and licensing arrangements, it may be necessary to relinquish some rights to our technologies or our product candidates, or grant licenses on terms that may not be favorable to us.

Our forecasts regarding our beliefs of the sufficiency of our financial resources to support our current and planned operations are forward-looking statements and involve significant risks and uncertainties, and actual results could vary as a result of a number of factors, including the factors discussed elsewhere in this “Risk Factors” section. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. Our future funding requirements will depend on many factors, including, but not limited to:

- the scope, rate of progress, cost and results of our research and development activities, especially our Phase II clinical trial of CAP-1002;
- the continued availability of funding from NIH and CIRM;
- the costs and timing of regulatory approval;
- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- the effect of competing technological and market developments;
- the terms and timing of any collaboration, licensing or other arrangements that we may establish;
- the cost and timing of completion of clinical and commercial-scale outsourced manufacturing activities; and
- the costs of establishing sales, marketing and distribution capabilities for any product candidates for which we may receive regulatory approval.

We have a history of net losses, and we expect losses to continue for the foreseeable future. In addition, a number of factors may cause our operating results to fluctuate on a quarterly and annual basis, which may make it difficult to predict our future performance.

We have a history of net losses, expect to continue to incur substantial and increasing net losses for the foreseeable future, and may never achieve or maintain profitability. Our operations to date have been primarily limited to organizing and staffing our company, developing our technology, and undertaking pre-clinical studies and clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our product candidates. Consequently, any predictions made about our future success or viability may not be as accurate as they could be if we had a longer operating history. Specifically, our financial condition and operating results have varied significantly in the past and will continue to fluctuate from quarter-to -quarter and year-to -year in the future due to a variety of factors, many of which are beyond our control. Factors relating to our business that may contribute to these fluctuations include the following factors, as well as other factors described elsewhere in this annual report:

- our need for substantial additional capital to fund our development programs;
- delays in the commencement, enrollment, and timing of clinical testing;
- the success of the ALLSTAR clinical trial through all stages of clinical development;
- if further clinical trials are conducted, the success of clinical trials of cenderitide and CU -NP product candidates or future product candidates;
- any delays in regulatory review and approval of our product candidates in clinical development;
- our ability to receive regulatory approval or commercialize our product candidates, within and outside the United States;
- potential side effects of our current or future products and product candidates that could delay or prevent commercialization or cause an approved treatment drug to be taken off the market;
- regulatory difficulties relating to products that have already received regulatory approval;
- market acceptance of our product candidates;
- our ability to establish an effective sales and marketing infrastructure once our products are commercialized;
- our ability to establish or maintain collaborations, licensing or other arrangements;
- our ability and third parties' abilities to protect intellectual property rights;
- competition from existing products or new products that may emerge;
- guidelines and recommendations of therapies published by various organizations;
- the ability of patients to obtain coverage of or sufficient reimbursement for our products;
- our ability to maintain adequate insurance policies;
- our dependency on third parties to formulate and manufacture our product candidates;
- our ability to maintain our current manufacturing facility and secure other facilities as determined to be necessary;
- costs related to and outcomes of potential intellectual property litigation;
- compliance with obligations under intellectual property licenses with third parties;
- our ability to seek regulatory approvals for our product candidates;
- our ability to implement additional internal systems and infrastructure;
- our ability to adequately support future growth;
- our ability to attract and retain key personnel to manage our business effectively; and
- the ability of our senior management who have limited experience in managing a public company to manage our business and operations.

The Company's technology is not yet proven and each of our product candidates is in an early stage of development.

Each of the Company's five product candidates, CAP-1002, CAP-1001, CSps, cenderitide and CU –NP, is in an early stage of development and requires extensive clinical testing before it may be approved by the U.S. Food and Drug Administration, or FDA, or another regulatory authority in a jurisdiction outside the United States, which could take several years to complete, if ever. The effectiveness of the Company's technology has not been definitively proven in completed human clinical trials or preclinical studies. The Company's failure to establish the efficacy of its technology would have a material adverse effect on the Company. We cannot predict with any certainty the results of such clinical testing, including the results of our planned ALLSTAR trial. We cannot predict with any certainty if, or when, we might commence any clinical trials of our product candidates other than the ALLSTAR trial or whether such trials will yield sufficient data to permit us to proceed with additional clinical development and ultimately submit an application for regulatory approval of our product candidates in the United States or abroad, or whether such applications will be accepted by the appropriate regulatory agency.

We may not be able to manage our growth

Should we achieve our near-term milestones, of which no assurance can be given, our long -term viability will depend upon the expansion of our operations and the effective management of our growth, which will place a significant strain on our management and on our administrative, operational and financial resources. To manage this growth, we may need to expand our facilities, augment our operational, financial and management systems and hire and train additional qualified personnel. If we are unable to manage our growth effectively, our business would be harmed.

Risks Relating to Clinical and Commercialization Activities

Our product candidates will require substantial time and resources in order to be developed, and there is no guarantee that we will develop them successfully.

We have not completed the development of any products and may not have products to sell commercially for many years, if at all. Our potential products will require substantial additional research and development time and expense, as well as extensive clinical trials and perhaps additional preclinical testing, prior to commercialization, which may never occur. There can be no assurance that products will be developed successfully, perform in the manner anticipated, or be commercially viable.

Our success depends upon the viability of our product candidates and we cannot be certain any of them will receive regulatory approval to be commercialized.

We will need FDA approval to market and sell any of our product candidates in the United States and approvals from the FDA-equivalent regulatory authorities in foreign jurisdictions to commercialize our product candidates in those jurisdictions. In order to obtain FDA approval of any of our product candidates, we must submit to the FDA either an NDA or BLA, demonstrating that the product candidate is safe for humans and effective for its intended use. This demonstration requires significant research and animal tests, which are referred to as pre-clinical studies, as well as human tests, which are referred to as clinical trials. Satisfaction of the FDA's regulatory requirements typically takes many years, depends upon the type, complexity, and novelty of the product candidate, and requires substantial resources for research, development, and testing. We cannot predict whether our research and clinical approaches will result in drugs that the FDA considers safe for humans and effective for indicated uses. The FDA has substantial discretion in the drug approval process and may require us to conduct additional pre-clinical and clinical testing or to perform post-marketing studies. The approval process may also be delayed by changes in government regulation, future legislation, administrative action or changes in FDA policy that occur prior to or during our regulatory review.

Even if we comply with all FDA requests, the FDA may ultimately reject one or more of our NDAs or BLAs, as applicable. We cannot be sure that we will ever obtain regulatory clearance for our product candidates. Failure to obtain FDA approval of any of our product candidates will reduce our number of salable products and, therefore, corresponding product revenues, and will have a material and adverse impact on our business.

The Company has limited experience in conducting clinical trials.

The Company has limited human clinical trial experience with respect to its product candidates. The clinical testing process is governed by stringent regulation and is highly complex, costly, time-consuming, and uncertain as to outcome (and pharmaceutical products and products used in the regeneration of tissue may invite particularly close scrutiny and requirements from the FDA and other regulatory bodies). Our failure or the failure of our collaborators to conduct human clinical trials successfully or our failure to capitalize on the results of human clinical trials for our product candidates would have a material adverse effect on the Company. If our clinical trials of our product candidates or future product candidates do not produce results necessary to support regulatory approval in the United States or elsewhere, or if they show undesirable side effects, we will be unable to commercialize these product candidates.

To receive regulatory approval for the commercial sale of its product candidates, we must conduct adequate and well-controlled clinical trials to demonstrate efficacy and safety in humans. Clinical failure can occur at any stage of the testing. Our clinical trials may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical and/or non-clinical testing. In addition, the results of our clinical trials may show that our product candidates are ineffective or may cause undesirable side effects, which could interrupt, delay or halt clinical trials, resulting in the denial of regulatory approval by the FDA and other regulatory authorities. In addition, negative or inconclusive results may result in:

- the withdrawal of clinical trial participants;
- the termination of clinical trial sites or entire trial programs;
- costs of related litigation;
- substantial monetary awards to patients or other claimants;

- impairment of our business reputation;
- loss of revenues; and
- the inability to commercialize our product candidates.

Delays in the commencement, enrollment, and completion of clinical testing could result in increased costs to us and delay or limit our ability to obtain regulatory approval for our product candidates.

Delays in the commencement, enrollment or completion of clinical testing could significantly affect our product development costs. A clinical trial may be suspended or terminated by the Company, the FDA, or other regulatory authorities due to a number of factors. The commencement and completion of clinical trials requires us to identify and maintain a sufficient number of trial sites, many of which may already be engaged in other clinical trial programs for the same indication as our product candidates, may be required to withdraw from a clinical trial as a result of changing standards of care, or may become ineligible to participate in clinical studies. We do not know whether planned clinical trials will begin on time or be completed on schedule, if at all. The commencement, enrollment and completion of clinical trials can be delayed for a number of reasons, including, but not limited to, delays related to:

- findings in preclinical studies;
- reaching agreements on acceptable terms with prospective clinical research organizations, or CROs, and trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites; obtaining regulatory approval to commence a clinical trial;
- complying with conditions imposed by a regulatory authority regarding the scope or term of a clinical trial, or being required to conduct additional trials before moving on to the next phase of trials;
- obtaining institutional review board, or IRB, approval to conduct a clinical trial at numerous prospective sites;
- recruiting and enrolling patients to participate in clinical trials for a variety of reasons, including size of patient population, nature of trial protocol, meeting the enrollment criteria for our studies, screening failures, the availability of approved effective treatments for the relevant disease and competition from other clinical trial programs for similar indications;
- retaining patients who have initiated a clinical trial but may be prone to withdraw due to the treatment protocol, lack of efficacy, personal issues, or side effects from the therapy, or who are lost to further follow-up;
- manufacturing sufficient quantities of a product candidate for use in clinical trials;
- complying with design protocols of any applicable special protocol assessment we receive from the FDA;
- severe or unexpected drug-related side effects experienced by patients in a clinical trial;
- collecting, analyzing and reporting final data from the clinical trials;
- breaches in quality of manufacturing runs that compromise all or some of the doses made, or positive results in FDA-required viral testing; karyotypic abnormalities in our cell product; either event which would necessitate disposal of all cells made from that source;
- availability of adequate amounts of tissue for preparation of master cell banks for our products;
- our inability to find a tissue source with an HLA haplotype that is compatible with the recipient may lead to limited utility of the product in a broad population; and
- requirements to conduct additional trials and studies, and increased expenses associated with the services of the Company's CROs and other third parties.

In addition, a clinical trial may be suspended or terminated by us, the FDA, or other regulatory authorities due to a number of factors. If we are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, we or our development partners, if any, may be delayed in obtaining, or may not be able to obtain, marketing approval for these product candidates. We may not be able to obtain approval for indications that are as broad as intended, or we may be able to obtain approval only for indications that are entirely different than those indications for which we sought approval.

Changes in regulatory requirements and guidance may occur, and we may need to amend clinical trial protocols to reflect these changes with appropriate regulatory authorities. Amendments may require us to resubmit our clinical trial protocols to institutional review boards, or IRBs, for re -examination, which may impact the costs, timing, or successful completion of a clinical trial. If we experience delays in the completion of, or if we terminate, our clinical trials, the commercial prospects for our product candidates will be harmed, and our ability to generate product revenues will be delayed. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of a product candidate. Even if we are able to ultimately commercialize our product candidates, other therapies for the same or similar indications may have been introduced to the market and established a competitive advantage. Any delays in obtaining regulatory approvals may:

- delay commercialization of, and our ability to derive product revenues from, our product candidates;

- impose costly procedures on us; or
- diminish any competitive advantages that we may otherwise enjoy.

As the results of earlier clinical trials are not necessarily predictive of future results, any product candidate we advance into clinical trials may not have favorable results in later clinical trials or receive regulatory approval.

Even if our clinical trials are completed as planned, including our ALLSTAR clinical trial of CAP-1002, we cannot be certain that their results will support the claims of our product candidates. Positive results in pre-clinical testing and early clinical trials does not ensure that results from later clinical trials will also be positive, and we cannot be sure that the results of later clinical trials will replicate the results of prior clinical trials and pre-clinical testing. A number of companies in the pharmaceutical industry, including those with greater resources and experience, have suffered significant setbacks in Phase III clinical trials, even after seeing promising results in earlier clinical trials.

Our clinical trial process may fail to demonstrate that our product candidates are safe for humans and effective for indicated uses. This failure would cause us to abandon a product candidate and may delay development of other product candidates. Any delay in, or termination of, our clinical trials will delay the filing of our NDAs and/or BLAs with the FDA and, ultimately, our ability to commercialize our product candidates and generate product revenues. In addition, our clinical trials to date involve a small patient population. Because of the small sample size, the results of these clinical trials may not be indicative of future results.

Despite the results reported in earlier clinical trials for our product candidates, we do not know whether any Phase II, Phase III or other clinical programs we may conduct will demonstrate adequate efficacy and safety to result in regulatory approval to market our product candidates.

Our products face a risk of failure due to adverse immunological reactions.

A potential risk of an allogeneic therapy such as that being tested by the Company is that patients might develop an immune response to the cells being infused. Such an immune response may induce adverse clinical effects which would impact the safety of the Company's products and the success of our trials. Additionally, if research subjects have pre-existing antibodies or other immune sensitization to our cells, there is a potentiality that our cells and the therapy would be rendered ineffective.

Our business faces significant government regulation, and there is no guarantee that our products will receive regulatory approval.

Our research and development activities, preclinical studies, anticipated human clinical trials, and anticipated manufacturing and marketing of our potential products are subject to extensive regulation by the FDA and other regulatory authorities in the United States, as well as by regulatory authorities in other countries. In the United States, our product candidates are subject to regulation as biological products under the Public Health Service Act or as combination biological products/medical devices. Different regulatory requirements may apply to our products depending on how they are categorized by the FDA under these laws. These regulations can be subject to substantial and significant interpretation, addition, amendment or revision by the FDA and by the legislative process. The FDA may determine that we will need to undertake clinical trials beyond those currently planned. Furthermore, the FDA may determine that results of clinical trials do not support approval for the product. Similar determinations may be encountered in foreign countries. The FDA will continue to monitor products in the market after approval, if any, and may determine to withdraw its approval or otherwise seriously affect the marketing efforts for any such product. The same possibilities exist for trials to be conducted outside of the United States that are subject to regulations established by local authorities and local law. Any such determinations would delay or deny the introduction of our product candidates to the market and have a material adverse effect on our business, financial condition, and results of operations.

Drug manufacturers are subject to ongoing periodic unannounced inspection by the FDA, the Drug Enforcement Agency, and corresponding state agencies to ensure strict compliance with Good Manufacturing Practices or GMPs and other government regulations and corresponding foreign standards. We do not have control over third-party manufacturers' compliance with these regulations and standards. Other risks include:

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

Even if our product candidates receive regulatory approval in the United States, we may never receive approval or commercialize our product candidates outside of the United States. In order to market and commercialize any product candidate outside of the United States, we must establish and comply with numerous and varying regulatory requirements of other countries regarding safety and efficacy. Approval procedures vary among countries and can involve additional product testing and additional administrative review periods. For example, European regulatory authorities generally require a trial comparing the efficacy of the new drug to an existing drug prior to granting approval. The time required to obtain approval in other countries might differ from that required to obtain FDA approval. The regulatory approval process in other countries may include all of the risks detailed above regarding FDA approval in the United States as well as other risks. Regulatory approval in one country does not ensure regulatory approval in another, but a failure or delay in obtaining regulatory approval in one country may have a negative effect on the regulatory approval process in others. Failure to obtain regulatory approval in other countries or any delay or setback in obtaining such approval could have the same adverse effects detailed above regarding FDA approval in the United States. Such effects include the risks that our product candidates may not be approved for all indications requested, which could limit the uses of our product candidates and have an adverse effect on product sales and potential royalties, and that such approval may be subject to limitations on the indicated uses for which the product may be marketed or require costly, post-marketing follow-up studies.

Even if our product candidates receive regulatory approval, we may still face future development and regulatory difficulties.

Even if United States regulatory approval is obtained, the FDA may still impose significant restrictions on a product's indicated uses or marketing, or impose ongoing requirements for potentially costly post-approval studies. Given the number of recent high -profile adverse safety events with certain drug products, the FDA may require, as a condition of approval, costly risk management programs which may include safety surveillance, restricted distribution and use, patient education, enhanced labeling, special packaging or labeling, expedited reporting of certain adverse events, pre-approval of promotional materials, and restrictions on direct-to -consumer advertising. Furthermore, heightened Congressional scrutiny on the adequacy of the FDA's drug approval process and the agency's efforts to assure the safety of marketed drugs has resulted in the proposal of new legislation addressing drug safety issues. If enacted, any new legislation could result in delays or increased costs during the period of product development, clinical trials, and regulatory review and approval, as well as increased costs to assure compliance with any new post-approval regulatory requirements. Any of these restrictions or requirements could force us to conduct costly studies or increase the time for us to become profitable. For example, any labeling approved for any of our product candidates may include a restriction on the term of its use, or it may not include one or more of our intended indications.

Our product candidates will also be subject to ongoing FDA requirements for the labeling, packaging, storage, advertising, promotion, record-keeping, and submission of safety and other post-market information on the drug. In addition, approved products, manufacturers, and manufacturers' facilities are subject to continuous review and periodic inspections. If a regulatory agency discovers previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, or problems with the facility where the product is manufactured, a regulatory agency may impose restrictions on that product or us, including requiring withdrawal of the product from the market. If our product candidates fail to comply with applicable regulatory requirements, such as current Good Manufacturing Practices or GMPs, a regulatory agency may:

- issue warning letters;
- require us to enter into a consent decree, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions, and penalties for noncompliance;
- impose other civil or criminal penalties;
- suspend regulatory approval;
- suspend any ongoing clinical trials;
- refuse to approve pending applications or supplements to approved applications filed by us;
- impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products or require a product recall.

We have limited manufacturing capability, and may not be able to maintain our manufacturing licenses.

We presently maintain our lab and research facilities in leased premises at CSMC. These premises are being leased on a month-to month basis and may be terminated upon thirty days' notice to us. We presently manufacture our cells in an accredited GMP facility which is owned by and located within CSMC. Our intention is to manufacture cells at this facility for our Phase II trial. If the lease is terminated or if CSMC revokes its permission to allow us to utilize the GMP facility, we would have to secure alternative facilities in which to operate our research and development activities and/or manufacture our products, which would involve a significant monetary investment and would negatively impact the progress of our clinical trials and regulatory approvals. In addition, we will have to build out our own manufacturing facility for the Phase III trial or establish a collaboration agreement with a third party.

We are required to obtain and maintain certain licenses in connection with our manufacturing facilities and activities. We have been issued a Manufacturing License and a Tissue Bank License from the State of California. There is no guarantee that any licenses issued to us will not be revoked or forfeited by operation of law or otherwise. If we were denied any required license or if any of our licenses were to be revoked or forfeited, we would suffer significant harm. Additionally, in the event a serious adverse event in our clinical trial were to occur during the period in which any required license was not in place, we could be exposed to additional liability if it were determined that the event was due to our fault and we had not secured the required license.

We obtain the donor hearts from which our CDCs are manufactured from an organ procurement organization, or OPO. There is no guarantee that the OPO which currently provides donor hearts to us will be able to continue to supply us with donor hearts in the future or that an alternative OPO will be available to us. If that OPO or an alternative OPO is not able or willing to supply us with donor hearts, we would be unable to produce our CDCs and the development of our lead product candidate would be significantly impaired and possibly terminated. Additionally, OPO's are subject to regulations of various government agencies. There is no guarantee that laws and regulations pursuant to which our OPO provides donor hearts will not change making it more difficult or even impossible for the OPO to continue to supply us with the hearts we need to produce our product.

We have no prior experience in manufacturing product for large clinical trials or commercial use.

Our manufacturing experience has been limited to manufacturing CAP-1002 for the current ALLSTAR trial. We have no prior history or experience in manufacturing our allogeneic product or any other product for any clinical use and no experience manufacturing any product for large clinical trials or commercial use. Our product has not previously been tested in any trials to show safety or efficacy. We face risks of manufacturing failures and risks of making products that are not proven to be safe or effective.

If we continue with the development of Cenderitide or CU-NP, we will rely exclusively on third parties to formulate and manufacture these product candidates.

We have no experience in drug formulation or manufacturing and do not intend to establish our own manufacturing facilities for the production of Cenderitide or CU-NP. We lack the resources and expertise to formulate or manufacture our own product candidates. If we continue with the development of Cenderitide or CU-NP, we will have to contract with one or more manufacturers to manufacture, supply, store, and distribute drug supplies for our clinical trials. If either of these product candidates receives FDA approval, we will rely on one or more third-party contractors to manufacture supplies of our drug candidates. Our current and anticipated future reliance on a limited number of third-party manufacturers exposes us to the following risks:

- We may be unable to identify manufacturers needed to manufacture our product candidates on acceptable terms or at all, because the number of potential manufacturers is limited, and subsequent to approval of an NDA or BLA, the FDA must approve any replacement contractor. This approval would require new testing and compliance inspections. In addition, a new manufacturer may have to be educated in, or develop substantially equivalent processes for, production of our products after receipt of FDA approval, if any.
- Some of the raw materials needed to manufacture our product candidates are available from a very limited number of suppliers. Although we believe we have good relationships with these suppliers, we may have difficulty identifying alternative suppliers if our arrangements with our current suppliers are disrupted or terminated.
- Our third-party manufacturers might be unable to formulate and manufacture our drugs in the volume and of the quality required to meet our clinical and commercial needs, if any.
- Our future contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business for the time required to supply our clinical trials or to successfully produce, store, and distribute our products.
- Drug manufacturers are subject to ongoing periodic unannounced inspection by the FDA, the Drug Enforcement Agency, and corresponding state agencies to ensure strict compliance with good manufacturing practice and other government regulations and corresponding foreign standards. We do not have control over third-party manufacturers' compliance with these regulations and standards.

Each of these risks could delay our clinical trials, the approval, if any, of our product candidates by the FDA, or the commercialization of our product candidates, or result in higher costs or deprive us of potential product revenues.

Risks Related to Our Intellectual Property

We may face uncertainty and difficulty in obtaining and enforcing our patents and other proprietary rights.

Our success will depend in large part on our ability to obtain, maintain, and defend patents on our products, obtain licenses to use third party technologies, protect our trade secrets and operate without infringing the proprietary rights of others. Legal standards regarding the scope of claims and validity of biotechnology patents are uncertain and evolving. There can be no assurance that our pending, licensed-in or owned patent applications will be approved, or that challenges will not be instituted against the validity or enforceability of any patent licensed-in or owned by us. Additionally, we have entered into various confidentiality agreements with employees and third parties. There is no assurance that such agreements will be honored by such parties or enforced in whole or part by the courts. The cost of litigation to uphold the validity and prevent infringement of a patent is substantial. Furthermore, there can be no assurance that others will not independently develop substantially equivalent technologies not covered by patents to which we own rights or obtain access to our know-how. In addition, the laws of certain countries may not adequately protect our intellectual property. Our competitors may possess or obtain patents on products or processes that are necessary or useful to the development, use, or manufacture of our products. There can also be no assurance that our proposed technology will not infringe patents or proprietary rights owned by others, with the result that others may bring infringement claims against us and require us to license such proprietary rights, which may not be available on commercially reasonable terms, if at all. Any such litigation, if instituted, will have a material adverse effect, including monetary penalties, diversion of management resources, and injunction against continued manufacture, use, or sale of certain products or processes.

Some of our technology has resulted, and will result, from research funded by agencies of the United States government and the State of California. As a result of such funding, the United States government and the State of California have certain rights in the technology developed with the funding. These rights include a non-exclusive, paid-up, worldwide license under such inventions for any governmental purpose. In addition, under certain conditions, the government has the right to require us to grant third parties licenses to such technology. The licenses by which we have obtained some of our intellectual property are subject to the rights of the funding agencies. We also rely upon non-patented proprietary know-how. There can be no assurance that we can adequately protect our rights in such non-patented proprietary know-how, or that others will not independently develop substantially equivalent proprietary information or techniques or gain access to our proprietary know-how. Any of the foregoing events could have a material adverse effect on us. In addition, if any of our trade secrets, know-how or other proprietary information is disclosed, the value of our trade secrets, know-how and other proprietary rights would be significantly impaired and our business and competitive position would suffer.

In September 2011, the Leahy-Smith America Invents Act, or the Leahy-Smith Act, was signed into law. The Leahy-Smith Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications will be prosecuted and may also affect patent litigation. In particular, under the Leahy-Smith Act, the U.S. transitioned in March 2013 to a "first to file" system in which the first inventor to file a patent application will be entitled to the patent. Third parties are allowed to submit prior art before the issuance of a patent by the USPTO and may become involved in opposition, derivation, reexamination, inter-parties review or interference proceedings challenging our patent rights or the patent rights of our licensors. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate, our or our licensors' patent rights, which could adversely affect our competitive position.

The USPTO is currently developing regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act, and in particular, the first to file provisions, did not become effective until March 16, 2013. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents and those licensed to us.

It is difficult and costly to protect our proprietary rights, and we may not be able to ensure their protection. If we fail to protect or enforce our intellectual property rights adequately or secure rights to patents of others, the value of our intellectual property rights would diminish.

Our commercial viability will depend in part on obtaining and maintaining patent protection and trade secret protection of our product candidates, and the methods used to manufacture them, as well as successfully defending these patents against third-party challenges. Our ability to stop third parties from making, using, selling, offering to sell, or importing our products is dependent upon the extent to which we have rights under valid and enforceable patents or trade secrets that cover these activities.

We have licensed certain patent and other intellectual property rights that cover our product candidates from University of Rome, JHU and CSMC. Under the license agreements with University of Rome and JHU, those institutions prosecute and maintain their patents and patent applications in collaboration with us. We rely on these institutions to file, prosecute, and maintain patent applications, and otherwise protect the intellectual property to which we have a license, and we have not had and do not have primary control over these activities for certain of these patents or patent applications and other intellectual property rights. We cannot be certain that such activities by these institutions have been or will be conducted in compliance with applicable laws and regulations, or will result in valid and enforceable patents and other intellectual property rights. Under the Amended CSMC License Agreement, we have assumed, in coordination with CSMC, responsibility for the prosecution and maintenance of all patents and patent applications. Our enforcement of certain of these licensed patents or defense of any claims asserting the invalidity of these patents would also be subject to the cooperation of the third parties.

We license certain patent and other intellectual property rights that cover our cenderitide and CU-NP product candidates from Mayo. In the past, we have relied on the Mayo to file, prosecute, and maintain patent applications, and otherwise protect the intellectual property to which we have a license, prior to the Amended Mayo License Agreement, we did not have primary control over these activities for certain of these patents or patent applications and other intellectual property rights. With the execution of the Amended Mayo License Agreement, we have the responsibility for the prosecution and maintenance of the Mayo patents and patent applications at our expense. We cannot be certain that that the activities conducted by Mayo have been or will be conducted in compliance with applicable laws and regulations, or will result in valid and enforceable patents and other intellectual property rights. Our enforcement of certain of these licensed patents or defense of any claims asserting the invalidity of these patents would also be subject to the cooperation of the third parties. We are also responsible for paying any prosecution and maintenance fees of all Mayo patents and Mayo patent applications now existing and included in the Amended Mayo License Agreement.

The patent positions of pharmaceutical and biopharmaceutical companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. No consistent policy regarding the breadth of claims allowed in biopharmaceutical patents has emerged to date in the United States. The biopharmaceutical patent situation outside the United States is even more uncertain. Changes in either the patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowed or enforced in the patents we own or to which we have a license or third-party patents. Further, if any of our patents are deemed invalid and unenforceable, it could impact our ability to commercialize or license our technology.

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

- others may be able to make compounds that are similar to our product candidates but that are not covered by the claims of any of our patents;
- we might not have been the first to make the inventions covered by any issued patents or patent applications we may have (or third parties from whom we license intellectual property may have);
- we might not have been the first to file patent applications for these inventions;
- it is possible that any pending patent applications we may have will not result in issued patents;
- any issued patents may not provide us with any competitive advantages, or may be held invalid or unenforceable as a result of legal challenges by third parties;
- we may not develop additional proprietary technologies that are patentable; or
- the patents of others may have an adverse effect on our business.

We also may rely on trade secrets to protect our technology, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. Although we use reasonable efforts to protect our trade secrets, our employees, consultants, contractors, outside scientific collaborators, and other advisors may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods, and know-how.

If any of our trade secrets, know-how or other proprietary information is disclosed, the value of our trade secrets, know-how and other proprietary rights would be significantly impaired and our business and competitive position would suffer.

Our viability also depends upon the skills, knowledge and experience of our scientific and technical personnel, our consultants and advisors as well as our licensors and contractors. To help protect our proprietary know-how and our inventions for which patents may be unobtainable or difficult to obtain, we rely on trade secret protection and confidentiality agreements. To this end, we require all of our employees, consultants, advisors and contractors to enter into agreements which prohibit the disclosure of confidential information and, where applicable, require disclosure and assignment to us of the ideas, developments, discoveries and inventions important to our business. These agreements may not provide adequate protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use or disclosure or the lawful development by others of such information. If any of our trade secrets, know-how or other proprietary information is disclosed, the value of our trade secrets, know-how and other proprietary rights would be significantly impaired and our business and competitive position would suffer.

We may incur substantial costs as a result of litigation or other proceedings relating to patent and other intellectual property rights and we may be unable to protect our rights to, or use of, our technology.

If we choose to go to court to stop someone else from using the inventions claimed in our patents, that individual or company has the right to ask the court to rule that these patents are invalid and/or should not be enforced against that third party. These lawsuits are expensive and would consume time and other resources even if we were successful in stopping the infringement of these patents. In addition, there is a risk that the court will decide that these patents are not valid and that we do not have the right to stop the other party from using the inventions. There is also the risk that, even if the validity of these patents is upheld, the court will refuse to stop the other party on the ground that such other party's activities do not infringe our rights to these patents. In addition, the United States Supreme Court has recently invalidated some tests used by the United States Patent and Trademark Office, or USPTO, in granting patents over the past 20 years. As a consequence, issued patents may be found to contain invalid claims according to the newly revised standards. Some of our own or in -licensed patents may be subject to challenge and subsequent invalidation in a re -examination proceeding before the USPTO or during litigation under the revised criteria which make it more difficult to obtain patents.

Furthermore, a third party may claim that we or our manufacturing or commercialization partners are using inventions covered by the third party's patent rights and may go to court to stop us from engaging in our normal operations and activities, including making or selling our product candidates. These lawsuits are costly and could affect our results of operations and divert the attention of managerial and technical personnel. There is a risk that a court would decide that we or our commercialization partners are infringing the third party's patents and would order us or our partners to stop the activities covered by the patents. In addition, there is a risk that a court will order us or our partners to pay the other party damages for having violated the other party's patents. We have agreed to indemnify certain of our commercial partners against certain patent infringement claims brought by third parties. The biotechnology industry has produced a proliferation of patents, and it is not always clear to industry participants, including us, which patents cover various types of products or methods of use. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform. If we are sued for patent infringement, we would need to demonstrate that our products or methods of use either do not infringe the patent claims of the relevant patent and/or that the patent claims are invalid, and we may not be able to do this. Proving invalidity, in particular, is difficult since it requires a showing of clear and convincing evidence to overcome the presumption of validity enjoyed by issued patents.

Because some patent applications in the United States may be maintained in secrecy until the patents are issued, because patent applications in the United States and many foreign jurisdictions are typically not published until eighteen months after filing, and because publications in the scientific literature often lag behind actual discoveries, we cannot be certain that others have not filed patent applications for technology covered by our issued patents or our pending applications, or that we were the first to invent the technology. Our competitors may have filed, and may in the future file, patent applications covering technology similar to ours. Any such patent application may have priority over our patent applications or patents, which could further require us to obtain rights to issued patents covering such technologies. If another party has filed a United States patent application on inventions similar to ours, we may have to participate in an interference proceeding declared by the USPTO to determine priority of invention in the United States. The costs of these proceedings could be substantial, and it is possible that such efforts would be unsuccessful if unbeknownst to us, the other party had independently arrived at the same or similar invention prior to our own invention, resulting in a loss of our United States patent position with respect to such inventions.

Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

Risks Related to Our Relationships with Third Parties

We are largely dependent on our relationships with our licensors and collaborators and there is no guarantee that such relationships will be maintained or continued.

We have entered into certain license agreements for certain intellectual property rights which are essential to enable us to develop and commercialize our products. Agreements have been entered into with the University of Rome, JHU and CSMC, which is also a shareholder of ours. Each of those agreements provides for an exclusive license to certain patents and other intellectual property and requires the payment of fees, milestone payments and/or royalties to the institutions that will reduce our net revenues, if and to the extent that we have future revenues. Each of those agreements also contains additional obligations that we are required to satisfy. There is no guarantee that we will be able to satisfy all of our obligations under our license agreements to each of the institutions and that such license agreements will not be terminated. Each of the institutions receives funding from independent sources such as the NIH and other private not-for-profit sources and are investigating scientific and clinical questions of interest to their own principal investigators as well as the scientific and clinical communities at large. These investigators (including Capricor's founder, Dr. Eduardo Marbán, who is the Director of the Heart Institute at CSMC) are under no obligation to conduct, continue, or conclude either current or future studies utilizing our stem cell technology, and they are not compelled to license any further technologies or intellectual property rights to us except as may be stated in the applicable licensing agreements between those institutions and us. Changes in these collaborators' research interests or their funding sources away from our technology would have a material adverse effect on us. We are substantially dependent on our relationships with these institutions from which we license the rights to our technologies and know-how. If requirements under our license agreements are not met, we could suffer significant harm, including losing rights to our product candidates.

Our rights to our cenderitide and CU -NP drug candidates were both derived from separate license agreements between us and Mayo. On November 14, 2013, we entered into an Amended and Restated Exclusive License Agreement, which we refer to as the Amended Mayo Agreement, with Mayo pursuant to which the rights to both cenderitide and CU-NP were included in the Amended Mayo Agreement and many of the terms of the former agreements were revised on terms more favorable to us. We are substantially dependent on our relationship with Mayo with respect to the rights to these two drug candidates. If requirements under our license agreement are not met, we could suffer significant harm. In order to develop these products, we will need to maintain the intellectual property rights to these product candidates. The Amended Mayo Agreement requires us to perform certain obligations that affect our rights under the Amended Mayo Agreement, including making cash payments if we were to enter into certain types of business transactions. If we fail to comply with our obligations required under the Amended Mayo Agreement, we could lose important patent and other intellectual property rights which may be critical to our business.

In addition, we are responsible for the cost of filing and prosecuting certain patent applications and maintaining certain issued patents licensed to us. If we do not meet our obligations under our license agreements in a timely manner, we could lose the rights to our proprietary technology.

Finally, we may be required to obtain licenses to patents or other proprietary rights of third parties in connection with the development and use of our product candidates and technologies. Licenses required under any such patents or proprietary rights might not be made available on terms acceptable to us, if at all.

We have received government grants and a loan award which impose certain conditions on our operations.

Commencing in 2009, we received several grants from the NIH to fund various projects, including Phase I of the ALLSTAR trial. These awards are subject to annual and quarterly reporting requirements. If we fail to meet these requirements, the NIH could cease further funding.

On February 5, 2013, we entered into a Loan Agreement with CIRM, pursuant to which CIRM has agreed to disburse $19,782,136 to us over a period of three and one-half years to support Phase II of our ALLSTAR clinical trial. Under the Loan Agreement, we are required to repay the CIRM loan with interest at maturity. The loan also provides for the payment of a risk premium whereby we are required to pay CIRM a premium up to 500% of the loan amount upon the achievement of certain revenue thresholds. The loan has a term of five years and is extendable annually up to ten years from the original issuance at our option if certain conditions are met. CIRM has the right to cease disbursements if a no-go milestone occurs or certain other conditions are not satisfied. The timing of the distribution of funds pursuant to the Loan Agreement is contingent upon the availability of funds in the California Stem Cell Research and Cures Fund in the State Treasury, as determined by CIRM in its sole discretion. So long as we are not in default, the loan may be forgiven during the term of the project period if we abandon the trial due to the occurrence of a no-go milestone. After the end of the project period, the loan may be forgiven if we elect to abandon the project under certain circumstances. Under the Loan Agreement, we are also required to meet certain financial milestones by demonstrating to CIRM prior to each disbursement of loan proceeds that we have funds available sufficient to fund all costs and expenses anticipated to be required to continue Phase II of the ALLSTAR trial for at least the following 12-month period, less the costs budgeted to be covered by planned loan disbursements. There is no assurance that we will meet our milestones under the Loan Agreement or that CIRM will not discontinue the disbursement of funds.

If we enter into strategic partnerships, we may be required to relinquish important rights to and control over the development of our product candidates or otherwise be subject to terms unfavorable to us.

If we do not establish strategic partnerships, we will have to undertake development and commercialization efforts on our own, which would be costly and adversely impact our ability to commercialize any future products or product candidates. If we enter into any strategic partnerships with pharmaceutical, biotechnology or other life sciences companies, we will be subject to a number of risks, including:

- we may not be able to control the amount and timing of resources that our strategic partners devote to the development or commercialization of product candidates;
- strategic partners may delay clinical trials, provide insufficient funding, terminate a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new version of a product candidate for clinical testing;
- strategic partners may not pursue further development and commercialization of products resulting from the strategic partnering arrangement or may elect to discontinue research and development programs;
- strategic partners may not commit adequate resources to the marketing and distribution of any future products, limiting our potential revenues from these products;
- disputes may arise between us and our strategic partners that result in the delay or termination of the research, development or commercialization of our product candidates or that result in costly litigation or arbitration that diverts management's attention and consumes resources;
- strategic partners may experience financial difficulties;
- strategic partners may not properly maintain or defend our intellectual property rights or may use our proprietary information in a manner that could jeopardize or invalidate our proprietary information or expose us to potential litigation;
- business combinations or significant changes in a strategic partner's business strategy may also adversely affect a strategic partner's willingness or ability to complete its obligations under any arrangement; and
- strategic partners could independently move forward with a competing product candidate developed either independently or in collaboration with others, including our competitors.

Risks Related to Competitive Factors

Our products will likely face intense competition.

The Company is engaged in fields that are characterized by extensive worldwide research and competition by pharmaceutical companies, medical device companies, specialized biotechnology companies, hospitals, physicians and academic institutions, both in the United States and abroad. We will experience intense competition with respect to our existing and future product candidates. The pharmaceutical industry is highly competitive, with a number of established, large pharmaceutical companies, as well as many smaller companies. Many of these organizations competing with us have substantially greater financial resources, larger research and development staffs and facilities, greater clinical trial experience, longer drug development history in obtaining regulatory approvals, and greater manufacturing, distribution, sales and marketing capabilities than we do. There are many pharmaceutical companies, biotechnology companies, public and private universities, government agencies, and research organizations actively engaged in research and development of products which may target the same indications as our product candidates. We expect any future products and product candidates that we develop to compete on the basis of, among other things, product efficacy and safety, time to market, price, extent of adverse side effects, and convenience of treatment procedures. One or more of our competitors may develop products based upon the principles underlying our proprietary technologies earlier than we do, obtain approvals for such products from the FDA more rapidly than we do, or develop alternative products or therapies that are safer, more effective and/or more cost effective than any product developed by us. Our competitors may obtain regulatory approval of their products more rapidly than we are able to or may obtain patent protection or other intellectual property rights that limit our ability to develop or commercialize our product candidates. Our competitors may also develop drugs that are more effective, useful, and less costly than ours and may also be more successful than us in manufacturing and marketing their products.

Our future success will depend in part on our ability to maintain a competitive position with respect to evolving therapies as well as other novel technologies. There can be no assurance that existing or future therapies developed by others will not render our potential products obsolete or noncompetitive. The drugs that we are attempting to develop will have to compete with existing therapies. In addition, companies pursuing different but related fields represent substantial competition. These organizations also compete with us to attract qualified personnel and parties for acquisitions, joint ventures, or other collaborations.

If we are unable to retain and recruit qualified scientists and advisors, or if any of our key executives, key employees or key consultants discontinues his or her employment or consulting relationship with us, it may delay our development efforts or otherwise harm our business. In addition, several of our employees and consultants render services on a part-time basis to us or to other companies.

All former employees of Nile were terminated upon consummation of the merger between Nile and Capricor. The loss of any of our key employees or key consultants could impede the achievement of our research and development objectives. Furthermore, recruiting and retaining qualified scientific personnel to perform research and development work in the future is critical to the Company's success. The Company may be unable to attract and retain personnel on acceptable terms given the competition among biotechnology, biopharmaceutical, and health care companies, universities, and non-profit research institutions for experienced scientists. Certain of the Company's officers, directors, scientific advisors, and/or consultants or certain of the officers, directors, scientific advisors, and/or consultants hereafter appointed may from time to time serve as officers, directors, scientific advisors, and/or consultants of other biopharmaceutical or biotechnology companies. The Company may not maintain "key man" insurance policies on any of its officers or employees. All of the Company's employees will be employed "at will" and, therefore, each employee may leave the employment of the Company at any time. If we are unable to retain our existing employees, including qualified scientific personnel, and attract additional qualified candidates, the Company's business and results of operations could be adversely affected.

Because of the specialized nature of our technology, we are dependent upon existing key personnel and on our ability to attract and retain qualified executive officers and scientific personnel for research, clinical studies, and development activities conducted or sponsored by us. There is intense competition for qualified personnel in our fields of research and development, and there can be no assurance that we will be able to continue to attract additional qualified personnel necessary for the development and commercialization of our product candidates or retain our current personnel. Dr. Linda Marbán, our Chief Executive Officer and employee, also provides services on a part-time basis to CSMC as do several other of our employees and Dr. Frank Litvack is only a part-time consultant to the Company and provides services to other non-competing enterprises. These individuals' multiple responsibilities on behalf of the Company and other entities could cause the Company harm in that such employees are unable to devote their full time and attention to the Company.

If we do not establish strategic partnerships, we will have to undertake development and commercialization efforts on our own, which would be costly and delay our ability to commercialize any future products or product candidates.

An element of our business strategy includes potentially partnering with pharmaceutical, biotechnology and other companies to obtain assistance for the development and potential commercialization of our product candidates, including the cash and other resources we need for such development and potentially commercialization. We may not be able to negotiate strategic partnerships on acceptable terms, or at all. If we are unable to negotiate strategic partnerships for our product candidates we may be forced to curtail the development of a particular candidate, reduce or delay its development program, delay its potential commercialization, reduce the scope of our sales or marketing activities or undertake development or commercialization activities at our own expense. In addition, we will bear all the risk related to the development of that product candidate. If we elect to increase our expenditures to fund development or commercialization activities on our own, we will need to obtain substantial additional capital, which may not be available to us on acceptable terms, or at all. If we do not have sufficient funds, we will not be able to bring our product candidates to market and generate product revenue.

We have no experience selling, marketing, or distributing products and no internal capability to do so.

The Company currently has no sales, marketing, or distribution capabilities. We do not anticipate having resources in the foreseeable future to allocate to the sales and marketing of our proposed products. Our future success depends, in part, on our ability to enter into and maintain sales and marketing collaborative relationships, or on our ability to build sales and marketing capabilities internally. If we enter into a sales and marketing collaborative relationship, then we will be dependent upon the collaborator's strategic interest in the products under development, and such collaborator's ability to successfully market and sell any such products. We intend to pursue collaborative arrangements regarding the sales and marketing of our products, however, there can be no assurance that we will be able to establish or maintain such collaborative arrangements, or if able to do so, that they will have effective sales forces. To the extent that we decide not to, or are unable to, enter into collaborative arrangements with respect to the sales and marketing of our proposed products, significant capital expenditures, management resources, and time will be required to establish and develop an in-house marketing and sales force with technical expertise. There can also be no assurance that we will be able to establish or maintain relationships with third-party collaborators or develop in-house sales and distribution capabilities. To the extent that we depend on third parties for marketing and distribution, any revenues we receive will depend upon the efforts of such third parties, and there can be no assurance that such efforts will be successful.

If any of our product candidates for which we receive regulatory approval do not achieve broad market acceptance, the revenues that we generate from their sales will be limited.

The commercial viability of our product candidates for which we obtain marketing approval from the FDA or other regulatory authorities will depend upon their acceptance among physicians, the medical community, and patients, and coverage and reimbursement of them by third-party payors, including government payors. The degree of market acceptance of any of our approved products will depend on a number of factors, including:

- limitations or warnings contained in a product's FDA -approved labeling;
- changes in the standard of care for the targeted indications for any of our product candidates, which could reduce the marketing impact of any claims that we could make following FDA approval;
- limitations inherent in the approved indication for any of our product candidates compared to more commonly understood or addressed conditions;

- lower demonstrated clinical safety and efficacy compared to other products;
- prevalence and severity of adverse effects;
- ineffective marketing and distribution efforts;
- lack of availability of reimbursement from managed care plans and other third-party payors;
- lack of cost-effectiveness;
- timing of market introduction and perceived effectiveness of competitive products;
- availability of alternative therapies at similar costs; and
- potential product liability claims.

Our ability to effectively promote and sell our product candidates in the marketplace will also depend on pricing and cost effectiveness, including our ability to manufacture a product at a competitive price. We will also need to demonstrate acceptable evidence of safety and efficacy and may need to demonstrate relative convenience and ease of administration. Market acceptance could be further limited depending on the prevalence and severity of any expected or unexpected adverse side effects associated with our product candidates. If our product candidates are approved but do not achieve an adequate level of acceptance by physicians, health care payors, and patients, we may not generate sufficient revenue from these products, and we may not become or remain profitable. In addition, our efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may never be successful. If our approved drugs fail to achieve market acceptance, we will not be able to generate significant revenue, if any.

Our ability to generate product revenues will be diminished if our drugs sell for inadequate prices or patients are unable to obtain adequate levels of reimbursement.

Our ability to generate significant sales of our products depends on the availability of adequate coverage and reimbursement from third-party payors. Healthcare providers that purchase medicine or medical products for treatment of their patients generally rely on third-party payors to reimburse all or part of the costs and fees associated with the products. Adequate coverage and reimbursement from governmental, such as Medicare and Medicaid, and commercial payors is critical to new product acceptance. Patients are unlikely to use our products if they do not receive reimbursement adequate to cover the cost of our products.

In addition, the market for our future products will depend significantly on access to third-party payors' drug formularies, or lists of medications for which third-party payors provide coverage and reimbursement. Industry competition to be included in such formularies results in downward pricing pressures on pharmaceutical companies. Third-party payors may refuse to include a particular branded drug in their formularies when a generic equivalent is available.

All third-party payors, whether governmental or commercial, whether inside the United States or outside, are developing increasingly sophisticated methods of controlling healthcare costs. In addition, in the United States, no uniform policy of coverage and reimbursement for medical technology exists among all these payors. Therefore, coverage of and reimbursement for medical products can differ significantly from payor to payor.

Further, we believe that future coverage and reimbursement may be subject to increased restrictions both in the United States and in international markets. Third-party coverage and reimbursement for our products may not be available or adequate in either the United States or international markets, limiting our ability to sell our products on a profitable basis.

Significant uncertainty exists as to the reimbursement status of newly approved healthcare products. Healthcare payors, including Medicare, are challenging the prices charged for medical products and services. Government and other healthcare payors increasingly attempt to contain healthcare costs by limiting both coverage and the level of reimbursement for drugs. Even if our product candidates are approved by the FDA, insurance coverage may not be available, and reimbursement levels may be inadequate, to cover our drugs. If government and other healthcare payors do not provide adequate coverage and reimbursement levels for any of our products, once approved, market acceptance of our products could be reduced.

Risks Related to Product and Environmental Liability

Our products may expose us topotential product liability, and there is no guarantee that we will be able to obtain and maintain adequate insurance to cover these liabilities.

The testing, marketing, and sale of human cell therapeutics, pharmaceuticals, and services entail an inherent risk of adverse effects or medical complications to patients and, as a result, product liability claims may be asserted against us. A future product liability claim or product recall could have a material adverse effect on the Company. There can be no assurance that product liability insurance will be available to us in the future on acceptable terms, if at all, or that coverage will be adequate to protect us against product liability claims. In the event of a successful claim against the Company, insufficient or lack of insurance or indemnification rights could result in liability to us, which could have a material adverse effect on the Company and its future viability. The use of our product candidates in clinical trials and the sale of any products for which we obtain marketing approval, if at all, expose the Company to the risk of product liability claims. Product liability claims might be brought against the Company by consumers, health care providers or others using, administering or selling our products. If we cannot successfully defend ourselves against these claims, we will incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- withdrawal of clinical trial participants;
- termination of clinical trial sites or entire trial programs;
- costs of related litigation;
- substantial monetary awards to patients or other claimants;
- decreased demand for our product candidates;
- impairment of our business reputation;
- loss of revenues; and
- the inability to commercialize our product candidates.

The Company has obtained clinical trial insurance coverage for its clinical trials. However, such insurance coverage may not reimburse the Company or may not be sufficient to reimburse it for any expenses or losses it may suffer. Moreover, insurance coverage is becoming increasingly expensive, and, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect the Company against losses due to liability. We intend to expand our insurance coverage to include the sale of commercial products if we obtain marketing approval for our product candidates in development, but we may be unable to obtain commercially reasonable product liability insurance for any products approved for marketing. On occasion, large judgments have been awarded in class action lawsuits based on drugs that had unanticipated side effects. A successful product liability claim or series of claims brought against the Company could have a material adverse effect on us and, if judgments exceed our insurance coverage, could decrease our cash position and adversely affect our business.

Our business involves risk associated with handling hazardous and other dangerous materials.

Our research and development activities involve the controlled use of hazardous materials, chemicals, human blood and tissue, animal blood and blood products, and animal tissue, biological waste, and various radioactive compounds. The risk of accidental contamination or injury from these materials cannot be completely eliminated. The failure to comply with current or future regulations could result in the imposition of substantial fines against the Company, suspension of production, alteration of our manufacturing processes, or cessation of operations.

Our business depends on compliance with ever-changing environmental laws.

We cannot accurately predict the outcome or timing of future expenditures that may be required to comply with comprehensive federal, state and local environmental laws and regulations. We must comply with environmental laws that govern, among other things, all emissions, waste water discharge and solid and hazardous waste disposal, and the remediation of contamination associated with generation, handling and disposal activities. To date, the Company has not incurred significant costs and is not aware of any significant liabilities associated with its compliance with federal, state and local laws and regulations. However, environmental laws have changed in recent years and the Company may become subject to stricter environmental standards in the future and may face large capital expenditures to comply with environmental laws. We have limited capital and we are uncertain whether we will be able to pay for significantly large capital expenditures that may be required to comply with new laws. Also, future developments, administrative actions or liabilities relating to environmental matters may have a material adverse effect on our financial condition or results of operations.

Risks Related to Our Common Stock

We expect that our stock price will fluctuate significantly, and you may not be able to resell your shares at or above your investment price.

The stock market, particularly in recent years, has experienced significant volatility, particularly with respect to pharmaceutical, biotechnology and other life sciences company stocks. Our operating results may fluctuate from period to period for a number of reasons, and as a result our stock price may be subject to significant fluctuations. Factors that could cause volatility in the market price of our common stock include, but are not limited to:

- our financial condition, including our need for additional capital;
- results from, delays in, or discontinuation of, any of the clinical trials for our drug candidates, including delays resulting from slower than expected or suspended patient enrollment or discontinuations resulting from a failure to meet pre-defined clinical endpoints;
- announcements concerning clinical trials;

- failure or delays in entering drug candidates into clinical trials;
- failure or discontinuation of any of our research programs;
- developments in establishing new strategic alliances or with existing alliances;
- market conditions in the pharmaceutical, biotechnology and other healthcare related sectors;
- actual or anticipated fluctuations in our quarterly financial and operating results;
- developments or disputes concerning our intellectual property or other proprietary rights;
- introduction of technological innovations or new commercial products by us or our competitors;
- issues in manufacturing our drug candidates or drugs;
- FDA or other United States or foreign regulatory actions affecting us or our industry;
- market acceptance of our drugs, when they enter the market;
- third-party healthcare coverage and reimbursement policies;
- litigation or public concern about the safety of our drug candidates or drugs;
- issuance of new or revised securities analysts' reports or recommendations;
- additions or departures of key personnel; or
- volatility in the stock prices of other companies in our industry.

These and other external factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In addition, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert our management's time and attention.

Because the Company's common stock will be primarily traded on the OTCQB tier of the OTC Markets, the volume of shares traded and the prices at which such shares trade may result in lower prices than might otherwise exist if its common stock was traded on a national securities exchange.

The Company's shares are traded on the OTCQB tier of the OTC Markets. Stock traded on the OTCQB tier of the OTC Markets is often less liquid than stock traded on national securities exchanges, not only in terms of the number of shares that can be bought and sold at a given price, but also in terms of delays in the timing of transactions and reduced coverage of the Company by security analysts and media. This may result in lower prices for the Company's common stock than might otherwise be obtained if the common stock were traded on a national securities exchange, and could also result in a larger spread between the bid and asked prices for the Company's common stock. There is no guarantee that the Company will be able to re-list its common stock on the NASDAQ Capital Market or any other market. The Company's management will be required to devote substantial time to comply with public company regulations.

We have never paid dividends and we do not anticipate paying dividends in the future.

We have never paid dividends on our capital stock and do not anticipate paying any dividends for the foreseeable future. We anticipate that the Company will retain its earnings, if any, for future growth. Investors seeking cash dividends should not invest in the Company's common stock for that purpose.

There may be additional issuances of shares of blank check preferred stock in the future.

Our certificate of incorporation authorizes the issuance of up to 5,000,000 shares of preferred stock, none of which are issued or currently outstanding. Our Board of Directors will have the authority to fix and determine the relative rights and preferences of preferred shares, as well as the authority to issue such shares, without further stockholder approval. As a result, our Board of Directors could authorize the issuance of a series of preferred stock that is senior to our common stock that would grant to holders preferred rights to our assets upon liquidation, the right to receive dividends, additional registration rights, anti-dilution protection, the right to the redemption of such shares, together with other rights, none of which will be afforded holders of our common stock.

Recent turmoil in the financial markets and the global recession has adversely affected and may continue to adversely affect our industry, business and ability to obtain financing.

Recent global market and economic conditions have been unprecedented and challenging with tighter credit conditions leading to decreased spending by businesses and consumers alike. Continued turbulence in the U.S. and international markets and economies and prolonged declines in business and consumer spending may adversely affect our liquidity and financial condition, including our ability to access the capital markets to meet our liquidity needs.

We may not be able to attract the attention of major brokerage firms.

Security analysts of major brokerage firms may not provide coverage of us since there is no incentive to brokerage firms to recommend the purchase of our common stock. No assurance can be given that brokerage firms will want to conduct any secondary offerings on behalf of our Company in the future. The lack of such analyst coverage may decrease the public demand for our common stock, making it more difficult for you to resell your shares when you deem appropriate.

The operational and other projections and forecasts that we may make from time to time are subject to inherent risks.

The projections and forecasts that our management may provide from time to time (including, but not limited to, those relating to timing, progress and anticipated results of clinical development, regulatory processes, clinical trial timelines and any anticipated benefits of our product candidates) reflect numerous assumptions made by management, including assumptions with respect to our specific as well as general business, economic, market and financial conditions and other matters, all of which are difficult to predict and many of which are beyond our control. Accordingly, there is a risk that the assumptions made in preparing the projections, or the projections themselves, will prove inaccurate. There will be differences between actual and projected results, and actual results may be materially different from than those contained in the projections. The inclusion of the projections in (or incorporated by reference in) this annual report should not be regarded as an indication that we or our management or representatives considered or consider the projections to be a reliable prediction of future events, and the projections should not be relied upon as such.

Our certificate of incorporation and by-laws contain provisions that may discourage, delay or prevent a change in our management team that stockholders may consider favorable.

Our certificate of incorporation, our bylaws and Delaware law contain provisions that may have the effect of preserving our current management, such as:

- authorizing the issuance of "blank check" preferred stock without any need for action by stockholders;
- eliminating the ability of stockholders to call special meetings of stockholders; and
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted on by stockholders at stockholder meetings.

These provisions could make it more difficult for our stockholders to affect our corporate policies, make changes in our Board of Directors and for a third party to acquire us, even if doing so would benefit our stockholders.

Ownership of the Company's common stock is highly concentrated, which may prevent you and other stockholders from influencing significant corporate decisions and may result in conflicts of interest that could cause the Company's stock price to decline.

Capricor's former stockholders, many of whom are executive officers and directors continuing with the Company, together with their respective affiliates beneficially own or control approximately 90% of the outstanding shares of the Company. Accordingly, stockholders, executive officers, directors and their affiliates, acting individually or as a group, will have substantial influence over the outcome of a corporate action of the Company requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all of the Company's assets or any other significant corporate transaction. These stockholders may also exert influence in delaying or preventing a change in control of the Company, even if such change in control would benefit the other stockholders of the Company. In addition, the significant concentration of stock ownership may adversely affect the market value of the Company's common stock due to investors' perception that conflicts of interest may exist or arise.

The Company's ability to utilize Nile's net operating loss and tax credit carryforwards in the future is subject to substantial limitations and may be further limited as a result of the recent merger with Capricor.

Federal and state income tax laws impose restrictions on the utilization of net operating loss, or NOL, and tax credit carryforwards in the event that an "ownership change" occurs for tax purposes, as defined by Section 382 of the Code. In general, an ownership change occurs when shareholders owning 5% or more of a "loss corporation" (a corporation entitled to use NOL or other loss carryforwards) have increased their aggregate ownership of stock in such corporation by more than 50 percentage points during any three-year period. If an "ownership change" occurs, Section 382 of the Code imposes an annual limitation on the amount of post-ownership change taxable income that may be offset with pre-ownership change NOLs of the loss corporation experiencing the ownership change. The annual limitation is calculated by multiplying the loss corporation's value immediately before the ownership change by the greater of the long-term tax-exempt rate determined by the IRS in the month of the ownership change or the two preceding months. This annual limitation may be adjusted to reflect any unused annual limitation for prior years and certain recognized built-in gains and losses for the year. Section 383 of the Code also imposes a limitation on the amount of tax liability in any post-ownership change year that can be reduced by the loss corporation's pre-ownership change tax credit carryforwards.

It is expected that the merger between Nile and Capricor resulted in another "ownership change" of Nile. Accordingly, the Company's ability to utilize Nile's NOL and tax credit carryforwards may be substantially limited. These limitations could, in turn, result in increased future tax payments for the Company, which could have a material adverse effect on the business, financial condition, or results of operations of the Company.

Failure to achieve and maintain effective internal controls in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 could have a material adverse effect on our business and stock price.

The Sarbanes-Oxley Act of 2002, or Sarbanes-Oxley, as well as rules implemented by the SEC and any market on which the Company's shares may be listed in the future, impose various requirements on public companies, including those related to corporate governance practices. The Company's management and other personnel will need to devote a substantial amount of time to these requirements. Moreover, these rules and regulations will increase the Company's legal and financial compliance costs and will make some activities more time consuming and costly.

Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, requires that we establish and maintain an adequate internal control structure and procedures for financial reporting. Our annual reports on Form 10-K must contain an assessment by management of the effectiveness of our internal control over financial reporting and must include disclosure of any material weaknesses in internal control over financial reporting that we have identified. The requirements of Section 404 are ongoing and also apply to future years. We expect that our internal control over financial reporting will continue to evolve as our business develops. Although we are committed to continue to improve our internal control processes and we will continue to diligently and vigorously review our internal control over financial reporting in order to ensure compliance with Section 404 requirements, any control system, regardless of how well designed, operated and evaluated, can provide only reasonable, not absolute, assurance that its objectives will be met. Therefore, we cannot be certain that in the future material weaknesses or significant deficiencies will not exist or otherwise be discovered. If material weaknesses or other significant deficiencies occur, these weaknesses or deficiencies could result in misstatements of our results of operations, restatements of our consolidated financial statements, a decline in our stock price, or other material adverse effects on our business, reputation, results of operations, financial condition or liquidity.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

We do not own any real property. Our principal offices are located at 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California 90211. Under the terms of a two-year lease which expires on June 30, 2015, the base rent for the first 12-month period is $16,620 per month, and the base rent for the second 12-month period will be $17,285. Capricor currently leases our research laboratory from CSMC on a month to month basis for $4,554 per month. With permission from CSMC, Capricor presently manufactures its cells in an accredited GMP facility which is owned by and located within CSMC. Our laboratory and manufacturing facility are located at 8700 Beverly Blvd. Los Angeles, CA 90048. As our operations expand, we expect our space requirements and related expenses to increase.

ITEM 3. LEGAL PROCEEDINGS

We are not involved in any material pending legal proceedings and are not aware of any material threatened legal proceedings against us.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

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

Market for Common Stock

Prior to May 12, 2011, our common stock traded on the NASDAQ Capital Market under the symbol "NLTX". On May 12, 2011, our common stock traded on the OTCQB tier of the OTC Markets under the symbol "NLTX.PK". On November 20, 2013, our symbol changed to "NLTXD". On December 20, 2013, we began trading under the symbol "CAPR". On November 20, 2013, we effected a 1:50 reverse stock split of all outstanding shares of common stock (the "Reverse Stock Split"). The following table lists the high and low closing prices of our common stock as quoted, in U.S. dollars, by the OTCQB during each quarter within the last two completed fiscal years. The quotations reflect inter-dealer prices, without retail markup, markdown or commission, and may not represent actual transactions. Consequently, the information provided below may not be indicative of our common stock price under different conditions. All share and per share information set forth in this report has been adjusted to reflect the Reverse Stock Split.

	High	Low
Year ended December 31, 2012		
First Quarter	$ 29.50	$ 22.00
Second Quarter	25.00	3.50
Third Quarter	7.50	4.50
Fourth Quarter	5.50	1.00
Year ended December 31, 2013		
First Quarter	$ 10.00	$ 2.00
Second Quarter	5.50	2.50
Third Quarter	3.50	1.50
Fourth Quarter	5.00	2.15

Holders

According to the records of our transfer agent, American Stock Transfer & Trust Company, as of March 26, 2014, we had 115 holders of record of common stock, not including those held in "street name."

Dividends

We have never declared or paid a dividend on our common stock and do not anticipate paying any cash dividends in the foreseeable future.

Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities

(1) On March 15, 2013, the Company entered into a convertible note purchase agreement with certain accredited investors pursuant to which we agreed to sell an aggregate principal amount of up to $500,000 of secured convertible promissory notes (the "2013 Notes") for an aggregate original issue price of $425,000, representing a 15% original issue discount. The closing of the private placement also occurred on March 15, 2013, and resulted in the sale of 2013 Notes in the aggregate principal amount of $450,000 for an aggregate original issue price of $382,500. On September 27, 2013, the Company and the holders of the 2013 Notes entered into an amendment to the 2013 Notes, which provided, among other things, that upon a Change of Control (as defined in the 2013 Notes), the conversion price applicable to the 2013 Notes and the exercise price applicable to the warrants issuable upon a Change of Control would be equal to the average dollar volume weighted average price ("VWAP") of the Company's common stock for each trading day during the period from July 8, 2013 to September 30, 2013. The average VWAP during such period was approximately $0.045 per share.

On October 21, 2013, the Company and the holders of the 2013 Notes entered into an amendment to the Convertible Note Purchase Agreement pursuant to which the Company sold to such holders additional notes having an aggregate principal amount of $120,510 (the "Additional Notes"). The Additional Notes have identical terms and conditions as the 2013 Notes described above and were allocated among the holders on a pro rata basis based on their initial purchase of the 2013 Notes. In exchange for the issuance of the Additional Notes, the Company received aggregate gross proceeds of $102,433. The 2013 Notes and the Additional Notes are collectively referred to herein as the 2013 Notes.

The 2013 Notes and the Additional Notes converted at the close of the merger between Nile and Capricor on November 20, 2013 into 251,044 shares of our common stock on a post-Reverse Stock Split basis. Additionally, 251,044 warrants to purchase shares of our common stock at a strike price of $2.2725, on a post-Reverse Stock Split basis, were issued to the holders of the 2013 Notes and the Additional Notes. No additional proceeds were received by us as a result of the issuance of such shares. The offer and sale of the 2013 Notes and the Additional Notes described above constituted a private placement under Section 4(2) of the Securities Act in accordance with Regulation D promulgated thereunder.

(2) On November 13, 2013, the Company and certain holders of warrants that were originally issued on July 15, 2009 in connection with the Company's private placement of common stock and warrants, entered into warrant exchange agreements whereby the Company issued to such holders a total of 317 shares on a post-Reverse Stock Split basis. Upon such issuance, all rights of those holders who exchanged their warrants terminated. No proceeds were received by the Company from these issuances. The shares of common stock issued in consideration for the exchange of such warrants were not registered under the Securities Act at the time of sale. For these issuances, the Company relied upon the exemption from federal registration under Section 4(2) of the Securities Act and Rule 506 promulgated thereunder, based on the Company's belief that the offer and sale of such shares did not involve a public offering, as each purchaser of such securities was an "accredited investor" and no general solicitation was used.

(3) On August 1, 2013, the Company and the holders of warrants issued in connection with the Company's private placement in June 2011 entered into warrant exchange agreements whereby the Company issued a total of 9,166 shares of its common stock on a post-Reverse Stock Split basis. As a result, all of the warrants issued in connection with the June 2011 private placement were cancelled. No proceeds were received by the Company from these issuances. The shares of common stock issued in consideration for the exchange of such warrants were not registered under the Securities Act at the time of sale. For these issuances, the Company relied upon the exemption from federal registration under Section 4(2) of the Securities Act and/or Rule 506 promulgated thereunder, based on the Company's belief that the offer and sale of such shares did not involve a public offering, as each purchaser of such securities was an "accredited investor" and no general solicitation was used.

(4) In October and November 2013, the Company and certain holders of warrants to purchase 50,063 shares of common stock which were originally issued in April 2012, entered into agreements pursuant to which such holders agreed to receive, upon completion of the merger between Nile and Capricor, an equal number of shares of common stock in exchange for the surrender and cancellation of their warrants, including cancellation of their right to receive the cash payment of the Black-Scholes value of the warrants upon completion of the merger. On November 20, 2013, the effective date of the merger between Nile and Capricor, the Company issued to such holders an aggregate of 50,063 shares of the Company's common stock. No proceeds were received by the Company from these issuances. The shares of common stock to the former April 2012 warrant holders were issued in reliance upon exemptions from registration pursuant to Section 4(2) under the Securities Act and Rule 506 promulgated thereunder.

(5) Pursuant to the Amended and Restated Technology License Agreement between us and Mayo Foundation for Medical Education and Research, or Mayo, we issued Mayo 18,000 shares of our common stock, on a post-Reverse Stock Split basis, immediately prior to the effective time of the merger between Nile and Capricor. No proceeds were received by the Company from this issuance. The shares of common stock issued to Mayo were offered and sold in reliance upon exemptions from registration pursuant to Section 4(2) under the Securities Act and Rule 506 promulgated thereunder.

(6) Immediately prior to the effective time of the merger, all shares of Capricor preferred stock were converted into shares of Capricor common stock pursuant to the terms of the merger agreement. On November 20, 2013, the shares of Capricor common stock which were exchanged for the shares of Capricor preferred stock, as a result of the merger and in accordance with the terms of the merger agreement, were exchanged according to the applicable multiplier for 6,591,494 shares of common stock of Capricor Therapeutics, and all rights and preferences attached to the shares of Capricor preferred stock were rendered void. Additionally, as a result of the merger between Nile and Capricor and in accordance with the terms of the merger agreement, each outstanding share of Capricor common stock was converted into the right to receive approximately 2.07 shares of Capricor Therapeutics common stock on November 20, 2013. No proceeds were received by the Company from the issuance of common stock to the former Capricor stockholders. For the issuance of shares of Capricor Therapeutics common stock to the former Capricor stockholders, the Company relied upon the exemption from federal registration under Section 4(2) of the Securities Act and Rule 506 promulgated thereunder.

Issuer Purchases of Equity Securities

None.

ITEM 6. SELECTED FINANCIAL DATA

Not Applicable.

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

The following discussion of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and the consolidated notes to those statements included elsewhere in this Annual Report on Form 10-K. This discussion includes forward-looking statements that involve risks and uncertainties. As a result of many factors, our actual results may differ materially from those anticipated in these forward-looking statements.

Overview

The mission of Capricor Therapeutics, Inc. ("Capricor Therapeutics" or the "Company") is to improve the treatment of diseases by commercializing innovative therapies. Descriptions of the operations of Capricor prior to November 20, 2013 refer to Capricor, Inc., which became a wholly-owned subsidiary of Capricor Therapeutics, Inc. upon the merger of Capricor and Nile on November 20, 2013. Our executive offices are located at 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California 90211. Our telephone number is (310) 358-3200 and our Internet address is www.capricor.com.

Consummation of the Merger

On November 20, 2013, pursuant to that certain Agreement and Plan of Merger and Reorganization dated as of July 7, 2013, as amended by that certain First Amendment to Agreement and Plan of Merger and Reorganization dated as of September 27, 2013 (as amended, the "Merger Agreement"), by and among Nile Therapeutics, Inc., a Delaware corporation ("Nile"), Bovet Merger Corp., a Delaware corporation and a wholly-owned subsidiary of Nile ("Merger Sub"), and Capricor, Inc., a Delaware corporation ("Capricor"), Merger Sub merged with and into Capricor and Capricor became a wholly-owned subsidiary of Nile (the "Merger"). Immediately prior to the effective time of the Merger (the "Effective Time") and in connection therewith, Nile filed certain amendments to its certificate of incorporation which, among other things (i) effected a 1-for-50 reverse split of its common stock (the "Reverse Stock Split"), (ii) changed its corporate name from "Nile Therapeutics, Inc." to "Capricor Therapeutics, Inc.," and (iii) effected a reduction in the total number of authorized shares of common stock from 100,000,000 to 50,000,000, and a reduction in the total number of authorized shares of preferred stock from 10,000,000 to 5,000,000.

At the Effective Time and in connection with the Merger, each outstanding share of Capricor's Series A-1, Series A-2 and Series A-3 Preferred Stock was converted into one share of common stock, par value $0.001 per share, of Capricor (the "Capricor Common Stock").

As a result of the Merger and in accordance with the terms of the Merger Agreement, each outstanding share of Capricor Common Stock was converted into the right to receive approximately 2.07 shares of the common stock of Capricor Therapeutics, par value $0.001 per share (the "Capricor Therapeutics Common Stock"), on a post 1-for-50 Reverse Stock Split basis. Immediately after the Effective Time and in accordance with the terms of the Merger Agreement, the former Capricor stockholders owned approximately 90% of the outstanding common stock of Capricor Therapeutics, and the Nile stockholders owned approximately 10% of the outstanding common stock of Capricor Therapeutics, in each case on a fully-diluted basis. For accounting purposes, the Merger is accounted for as a reverse merger with Capricor as the accounting acquiror (legal acquiree) and Nile as the accounting acquiree (legal acquiror).

After the Effective Time, each then outstanding Capricor stock option, whether vested or unvested, was assumed by Capricor Therapeutics in accordance with the terms of (i) the Capricor, Inc. 2006 Stock Option Plan, (ii) the Capricor, Inc. 2012 Restated Equity Incentive Plan, or (iii) the Capricor, Inc. 2012 Non-Employee Director Stock Option Plan, as applicable, and the Stock Option Agreement under which each such option was issued. All rights with respect to Capricor Common Stock under outstanding Capricor options were converted into rights with respect to Capricor Therapeutics Common Stock.

Since Capricor was deemed to be the accounting acquiror in the merger, the historical financial information for periods prior to the merger reflect the financial information and activities solely of Capricor and not of Nile. The historical equity of Capricor has been retroactively adjusted to reflect the equity structure of Capricor Therapeutics using the respective exchange ratio established in the merger between Nile and Capricor, which reflects the number of shares Capricor Therapeutics issued to equity holders of Capricor as a result of the merger. The retroactive revision of Capricor's equity includes Capricor's preferred stock as if such shares of preferred stock had been converted into Capricor common stock at the respective dates of issuance, which is consistent with the terms of the merger. Accordingly, all common and preferred shares and per share amounts for all periods presented in the consolidated financial statements contained in this Annual Report on Form 10-K and notes thereto have been adjusted retrospectively, where applicable, to reflect the respective exchange ratio established in the merger.

Capricor, our wholly-owned subsidiary, was founded in 2005 as a Delaware corporation based on the innovative work of its founder, Eduardo Marbán, M.D., Ph.D., and his collaborators. First located in Baltimore, Maryland, adjacent to The Johns Hopkins University, or JHU, where Dr. Marbán was chief of cardiology, Capricor moved to Los Angeles, California in 2007 when Dr. Marbán become Director of the Heart Institute at Cedars-Sinai Medical Center, or CSMC. Capricor's labs are located in space that Capricor leases from CSMC.

We currently have five drug candidates in various stages of development:

- **CAP-1002:** Capricor's lead product candidate consists of allogeneic cardiosphere-derived cells, or CDCs. CAP-1002 is currently being tested in Capricor's ALLSTAR Phase I/II clinical trial which will determine if the cells can lead to reduction in scar size in patients who have had a heart attack. It is a dual cohort clinical trial that has two independently recruiting strata: the first are patients who have recently experienced a myocardial infarction, or MI (30-90 days post MI); the second are patients who have suffered an MI within one year (90 days to one-year post MI) to see if the cells can reduce the size of older, more established scar. In addition to measuring scar size, ALLSTAR will also look at a variety of clinical and quality of life endpoints. Phase I of the ALLSTAR trial was a 14 patient trial conducted at three sites to determine if allogeneic CDCs are safe for patients. Phase I of the trial was funded in large part by a grant received from the National Institutes of Health, or NIH. The primary endpoints focused on acute effects of cell delivery and potential immune consequences of allogeneic cell delivery. Patient enrollment was completed for the Phase I portion of the trial on October 11, 2013. On December 15, 2013, Capricor received notification from the National Heart Lung and Blood Institute (NHLBI) Gene and Cell Therapy (GST) Data Safety Monitoring Board (DSMB) that the 14-patient Phase I portion had met its safety endpoints and that Capricor was cleared to begin the Phase II portion of the trial. Capricor began enrollment of the Phase II portion of the ALLSTAR study in the first quarter of 2014. Phase II is an estimated 300 patient, double-blind, randomized, placebo-controlled trial which is powered to detect a reduction in infarct (scar) size as measured by MRI in both groups of patients, those with recent and chronic MI, at the one year follow-up. As infarct size was reduced significantly in the CADUCEUS patients at six months, Capricor intends to get a preliminary readout of ALLSTAR at six months post infusion. Phase II of ALLSTAR is being funded in large part through the support of the California Institute for Regenerative Medicine, or CIRM.

  Capricor has been awarded a grant from the NIH to support further development of the CAP-1002 product. Dr. Eduardo Marbán of CSMC, and Capricor's founder, has received approval on a new IND for a trial named "DYNAMIC" (dilated cardiomyopathy intervention with allogeneic myocardially-regenerative cells). Presently, Capricor is in discussions with the NIH with respect to the possible use of the funds subject to the grant for other clinical purposes. It is possible that Capricor will deploy this grant to fund the Phase I portion of the DYNAMIC trial. The Phase I portion of the DYNAMIC trial would use CAP-1002 to treat patients with advanced heart failure and a recent hospitalization for such. Capricor's decision to become involved in the DYNAMIC trial will depend on multiple factors, including, but not limited to: approval by the NHLBI to utilize the grant monies to fund the DYNAMIC trial, the ability of Capricor to reach an agreement with CSMC regarding the clinical operations aspect of the trial, and the assessment by Capricor of the appropriateness of DYNAMIC with respect to the Company's pipeline development plan.

- **CAP-1001:** CAP-1001 consists of autologous CDCs. This product was used in the Phase I CADUCEUS clinical trial, which was sponsored and conducted by CSMC in collaboration with JHU. In that study, 25 patients were enrolled, of which 17 patients received autologous CDCs. 16 of the 17 treated patients showed a mean reduction of approximately 45% in scar mass and an increase in viable heart muscle one-year post heart attack. The eight patients in the control group had no significant change in infarct (scar) size. At present there is no plan for another clinical trial for CAP-1001. The data from CADUCEUS, using autologous CDCs, suggests that the cells are effective in reducing scar within several months of a heart attack. The ALLSTAR trial is designed to validate the results of CADUCEUS using an allogeneic product while also looking for potential efficacy in patients between 90 days and one year post MI with a more chronic scar, a patient population that CADUCEUS was not designed to study.

- **CSps:** CSps are multicellular clusters called cardiospheres, a 3D micro-tissue from which CDCs are derived and have shown significant healing effects in pre-clinical models of heart failure. While Capricor considers the CSps an important product, at present there is no plan for a clinical trial for CSps.

- **Cenderitide *(CD-NP)*:** Cenderitide is a chimeric natriuretic peptide that is being considered for the treatment of heart failure. To date, we have explored the use of cenderitide in acute heart failure admissions as well as in the setting of patients in the vulnerable post-hospitalization phase. The current clinical plan is to consider cenderitide for the treatment of patients for up to 90 days at home following admission for acute decompensated heart failure, or ADHF. We refer to this setting as the "post-acute" period. In 2011, we completed a 58-patient Phase I clinical trial of cenderitide in the post-acute setting. We conducted this clinical trial in collaboration with Medtronic, Inc., or Medtronic, delivering cenderitide through continuous intravenous infusion using Medtronic's pump technology. Following that Phase I clinical trial, we had planned to initiate a Phase II clinical trial of cenderitide, pending availability of capital resources. Any further development of cenderitide is subject to our ability to either raise additional capital or enter into a strategic transaction in which a strategic partner provides the capital necessary to continue development activities. In addition to treating heart failure, we believe cenderitide may be useful in several other cardiovascular and renal indications. We are currently evaluating whether to proceed with further clinical development of this product.

- **CU-NP**: CU-NP is a pre-clinical rationally-designed natriuretic peptide that consists of amino acid chains identical to those produced by the human body, specifically the ring structure of C-type natriuretic peptide, or CNP, and the N- and C-termini of Urodilatin, or URO. Any further development of CU-NP is subject to our ability to either raise additional capital or enter into a strategic transaction in which a strategic partner provides the capital necessary to continue development activities. We are currently evaluating whether to proceed with further clinical development of this product.

We have no product sales to date and will not have the ability to generate any product revenue until after we have received approval from the U.S. Food and Drug Administration, or the FDA, or equivalent foreign regulatory bodies to begin selling our pharmaceutical product candidates. Developing pharmaceutical products is a lengthy and very expensive process. Even if we obtain the capital necessary to continue the development of our product candidates, whether through a strategic transaction or otherwise, we do not expect to complete the development of a product candidate for many years, if ever. To date, most of our development expenses have related to our product candidates, CAP-1002 and cenderitide. As we proceed with the clinical development of CAP-1002 and other potential indications for CAP-1002, or if we further develop cenderitide or other additional products, our expenses will further increase. To the extent that we are successful in acquiring additional product candidates for our development pipeline, our need to finance further research and development activities will continue increasing. Accordingly, our success depends not only on the safety and efficacy of our product candidates, but also on our ability to finance the development of the products. Our major sources of working capital have been proceeds from private and public equity sales, grants received from the NIH, and a loan award from CIRM.

Research and development, or R&D, expenses consist primarily of salaries and related personnel costs, clinical patient costs, consulting fees, costs of manufacturing personnel and supplies, and costs of service providers for pre-clinical, clinical and certain legal expenses resulting from intellectual property prosecution, and other expenses relating to the design, development, testing and enhancement of our product candidates. Except for certain capitalized patent expenses, R&D costs are expensed as incurred.

General and administrative, or G&A, expenses consist primarily of salaries and related expenses for executive, finance and other administrative personnel, stock compensation expense, accounting, legal and other professional fees, consulting expenses, rent for corporate offices, business insurance and other corporate expenses.

Our results have included non-cash compensation expense as a result of the issuance of stock options and warrants, as applicable. We expense the fair value of stock options and warrants over their vesting period as applicable. When more precise pricing data is unavailable, we determine the fair value of stock options using the Black-Scholes option-pricing model. The terms and vesting schedules for share-based awards vary by type of grant and the employment status of the grantee. Generally, the awards vest based upon time-based or performance-based conditions. Performance-based conditions generally include the attainment of goals related to our financial performance and product development. Stock-based compensation expense is included in the statements of operations under G&A or R&D expenses, as applicable. We expect to record additional non-cash compensation expense in the future, which may be significant.

Results of Operations

General and Administrative Expenses. G&A expenses for the years ended December 31, 2013 and 2012 were approximately $2.2 million and $1.4 million, respectively. The increase of approximately $0.8 million compared to the same period of 2012 is primarily attributable to an increase of approximately $0.2 million in compensation costs, primarily related to increased headcount. Additionally, there was an increase in rent expense of approximately $0.1 million due to us amending our then current lease arrangement to provide for additional office space at our corporate offices. Additionally, there was an increase in professional fees related to legal, consulting and accounting work primarily related to the merger between Nile and Capricor of approximately $0.3 million compared to the same period of 2012.

Research and Development Expenses. R&D expenses for the years ended December 31, 2013 and 2012 were approximately $5.2 million and $2.6 million, respectively. The increase of approximately $2.6 million over the same period of 2012 is primarily due to the fact that Capricor was actively conducting clinical development activities of CAP-1002 in our Phase I/II trial throughout 2013. This resulted in an increase of approximately $2.1 million in clinical costs primarily related to contract research organizations for statistical programming and data management, as well as patient costs and expenses for the operational team that supports our clinical trial. Additionally, we had an increase of approximately $0.3 million in manufacturing costs, primarily related to the supplies and testing required to release our clinical product.

CAP-1002 - Although the development of CAP-1002 is in its early stages, we believe that it has the potential to treat heart disease. On December 15, 2013 the NHLBI Gene and Cell Therapy (GST) Data Safety Monitoring Board (DSMB) gave Capricor approval to move into the Phase II portion of the ALLSTAR trial. We expect to spend approximately $7.5 to $10.0 million during 2014 on the development of CAP-1002, which is primarily related to our Phase II ALLSTAR trial. The Phase I portion of the trial was funded in large part through a grant received from the NIH. We began enrollment of the Phase II portion of the ALLSTAR trial in the first quarter of 2014. Phase II is an estimated 300 patient, double blind, placebo controlled, multi-centered study in which CAP-1002 is administered to patients via intracoronary infusion within 30 days to one year following a heart attack. Phase II is substantially funded through the support of a loan award from CIRM for approximately $19.8 million. The trial will measure several endpoints, including infarct size. Additional endpoints include left ventricular end-systolic and diastolic volume and ejection fraction at six and twelve months. Our strategy for further development of CAP-1002 will depend to a large degree on the outcome of these planned studies.

CAP-1001 – In 2011, CSMC, in collaboration with JHU, completed a Phase I, 25 patient clinical trial called CADUCEUS. In this study, 25 patients were enrolled who had suffered a heart attack within a mean of 65 days. 17 of those patients received CAP-1001 and the remaining eight received standard of care. 12 months after the study was completed, no measurable safety effects occurred in the 17 patients who were treated with CAP-1001. 16 of the 17 treated patients showed a mean reduction of approximately 45% in scar mass and an increase in viable heart muscle one-year post heart attack. The eight patients in the control group had no significant change in infarct (scar) size. At present, there is no plan for another clinical trial for CAP-1001. Capricor's strategy for further development of CAP-1001 will depend to a large degree on the outcome of its trial involving its CAP-1002 product, and its ability to obtain significant capital to conduct further studies to further develop this product.

CSps – This product candidate is multicellular clusters called cardiospheres. This product is in pre-clinical development and has yet to be studied in humans. At present, there is no plan for a clinical trial of CSps.

Cenderitide. The Company acquired the rights to cenderitide in 2006, and incurred substantial losses surrounding the development of the product. Prior to the merger, Nile Therapeutics, Inc. had incurred approximately $19.9 million in expenses directly relating to the cenderitide development program through September 30, 2013. We are currently evaluating whether to proceed with further clinical development of this product.

CU-NP. The Company acquired the rights to CU-NP in September 2008. Prior to the merger, Nile Therapeutics, Inc. had incurred approximately $0.7 million directly relating to the CU-NP development program through September 30, 2013.We are currently evaluating whether to proceed with further clinical development of this product.

Our expenditures on current and future clinical development programs, particularly our CAP-1002 and cenderitide programs are expected to be substantial and to increase in relation to our available capital resources. However, these planned expenditures are subject to many uncertainties, including the results of clinical trials and whether we develop any of our drug candidates with a partner or independently. As a result, we cannot predict with any significant degree of certainty the amount of time which will be required to complete our clinical trials, the costs of completing research and development projects or whether, when and to what extent we will generate revenues from the commercialization and sale of any of our product candidates. The duration and cost of clinical trials may vary significantly over the life of a project as a result of unanticipated events arising during clinical development and a variety of other factors, including:

- the number of trials and studies in a clinical program;
- the number of patients who participate in the trials;
- the number of sites included in the trials;
- the rates of patient recruitment and enrollment;
- the duration of patient treatment and follow-up;
- the costs of manufacturing our drug candidates; and
- the costs, requirements, timing of, and the ability to secure, regulatory approvals.

Investment Income (Loss). Investment income (loss) for the years ended December 31, 2013 and 2012 was $(11,890) and $28,785, respectively. This decrease in investment income over the same period in 2012 is primarily due to realized losses on the marketable securities account as securities held were sold in 2013 due to additional operational cash needs.

Interest Expense. Interest expense for the years ended December 31, 2013 and 2012 was $58,134 and $0, respectively. This increase in interest expense over the same period in 2012 is due to the interest on the CIRM loan award, which was not disbursed until 2013.

Impairment of Goodwill. Goodwill impairment for the years ended December 31, 2013 and 2012 was approximately $1.9 million and $0, respectively. This impairment is a result of goodwill recorded at the consummation of the merger of approximately $1.9 million which the Company deemed fully impaired as of December 31, 2013.

Grant Income. Grant income for the years ended December 31, 2013 and 2012 was approximately $0.5 million and $1.9 million, respectively. This decrease in grant income in 2013 as compared to 2012 is primarily due to the timing of activities under certain research and development projects that are covered under grant awards. These activities are not necessarily consistent from project to project and period to period. Additionally, in 2013 Capricor's primary grants were approaching the ends of their respective project periods.

Liquidity and Capital Resources

The following table summarizes the Company's liquidity and capital resources as of and for each of the last two fiscal years, and is intended to supplement the more detailed discussion that follows. The amounts stated are expressed in thousands.

Liquidity and capital resources	**December 31, 2013**	**December 31, 2012**
Cash and cash equivalents	$ 1,730	$ 170
Working Capital	$ 1,628	$ 4,664
Stockholders' equity	$ (535)	$ 4,894

	Years ending December 31,	
Cash flow data	**2013**	**2012**
Cash (used in) provided by:		
Operating activities	$ (6,144)	$ (2,063)
Investing activities	3,778	(4,317)
Financing activities	3,925	5,000)
Net increase (decrease) in cash and cash equivalents	$ 1,559	$ (1,380)

The Company's total cash resources as of December 31, 2013 were approximately $1.7 million compared to approximately $0.2 million as of December 31, 2012. Total marketable securities, consisting primarily of United States treasuries, were approximately $0.3 million as of December 31, 2013 and approximately $4.2 million as of December 31, 2012. As of December 31, 2013, the Company had approximately $6.1 million in liabilities, and approximately $1.6 million in net working capital. The Company incurred a net loss of approximately $8.9 million and had negative cash flow from operating activities of approximately $6.1 million for the year ended December 31, 2013. Since July 5, 2005 (inception) through December 31, 2013, the Company has incurred an aggregate net loss of approximately $16.1 million, while negative cash flow from operating activities has amounted to approximately $13.1 million. To the extent we obtain sufficient capital and/or long-term debt funding and are able to continue developing our product candidates, we expect to continue to incur substantial and increasing losses, which will continue to generate negative net cash flow from operating activities as we expand our technology portfolio and engage in further research and development activities, particularly the conducting of pre-clinical studies and clinical trials.

The Company had negative cash flow from operating activities of approximately $6.1 million, $2.1 million and $13.1 million for the years ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, respectively. The difference of approximately $4.0 million in cash used in operating activities for the year ended December 31, 2013 as compared to the same period of 2012 is primarily due to the fact that Capricor's net loss was substantially higher in 2013 as compared to 2012. Capricor was actively involved in clinical activities relating to the ALLSTAR Phase I/II trial throughout 2013, which increased overall operational losses. To the extent the Company obtains sufficient capital and/or long-term debt funding and is able to continue developing its product candidates, it expects to continue incurring substantial and increasing losses, which will continue to generate negative net cash flows from operating activities as the Company expands its technology portfolio and engages in further research and development activities, particularly in conducting pre-clinical studies and clinical trials.

The Company had positive cash flow from investing activities of approximately $3.8 million for the year ended December 31, 2013, negative cash flow from investing activities of approximately $4.3 million for the year ended December 31, 2012, and negative cash flow from investing activities of approximately $0.8 million for the period from July 5, 2005 (inception) through December 31, 2013. The difference in cash used in investing activities for the year ended December 31, 2013 as compared to the same period of 2012 is primarily due to the proceeds and payments from purchases and sales of marketable securities.

The Company had positive cash flow from financing activities of approximately $3.9 million, $5.0 million and $15.6 million for the years ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, respectively. The cash flow of approximately $3.9 million in 2013 is a result of Capricor's CIRM loan financing, and the $5.0 million in 2012 is a result of a portion of the proceeds received from Capricor's A-3 financing.

Phase II of Capricor's ALLSTAR trial has been funded in large part through a loan award from CIRM. Following completion of the Phase II trial would be a Phase IIb and/or Phase III trial. If we continue with a Phase IIb or Phase III trial, we will need substantial additional capital in order to continue the development of CAP-1002. Pursuant to the Collaboration Agreement with Janssen, the CMC package will be developed by the joint efforts of Janssen and Capricor. Capricor will be required to reimburse Janssen for its costs of development up to an agreed-upon maximum amount. If Janssen exercises its exclusive option, Janssen will be responsible for any additional trials with respect to CAP-1002.

We need substantial additional capital in order to continue the development of cenderitide. We have not yet determined the exact nature of the next clinical trial or if there will be a clinical trial. Prior to the consummation of the Merger, the Company pursued alternative strategic transactions in an effort to obtain the means to continue development of cenderitide. Such alternatives included the possibility of collaborating with another biotechnology or pharmaceutical company to further develop cenderitide. Such efforts were unsuccessful and we were not able to raise the necessary funds that would allow us to proceed to the next clinical phase. All further clinical and other development activities for our cenderitide and CU-NP programs are being evaluated internally following the completion of the Merger.

From inception through December 31, 2013, Capricor has financed its operations through private sales of its equity securities, NIH grants, and a CIRM loan award. Prior to the Merger, Nile financed its operations through public sales of its equity. As we have not generated any revenue from operations to date, and we do not expect to generate revenue for several years, if ever, we will need to raise substantial additional capital in order to fund our immediate general corporate activities and, thereafter, to fund our research and development, including our long-term plans for clinical trials and new product development. We may seek to raise additional funds through various potential sources, such as equity and debt financings, or through strategic collaborations and license agreements. We can give no assurances that we will be able to secure such additional sources of funds to support our operations, or if such funds are available to us, that such additional financing will be sufficient to meet our needs. Moreover, to the extent that we raise additional funds by issuing equity securities, our stockholders may experience additional significant dilution, and debt financing, if available, may involve restrictive covenants. To the extent that we raise additional funds through collaboration and licensing arrangements, it may be necessary to relinquish some rights to our technologies or our product candidates, or grant licenses on terms that may not be favorable to us.

Our estimates regarding the sufficiency of our financial resources are based on assumptions that may prove to be wrong. We may need to obtain additional funds sooner than planned or in greater amounts than we currently anticipate. The actual amount of funds we will need to operate is subject to many factors, some of which are beyond our control. These factors include the following:

- the progress of our research activities;
- the number and scope of our research programs;
- the progress of our pre-clinical and clinical development activities;
- the progress of the development efforts of parties with whom we have entered into research and development agreements;
- our ability to maintain current research and development programs and to establish new research and development and licensing arrangements;
- the cost involved in prosecuting and enforcing patent claims and other intellectual property rights; and
- the cost and timing of regulatory approvals.

Financing Activities by the Company

March 2013 Financing. On March 15, 2013, the Company entered into a convertible note purchase agreement with certain accredited investors pursuant to which we agreed to sell an aggregate principal amount of up to $500,000 of secured convertible promissory notes (the "2013 Notes") for an aggregate original issue price of $425,000, representing a 15% original issue discount. The closing of the private placement also occurred on March 15, 2013, and resulted in the sale of 2013 Notes in the aggregate principal amount of $450,000 for an aggregate original issue price of $382,500.

On September 27, 2013, the Company and the holders of the 2013 Notes entered into an amendment to the 2013 Notes, which provided, among other things, that upon a Change of Control (as defined in the 2013 Notes), the conversion price applicable to the 2013 Notes and the exercise price applicable to the warrants issuable upon a Change of Control will be equal to the average dollar volume weighted average price ("VWAP") of the Company's common stock for each trading day during the period from July 8, 2013 to September 30, 2013. The average VWAP during such period was approximately $0.045 per share. Additionally, pursuant to the amendment, upon a conversion of the 2013 Notes in connection with a Change of Control, the holders confirmed that all obligations under the 2013 Notes would be deemed satisfied in full and released the Company from any claims relating to the 2013 Notes.

On October 21, 2013, the Company and the holders of the 2013 Notes entered into an amendment to the Convertible Note Purchase Agreement pursuant to which the Company sold to such holders additional notes having an aggregate principal amount of $120,510 (the "Additional Notes"). The Additional Notes have identical terms and conditions as the 2013 Notes described above and were allocated among the holders on a pro rata basis based on their initial purchase of the 2013 Notes. In exchange for the issuance of the Additional Notes, the Company received aggregate gross proceeds of $102,433. The 2013 Notes and the Additional Notes are collectively referred to herein as the 2013 Notes.

The 2013 Notes converted at the close of the merger between Nile and Capricor on November 20, 2013 into 251,044 shares of our common stock on a post-Reverse Stock Split basis. Additionally, 251,044 warrants to purchase our common stock at a strike price of $2.2725, on a post-Reverse Stock Split basis, were issued to the holders of the 2013 Notes. The shares of common stock underlying the 2013 Notes have not been registered. All obligations under the 2013 Notes are deemed satisfied, and the Company has been released from any claims relating to the 2013 Notes.

April 2012 Financing. On March 30, 2012, the Company entered into subscription agreements with certain purchasers pursuant to which we agreed to sell an aggregate of 67,000 shares of our common stock to such purchasers for a purchase price of $20.00 per share (calculated using the post-Reverse Stock Split factor of 1:50). In addition, for each share purchased, each purchaser also received three-fourths of a five-year warrant to purchase an additional share of common stock at an exercise price of $25.00 per share (calculated using the post-Reverse Stock Split factor of 1:50), resulting in the issuance of warrants to purchase an aggregate of 50,250 shares of our common stock. The total gross proceeds from the offering were $1.34 million, before deducting anticipated selling commissions and expenses of approximately $0.2 million. The closing of the offering occurred on April 4, 2012. In connection with the offering, we engaged Roth Capital Partners, LLC, or Roth, to serve as placement agent. Pursuant to the terms of the placement agent agreement, we agreed to pay Roth a cash fee equal to seven percent of the gross proceeds received by us, or approximately $93,800, plus a non-accountable expense allowance of $35,000. Richard B. Brewer, our former Executive Chairman, Joshua A. Kazam, our former President and Chief Executive Officer and a current director of the Company, Daron Evans, our former Chief Financial Officer, and Hsiao Lieu, M.D., our former Executive VP of Clinical Development, participated in the offering on the same terms as the unaffiliated purchasers, and collectively purchased 5,500 shares of our common stock and warrants to purchase 4,125 shares of our common stock for an aggregate purchase price of $110,000.

The offer and sale of the shares and warrants were made pursuant to our shelf registration statement on Form S-3 (SEC File No. 333-165167), which became effective on March 12, 2010. Pursuant to the subscription agreements that we entered into with the purchasers in the April 2012 financing, we agreed to file, within 15 business days after the closing of the offering, a registration statement covering the issuance of the shares of our common stock upon exercise of the warrants and the subsequent resale of such shares (the "Additional Registration Statement"), and to cause such registration statement to be declared effective within 90 days following the closing of the offering. In the event the Additional Registration Statement was not declared effective by the SEC within such 90-day period, we agreed to pay liquidated damages to each purchaser in the amount of 1% of such purchaser's aggregate investment amount for each 30-day period until the Additional Registration Statement was declared effective, subject to an aggregate limit of 12% of such purchaser's aggregate investment amount. The Additional Registration Statement was filed on April 25, 2012 and was declared effective by the SEC on May 7, 2012.

At the consummation of the merger between Nile and Capricor, warrants to purchase 50,063 shares of our common stock, which were issued in the April 2012 financing described above, were exchanged for 50,063 shares of our common stock, and certain April 2012 warrants were cancelled. After the exchange, warrants to purchase 187 shares of our common stock remain outstanding from the April 2012 issuance, which such warrants provide for a strike price of $2.2725.

Financing Activities by Capricor, Inc.

CIRM Loan Agreement. On February 5, 2013, Capricor entered into a Loan Agreement with CIRM (the "CIRM Loan Agreement"), pursuant to which CIRM agreed to disburse $19,782,136 to Capricor over a period of three and one-half years to support Phase II of the ALLSTAR clinical trial.

Under the CIRM Loan Agreement, Capricor is required to repay the CIRM loan with interest at the end of the loan period. The loan also provides for the payment of a risk premium whereby Capricor is required to pay CIRM a premium of up to 500% of the loan amount upon the achievement of certain revenue thresholds. The loan has a term of five years and is extendable annually up to ten years at Capricor's option if certain conditions are met. The interest rate for the initial term is set at the one-year LIBOR rate plus 2% ("base rate"), compounded annually, and becomes due at the end of the fifth year. After the fifth year, if the term of the loan is extended and if certain conditions are met, the interest rate will increase by 1% over the base rate each sequential year thereafter, with a maximum increase of 5% over the base rate in the tenth year. CIRM has the right to cease disbursements if a no-go milestone occurs or certain other conditions are not met. Under the terms of the CIRM Loan Agreement, CIRM deducted $36,667 from the initial disbursement to cover its costs in conducting financial due diligence on Capricor. CIRM will also deduct $16,667 from each disbursement made in the second and third year of the loan period to cover its costs of continuing due diligence. So long as Capricor is not in default under the terms of the CIRM Loan Agreement, the loan may be forgiven during the term of the project period if Capricor abandons the trial due to the occurrence of a no-go milestone. After the end of the project period, the loan may also be forgiven if Capricor elects to abandon the project under certain circumstances. Under the CIRM Loan Agreement, Capricor is required to meet certain financial milestones by demonstrating to CIRM prior to each disbursement of loan proceeds that it has funds available sufficient to cover all costs and expenses anticipated to be required to continue Phase II of the ALLSTAR trial for at least the following 12-month period, less the costs budgeted to be covered by planned loan disbursements. Capricor will not issue stock, warrants or other equity to CIRM in connection with this award.

The timing of the distribution of funds pursuant to the CIRM Loan Agreement shall be contingent upon the availability of funds in the California Stem Cell Research and Cures Fund in the State Treasury, as determined by CIRM in its sole discretion.

Convertible Preferred Stock. Prior to the Merger and without giving effect to the applicable multiplier, Capricor was authorized to issue 5,426,844 shares of convertible preferred stock, which was allocated as follows: Series A-1: 940,000 shares, all of which were issued; Series A-2: 736,844 shares, all of which were issued; and Series A-3: 3,750,000 shares, of which 1,500,000 shares were issued. During 2011 and 2012, the 1,500,000 shares of Series A-3 convertible preferred stock, par value of $0.001 per share, were issued by Capricor for cash proceeds of $6,000,000. Immediately prior to the effective time of the merger between Nile and Capricor, all shares of Capricor preferred stock were converted into shares of Capricor common stock pursuant to the terms of the merger agreement. The shares of Capricor preferred stock that were converted into Capricor common stock as a result of the merger and in accordance with the terms of the merger agreement, were exchanged according to the applicable multiplier for 6,591,494 shares of common stock of the Company, and all rights and preferences attached to the shares of Capricor preferred stock were rendered void.

Grant and Sub-grant Awards. In 2010, Capricor was awarded $2,993,268 in a federal grant from NIH to support the project entitled "Safety and Efficacy of Allogeneic Cardiosphere-derived Stem Cells After MI". The award was issued under the American Recovery and Reinvestment Act of 2009. The award is subject to certain quarterly and annual reporting requirements as well as a final progress report. The award was used to fund a portion of the Phase I clinical trial for the CAP-1002 product, as well as various development activities associated with CAP-1002, and includes, among other permitted costs, certain allowable expenses such as personnel, supplies and certain patient costs. In the second quarter of 2013, the project period of the grant was extended until September 30, 2013 through an approved no-cost extension. As of December 31, 2013, the full amount of the award had been disbursed to Capricor.

In 2009, Capricor was awarded $124,791 in a federal grant through the NIH Small Business Innovation Research ("SBIR") program for the project entitled, "Characterization and Potency of Optimized Cardiosphere-derived Stem Cell Method" (Phase I). The grant award is subject to quarterly and annual reporting requirements as stipulated in the Notice of Award, and is subject to certain terms and conditions. The award was complete as of December 31, 2013.

In 2011, Capricor was awarded an additional $397,217 (Phase II) in connection with the SBIR award from the NIH. In 2012, Capricor was awarded a third year under the award and was approved for an additional $425,410 (Phase III). In the third quarter of 2013, the project period of the grant was extended until August 30, 2013 through an approved no-cost extension. The award was complete as of December 31, 2013.

On August 21, 2013, Capricor was approved for a Phase IIB Bridge grant through the NIH SBIR program for continued development of its CAP-1002 product candidate. Under the terms of the grant, approximately $2,879,437 will be disbursed over three years subject to annual and quarterly reporting requirements. As of December 31, 2013, no funds had been disbursed under the terms of this award. Capricor is currently in discussions with the NIH with respect to the possible use of the funds for other clinical purposes. It is possible that Capricor will deploy this grant to fund the Phase I portion of the DYNAMIC trial, the IND for which was submitted by Dr. Eduardo Marbán of CSMC. The Phase I portion of the DYNAMIC trial would be to use CAP-1002 to treat patients with advanced heart failure and a recent hospitalization for such. Capricor's decision to become involved in the DYNAMIC trial will depend on multiple factors, including, but not limited to: approval by the NHLBI to utilize the grant monies to fund the DYNAMIC trial, the ability of Capricor to reach an agreement with CSMC regarding the clinical operations aspect of the trial, and the assessment by Capricor of the appropriateness of DYNAMIC with respect to the Company's pipeline development plan.

Off -Balance Sheet Arrangements

There were no off-balance sheet arrangements as of December 31, 2013.

Critical Accounting Policies and Estimates

Our financial statements are prepared in accordance with generally accepted accounting principles. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures. We evaluate our estimates and assumptions on an ongoing basis, including research and development and clinical trial accruals, and stock-based compensation estimates. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances. Our actual results could differ from these estimates. We believe the following critical accounting policies reflect the more significant judgments and estimates used in the preparation of our financial statements and accompanying notes.

Grant Income

The determination as to when income is earned is dependent on the language in each specific grant. Generally, the Company recognizes grant income in the period in which the expense is incurred for those expenses that are deemed reimbursable under the terms of the grant.

Research and Development Expenses and Accruals

Research and development, or R&D, expenses consist primarily of salaries and related personnel costs, clinical patient costs, consulting fees, costs of manufacturing personnel and supplies, and costs of service providers for pre-clinical, clinical and certain legal expenses resulting from intellectual property prosecution, and other expenses relating to the design, development, testing and enhancement of our product candidates. Except for certain capitalized patent expenses, R&D costs are expensed as incurred.

Our cost accruals for clinical trials and other R&D activities are based on estimates of the services received and efforts expended pursuant to contracts with numerous clinical trial centers and Contract Research Organizations (“CROs”), clinical study sites, laboratories, consultants or other clinical trial vendors that perform activities in connection with a trial. Related contracts vary significantly in length and may be for a fixed amount, a variable amount based on actual costs incurred, capped at a certain limit, or for a combination of fixed, variable and capped amounts. Activity levels are monitored through close communication with the CROs and other clinical trial vendors, including detailed invoice and task completion review, analysis of expenses against budgeted amounts, analysis of work performed against approved contract budgets and payment schedules, and recognition of any changes in scope of the services to be performed. Certain CRO and significant clinical trial vendors provide an estimate of costs incurred but not invoiced at the end of each quarter for each individual trial. These estimates are reviewed and discussed with the CRO or vendor as necessary, and are included in R&D expenses for the related period. For clinical study sites which are paid periodically on a per-subject basis to the institutions performing the clinical study, we accrue an estimated amount based on subject screening and enrollment in each quarter. All estimates may differ significantly from the actual amount subsequently invoiced, which may occur several months after the related services were performed.

In the normal course of business, we contract with third parties to perform various R&D activities in the on-going development of our product candidates. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. Payments under the contracts depend on factors such as the achievement of certain events, the successful enrollment of patients, and the completion of portions of the clinical trial or similar conditions. The objective of the accrual policy is to match the recording of expenses in the financial statements to the actual services received and efforts expended. As such, expense accruals related to clinical trials and other R&D activities are recognized based on our estimates of the degree of completion of the event or events specified in the applicable contract.

No adjustments for material changes in estimates have been recognized in any period presented.

Stock-Based Compensation

Our results include non-cash compensation expense as a result of the issuance of stock, stock options and warrants, as applicable. We have issued stock options to employees, directors and consultants under our four stock option plans: (i) the Amended and Restated 2005 Stock Option Plan, (ii) the 2006 Stock Option Plan, (iii) the 2012 Restated Equity Incentive Plan (which superseded the 2006 Stock Option Plan), and (iv) the 2012 Non-Employee Director Stock Option Plan.

We expense the fair value of stock-based compensation over the vesting period. When more precise pricing data is unavailable, we determine the fair value of stock options using the Black-Scholes option-pricing model. This valuation model requires us to make assumptions and judgments about the variables used in the calculation. These variables and assumptions include the weighted-average period of time that the options granted are expected to be outstanding, the volatility of our common stock, the risk-free interest rate and the estimated rate of forfeitures of unvested stock options.

Stock options or other equity instruments to non-employees (including consultants) issued as consideration for goods or services received by us are accounted for based on the fair value of the equity instruments issued (unless the fair value of the consideration received can be more reliably measured). The fair value of stock options is determined using the Black-Scholes option-pricing model and is periodically re-measured as the underlying options vest. The fair value of any options issued to non-employees is recorded as expense over the applicable service periods.

The terms and vesting schedules for share-based awards vary by type of grant and the employment status of the grantee. Generally, the awards vest based upon time-based or performance-based conditions. Performance-based conditions generally include the attainment of goals related to our financial and development performance. Stock-based compensation expense is included in the general and administrative expense in the Statements of Operations. We expect to record additional non-cash compensation expense in the future, which may be significant.

Warrant Liability

The Company previously accounted for the warrants issued in connection with the April 2012 financing and the embedded derivative warrant liability contained in the 2013 Notes in accordance with the guidance on Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity, which provides that we classify the warrant instrument as a liability at its fair value and adjust the instrument to fair value at each reporting period. This liability is subject to re-measurement at each balance sheet date until exercised, and any change in fair value is recognized as a component of other income or expense. In connection with the merger between Nile and Capricor, 50,063 warrants issued in the April 2012 financing were eliminated and 50,063 shares of Company common stock were issued in exchange for cancellation of the warrants to purchase 50,063 shares of Company common stock. Furthermore, the 2013 Notes converted into shares of Company common stock and additional warrants for Company common stock were issued to the holders. Management has determined the warrant liability to be insignificant at December 31, 2013.

Long-Term Debt

Capricor accounts for the loan proceeds under its CIRM Loan Agreement as long-term liabilities. Capricor recognizes the CIRM loan disbursements as a loan payable as the principal is disbursed rather than recognizing the full amount of the award. Capricor recognizes the disbursements in this manner since the period in which the loan will be paid back will not be in the foreseeable future. The terms of the CIRM Loan Agreement contain certain forgiveness provisions that may allow for the principal and interest of the loan to be forgiven. The potential for forgiveness of the loan is contingent upon many conditions, some of which are outside of Capricor's control, and no such estimates are made to determine a value for this potential for forgiveness.

Restricted Cash

Capricor accounts for the disbursements received under the CIRM Loan Agreement which have not been attributed to a particular project's costs through the current period as restricted cash.

Recently Issued or Newly Adopted Accounting Pronouncements

In December 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-11,*Disclosures about Offsetting Assets and Liabilities* ("ASU 2011-11"), and in January 2013, the FASB issued ASU No. 2013-01,*Clarifying the Scope of Disclosures about Offsetting Assets and Liabilities* ("ASU 2013-01"). The amendments in this update require enhanced disclosures around financial instruments and derivative instruments that are either (1) offset in accordance with either ASC 210, *Balance Sheet* ("ASC 210"), or ASC 815, *Derivatives and Hedging* ("ASC 815"), or (2) subject to an enforceable master netting arrangement or similar agreement, irrespective of whether they are offset in accordance with either ASC 210 or ASC 815. An entity should provide the disclosures required by those amendments retrospectively for all comparative periods presented. The Company adopted the disclosure requirements of ASU 2011-11. After considering the scope clarification in ASU 2013-01, the Company does not believe there will be a material effect on our consolidated financial statements or disclosures.

In February 2013, the FASB issued ASU 2013-02,*Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income*("ASU 2013-02"). ASU 2013-02 amends Accounting Standards Codification ("ASC") 220, *Comprehensive Income* ("ASC 220"), and requires entities to present the changes in the components of accumulated other comprehensive income for the current period. Entities are required to present separately the amount of the change that is due to reclassifications, and the amount that is due to current period other comprehensive income. These changes are permitted to be shown either before or net-of-tax and can be displayed either on the face of the financial statements or in the footnotes. ASU 2013-02 was effective for our interim and annual periods beginning January 1, 2013. The adoption of ASU 2013-02 did not have a material effect on our consolidated financial position or results of operations.

In July 2013, the FASB issued ASU 2013-11,*Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists* ("ASU 2013-11"), which eliminates diversity in practice for the presentation of an unrecognized tax benefit when a net operating loss carryforward, a similar tax loss or a tax credit carryforward is available to reduce the taxable income or tax payable that would result from disallowance of a tax position. ASU 2013-11 affects only the presentation of such amounts in an entity's balance sheet and is effective for fiscal years beginning after December 15, 2013 and interim periods within those years. Early adoption is permitted. We are evaluating the impact, if any, of the adoption of ASU 2013-11 on our consolidated balance sheet.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Sensitivity

The Company's exposure to market risk for changes in interest rates relates primarily to its marketable equity securities and cash and cash equivalents. As of December 31, 2013, the fair value of the Company's cash and cash equivalents and its marketable securities was approximately $2.1 million. Additionally, as of December 31, 2013, Capricor's portfolio consisted of marketable securities, including primarily United States treasuries and bank savings and checking accounts. Capricor did not have any investments with significant exposure to the subprime mortgage market issues.

The goal of the Company's investment policy is to place its investments with highly rated credit issuers and limit the amount of credit exposure. We seek to improve the safety and likelihood of preservation of our invested funds by limiting default risk and market risk. Our investments may be exposed to market risk due to fluctuation in interest rates, which may affect our interest income and the fair market value of our investments, if any. We will manage this exposure by performing ongoing evaluations of our investments. Due to the short-term maturities, if any, of our investments to date, their carrying value has always approximated their fair value. The Company's policy is to mitigate default risk by investing in high credit quality securities, and we currently do not hedge interest rate exposure. Due to our policy of only making investments in United States treasury securities with primarily short-term maturities, we believe that the fair value of our investment portfolio would not be significantly impacted by a hypothetical 100 basis point increase or decrease in interest rates.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Financial Statements Index

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Capricor Therapeutics, Inc.

We have audited the accompanying consolidated balance sheets of Capricor Therapeutics, Inc. and its Subsidiary as of December 31, 2013 and 2012, and the related consolidated statements of operations and comprehensive loss, shareholders' equity, and cash flows for the years then ended and for the period from July 5, 2005 (inception) through December 31, 2013. Capricor Therapeutics, Inc.'s management is responsible for these financial statements. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Capricor Therapeutics, Inc. and its Subsidiary as of December 31, 2013 and 2012, and the results of their operations and their cash flows for years then ended and for the period from July 5, 2005 (inception) through December 31, 2013 in conformity with accounting principles generally accepted in the United States of America.

/s/ Rose Snyder & Jacobs LLP
Rose, Snyder & Jacobs LLP

Encino, California
March 31, 2014

CAPRICOR THERAPEUTICS, INC.
(A DEVELOPMENT STAGE COMPANY)
CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 2013 AND 2012

ASSETS

	2013	2012
CURRENT ASSETS		
Cash and cash equivalents	$ 1,729,537	$ 170,106
Marketable securities	326,494	4,192,726
Restricted Cash	1,401,859	-
Grants receivable	-	767,163
Interest receivable	187	25,215
Prepaid expenses and other current assets	222,763	38,042
TOTAL CURRENT ASSETS	3,680,840	5,193,252
PROPERTY AND EQUIPMENT, at cost		
Furniture and equipment	38,850	29,623
Laboratory equipment	115,766	68,878
	154,616	98,501
Less accumulated depreciation	(80,429)	(64,558)
NET PROPERTY AND EQUIPMENT	74,187	33,943
OTHER ASSETS		
Patents, net of accumulated amortization of $32,475 and $28,145 respectively	227,207	178,307
Loan fees, net of accumulated amortization of $6,722 and $0, respectively	29,945	-
In-process research and development, net of accumulated amortization of $0	1,500,000	-
Deposits	25,728	18,088
TOTAL ASSETS	$ 5,537,907	$ 5,423,590
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	$ 1,506,509	$ 264,707
Accounts payable and accrued expenses, related party	382,142	164,484
Sub-award payable, related party	41,855	75,072
Accrued royalties	122,416	24,904
TOTAL CURRENT LIABILITIES	2,052,922	529,167
LONG-TERM LIABILITIES		
Loan payable	3,961,733	-
Accrued interest	58,134	-
TOTAL LONG-TERM LIABILITIES	4,019,867	-
TOTAL LIABILITIES	6,072,789	529,167
SHAREHOLDERS' EQUITY		
Common stock, $0.001 par, 50,000,000 and 100,000,000 shares authorized, respectively, 11,687,747 and 10,351,294 shares issued and outstanding, respectively	11,687	10,351
Additional paid-in capital	15,552,946	12,114,689
Subscription receivable	-	(2,211)
Accumulated other comprehensive loss	(980)	(21,795)
Deficit accumulated during the development stage	(16,098,535)	(7,206,611)
TOTAL SHAREHOLDERS' EQUITY	(534,882)	4,894,423
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 5,537,907	$ 5,423,590

See accompanying notes to consolidated financial statements

CAPRICOR THERAPEUTICS, INC.
(A DEVELOPMENT STAGE COMPANY)
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
FOR THE YEARS ENDED DECEMBER 31, 2013 AND 2012 AND THE PERIOD
FROM JULY 5, 2005 (INCEPTION) THROUGH DECEMBER 31, 2013

	Years Ended December 31,		July 5, 2005 (inception) through December 31,
	2013	2012	2013
GRANT INCOME	$ 503,233	$ 1,898,764	$ 4,180,970
OPERATING EXPENSES			
Research and development	5,197,178	2,634,222	11,499,595
General and administrative	2,208,955	1,364,582	6,953,667
TOTAL OPERATING EXPENSES	7,406,133	3,998,804	18,453,262
LOSS FROM OPERATIONS	(6,902,900)	(2,100,040)	(14,272,292)
OTHER INCOME (EXPENSES)			
Investment income (loss)	(11,890)	28,785	150,891
Interest expense	(58,134)	-	(58,134)
Impairment of goodwill	(1,919,000)	-	(1,919,000)
TOTAL OTHER INCOME (EXPENSES)	(1,989,024)	28,785	(1,826,243)
NET LOSS	(8,891,924)	(2,071,255)	(16,098,535)
OTHER COMPREHENSIVE GAIN (LOSS)			
Net unrealized gain (loss) on marketable securities	20,815	(21,795)	(980)
COMPREHENSIVE LOSS	$ (8,871,109)	$ (2,093,050)	$ (16,099,515)
Net loss per share, basic and diluted	$ (0.85)	$ (0.21)	
Weighted average number of shares, basic and diluted	10,501,416	9,945,251	

See accompanying notes to consolidated financial statements

CAPRICOR THERAPEUTICS, INC.
(A DEVELOPMENT STAGE COMPANY)
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
FOR THE PERIOD FROM JULY 5, 2005 (INCEPTION) THROUGH DECEMBER 31, 2013

	COMMON STOCK						
	SHARES	AMOUNT	ADDITIONAL PAID-IN CAPITAL	SUBSCRIPTION RECEIVABLE	OTHER COMPREHENSIVE LOSS	DEFICIT ACCUMULATED DURING THE DEVELOPMENT STAGE	TOTAL STOCKHOLDERS' EQUITY (DEFICIT)
Balance, July 5, 2005	-	$ -	$ -	$ -	$ -	$ -	$ -
Issuance of common shares to founders	3,734,740	3,735	(1,935)	(1,800)	-	-	$ -
Interest on subscription receivable	-	-	-	(36)	-	-	$ (36)
Net loss	-	-	-	-	-	36	$ 36
Balance at December 31, 2005	3,734,740	3,735	(1,935)	(1,836)	-	36	$ -
Series A-1 preferred stock issuance for $1.54 per share, as converted	1,950,364	1,950	3,006,050	-	-	-	$ 3,008,000
Interest on subscription receivable	-	-	-	(86)	-	-	$ (86)
Net loss	-	-	-	-	-	(1,171,419)	$ (1,171,419)
Balance at December 31, 2006	5,685,104	5,685	3,004,115	(1,922)	-	(1,171,383)	$ 1,836,495
Interest on subscription receivable	-	-	-	(71)	-	-	$ (71)
Stock Based Compensation	-	-	5,820	-	-	-	$ 5,820
Net loss	-	-	-	-	-	(979,076)	$ (979,076)
Balance at December 31, 2007	5,685,104	5,685	3,009,935	(1,993)	-	(2,150,459)	$ 863,168
Common Stock issued for services at $0.15 per share	25,060	25	3,833	-	-	-	$ 3,858
Interest on subscription receivable	-	-	-	(37)	-	-	$ (37)
Stock Based Compensation	-	-	16,422	-	-	-	$ 16,422
Net loss	-	-	-	-	-	(630,859)	$ (630,859)
Balance at December 31, 2008	5,710,164	5,710	3,030,190	(2,030)	-	(2,781,318)	$ 252,552
Series A-2 Preferred stock and warrants issued for cash at $1.83 per share, as converted	436,816	437	799,570	-	-	-	$ 800,007
Interest on subscription receivable	-	-	-	(69)	-	-	$ (69)
Stock Based Compensation	-	-	8,251	-	-	-	$ 8,251
Net loss	-	-	-	-	-	(148,970)	$ (148,970)
Balance at December 31, 2009	6,146,980	6,147	3,838,011	(2,099)	-	(2,930,288)	$ 911,771
Series A-2 Preferred stock and warrants issued for cash at $1.83 per share, as converted	1,092,030	1,092	1,998,908	-	-	-	$ 2,000,000
Equity Offering transaction costs	-	-	(91,155)	-	-	-	$ (91,155)
Interest on subscription receivable	-	-	-	(57)	-	-	$ (57)
Stock Based Compensation	-	-	24,163	-	-	-	$ 24,163
Net loss	-	-	-	-	-	(1,055,748)	$ (1,055,748)
Balance at December 31, 2010	7,239,010	7,239	5,769,927	(2,156)	-	(3,986,036)	$ 1,788,974
Series A-3 Preferred stock and warrants issued for cash at $1.93 per share, as converted	518,714	519	999,481	-	-	-	$ 1,000,000
Interest on subscription receivable	-	-	-	(29)	-	-	$ (29)
Stock Based Compensation	-	-	15,527	-	-	-	$ 15,527
Net loss	-	-	-	-	-	(1,149,320)	$ (1,149,320)
Balance at December 31, 2011	7,757,724	7,758	6,784,935	(2,185)	-	(5,135,356)	$ 1,655,152
Series A-3 Preferred stock and warrants issued for cash at $1.93 per share, as converted	2,593,570	2,594	4,997,406	-	-	-	$ 5,000,000
Interest on subscription receivable	-	-	-	(26)	-	-	$ (26)
Stock Based Compensation	-	-	332,347	-	-	-	$ 332,347
Unrealized loss on marketable securities	-	-	-	-	(21,795)	-	$ (21,795)
Net loss	-	-	-	-	-	(2,071,255)	$ (2,071,255)
Balance at December 31, 2012	10,351,294	10,351	12,114,689	(2,211)	(21,795)	(7,206,611)	$ 4,894,423
Interest on subscription receivable	-	-	-	(1)	-	-	$ (1)
Proceeds from subscription receivable	-	-	-	2,212	-	-	$ 2,212
Stock Based Compensation	-	-	263,593	-	-	-	$ 263,593
Reverse merger transaction							
Reverse acquisition of Nile	1,336,453	1,336	3,174,664	-	-	-	$ 3,176,000
Unrealized gain (loss) on marketable securities	-	-	-	-	20,815	-	$ 20,815
Net loss	-	-	-	-	-	(8,891,924)	$ (8,891,924)
Balance at December 31, 2013	11,687,747	$ 11,687	$ 15,552,946	$ -	$ (980)	$ (16,098,535)	$ (534,882)

See accompanying notes to consolidated financial statements

CAPRICOR THERAPEUTICS, INC.
(A DEVELOPMENT STAGE COMPANY)
CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2013 AND 2012 AND THE PERIOD
FROM JULY 5, 2005 (INCEPTION) THROUGH DECEMBER 31, 2013

	Years Ended December 31,		July 5, 2005 (inception) through December 31,
	2013	2012	2013
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	$ (8,891,924)	$ (2,071,255)	$ (16,098,535)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on sale of property and equipment	-	-	(3,707)
Depreciation and amortization	26,923	20,337	164,732
Common stock issued for services	-	-	3,858
Impairment of goodwill	1,919,000	-	1,919,000
Stock-based compensation	263,593	332,347	666,123
Change in assets - (increase) decrease:			
Restricted cash	(1,401,859)	-	(1,401,859)
Grants receivable	767,163	(359,547)	-
Interest receivable	25,028	(25,215)	(187)
Prepaid expenses and other current assets	(161,617)	(26,684)	(199,659)
Deposits	(5,105)	(8,980)	(23,193)
Change in liabilities - increase (decrease):			
Accounts payable and accrued expenses	974,710	77,149	1,239,006
Accounts payable and accrued expenses, related party	217,658	4,554	382,142
Sub-award payable, related party	(33,217)	(5,349)	41,855
Accrued royalties	97,512	-	122,416
Accrued interest	58,134	-	58,134
NET CASH USED IN OPERATING ACTIVITIES	(6,144,001)	(2,062,643)	(13,129,874)
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchase of marketable securities	(226,998)	(4,214,521)	(4,441,519)
Proceeds from sales and maturities of marketable securities	4,114,045	-	4,114,045
Proceeds from sale of property and equipment	-	-	88,908
Payments for purchase of property and equipment	(56,115)	(13,428)	(284,923)
Proceeds from reverse merger	664	-	664
Payments for patents	(53,230)	(89,550)	(259,682)
NET CASH PROVIDED BY (USED IN) INVESTING ACTIVITIES	3,778,366	(4,317,499)	(782,507)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from the sale of series A-1 preferred stock	-	-	3,008,000
Proceeds from the sale of series A-2 preferred stock	-	-	2,800,007
Proceeds from the sale of series A-3 preferred stock	-	5,000,000	6,000,000
Proceeds from loan payable, net	3,925,066	-	3,925,066
Costs related to the issuance of preferred stock and warrants	-	-	(91,155)
NET CASH PROVIDED BY FINANCING ACTIVITIES	3,925,066	5,000,000	15,641,918
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	1,559,431	(1,380,142)	1,729,537
Cash and cash equivalents balance at beginning of period	170,106	1,550,248	-
Cash and cash equivalents balance at end of period	$ 1,729,537	$ 170,106	$ 1,729,537
SUPPLEMENTAL DISCLOSURES:			
Interest paid in cash	$ -	$ -	$ -
Income taxes paid in cash	$ -	$ -	$ -

See accompanying notes to consolidated financial statements

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Description of Business

Capricor Therapeutics, Inc., or the Company, is a development stage, biopharmaceutical company whose mission is to improve the treatment of cardiovascular diseases by commercializing innovative therapies. Capricor, Inc., or Capricor (a wholly-owned subsidiary of the Company), was founded in 2005 as a Delaware corporation based on the innovative work of its founder, Eduardo Marbán, M.D., Ph.D. After completion of a merger with Nile Therapeutics, Inc. or Nile, on November 20, 2013, Nile formally changed its name to Capricor Therapeutics, Inc. Capricor Therapeutics, together with our subsidiary, Capricor, currently have five drug candidates in various stages of development.

Consummation of Merger

On November 20, 2013, pursuant to that certain Agreement and Plan of Merger and Reorganization dated as of July 7, 2013, as amended by that certain First Amendment to Agreement and Plan of Merger and Reorganization, dated as of September 27, 2013 (as amended, the "Merger Agreement"), by and among Nile Therapeutics, Inc., a Delaware corporation ("Nile"), Bovet Merger Corp., a Delaware corporation and a wholly-owned subsidiary of Nile ("Merger Sub"), and Capricor, Merger Sub merged with and into Capricor and Capricor became a wholly-owned subsidiary of Nile (the "Merger"). Immediately prior to the effective time of the Merger (the "Effective Time") and in connection therewith, Nile filed certain amendments to its certificate of incorporation which, among other things (i) effected a 1-for-50 reverse split of its common stock (the "Reverse Stock Split"), (ii) changed its corporate name from "Nile Therapeutics, Inc." to "Capricor Therapeutics, Inc.," and (iii) effected a reduction in the total number of authorized shares of common stock from 100,000,000 to 50,000,000, and a reduction in the total number of authorized shares of preferred stock from 10,000,000 to 5,000,000.

At the Effective Time and in connection with the Merger, each outstanding share of Capricor's Series A-1, Series A-2 and Series A-3 Preferred Stock was converted into one share of common stock, par value $0.001 per share, of Capricor (the "Capricor Common Stock").

As a result of the Merger and in accordance with the terms of the Merger Agreement, each outstanding share of Capricor Common Stock was converted into the right to receive approximately 2.07 shares of the common stock of Capricor Therapeutics, par value $0.001 per share (the "Capricor Therapeutics Common Stock"), on a post 1-for-50 Reverse Stock Split basis. Immediately after the Effective Time and in accordance with the terms of the Merger Agreement, the former Capricor stockholders owned approximately 90% of the outstanding common stock of Capricor Therapeutics, and the Nile stockholders owned approximately 10% of the outstanding common stock of Capricor Therapeutics, in each case on a fully-diluted basis. For accounting purposes, the Merger is accounted for as a reverse merger with Capricor as the accounting acquiror (legal acquiree) and Nile as the accounting acquiree (legal acquiror).

Since Capricor was deemed to be the accounting acquiror in the merger, the historical financial information for periods prior to the merger reflect the financial information and activities solely of Capricor and not of Nile. The historical equity of Capricor has been retroactively adjusted to reflect the equity structure of Capricor Therapeutics using the respective exchange ratio established in the merger between Nile and Capricor, which reflects the number of shares Capricor Therapeutics issued to equity holders of Capricor as a result of the merger. The retroactive revision of Capricor's equity includes Capricor's preferred stock as if such shares of preferred stock had been converted into Capricor common stock at the respective dates of issuance, which is consistent with the terms of the merger. Accordingly, all common and preferred shares and per share amounts for all periods presented in the consolidated financial statements contained in this Annual Report on Form 10-K and notes thereto have been adjusted retrospectively, where applicable, to reflect the respective exchange ratio established in the merger.

The acquisition date fair value of the consideration transferred pursuant to the merger totaled $3,176,000. The preliminary goodwill recorded for the merger was $1,919,000. The initial fair values set forth below may be adjusted as additional information is obtained through the measurement period of the transaction and change the fair value allocation as of the acquisition date.

The following table summarizes the preliminary allocation of the purchase price on November 20, 2013 to the estimated fair values of the assets acquired and liabilities assumed in the merger:

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Cash	$ 664
Prepaid expenses	25,639
In-process research and development	1,500,000
Accounts payable and accrued expenses	(269,303)
Net assets acquired	1,257,000
Goodwill	1,919,000
Total consideration	$ 3,176,000

Goodwill of $1,919,000 was comprised of the fair value of the stock issued in the merger of $3,176,000 less net assets acquired of $1,257,000. The Company determined goodwill to be fully impaired as of December 31, 2013. Since the acquisition date, the results of Nile have been included in the Company's consolidated financial results for the period from November 20, 2013 through December 31, 2013.

After the Effective Time, each then outstanding Capricor stock option, whether vested or unvested, was assumed by Capricor Therapeutics in accordance with the terms of (i) the 2006 Stock Option Plan, (ii) the 2012 Restated Equity Incentive Plan, or (iii) the 2012 Non-Employee Director Stock Option Plan, as applicable, and the stock option agreement under which each such option was issued. All rights with respect to Capricor Common Stock under outstanding Capricor options were converted into rights with respect to Capricor Therapeutics Common Stock.

Basis of Consolidation

Our consolidated financial statements include the accounts of the Company and our wholly-owned subsidiary. All intercompany transactions have been eliminated in consolidation.

Development Stage Activities

The Company is a development stage enterprise since it has not yet generated any revenue from the sale of products and, through December 31, 2013, its efforts have been principally devoted to developing its licensed technologies, recruiting personnel, developing its intellectual property portfolio, and raising capital. Accordingly, the accompanying financial statements have been prepared in accordance with the provisions of Accounting Standards Codification ("ASC") 915, "*Development Stage Entities*." The Company has experienced net losses since its inception and has an accumulated deficit of approximately $16.1 million at December 31, 2013. The Company expects to incur substantial and increasing losses and have negative net cash flows from operating activities as it expands its technology portfolio and engages in further research and development activities, particularly the conducting of pre-clinical and clinical trials.

Liquidity

The Company has historically financed its operations from equity financings. Since 2005, Capricor has used equity financed cash, government grant income and a CIRM loan award to finance its research and development activities as well as operational expenses.

Cash resources consisting of cash, cash equivalents and marketable securities as of December 31, 2013 were approximately $2.1 million, compared to $4.4 million as of December 31, 2012. Additionally, on January 7, 2014, Capricor received $12.5 million from Janssen Biotech, Inc. pursuant to the terms of the Collaboration Agreement and Exclusive License Option entered into on December 27, 2013. Furthermore, the Company will need substantial additional financing in the future until it can achieve profitability, if ever. The Company's continued operations will depend on its ability to raise additional funds through various potential sources, such as equity and debt financing, or to license its compounds to another pharmaceutical company. The Company will continue to fund operations from cash on hand and through sources of capital similar to those previously described, as well as government funded grants, and/or loans.

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts and disclosures. Management uses its historical records and knowledge of its business in making these estimates. Accordingly, actual results may differ from these estimates.

Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity of three months or less at the date of purchase to be cash equivalents.

Property and Equipment

Property and equipment are stated at cost. Repairs and maintenance costs are expensed in the period incurred. Depreciation is computed using the straight-line method over the related estimated useful lives.

Description	Estimated Useful Life
Office equipment, lab equipment and furniture	5 – 7 years

Government Research Grants

Government research grants that provide funding for research and development activities are recognized as income when the related expenses are incurred, when applicable.

Restricted Cash

As of December 31, 2013, restricted cash represents funds received under Capricor's Loan Agreement with the California Institute for Regenerative Medicine ("CIRM") (see note 2 below), to be allocated to the ALLSTAR clinical trial research costs as incurred.

Marketable Securities

At December 31, 2013, marketable securities consist primarily of United States treasuries. These investments are considered available-for-sale. Realized gains and losses on the sale of debt and equity securities are determined on the specific identification method. Unrealized gains and losses are presented as other comprehensive income (loss).

Intangible Assets

Amounts attributable to intellectual property consist primarily of the costs associated with the acquisition of certain technologies, patents, patents pending, and related intangible assets with respect to research and development activities. These long-term assets are stated at cost and are being amortized on a straight-line basis over the respective estimated useful lives of the assets ranging from five to fifteen years beginning on the date the patents become effective. Amortization expense was $4,330, $4,330 and $ 297,196 for the years ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013, respectively. Future amortization expense for the next five years is estimated to be $4,330 per year. At December 31, 2013, the Company had $194,732 attributable to pending patents for which amortization has not begun.

As a result the merger, the Company recorded $1.5 million as in-process research and development, a component of intangible assets. An external valuation was performed to establish the value of the intellectual property primarily from licensed assets from the Mayo Foundation for Medical Education and Research that are currently being evaluated internally for future development plans. As of December 31, 2013, the Company has not begun amortizing the in-process research and development.

Long-Lived Assets

The Company accounts for the impairment and disposition of long-lived assets in accordance with guidance issued by the Financial Accounting Standards Board ("FASB"). Long-lived assets to be held and used are reviewed for events or changes in circumstances that indicate that their carrying value may not be recoverable, or annually. No impairment was recorded for the years ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013.

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Goodwill

The Company calculates goodwill as the difference between the acquisition date fair value of the estimated consideration paid in the merger and the values assigned to the assets acquired and liabilities assumed. Goodwill is not amortized but is generally subject to an impairment test annually or more frequently if an event or circumstance indicates that an impairment loss may have been incurred. The Company determined the goodwill balance of $1.9 million to be impaired as of December 31, 2013, and charged such amount to other expenses.

Income Taxes

Income taxes are recognized for the amount of taxes payable or refundable for the current year and deferred tax liabilities and assets are recognized for the future tax consequences of transactions that have been recognized in the Company's financial statements or tax returns. A valuation allowance is provided when it is more likely than not that some portion or the entire deferred tax asset will not be realized.

The Company uses guidance issued by the FASB that clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold of more likely than not and a measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. In making this assessment, a company must determine whether it is more likely than not that a tax position will be sustained upon examination, based solely on the technical merits of the position and must assume that the tax position will be examined by taxing authorities. The Company’s policy is to include interest and penalties related to unrecognized tax benefits in income tax expense. Interest and penalties totaled $0 for the years ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013. The Company files income tax returns with the Internal Revenue Service (“IRS”) and the California Franchise Tax Board. The Company’s net operating loss carryforwards are subject to IRS examination until they are fully utilized and such tax years are closed.

Loan Payable

The Company accounts for the funds advanced under its California Institute for Regenerative Medicine (“CIRM”) Loan Agreement (note 2) as a loan payable as the eventual repayment of the loan proceeds or its forgiveness is contingent upon certain future milestones being met and other conditions. As the likelihood of whether or not the Company will ever achieve these milestones or satisfy these conditions cannot be reasonably predicted at this time, the Company records these amounts as a loan payable.

Research and Development

Costs relating to the design and development of new products are expensed as research and development as incurred in accordance with FASB Accounting Standards Codification (“ASC”) 730-10, *Research and Development*. Research and development costs amounted to $5,197,178, $2,634,222 and $11,499,595 for the years ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013, respectively.

Comprehensive Income (Loss)

Comprehensive income (loss) generally represents all changes in stockholders’ equity during the period except those resulting from investments by, or distributions to, stockholders. For the years ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013, the Company’s comprehensive income (loss) was $20,815, $(21,795), and $(980), respectively. The Company’s other comprehensive income (loss) is related to a net unrealized gain (loss) on marketable securities.

Stock-Based Compensation

The Company accounts for stock-based employee compensation arrangements in accordance with guidance issued by the FASB, which requires the measurement and recognition of compensation expense for all share-based payment awards made to employees, consultants, and directors based on estimated fair values.

The Company estimates the fair value of stock-based compensation awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company's statements of operations.

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The Company estimates the fair value of stock-based compensation awards using the Black-Scholes model. This model requires the Company to estimate the expected volatility and value of its common stock and the expected term of the stock options; all of which are highly complex and subjective variables. The variables take into consideration, among other things, actual and projected employee stock option exercise behavior. The Company calculates an average of historical volatility of similar companies as a basis for its expected volatility. Expected term is computed using the simplified method provided within Securities and Exchange Commission Staff Accounting Bulletin No. 110. The Company has selected a risk-free rate based on the implied yield available on U.S. Treasury securities with a maturity equivalent to the expected term of the options.

Earnings (Loss) per Share

Basic earnings (loss) per share is computed using the weighted-average number of common shares outstanding during the period. Diluted earnings (loss) per share are computed using the weighted-average number of common shares and dilutive potential common shares outstanding during the period. Dilutive potential common shares, which primarily consist of stock options issued to employees and warrants issued to third parties, have been excluded from the diluted loss per share calculation because their effect is anti-dilutive.

For the year ended December 31, 2013 and December 31, 2012, warrants and options to purchase 5,220,800 and 5,413,413 shares, respectively, have been excluded from the computation of potentially dilutive securities.

Fair Value Measurements

Assets and liabilities recorded at fair value in the balance sheet are categorized based upon the level of judgment associated with the inputs used to measure their fair value. The categories are as follows:

Level Input:	Input Definition:
Level I	Inputs are unadjusted, quoted prices for identical assets or liabilities in active markets at the measurement date.
Level II	Inputs, other than quoted prices included in Level I, that are observable for the asset or liability through corroboration with market data at the measurement date.
Level III	Unobservable inputs that reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The following table summarizes fair value measurements by level at December 31, 2013 and 2012 for assets and liabilities measured at fair value on a recurring basis:

	December 31, 2013			
	Level I	Level II	Level III	Total
Marketable securities	$ 326,494	$ -	$ -	$ 326,494

	December 31, 2012			
	Level I	Level II	Level III	Total
Marketable securities	$ 4,192,726	$ -	$ -	$ 4,192,726

Carrying amounts reported in the balance sheet of cash and cash equivalents, grants receivable and accounts payable and accrued expenses, approximate fair value due to their relatively short maturity. The carrying amounts of the Company's marketable securities approximate fair value based on market quotations from national exchanges at the balance sheet date. Interest and dividend income are recognized separately on the income statement based on classifications provided by the brokerage firm holding the investments. The fair value of borrowings is not considered to be significantly different than its carrying amount because the stated rates for such debt reflect current market rates and conditions.

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Warrant Liability

The Company accounts for some of its warrants issued in accordance with the guidance on Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity, which provides that the Company classifies the warrant instrument as a liability at its fair value and adjusts the instrument to fair value at each reporting period. The fair value of warrants is estimated by management using Black-Scholes. This liability is subject to re-measurement at each balance sheet date until exercised, and any change in fair value is recognized as a component of other income or expense. Prior to the merger between Nile and Capricor, the Company and holders of warrants to purchase shares of common stock entered into agreements pursuant to which such holders agreed to receive an aggregate of 59,546 shares of the Company's common stock in exchange for the cancellation and surrender of their warrants. No proceeds were received by the Company from these issuances. Management has determined the value of warrant liability to be insignificant at December 31, 2013.

2. LOAN PAYABLE

On February 5, 2013, Capricor entered into a Loan Agreement with CIRM (the "CIRM Loan Agreement"), pursuant to which CIRM agreed to disburse $19,782,136 to Capricor over a period of three and one-half years to support Phase II of the ALLSTAR clinical trial.

Under the CIRM Loan Agreement, Capricor is required to repay the CIRM loan with interest at the end of the loan period. The loan also provides for the payment of a risk premium whereby Capricor is required to pay CIRM a premium of up to 500% of the loan amount upon the achievement of certain revenue thresholds. The loan has a term of five years and is extendable annually up to ten years at Capricor's option if certain conditions are met. The interest rate for the initial term is set at the one-year LIBOR rate plus 2% ("base rate"), compounded annually, and becomes due at the end of the fifth year. After the fifth year, if the term of the loan is extended and if certain conditions are met, the interest rate will increase by 1% over the base rate each sequential year thereafter, with a maximum increase of 5% over the base rate in the tenth year. CIRM has the right to cease disbursements if a no-go milestone occurs or certain other conditions are not met. Under the terms of the CIRM Loan Agreement, CIRM deducted $36,667 from the initial disbursement to cover its costs in conducting financial due diligence on Capricor. CIRM will also deduct $16,667 from each disbursement made in the second and third year of the loan period to cover its costs of continuing due diligence. So long as Capricor is not in default under the terms of the CIRM Loan Agreement, the loan may be forgiven during the term of the project period if Capricor abandons the trial due to the occurrence of a no-go milestone. After the end of the project period, the loan may also be forgiven if Capricor elects to abandon the project under certain circumstances. Under the CIRM Loan Agreement, Capricor is required to meet certain financial milestones by demonstrating to CIRM prior to each disbursement of loan proceeds that it has funds available sufficient to cover all costs and expenses anticipated to be required to continue Phase II of the ALLSTAR trial for at least the following 12-month period, less the costs budgeted to be covered by planned loan disbursements. Capricor will not issue stock, warrants or other equity to CIRM in connection with this award.

The timing of the distribution of funds pursuant to the CIRM Loan Agreement shall be contingent upon the availability of funds in the California Stem Cell Research and Cures Fund in the State Treasury, as determined by CIRM in its sole discretion.

Capricor did not issue stock, warrants or other equity to CIRM in connection with this award. The due diligence costs to be deducted from each disbursement are capitalized and amortized to general and administrative expenses over the remaining term of the loan. As of December 31, 2013, $36,667 of loan costs were capitalized with $6,722, $0, and $6,722 expensed for the years ended December 31, 2013 and December 31, 2012 and the period from July 5, 2005 (inception) through December 31, 2013, respectively, with the balance of $29,945 to be amortized over the next 4.1 years.

On February 6, 2013, Capricor received loan proceeds of $857,267, net of loan costs. This loan amount will carry interest at the initial rate 2.77% per annum.

On July 8, 2013, Capricor received its second disbursement under the loan award for $3,067,799. This disbursement will carry interest at the initial rate of 2.45% per annum. A portion of the principle disbursed under the second disbursement is currently being recorded as restricted cash, as Capricor must expend for approved project costs in order to use these funds. For the year ended December 31, 2013 and for the period from July 5, 2005 (inception) through December 31, 2013, interest expense under the CIRM loan was $58,134 and $58,134, respectively.

3. STOCKHOLDER'S EQUITY

Reverse Stock Split

On November 20, 2013, we effected a reverse split of our common stock, par value $0.001 per share, at a ratio of one-for-fifty. Unless otherwise indicated, all share amounts, per share data, share prices, exercise prices and conversion rates set forth in these consolidated financial statements and related notes, where applicable, have been adjusted retroactively to reflect this reverse stock split.

Outstanding Shares

At December 31, 2013, there were 11,687,747 common shares issued and outstanding.

Conversion of all Convertible Preferred Stock at the Merger

Prior to the Merger and without giving effect to the applicable multiplier,Capricor was authorized to issue 5,426,844 shares of convertible preferred stock, which was allocated as follows: Series A-1: 940,000 shares, all of which were issued; Series A-2: 736,844 shares, all of which were issued; and Series A-3: 3,750,000 shares, of which 1,500,000 shares were issued. During 2011 and 2012, the 1,500,000 shares of Series A-3 convertible preferred stock, with a par value of $0.001 per share were issued for cash proceeds of $6,000,000. Immediately prior to the Effective Time, all shares of Capricor preferred stock were converted into shares of Capricor common stock pursuant to the terms of the Merger Agreement. The shares of Capricor preferred stock that were converted into Capricor common stock as a result of the Merger and in accordance with the terms of the Merger Agreement, were exchanged according to the applicable multiplier for 6,591,494 shares of common stock of the Company, and all rights and preferences (including dividends) attached to the shares of Capricor preferred stock were rendered void. The preferred shares are presented retrospectively as shares of common stock on an as-converted basis.

4. STOCK OPTIONS AND WARRANTS

Capricor, Inc. Warrants

During the year ended December 31, 2009, Capricor issued warrants to purchase shares of common stock in conjunction with the issuance of the Series A-2 Preferred Stock. Upon consummation of the merger on November 20, 2013, the warrants terminated per the terms of the original warrant agreement with no warrants being exercised prior to the termination.

Capricor Therapeutics, Inc. Warrants

In connection with its July 2009 private placement, the Company issued five-year warrants to purchase an additional 53,827 shares of common stock. The warrants were issued in three separate tranches, as follows:

- Warrants to purchase approximately 13,457 shares, representing 25% of the total warrant shares issued to investors, have an exercise price equal to $62.50
- Warrants to purchase approximately 13,457 shares, representing 25% of the total warrant shares issued to investors, have an exercise price equal to $85.50.
- Warrants to purchase approximately 26,913 shares, representing 50% of the total warrant shares issued to investors, have an exercise price equal to $114.00.

The warrants issued to investors in the July 2009 private placement are redeemable by the Company upon 30 days' notice, if at any time, the volume weighted average price of the common shares for any 20 consecutive business days is equal to or greater than 200% of the applicable exercise price of each warrant.

As consideration for its services as placement agent in connection with the July 2009 private placement, the Company also issued to designees of Riverbank Capital Securities, Inc. five-year warrants to purchase 4,366 shares of common stock at a price of $68.75 per share.

At the consummation of the merger, 317 shares of common stock were issued in exchange for the forfeiture of approximately 26,693 warrants issued as part of the July 2009 private placement. There are approximately 28,400 warrants remaining outstanding as of December 31, 2013 as part of the July 2009 private placement, with a weighted average exercise price of $94.00.

4. STOCK OPTIONS AND WARRANTS (continued)

In connection with the April 2010 Offering, the Company issued a total of 44,850 Unit Warrants, each of which has a term of five years and represents the right to purchase one share of the Company's common stock at an exercise price of $47.00 per share. In addition, the Company issued the underwriters a five-year warrant to purchase 7,800 shares of the Company's common stock at an exercise price of $47.00 per share. There are 52,650 warrants remaining outstanding as of December 31, 2013 as part of the April 2010 Offering, with a weighted average exercise price of $47.00.

In connection with the 2011 Offering, the Company issued a total of 50,000 warrants, each of which has a term of five years and represents the right to purchase one share of the Company's common stock at an exercise price of $30.00 per share. In addition, the Company issued to the Placement Agents a five-year warrant to purchase 5,000 shares of the Company's common stock at an exercise price of $30.00 per share. On August 1, 2013, the Company and the holders of warrants issued in connection with the Company's 2011 Offering entered into warrant exchange agreements whereby the Company issued a total of 9,166 shares of its common stock on a post-Reverse Stock Split basis. As a result, all of the warrants issued in connection with the June 2011 private placement were cancelled. No proceeds were received by the Company from this issuance.

In connection with the April 2012 financing, the Company issued a total of 50,250 warrants, each of which has a term of five years and represents the right to purchase one share of the Company's common stock at an exercise price of $25.00 per share. The warrants contained a non-standard anti-dilution features, such that, in the event the Company issues common shares at a price below the current exercise price of the warrants, the exercise price of the warrants will be adjusted based on the lower issuance price. This feature was triggered upon the conversion of the 2013 Notes. In previous years, management used a binomial option pricing model to determine the warrant liability. Upon consummation of the merger, 50,063 warrants were cancelled and exchanged for 50,063 shares of the Company's common stock. Management has determined that any additional liability is insignificant. There are 187 warrants remaining outstanding as of December 31, 2013 as part of the April 2012 financing, with a weighted average exercise price of $2.2725.

At the close of the merger between Nile and Capricor on November 20, 2013, certain convertible notes payable were converted into 251,044 shares of our common stock on a post-Reverse Stock Split basis. Additionally, 251,044 warrants to purchase shares of our common stock at a strike price of $2.2725, on a post-Reverse Stock Split basis, were issued to the holders of the 2013 Notes and certain additional notes issued in connection with the 2013 Notes.

The following schedule represents warrant activity for the year ended December 31, 2013:

	Warrants	Weighted Average Exercise Price
Outstanding at January 1, 2013	1,733,599	$ 3.38
Cancelled	(1,733,599)	3.38
Assumed from merger	81,237	63.33
Granted	251,044	2.27
Outstanding at December 31, 2013	332,281	$ 17.20

Stock Options

The Company's Board of Directors has approved four stock option plans: (i) the Amended and Restated 2005 Stock Option Plan (ii) the 2006 Capricor Stock Option Plan, (iii) the 2012 Capricor Restated Equity Incentive Plan (which has superseded the 2006 Stock Option Plan) (the "2012 Plan"), and (iv) the 2012 Capricor Non-Employee Director Stock Option Plan (the "2012 Non-Employee Director Plan").

The Company's Amended and Restated 2005 Stock Option Plan (the "Plan") was initially adopted by the Board of Directors on August 10, 2005. On July 26, 2010, the Company's stockholders approved an amendment to the Plan increasing the total number of shares authorized for issuance thereunder to 190,000 after the effects of the Reverse Stock Split at the consummation of the merger. Under the Plan, incentives may be granted to officers, employees, directors, consultants, and advisors. Incentives under the Plan may be granted in any one or a combination of the following forms: (a) incentive stock options and non-statutory stock options, (b) stock appreciation rights, (c) stock awards, (d) restricted stock and (e) performance shares.

4. STOCK OPTIONS AND WARRANTS (continued)

After the effects of the Merger, the 2012 Plan reserved 4,149,710 shares for the grant of stock options, stock appreciation rights, restricted stock awards and performance unit/share awards to employees, consultants and other service providers. Included in the 2012 Plan are the shares that were originally reserved under the 2006 Stock Option Plan. Under the 2012 Plan, each option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. Notwithstanding such designation, however, to the extent that the aggregate fair market value of the shares with respect to which Incentive Stock Options are exercisable for the first time by the participant during any calendar year (under all plans of the Company and any parent or subsidiary) exceeds one hundred thousand dollars ($100,000), such options will be treated as Nonstatutory Stock Options.

After the effects of the merger, the 2012 Non-Employee Director Plan reserved 2,697,311 shares for the grant of stock options to members of the Board of Directors, who are not employees of the Company.

Each of the plans are administered by the Board of Directors, or a committee appointed by the Board, which determines the recipients and types of awards to be granted, as well as the number of shares subject to the awards, the exercise price and the vesting schedule. Currently, stock options are granted with an exercise price equal to closing price of the Company's common stock on the date of grant, and generally vest over a period of one to four years. The term of stock options granted under each of the plans cannot exceed ten years.

The estimated weighted average fair values of the options granted during 2013 and 2012 were $0.53 and $0.60 per share, respectively.

The Company estimates the fair value of each option award using the Black-Scholes option-pricing model. The following assumptions we used for stock options issued in the year ended December 31, 2013 and December 31, 2012:

	December 31, 2013	December 31, 2012
Expected volatility	118%	100%
Expected term	0.1-7 years	5-7 years
Dividend yield	0%	0%
Risk-free interest rates	0.13-2.3%	0.63-1.34%

Employee stock-based compensation costs for the year ended December 31, 2013 and 2012 and for the cumulative period from July 5, 2005 (inception) through December 31, 2013, are as follows:

	Year ended December 31,		Period from July 5, 2005 (inception) through
	2013	2012	December 31, 2013
General and administrative	$ 263,593	$ 332,347	$ 666,123

The following table summarizes information about stock options outstanding and exercisable at December 31, 2013:

	Shares Outstanding		
Range of Ex. Prices	Shares Outstanding	WA Term (yrs.)	WA Exercise Price
$0.16 - $0.19	100,627	4.80	$ 0.17
$0.30 - $0.37	4,709,838	8.36	$ 0.36
$0.87	56,021	4.95	$ 0.87
$18.50 - $28.50	10,330	1.89	$ 23.43
$34.00 - $44.50	11,703	0.59	$ 43.60
	4,888,519	**8.22**	**$ 0.51**

4. STOCK OPTIONS AND WARRANTS (continued)

	Shares Exercisable		
Range of Ex. Prices	Shares Exercisable	WA Term (yrs.)	WA Exercise Price
$0.16 - $0.19	96,487	4.71	$ 0.17
$0.30 - $0.37	2,360,885	8.08	$ 0.37
$0.87	56,021	4.95	$ 0.87
$18.50 - $28.50	10,330	1.89	$ 23.43
$34.00 - $44.50	11,703	0.59	$ 43.60
	2,535,426	**7.83**	**$ 0.67**

As of December 31, 2013, the total unrecognized fair value compensation cost related to non-vested stock options was $600,539 which is expected to be recognized over approximately 2.7 years.

Common stock, stock options or other equity instruments issued to non-employees (including consultants) as consideration for goods or services received by the Company are accounted for based on the fair value of the equity instruments issued (unless the fair value of the consideration received can be more reliably measured). The fair value of stock options is determined using the Black-Scholes option-pricing model and is periodically re-measured as the underlying options vest. The fair value of any options issued to non-employees is recorded as expense over the applicable vesting periods.

As of December 31, 2013, there were options granted and outstanding to purchase 4,888,519 shares of the Company's common stock under the plans to employees and non-employees. During the year ended December 31, 2013 and 2012, 1,186,672 and 2,942,207 options, respectively, were granted to employees and non-employees under the plans.

The following is a schedule summarizing stock option activity for the year ended December 31, 2013:

	Number of Options	Weighted Average Exercise Price
Outstanding at January 1, 2013	3,679,814	$ 0.37
Granted	1,186,672	0.31
Assumed from merger	22,033	34.15
Exercised	-	-
Outstanding at December 31, 2013	4,888,519	$ 0.51
Exercisable at December 31, 2013	2,535,426	$ 0.67

5. CONCENTRATIONS

Cash Concentration

The Company has historically maintained checking accounts at two financial institutions. These accounts collectively are insured by the Federal Deposit Insurance Corporation up to $250,000. Historically, the Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk on cash and cash equivalents. As of December 31, 2013 the Company maintained $3,274,631 of uninsured deposits.

6. COMMITMENTS AND CONTINGENCIES

Leases

Capricor leases space for its corporate offices pursuant to a lease effective for a two year period beginning July 1, 2013. The monthly payment will be $16,620 per month for the first twelve months of the term, and will increase to $17,285 per month for the second twelve months of the term. Capricor, Inc. also leases research facilities from Cedars-Sinai Medical Center, a shareholder of the Company, currently on a month-to-month basis.

Total rent expense to unrelated parties for the year ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013 was $154,536, $61,782 and $216,318, respectively. Total rent expense to the related party for the year ended December 31, 2013 and 2012 and for the period from July 5, 2005 (inception) through December 31, 2013 was $54,648, $54,648, and $323,334, respectively.

6. COMMITMENTS AND CONTINGENCIES (continued)

Legal Contingencies

Periodically the Company may become involved in certain legal actions and claims arising in the ordinary course of business. There were no legal actions or claims reported at December 31, 2013.

7. LICENSE AGREEMENTS

Capricor's Technology - CAP-1002, CAP-1001 and CSps

Capricor has entered into exclusive license agreements for intellectual property rights related to cardiac derived cells with Università Degli Studi Di Roma at la Sapienza (the University of Rome), JHU and CSMC. In addition, Capricor has filed patent applications related to enhancements or validation of the technology developed by its own scientists.

University of Rome License Agreement

Capricor and the University of Rome entered into a License Agreement, dated June 21, 2006 (the Rome License Agreement), which provides for the grant of an exclusive, world-wide, royalty-bearing license by the University of Rome to Capricor (with the right to sublicense) to develop and commercialize licensed products under the licensed patent rights in all fields. With respect to any new or future patent applications assigned to the University of Rome utilizing cardiac stem cells in cardiac care, Capricor has a first right of negotiation for a certain period of time to obtain a license thereto.

Pursuant to the Rome License Agreement, Capricor paid the University of Rome a license issue fee, as well as minimum annual royalties, and is obligated to pay a royalty received as a result of sublicenses granted. The minimum annual royalties are creditable against future royalty payments.

The Rome License Agreement will, unless extended or sooner terminated, remain in effect until the later of the last claim of any patent or until any patent application comprising licensed patent rights has expired or been abandoned. Under the terms of the Rome License Agreement, either party may terminate the agreement should the other party become insolvent or file a petition in bankruptcy. Either party shall have up to 90 days to cure its material breach.

The Johns Hopkins University License Agreement

Capricor and JHU entered into an Exclusive License Agreement, effective June 22, 2006 (the JHU License Agreement), which provides for the grant of an exclusive, world-wide, royalty-bearing license by JHU to Capricor (with the right to sublicense) to develop and commercialize licensed products and licensed services under the licensed patent rights in all fields and a nonexclusive right to the know-how. In May 2009, the JHU License Agreement was amended to add additional patent rights to the License Agreement in consideration of a payment to JHU and reimbursement of patent costs. Capricor and JHU executed a Second Amendment to the JHU License Agreement, effective as of December 20, 2013, pursuant to which, among other things, certain definitions were added or amended, the timing of certain obligations was revised and other obligations of the parties were clarified.

Pursuant to the JHU License Agreement, JHU was paid an initial license fee and, thereafter, Capricor is required to pay minimum annual royalties on the anniversary dates of the JHU License Agreement. The minimum annual royalties are creditable against running royalties on net sales of products and net service revenues which Capricor is also required to pay under the JHU License Agreement. In addition, Capricor is required to pay a certain percentage of the consideration received by it from sublicenses granted, and is required to pay JHU certain defined development milestone payments upon the successful completion of certain phases of its clinical studies and upon receiving FDA approval. These milestone payments range from $100,000 at the time Phase I is fully complete to $1,000,000 if FDA approval has been received. As of December 31, 2013, $100,000 has been accrued as the Phase I enrollment has been completed.

The JHU License Agreement will, unless sooner terminated, continue in effect in each applicable country until the date of expiration of the last to expire patent within the patent rights, or, if no patents are issued, then for twenty years from the effective date. Under the terms of the JHU License Agreement, either party may terminate the agreement should the other party become insolvent or file a petition in bankruptcy, or fail to cure a material breach within 30 days after notice. In addition, Capricor may terminate for any reason upon 60 days' written notice.

7. LICENSE AGREEMENTS (continued)

Cedars-Sinai Medical Center License Agreement

On January 4, 2010, Capricor entered into an Exclusive License Agreement with CSMC (the CSMC License Agreement), for certain intellectual property rights. In 2013, the CSMC License Agreement was amended twice resulting in, among other things, a reduction in the percentage of sublicense fees which would have been payable to CSMC. Effective December 30, 2013, Capricor entered into an Amended and Restated Exclusive License Agreement with CSMC (the Amended CSMC License Agreement) pursuant to which, among other things, certain definitions were added or amended, the timing of certain obligations was revised and other obligations of the parties were clarified.

The Amended CSMC License Agreement provides for the grant of an exclusive, world-wide, royalty-bearing license by CSMC to Capricor (with the right to sublicense) to conduct research using the patent rights and know-how and develop and commercialize products in the field using the patents rights and know-how. In addition, Capricor has the exclusive right to negotiate for an exclusive license to any future rights arising from related work conducted by or under the direction of Dr. Eduardo Marbán on behalf of CSMC. In the event the parties fail to agree upon the terms of an exclusive license, Capricor shall have a non-exclusive license to such future rights, subject to royalty obligations.

Pursuant to the CSMC License Agreement, CSMC was paid a license fee and Capricor was obligated to reimburse CSMC for certain fees and costs incurred in connection with the prosecution of certain patent rights. Additionally, Capricor was required to meet certain spending and development milestones. Pursuant to the Amended CSMC License Agreement, Capricor remains obligated to pay royalties on sales of royalty-bearing products as well as a percentage of the consideration received from any sublicenses or other grant of rights. In 2010, Capricor discontinued its research under some of the patents.

The Amended CSMC License Agreement will, unless sooner terminated, continue in effect on a country by country basis until the last to expire of the patents covering the patent rights or future patent rights. Under the terms of the Amended CSMC License Agreement, unless waived by CSMC, the agreement shall automatically terminate: (i) if Capricor ceases, dissolves or winds up its business operations; (ii) in the event of the insolvency or bankruptcy of Capricor or if Capricor makes an assignment for the benefit of its creditors; (iii) if performance by either party jeopardizes the licensure, accreditation or tax exempt status of CSMC or the agreement is deemed illegal by a governmental body; (iv) within 30 days for non-payment of royalties; (v) within 90 days if Capricor fails to undertake commercially reasonable efforts to exploit the patent rights or future patent rights; (vi) if a material breach has not been cured within 90 days; or (vii) if Capricor challenges any of the CSMC patent rights. Capricor may terminate the agreement if CSMC fails to cure any material breach within 90 days after notice.

Collaboration Agreement with Janssen Biotech, Inc.

On December 27, 2013, Capricor entered into a Collaboration Agreement and Exclusive License Option with Janssen Biotech, Inc., or Janssen, a wholly-owned subsidiary of Johnson & Johnson. Under the terms of the agreement, Capricor and Janssen agreed to collaborate on the development of Capricor's cell therapy program for cardiovascular applications, including its lead product, CAP-1002. Capricor and Janssen further agreed to collaborate on the development of cell manufacturing in preparation for future clinical trials. Under the agreement, Capricor was paid $12.5 million in January 2014, and Capricor will contribute to the costs of development of a chemistry, manufacturing and controls (CMC) package. In addition, Janssen has the exclusive right to enter into an exclusive license agreement pursuant to which Janssen would receive a worldwide, exclusive license to exploit CAP-1002 as well as certain allogeneic cardiospheres and cardiosphere-derived cells in the field of cardiology. Janssen has the right to exercise the option at any time until 60 days after the delivery by Capricor of the six-month follow-up results from Phase II of Capricor's ALLSTAR clinical trial for CAP-1002. If Janssen exercises its option rights, Capricor would receive an upfront license fee and additional milestone payments which may total up to $325.0 million. In addition, a double-digit royalty would be paid on sales of licensed products.

Company's Technology – Cenderitide and CU-NP

The Company has entered into an exclusive license agreement for intellectual property rights related to natriuretic peptides with the Mayo Foundation for Medical Education and Research and a Clinical Trial Funding Agreement with Medtronic, Inc., which also includes certain intellectual property licensing provisions.

Mayo License Agreement

The Company and the Mayo Foundation for Medical Education and Research, or Mayo, previously entered into a Technology License Agreement with respect to cenderitide on January 20, 2006. On June 13, 2008, the Company and Mayo entered into a Technology License Agreement with respect to CU-NP (the CU-NP Agreement). On November 14, 2013, the Company entered into an Amended and Restated License Agreement with Mayo (the Amended Mayo Agreement). The Amended Mayo Agreement amends and restates in its entirety each of the CD-NP Agreement and the CU-NP Agreement, and creates a single amended and restated license agreement between the Company and Mayo with respect to CD-NP and CU-NP.

7. LICENSE AGREEMENTS (continued)

The Amended Mayo Agreement provides for the grant of an exclusive, world-wide, royalty-bearing license by Mayo to the Company (with the right to sublicense) under the Mayo patents, patent applications and improvements, and a nonexclusive right under the know-how, for the development and commercialization of CD-NP and CU-NP in all therapeutic indications. With respect to any future patents and any improvements related to cenderitide and CU-NP owned by or assigned to Mayo, the Company has the exclusive right of first negotiation for the exclusive or non-exclusive rights (at the Company's option) thereto. Such exclusive right of negotiation shall be effective as of June 1, 2016, or such earlier date when the Company has satisfied certain payment obligations to Mayo.

Under each of the previous CD-NP Agreement and CU-NP Agreement, the Company paid Mayo up-front cash payments and the Company agreed to make certain performance-based cash payments to Mayo upon successful completion of certain milestones. Additionally, the Company issued certain amounts of common stock of the Company to Mayo under each agreement. The Amended Mayo Agreement restructured the economic arrangements of the CD-NP Agreement and CU-NP Agreement by, among other things, eliminating certain milestone payments and decreasing the royalty percentages payable upon the commercial sale of the products. Pursuant to the terms of the Amended Mayo Agreement, the Company agreed to pay to Mayo an annual license maintenance fee and to issue to Mayo an additional 18,000 shares of the Company's common stock as additional consideration for the grant of certain rights. Mayo also agreed to waive or defer the payment of certain fees owed to Mayo. All breaches and defaults by the Company under the terms of the CD-NP Agreement and CU-NP Agreement were waived by Mayo in the Amended Mayo Agreement.

The Amended Mayo Agreement will, unless sooner terminated, expire on the later of (i) the expiration of the last to expire valid claim contained in the Mayo patents, or (ii) the 20th anniversary of the Amended Mayo Agreement. Under the terms of the Amended Mayo Agreement, Mayo may terminate the agreement earlier (i) for the Company's material breach of the agreement that remains uncured after 90 days' written notice to the Company, (ii) for the Company's insolvency or bankruptcy, (iii) if the Company challenges the validity or enforceability of any of the patent rights in any manner, or (iv) if the Company has not initiated either the next clinical trial of cenderitide within two years of the effective date of the Amended Mayo Agreement or a clinical trial of CU-NP within two and one-half years of the effective date. The Company may terminate the Amended Mayo Agreement without cause upon 90 days' written notice.

We license certain patent and other intellectual property rights that cover our cenderitide and CU-NP product candidates from Mayo. In the past, we have relied on Mayo to file, prosecute and maintain patent applications, and to otherwise protect the intellectual property to which we have a license. Prior to the Amended Mayo License Agreement, we did not have primary control over these activities for certain of these patents or patent applications and other intellectual property rights. With the execution of the Amended Mayo License Agreement, we have the responsibility for the prosecution and maintenance of the Mayo patents and patent applications at our expense. We cannot be certain that the activities conducted by Mayo have been or will be conducted in compliance with applicable laws and regulations, or will result in valid and enforceable patents and other intellectual property rights. Our enforcement of certain of these licensed patents or defense of any claims asserting the invalidity of these patents would also be subject to the cooperation of the third parties. We are also responsible for paying any prosecution and maintenance fees of all Mayo patents and Mayo patent applications now existing and included in the Amended Mayo License Agreement.

Medtronic Clinical Trial Funding Agreement

In February 2011, the Company entered into a Clinical Trial Funding Agreement with Medtronic, Inc. (Medtronic). Pursuant to the agreement, Medtronic provided funding and equipment necessary for us to conduct a Phase I clinical trial to assess the pharmacokinetics and pharmacodynamics of cenderitide when delivered to heart failure patients through continuous subcutaneous infusion using Medtronic's pump technology.

Pursuant to its terms, the agreement expired in February 2012, following the completion of the Phase I clinical trial and the delivery of data and reports related to such study. Although the Medtronic agreement expired, there are certain provisions that survive the expiration of the agreement, including the obligation to pay royalties on products that might be covered by the Joint Intellectual Property.

8. RELATED PARTY TRANSACTIONS

Lease and Sub-Lease Agreements

Capricor leases space for its research facilities from CSMC, a shareholder of Capricor Therapeutics, Inc. (see note 6).

8. RELATED PARTY TRANSACTIONS (continued)

Beginning May 1, 2012, pursuant to a sublease agreement, Capricor subleased part of its office space to Frank Litvack, the Company's Executive Chairman, for $2,500 per month. On April 1, 2013, Capricor entered into a sublease with Reprise Technologies, LLC, a limited liability company which is wholly owned by Dr. Litvack, for $2,500 per month. The sublease is on a month-to-month basis. Capricor recognized $30,000, $20,000 and $50,000 in sublease income from the related party during the year ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, respectively. Sublease income is recorded as a reduction to general and administrative expenses.

Consulting Agreements

Effective May 1, 2012 Frank Litvack, the Company's Executive Chairman entered into a consulting agreement for $4,000 per month for consulting services. Effective January 1, 2013, the payment amount was increased to $10,000 per month payable for consulting services. On March 24, 2014, Capricor entered into a consulting agreement with Dr. Litvack memorializing the $10,000 per month compensation arrangement described above. The agreement is terminable upon 30 days' notice.

Sub-Award Agreement

Effective January 30, 2012, Capricor, Inc. entered into a sub-award agreement with CSMC. Sub-award payments totaling approximately $249,019, $244,069 and $503,899 were paid to CSMC during the year ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, respectively. At December 31, 2013, the Company had sub-awards payable of $41,855.

Payables to Related Party

At December 31, 2013 and 2012, the Company had accounts payable and accrued expenses, which excludes the sub-award payable, to CSMC totaling $382,142 and $164,484, respectively.

9. SUBSEQUENT EVENTS

On January 7, 2014, Capricor received a payment from Janssen Biotech, Inc. for $12.5 million pursuant to the terms of the Collaboration Agreement and Exclusive License Option entered into on December 27, 2013.

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

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We have adopted and maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Principal Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that controls and procedures, no matter how well designed and operated, cannot provide absolute assurance of achieving the desired control objectives.

As required by Rule 13a-15(b), under the Securities Exchange Act of 1934, as amended, we carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Principal Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and Principal Financial Officer concluded that as of December 31, 2013, our disclosure controls and procedures were effective at the reasonable assurance level.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) and 15d-15(f) of the Securities Exchange Act of 1934, as amended. Our internal control over financial reporting is a process designed to provide reasonable assurance to our management and Board of Directors regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes policies and procedures that: (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements, errors or fraud. Also, projections of any evaluations of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2013. The assessment was based upon the framework described in the "Integrated Control-Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (1992 Framework) ("COSO"). Based on that assessment, management has concluded that our internal control over financial reporting was effective as of December 31, 2013.

This Annual Report on Form 10-K does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by our registered public accounting firm pursuant to rules of the SEC that permit smaller reporting companies to provide only management's report in this Annual Report on Form 10-K.

Changes in Internal Controls over Financial Reporting

There have been no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended) during the fiscal year ended December 31, 2013 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

Part III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Directors and Executive Officers

The following table lists our executive officers and directors and their respective ages and positions as of the date of this report:

Name	Age	Positions Held
Linda Marbán, Ph.D.	50	President, Chief Executive Officer and Director
Anthony Bergmann, M.B.A.	28	Principal Financial Officer and Vice President of Finance
Karen G. Krasney, J.D.	61	Executive Vice President and General Counsel
Andrew Hamer, M.D.	52	Vice President of Medical Affairs
Anthony Davies, Ph.D.	49	Chief Technology Officer
Rachel Smith, Ph.D.	35	Vice President of Research and Development
Frank Litvack, M.D.	58	Executive Chairman and Director
Joshua Kazam	36	Director
Gregory W. Schafer	48	Director
Earl M. (Duke) Collier, Jr.	65	Director
David B. Musket	55	Director
Louis Manzo	76	Director
Louis J. Grasmick	89	Director
George W. Dunbar, Jr.	66	Director

Linda Marbán, Ph.D. Dr. Marbán is currently serving as our Chief Executive Officer. Co-founder of Capricor, Dr. Marbán has been with Capricor since 2005 and became its Chief Executive Officer in 2010. She combines her background in research with her business experience to lead Capricor and create a path to commercialization for its novel stem-cell cardiac therapies. Dr. Marbán was the lead negotiator in procuring the license agreements that are the foundation of Capricor's intellectual property portfolio. Under her direction as Chief Executive Officer, Capricor secured approximately $27.0 million in non-dilutive grants and a loan award which funds Capricor's R&D programs and clinical trials involving its CAP-1002 product. Dr. Marbán's deep knowledge of the cardiac space in particular, allows her to provide unique direction for the company's development and growth. From 2003 to 2009, Dr. Marbán was with Excigen, Inc., a biotechnology start-up company, where she was responsible for business development, operations, pre-clinical research, and supervising the development of gene therapy products in a joint development agreement with Genzyme Corp. While at Excigen, she also negotiated a joint development and sublicense agreement with Medtronic Corp. utilizing Excigen's technology and supervised the building of a lab in which the work was to be performed. Dr. Marbán began her career in academic science, first at the Cleveland Clinic Foundation working on the biophysical properties of cardiac muscle. That work continued when she moved to a postdoctoral fellowship at Johns Hopkins University, or JHU. While at JHU, she advanced to the rank of Research Assistant Professor in the Department of Pediatrics, continuing her work on the mechanism of contractile dysfunction in heart failure. Her tenure at JHU ran from 2000 to 2003. Dr. Marbán earned a Ph.D. from Case Western Reserve University in cardiac physiology.

Anthony Bergmann, M.B.A. Mr. Bergmann currently serves as our Vice President of Finance. Mr. Bergmann previously worked at the business management firm, Gettleson, Witzer and O'Connor, in Beverly Hills, California beginning in 2008, where he focused on accounting and finance for several production studios generating motion picture releases and worldwide revenue exceeding $1 billion. The firm's clients included foundations, trusts, and independent actors, writers, producers and directors across the entertainment industry. While at the firm, he focused on budgeting, tax forecasting and asset management. Mr. Bergmann joined Capricor in 2011 and has served as the Director of Finance since 2012. He was recently made Vice President of Finance of Capricor. He also serves as Capricor's corporate treasurer. Mr. Bergmann was instrumental in facilitating the company's Series A-3 $6.0 million Preferred Stock offering and helped structure the company's successful $19.8 million budget proposal to the California Institute for Regenerative Medicine for the company's Phase II clinical trial. Mr. Bergmann is responsible for all aspects of the Company's finance, accounting and HR functions. Mr. Bergmann graduated from Providence College with a BS in Management, and a minor in Finance. He has an MBA from the University of Southern California's Marshall School of Business. He is actively involved in various venture capital and entrepreneurial associations throughout the Los Angeles area.

Karen G. Krasney, J.D. Ms. Krasney is currently serving as our Executive Vice President, Secretary and General Counsel. Ms. Krasney's career spans over 35 years serving as General Counsel for numerous corporations and private companies engaged in a wide variety of industries. Her extensive background and vast experience has been focused on domestic and international corporate and business law, as well as litigation. Ms. Krasney has been involved in the medical technology arena since the mid 1990's, representing several medical technology companies developing products for the treatment of cardiovascular disease. Commencing in 2002, Ms. Krasney served as legal counsel of Biosensors International Group Ltd., a multinational medical device company that develops, manufactures and sells medical devices for cardiology applications. In 2006, she accepted the position of General Counsel and Executive Vice President of Biosensors and served in that capacity until 2010. During her tenure at Biosensors, among other things, Ms. Krasney headed the legal team that facilitated the company's successful initial public offering in Singapore and was responsible for negotiating and documenting all agreements for the company worldwide, including licensing agreements with major medical device companies and agreements required for the company's international clinical trials. Ms. Krasney has been providing legal services to Capricor since 2011 and in 2012 joined Capricor as its Executive Vice President and General Counsel. Ms. Krasney also serves as a director on the Board of Cardiovascular Research Foundation, a non-profit research and education entity. Ms. Krasney received her Bachelor of Arts degree from the University of California, Los Angeles and her Juris Doctorate from the University of Southern California.

Andrew Hamer, M.D. Dr. Hamer is currently serving as our Vice President of Medical Affairs.He completed internal medicine and cardiology training at Green Lane Hospital in Auckland, New Zealand, having completed his degree in medicine from Otago University. Dr. Hamer also completed a Senior Cardiology Fellowship at the Deaconess Hospital and at Harvard Medical School in Boston. He served as Chairman of the New Zealand branch of the Cardiac Society of Australia and New Zealand from 2008 to 2009. In 2008, Dr. Hamer also co-chaired the Cardiac Surgery Services Development Working Group (CSSDG). In 2009, Dr. Hamer was selected by the Minister of Health to lead the development of the National Cardiac Surgery Clinical Network to oversee the implementation of the CSSDG recommendations, leading to substantial improvements in cardiac surgery delivery in New Zealand. In 2011, Dr. Hamer was asked to lead the expansion of the network to incorporate all of the cardiac services, forming the New Zealand Cardiac Clinical Network. In this role he led the implementation of national strategies to improve the equity and access to cardiac services and the establishment of national registries for acute coronary syndrome, percutaneous coronary intervention and cardiac surgery to enable continuous quality improvement from a local to national level. Dr. Hamer joined Capricor in November 2013 as the Vice President of Medical Affairs. Throughout this time, Dr. Hamer has been a cardiologist and internal medicine specialist at Nelson Hospital, where he has been a principal investigator for over 40 multi-center clinical trials in acute coronary syndrome, cholesterol, hypertension, heart failure, diabetes and atrial fibrillation management.

Anthony Davies, Ph.D. Dr. Davies joined Capricor in February, 2013 as the Chief Technology Officer, where he was responsible for the manufacturing, development and expansion of Capricor's cell-based therapeutic portfolio. From 2006 – 2012, Dr. Davies was Vice President, Product Development at Geron Corporation, a publicly traded biotechnology company with oncology and regenerative medicine programs. His team was responsible for multiple aspects of Geron's cell therapy portfolio development, including process and analytical development, device engineering, CMC regulatory interactions and manufacturing. During his tenure, his team supported multiple clinical trials and the first ever successful IND application for a human embryonic stem cell therapeutic. From 2005 to 2006, Dr. Davies was with Serologicals Corp. (now a division of EMD Millipore), a publicly traded diversified biological supply company, where he was responsible for global new product and process development. From 2004 to 2005, Dr. Davies was with Velico Medical, Inc. (formerly ZymeQuest, Inc.), a privately held transfusion medicine company, where he built manufacturing operations for all of the company's pre-commercial activities. Prior to Velico Medical, Dr. Davies worked at Onyx Pharmaceuticals, Inc., a publicly traded biopharmaceutical company, where he held positions of increasing responsibility while working on sorafenib, now co-marketed with Bayer as Nexavar®, a drug used in the treatment of multiple diseases with total worldwide sales in 2012 exceeding $1 billion. Dr. Davies received an MA in Biochemistry from the University of Cambridge and a Ph.D. from the University of Birmingham. He conducted postdoctoral research at the Institute of Virology at Oxford and the University of California, San Francisco. In January 2014, Dr. Davies resigned from his position as Chief Technology Officer of Capricor.

Rachel Smith, Ph.D. Dr. Smith is currently serving as our Vice President of Research and Development. Dr. Smith joined Capricor in 2008 and is a co-inventor of the CardiosphereTM technology that forms the core of Capricor's product portfolio. She also published the seminal proof-of-concept paper demonstrating the clinical utility of the Cardiosphere-derived stem cells in models of heart disease. Her research expertise encompasses the areas of stem cell biology, cardiac physiology, electrophysiology, as well as cell and tissue engineering. In 2012, Dr. Smith was appointed Vice President of Research and Development of Capricor and is responsible for developing the company's clinical trial protocols and managing its regulatory and research partner relationships. Dr. Smith obtained her Ph.D. in Biomedical Engineering from Johns Hopkins University under the advisement of Dr. Eduardo Marbán and with the support of a Whitaker Foundation Graduate Fellowship and a National Science Foundation Graduate Fellowship. She received her undergraduate degree in Biomedical Engineering, Magna Cum Laude, from Tulane University.

Frank Litvack, M.D., FACC. Dr. Litvack is currently serving as our Executive Chairman and as a member of our Compensation Committee. Dr. Litvack is a native of Canada. He completed medical school and residency at McGill University in Montreal and a Cardiovascular Fellowship at Cedars Sinai Medical Center in Los Angeles, where he subsequently became co-director of the Cardiovascular Intervention Center and Professor of Medicine at UCLA. There he led a prominent clinical and research program known for its excellence in innovation, care and leadership in Translational Medicine. Dr. Litvack was Board certified in Internal Medicine, Cardiovascular Diseases and Interventional Cardiology. He has published more than one hundred research articles and chapters and is the recipient of several awards, including an American Heart Association Young Investigator Award, the Leon Goldman Medical Excellence Award for contributions to the field of biomedical optics and the United States Space Technology and Space Foundation Hall of Fame for pioneering work with the excimer laser. Dr. Litvack left full time practice and academics in 2000 to concentrate on entrepreneurial activities. Dr. Litvack has founded and operated several healthcare ventures, both as chairman and/or chief executive officer, including Progressive Angioplasty Systems Inc., a medical device company that was acquired by United States Surgical Corp. in 1998; Savacor, Inc., a medical device company that was acquired by St. Jude Medical in 2005; Conor Medsystems, Inc., a publicly traded medical device company that was acquired by Johnson & Johnson for $1.4 billion in 2007; and Entourage Medical Technologies Inc., a medical device company currently in development. He presently sits on the boards of several early stage healthcare companies and was a former director of publicly traded Nile Therapeutics, Inc. from 2009-2012. Dr. Litvack joined the Capricor Board as Executive Chairman in 2012. Dr. Litvack is currently a General Partner in Pura Vida Investment, LLC, a healthcare hedge fund and is serving as a Director on the Board of Cardiovascular Research Foundation, a non-profit research and education entity.

Joshua A. Kazam. Mr. Kazam served as Nile's non-employee President and Chief Executive Officer from June 2009 through August 2012, and has served as a director of the Company since inception in August 2005. In September 2004, Mr. Kazam co-founded Two River Group Holdings, LLC ("Two River"), and currently serves as Vice President and Director of Two River's managing member, Two River Group Management, LLC. Mr. Kazam also serves as an officer of the managing member of Two River Consulting, LLC, an organization that provides management, consulting and operational services for development stage biotechnology companies. Mr. Kazam also serves as an Officer and Director of Riverbank Capital Securities, Inc. From 1999 to 2004, Mr. Kazam was a Managing Director of Paramount BioCapital, Inc. where he was responsible for ongoing operations of venture investments, and as the Director of Investment for the Orion Biomedical Fund, LP. Mr. Kazam also co-founded and served as a director of Arno Therapeutics, Inc., a publicly-held, New Jersey-based biopharmaceutical company focused on the treatment of cancer patients, from its inception in August 2005 until September 2010. Mr. Kazam currently serves as a director of Kirax Corporation (formerly Tigris Pharmaceuticals, Inc.) and Kite Pharma, Inc., both privately-held biotechnology companies, and Velcera, Inc., a privately-held specialty pharmaceutical company. Mr. Kazam is a graduate of the Wharton School of the University of Pennsylvania.

Gregory W. Schafer. Mr. Schafer has served as a director of the Company since January 2008, and also serves as Chairman of the Audit Committee and as a member of the Nominating and Corporate Governance Committee. Mr. Schafer has served as Chief Financial Officer Jennerex, a biotherapeutics company focused in oncology, since June 2010. From April 2009 to June 2010, Mr. Schafer served as an independent consultant to private and public biotechnology companies. From April 2006 to January 2009, Mr. Schafer served as the Vice President and Chief Financial Officer of Onyx Pharmaceuticals, Inc., a publicly-held, California- based biopharmaceutical company dedicated to developing innovative therapies that target the molecular mechanisms that cause cancer. Prior to Onyx, from 2004 to 2006, Mr. Schafer served as a consultant to several private and public biotechnology companies. From 1997 to 2004, Mr. Schafer held various executive positions at Cerus Corporation, a public biotechnology company, including Vice President and Chief Financial Officer. Prior to joining Cerus, Mr. Schafer worked as a management consultant for Deloitte & Touche LLP. Mr. Schafer holds an M.B.A from the Anderson Graduate School of Management at UCLA and a BSE in Mechanical Engineering from the University of Pennsylvania.

Earl M. (Duke) Collier, Jr. Mr. Collier joined the Capricor Board of Directors in 2011 and is a member of the Nominating and Corporate Governance Committee. He is currently the chief executive officer of 480 Biomedical, a medical device company developing products used in the treatment of peripheral artery disease, and serves as a Senior Advisor to Polaris Venture Partners, a venture capital firm focused on information technology and life sciences, and as executive chairman of Arsenal Medical, Inc., a medical device company. Mr. Collier was formerly Executive Vice President at Genzyme Corporation, a biotechnology company acquired by Sanofi for $20.1 billion in 2011. During his tenure at Genzyme, Mr. Collier was responsible for building the biosurgery business and overseeing the company's efforts in multiple sclerosis and other immune disorders. He has also led some of Genzyme's significant acquisitions and the formation of MG Biotherapeutics, Genzyme's joint venture with Medtronic Inc., which is focused on cardiac cell therapy. Mr. Collier also served as President of Vitas Healthcare, a hospice provider, as a partner at the Washington, DC-based law firm of Hogan and Hartson and as Deputy Administrator of the Health Care Finance Administration (now CMS) in the U.S. Department of Health & Human Services. Mr. Collier sits on the boards of several corporations including Arsenal Medical, Inc. and Pervasis Therapeutics, a biotechnology company. He is also chairman of the board for the Newton-Wellesley Hospital. From 2006 to 2009, Mr. Collier served as a director of publicly traded Decode Genetics Inc. (DGI Resolution, Inc.), a biopharmaceutical company. Mr. Collier earned a Bachelor of Arts degree at Yale University and received a law degree from the University of Virginia Law School.

David B. Musket. Mr. Musket joined the Capricor Board of Directors in 2012 and is a member of the Audit Committee and the Compensation Committee. Mr. Musket has vast experience in strategic finance and has been following developments in the pharmaceutical and medical device industries for over 30 years. Mr. Musket began his investment career as an equities research analyst at Goldman Sachs & Co. following the pharmaceutical industry. In 1991 he founded Musket Research Associates, a venture banking firm focused exclusively on emerging healthcare companies. In 1996 he co-founded ProMed Management, a healthcare-focused investment partnership. He is still actively involved with both of these entities. He has served on the boards of several private and public companies throughout his career, and is currently on the board of privately held TherOx, Inc., a medical device company. From 1999 to 2007, Mr. Musket served on the board of directors of publicly traded Conor MedSystems, Inc., a medical device company sold to Johnson & Johnson in 2007 for $1.4 billion. Mr. Musket holds a Bachelor of Arts degree in Biology and Psychology from Boston College.

Louis Manzo. Mr. Manzo was one of the initial investors in Capricor and joined the Capricor Board of Directors in 2006. Mr. Manzo is also a member of the Compensation Committee and the Nominating and Corporate Governance Committee. Mr. Manzo has been a prominent Baltimore entrepreneur for over three decades and has extensive experience in the area of finance. Mr. Manzo received his BS degree from the University of Notre Dame and his MBA from Harvard Business School. He served in the armed forces as an officer in the United States Navy. After completing his MBA at Harvard, Mr. Manzo joined, and in a few years became General Partner of, Baker, Watts & Co., a NYSE Member Firm. His experience there included being Director of Equity Research and later, the Head of Corporate Finance. During the 1980's, Mr. Manzo started his own private investment firm, LVM Venture Partners. Beginning in 1989, Mr. Manzo became part of the founders group which helped a Johns Hopkins cardiologist fund his launching of a research center for preventive cardiology. Mr. Manzo remained as an advisor during the center's formative years. His continued interest in preventive research included a major investment to research the use of protein modeling for early disease detection. Since 2002, he has been following and supporting research into the use of adult stem cells in the repair of spinal cord and heart damage. The list of private company boards, senior advisory roles, and charities that Mr. Manzo has been involved with over the years are numerous and varied, including: the Johns Hopkins Preventive Cardiology Center, a hospital center; Greater Baltimore Medical Center, a hospital; Goodwill Industries of Maryland, a non-profit organization; E.I.L Instruments, Inc., an instrument company; and Notre Dame University of Maryland, a private university.

Louis J. Grasmick. Mr. Grasmick was one of the initial investors in Capricor and joined the Capricor Board of Directors in 2006. Mr. Grasmick is a prominent Baltimore philanthropist and entrepreneur with over fifty years of executive experience. He is the chief executive officer of the Louis J. Grasmick Lumber Company, a supplier of industrial lumber, which he founded after playing professional baseball for seven years. His many accomplishments and positions include being director of the Harbor Bank of Maryland's Executive Committee, as well as past president of Signal 13, a non-profit organization. Mr. Grasmick currently sits on the board of directors for The Johns Hopkins Hospital Broccoli Center. Voted "Man of the Year" by both the Baltimore Junior Association of Commerce and the Variety Club, he was also honored by the Children's Guild of Maryland in 2009 with their award for "Making the Impossible Possible."

George W. Dunbar, Jr. Mr. Dunbar joined the Capricor Board of Directors in 2012 and is a member of the Audit Committee. Mr. Dunbar is currently President and Chief Executive Officer of ISTO Technologies. Inc., a privately-held biotechnology company. Mr. Dunbar has extensive healthcare and life sciences operating experience, and has served as a former Director or CEO with a number of private and public life science companies. Prior to joining ISTO, commencing in 2010, Mr. Dunbar served as a Venture Partner with Arboretum Ventures, a leading healthcare venture capital firm. He has served as a board member for the following portfolio companies: IntelliCyt, a provider of high throughput screening and analytics for aiding drug discovery, KFx Medical, a medical device company (as chair), and CerviLenz, Inc., a medical device company (as executive chair). He was a past director and executive chair of Accuri Cytometers (now Becton Dickinson & Co.), a cell analysis and flow cytometer company. Mr. Dunbar has also served as the chief executive officer and/or a director of several publicly traded companies, all of which are involved in the healthcare industry. Previously, he served as chairman and chief executive officer of publicly traded Aastrom Biosciences, a biotechnology company developing therapies for severe, chronic cardiovascular diseases; as a director and chief executive officer of publicly traded Stem Cells Inc. (formerly Cyto Therapeutics), a company engaged in the development of stem cell therapies; as a director and chief executive officer of publicly traded Metra Biosystems, a bio-marker discovery company; as a director of publicly traded DepoTech, a biotechnology company; as a director of publicly traded LJL Biosystems, a provider of drug discovery automated systems to the life sciences industry; and as a director of publicly traded Quidel Corporation, a company which develops and markets diagnostic testing solutions. Mr. Dunbar has also worked with several venture capital groups and served as an advisor, director, or chief executive officer to several private life sciences companies, including Quantum Dot, a Versant Ventures/MPM Capital company; Targesome, an Alloy Ventures/CHL Medical Partners company; and Epic Therapeutics, an MPM Capital/Proquest Investments company. He has also held senior leadership positions with Ares-Serono, now Merck- Serono, and Amersham International, now GE Healthcare. Mr. Dunbar attended Auburn University where he graduated with a BS in Electrical Engineering and later received his MBA. He currently serves on the Harbert College of Business MBA Advisory Board and is an advisor to Vanderbilt University's Center for Technology Transfer and Commercialization.

Experience, Qualifications, Attributes and Skills of Directors

We look to our directors to lead us through our continued growth as an early-stage public biopharmaceutical company. Our directors bring their leadership experience from a variety of life science and other companies and professional backgrounds which we require to continue to grow and bring value to our stockholders. Dr. Frank Litvack, our Executive Chairman, has a wealth of business building experience and medical expertise that ensures that our activities are anchored in sound scientific research and solid business planning and practices. As an accomplished veteran of the healthcare industry who has orchestrated the founding, development and sale of several medical technology companies, we believe that Dr. Litvack provides invaluable knowledge and leadership to the company. Dr. Linda Marbán brings a wealth of knowledge in research and development especially for the treatment of cardiovascular disease. She has over a decade of experience in early stage life sciences companies, as well as business development expertise. Mr. Kazam and Mr. Musket have venture capital or investment banking backgrounds and offer expertise in financing and growing small biopharmaceutical companies. Each of Mr. Collier, Dunbar, Kazam, Manzo, Grasmick, Musket, and Mr. Schafer have significant experience with early stage private and public companies and bring depth of knowledge in building stockholder value, growing a company from inception and navigating significant corporate transactions and the public company process. Mr. Dunbar and Mr. Collier have extensive experience in the pharmaceutical industry, allowing them to contribute their significant operational experience. As a result of his experience in the role of chief financial officer of public companies, Mr. Schafer also brings extensive finance, accounting and risk management knowledge to us.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires the Company's directors and officers and persons who own more than ten percent of a registered class of the Company's equity securities to file reports of ownership and reports of changes in the ownership with the SEC. Such persons are required by SEC regulations to furnish the Company with copies of all Section 16(a) forms they file. Based solely on its review of the copies of the forms submitted to it during the last fiscal year, the Company believes that, during the last fiscal year, all such reports were timely filed, except for a Form 4 filed by Joshua A. Kazam, a director, reporting the cancellation of warrants in exchange for common stock of the Company, effected on each of November 13, 2013 and November 20, 2013; a Form 3 filed by Cedars-Sinai Medical Center, a holder of more than 10% of the outstanding shares of common stock of the Company; and a Form 3 filed by MD BTI, LLC, a holder of more than 10% of the outstanding shares of common stock of the Company, all of which were inadvertently filed late.

Code of Business Conduct and Ethics

The Board of Directors has adopted a Code of Business Conduct and Ethics (the "Code") that applies to all directors, officers, employees, consultants, contractors and agents, wherever they are located and whether they work for us on a full- or part-time basis. The Code was designed to help such directors, employees and other agents to resolve ethical issues encountered in the business environment. The Code covers topics such as conflicts of interest, compliance with laws, confidentiality of Company information, encouraging the reporting of any violations of the Code, fair dealing and protection and use of Company assets.

A copy of the Code, as adopted by the Board of Directors, is available at the Corporate Governance page of our website at*www.capricor.com.* Please note that information contained on our website is not incorporated by reference in, or considered to be a part of, this Annual Report on Form 10-K. We may post amendments to or waivers of the provisions of the Code, if any, made with respect to any directors and employees on that website.

Audit Committee

The current members of our Audit Committee are Mr. Gregory Schafer (Chair), Mr. George Dunbar and Mr. David Musket. Our Board of Directors has determined that Mr. Schafer qualifies as an "audit committee financial expert," as defined by the applicable rules of the SEC. Although our shares are not listed on the NASDAQ Stock Market, the Board has determined that all members are "independent" within the meaning of the applicable listing standard of the NASDAQ Stock Market.

Compensation Committee

The current members of our Compensation Committee are Dr. Frank Litvack, Mr. Louis Manzo and Mr. David Musket. Although our shares are not listed on the NASDAQ Stock Market, the Board has determined that all members are "independent" within the meaning of the applicable listing standard of the NASDAQ Stock Market.

Nominating and Corporate Governance Committee

The current members of our Nominating and Corporate Governance Committee are Mr. Earl Collier, Mr. Gregory Schafer and Mr. Louis Manzo. Although our shares are not listed on the NASDAQ Stock Market, the Board has determined that all members are "independent" within the meaning of the applicable listing standard of the NASDAQ Stock Market.

ITEM 11. EXECUTIVE COMPENSATION

The following summary compensation table reflects cash and non-cash compensation for the 2013 and 2012 fiscal years awarded to or earned by (i) each individual serving as our principal executive officer during the fiscal year ended December 31, 2013; and (ii) the two most highly-compensated individuals, other than our principal executive officer, that served as an executive officer at the end of the fiscal year ended December 31, 2013 and who received in excess of $100,000 in total compensation during such fiscal year. We refer to these individuals as our "named executive officers".

Summary Compensation Table

Name and Principal Position	Year	Salary ($)	Bonus ($)	Option Awards($)(1)	All Other Compensation ($)	Total ($)
Linda Marbán, Ph.D.	2012	$ 190,313	–	–	–	$ 190,313
Chief Executive Officer	2013	$ 232,344	–	$ 108,000	–	$ 340,344
Karen Krasney, J.D.	2012	$ 130,000	–	$ 54,747	$ 1,000(2)	$ 185,747
Executive Vice President & General Counsel	2013	$ 189,390	–	–	$ 1,000(2)	$ 190,390
Anthony Davies, Ph.D.	2012	$ –	–	–	–	–
Chief Technology Officer	2013	$ 213,083	–	$ 49,272	$ 40,554(3)	$ 302,909
Darlene Horton, M.D.	2012	$ 81,439	–	–	–	$ 81,439
Former Chief Executive Officer	2013	$ 1,000	239,345(4)	–	–	$ 240,345

(1) Amounts reflect the grant date fair value of awards granted under the Capricor, Inc. 2012 Restated Equity Incentive Plan, computed pursuant to Financial Accounting Standards Board's Accounting Standards Codification 718 *"Compensation – Stock Compensation"*. Assumptions used in the calculation of these amounts are included in Note 4 of the Notes to Consolidated Financial Statements included in this Annual Report on Form 10-K. See the *"Outstanding Equity Awards at Fiscal Year-End"* table, below, for information regarding all option awards outstanding as of December 31, 2013.

(2) Represents premiums contributed by Capricor for the employee's Health Flexible Spending account.

(3) Represents all amounts reimbursed to Mr. Davies during his employment relationship with Capricor for commuting expenses and a housing allowance.

(4) Represents the change of control bonus paid to Ms. Horton as part of the Employment Agreement between her and the Company dated August 3, 2012, as amended from time to time. As part of the change of control bonus and in connection with the merger between Nile and Capricor, the Company issued 77,208 shares of the Company's common stock on a post-Reverse Stock Split basis following completion of the merger between Nile and Capricor. The value of the compensation is derived using the closing price of the Company's common stock, as reported on the OTCQB, on November 27, 2013, the date seven days after the separation agreement between the Company and Ms. Horton was deemed effective. The shares were issued pursuant to the Company's Amended and Restated 2005 Stock Option Plan.

Employment Agreements and Post-Termination Benefits

Linda Marbán, Ph.D. — President and Chief Executive Officer

Dr. Linda Marbán's employment as our Chief Executive Officer is subject to the terms of that certain employment agreement dated September 1, 2010, by and between Capricor and Dr. Marbán. In accordance with the agreement, Dr. Marbán is required to devote three-fourths of her time to the position of Chief Executive Officer and is entitled to an annual salary of $150,000, which salary was increased to $232,344 for the period ended December 31, 2013. Dr. Marbán's employment is at-will, and she has also signed an employee invention assignment, non-disclosure, non-solicitation, and non-competition agreement. In addition, in 2010, Capricor issued to Dr. Marbán a 10-year stock option to purchase 414,971 shares of our common stock at an exercise price of $0.37 per share calculated after giving effect to the merger between Nile and Capricor. The vesting schedule for that grant is as follows: 25% of the shares of common stock subject to the option vested immediately; 20% of the remaining shares of common stock subject to the option have vested or will vest on each of September 1, 2011, September 1, 2012, September 1, 2013, September 1, 2014 and September 1, 2015. In 2013, Dr. Marbán was granted a second 10-year stock option to purchase 414,971 shares of our common stock at an exercise price of $0.30 per share calculated after giving effect to the merger between Nile and Capricor and which vests over a four-year period at the rate of 25% per year commencing June 1, 2014. Notwithstanding the vesting schedule, early exercise of options is permissible pursuant to her option agreement. The first grant was awarded pursuant to Capricor's 2006 Stock Option Plan and the second grant was awarded pursuant to Capricor's 2012 Restated Equity Incentive Plan. In the event the employment agreement is terminated during the term other than for cause, death or disability, she would be entitled to receive a severance payment equal to three months' salary then in effect. In addition, if upon the hiring of a new Chief Executive Officer, Capricor does not employ Dr. Marbán at a level of at least a vice-president, she would be entitled to receive a severance payment equal to three months' salary and the vesting of her then unvested options would be accelerated by six months.

Karen Krasney, J.D. — Executive Vice President, General Counsel

Karen Krasney's employment as our Executive Vice President and General Counsel is pursuant to an oral agreement which commenced March 1, 2012. Ms. Krasney's current base salary is $250,000 per year. In addition, Ms. Krasney has signed an at-will employment, confidential information, and invention assignment agreement, and an arbitration agreement. Additionally, in 2012, Ms. Krasney was granted a 10-year option to purchase 189,320 shares of our common stock at an exercise price of $0.37 per share calculated after giving effect to the merger between Nile and Capricor. 25% of the option shares vested November 1, 2012 and the remainder is vesting at the rate of 1/36 per month on the first day of each month commencing December 1, 2012. Notwithstanding the vesting schedule, early exercise of options is permissible pursuant to her option agreement. The grant was awarded pursuant to Capricor's 2012 Restated Equity Incentive Plan.

Anthony Davies, Ph.D. — Chief Technology Officer

Anthony Davies' employment as our Chief Technology Officer was subject to the terms of that certain employment agreement dated February 18, 2013, by and between Capricor and Mr. Davies. In accordance with the agreement, Dr. Davies was required to devote his full time to the position of Chief Technology Officer and was entitled to an annual salary of $260,000. In addition, Dr. Davies was to be considered for a discretionary annual bonus in an amount up to 20% of his base salary, commuting expenses during the period in which he was to relocate to Los Angeles, and a housing allowance of $4,000 per month for nine months effective after his relocation to Los Angeles. In addition, Dr. Davies signed an at-will employment, confidential information, and invention assignment agreement, and an arbitration agreement. In 2013, Capricor issued Dr. Davies a 10-year stock option to purchase 189,320 shares of our common stock at an exercise price of $0.30 per share calculated after giving effect to the merger between Nile and Capricor, which option was to vest at the rate of 25% per year commencing March 1, 2014. The grant was awarded pursuant to Capricor's 2012 Restated Equity Incentive Plan. Notwithstanding the vesting schedule, early exercise of options was permissible pursuant to his option agreement. Dr. Davies resigned from his position as Chief Technology Officer of Capricor in January 2014 and his contract terminated. No portion of his option shares was deemed vested.

Darlene Horton, M.D. — Former Chief Executive Officer

On March 21, 2013, the Company entered into a letter agreement with Darlene Horton, M.D., its President and Chief Executive Officer, which letter agreement amended certain compensation terms under her existing letter agreement dated August 3, 2012, as previously amended on November 5, 2012.

Dr. Horton's existing letter agreement provided that if, prior to the date of a "compensation adjustment event," the Company completed a Change of Control Transaction (as defined in the agreement) and Dr. Horton's employment was terminated by the Company (or any successor entity) without cause during the period beginning on the effective date of the Change of Control Transaction and ending on the six-month anniversary of such effective date, then she would have been entitled to receive a cash payment equal to 5% of the applicable Change of Control Proceeds (as defined in the agreement). For purposes of the agreement, the term "compensation adjustment event" means the date on which the Company secures sufficient capital, whether by a financing or strategic transaction (or any combination thereof) or another means, in order to enable the Company to initiate and fund to completion a Phase II clinical trial of the Company's cenderitide product candidate.

The March 21, 2013 letter agreement amended the payment terms described in the preceding paragraph and provided that if, prior to December 31, 2013, the Company completed a Change of Control Transaction in which either (i) the outstanding shares of the Company's common stock were exchanged for securities of another corporation, or (ii) the Company issued shares of its common stock, with no securities or other consideration paid or payable to holders of the Company's common stock (e.g., a merger transaction in which the Company acquired another corporation in exchange for shares of the Company's common stock), then Dr. Horton would be entitled to receive, immediately prior to the effective time of the Change of Control Transaction, a number of shares of the Company's common stock equal to 5% of the shares of the Company's common stock then outstanding on a fully-diluted basis.

The agreement further provided that if, prior to December 31, 2013, the Company completed a Change of Control Transaction other than as described in the preceding paragraph, then Dr. Horton would be entitled to receive a cash payment, on the date of such Change of Control Transaction, equal to 5% of the applicable Change of Control Proceeds (as defined in the agreement).

Upon the consummation of the merger between Nile and Capricor, Dr. Horton executed a Separation Agreement and Release with the Company, in consideration for which she received the change of control bonus due pursuant to the terms of the March 21, 2013 letter agreement. As part of the change of control bonus and in connection with the Merger, the Company issued 77,208 shares of the Company's common stock on a post-Reverse Stock Split basis following completion of the merger. The shares were issued pursuant to the Company's Amended and Restated 2005 Stock Option Plan.

The foregoing summary of the March 21, 2013 letter agreement is qualified in its entirety by reference to the complete letter agreement, a copy of which is attached as Exhibit 10.3 to the Company's Current Report on Form 8-K, filed with the SEC on March 22, 2013. Additionally, the foregoing summary of the Separation Agreement and Release is qualified in its entirety by reference to the complete agreement, a copy of which is attached as Exhibit 10.10 to this Annual Report on Form 10-K.

Outstanding Equity Awards at Fiscal Year-End

The following table sets forth information concerning unexercised stock options held by the named executive officers at December 31, 2013:

Name	Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options	Option Exercise Price ($)	Option Expiration Date	
Linda Marbán, Ph.D.	290,480	124,491	—	0.37	09/01/2020	(1)
	—	414,971	—	0.30	05/14/2023	(2)(6)
Karen Krasney, J.D.	118,325	70,995	—	0.37	11/13/2022	(3)(6)
Anthony Davies, Ph.D.	—	189,320	—	0.30	02/22/2023	(4)(6)
Darlene Horton, M.D.	—	—	—	—	—	(5)

(1) Vesting schedule is as follows: 25% of the shares of common stock subject to this option vested immediately. 20% of the remaining shares of common stock subject to this option have vested or will vest on each of September 1, 2011, September 1, 2012, September 1, 2013, September 1, 2014 and September 1, 2015.
(2) Vesting schedule is as follows: The shares of common stock subject to this option vest 25% per year over 4 years commencing June 1, 2014.
(3) Vesting schedule is as follows: 25% of the shares of common stock subject to this option vested immediately, with the remainder vesting over 36 months commencing December 1, 2012.
(4) Vesting schedule is as follows: This shares of common stock subject to this option vest over 4 years with the first 25% of the shares of common stock subject to the option vesting on February 22, 2014. Dr. Davies resigned in January 2014, and no further options vested under the terms of his award.
(5) Darlene Horton was the former Chief Executive Officer of Nile Therapeutics, Inc. prior to the merger between Capricor and Bovet Merger Corp.
(6) The options issued under the 2012 Restated Equity Incentive Plan are subject to early exercise. If the option holder elects to take advantage of the early exercise feature and purchase shares prior to the vesting of such shares, the shares will be deemed restricted stock and will be subject to a repurchase option in favor of the Company if the option holder's service to the Company terminates prior to vesting.

Compensation of Directors

The following table sets forth the compensation received by our directors for their service in 2013. Dr. Marbán is not listed below since she is an employee of Capricor Therapeutics and receives no additional compensation for serving on our Board of Directors or its committees. Additionally, Ms. Horton, the Company's former Chief Executive Officer, is not listed in the below table as she received no compensation for her service on the Board during the fiscal year ended December 31, 2013.

Name	Fees Earned or Paid in Cash	Option Awards (1)	Total
Frank Litvack, M.D. (2)	$ 120,000	$ 88,479	$ 208,479
George Dunbar	—	3,513	3,513
Louis Manzo	—	3,513	3,513
Louis Grasmick	—	3,445	3,445
Earl Collier	—	3,513	3,513
David Musket	—	3,513	3,513
Joshua Kazam (3)	—	—	—
Gregory Schafer (4)	—	—	—
Arie S. Belldegrun, M.D. (5)	—	—	—
Pedro Granadillo (5)	—	—	—
Peter M. Kash, Ed.D. (5)	—	—	—
Paul A. Mieyal, Ph.D. (5)	—	—	—

(1) Amounts reflect the grant date fair value of awards granted under the 2012 Restated Equity Incentive Plan and the 2012 Non-Employee Director Stock Option Plan, computed pursuant to Financial Accounting Standards Board's Accounting Standards Codification 718 "Compensation – Stock Compensation". Assumptions used in the calculation of these amounts are included in Note 4 of the Notes to the Consolidated Financial Statements included in this Annual Report on Form 10-K.

(2) Dr. Litvack served on the Board of Directors of Nile Therapeutics, Inc. until October 28, 2012 and is currently the Executive Chairman of the Board of Directors of Capricor Therapeutics, Inc.

(3) Mr. Kazam was previously a member of the Nile Therapeutics, Inc. Board, and was not compensated for his services in 2013. Upon his appointment to the Capricor Therapeutics Board, he forfeited all prior options held. Pursuant to the terms of Nile's services agreement with Two River Consulting, LLC, or TRC, Mr. Kazam served as Nile's non-employee President and Chief Executive Officer from June 2009 until Dr. Horton's appointment as President and Chief Executive Officer on August 6, 2012. Mr. Kazam received no direct compensation for his services as President and Chief Executive Officer, though, as a principal owner of TRC, he indirectly received a portion of the monthly cash fees paid to TRC under the services agreement. The TRC agreement was terminated at the close of the merger between Nile and Capricor. Amounts reflected in the table above represent compensation received solely for Mr. Kazam's services as a director in accordance with the standard compensation applicable to our other non-employee directors.

(4) Mr. Schafer was previously a member of the Nile Therapeutics, Inc. Board, and was not compensated for his services in 2013. Upon his appointment to the Capricor Therapeutics Board, he forfeited all prior options held.

(5) These directors resigned from the Board effective upon completion of the merger between Nile and Capricor on November 20, 2013.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information known to us regarding the beneficial ownership of our common stock as of March 26, 2014 by:

- each of our directors,
- each named executive officer as defined and named in the Summary Compensation Table appearing herein,
- all of our directors and executive officers as a group, and,
- each person known by us to beneficially own more than five percent of our common stock (based on information supplied in Schedules 13D and 13G filed with the Securities and Exchange Commission).

Except as indicated by footnote, and subject to applicable community property laws, each person identified in the table possesses sole voting and investment power with respect to all capital stock shown to be held by that person. The address of each named executive officer and director, unless indicated otherwise, is c/o Capricor Therapeutics, Inc., 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, CA 90211

Name of Beneficial Owner	Shares of Common Stock Beneficially Owned (1)	Percentage of Common Stock Beneficially Owned (1)
Named Executive Officers and Directors:		
Frank Litvack, M.D. (2)	1,316,145	10.1
George Dunbar (3)	87,784	*
Louis Manzo (4)	954,172	8.0
Louis Grasmick (5)	1,213,529	10.1
Earl Collier (6)	126,415	1.1
David Musket (7)	87,784	*
Joshua Kazam (8)	50,184	*
Gregory Schafer (9)	2	*
Linda Marbán, Ph.D. (10)	549,837	4.6
Karen Krasney, J.D. (11)	118,325	1.0
Darlene Horton, M.D. (12)	77,208	*
Anthony Davies Ph. D. (13)	-	-
Directors and executive officers as a group (13 individuals)	4,578,351	31.7
5% Stockholders:		
Dr. Eduardo Marbán (14) c/o 8840 Wilshire Blvd., 2nd Floor Beverly Hills, CA 90211	3,164,154	27.1
MD BTI, LLC (15) 2560 Lord Baltimore Drive Baltimore, MD 21244	1,934,939	16.6
Cedars-Sinai Medical Center (16) 8700 Beverly Blvd. West Hollywood, CA 90048	1,324,086	11.3

* Represents less than 1%.

(1) Based on 11,690,859 shares of our common stock outstanding as of March 26, 2014. Beneficial ownership is determined in accordance with Rule 13d-3 under the Exchange Act, and includes any shares as to which the security or stockholder has sole or shared voting power or investment power, and also any shares which the security or stockholder has the right to acquire within 60 days of March 26, 2014, whether through the exercise or conversion of any stock option, convertible security, warrant or other right. The indication herein that shares are beneficially owned is not an admission on the part of the security or stockholder that he, she or it is a direct or indirect beneficial owner of those shares.

(2) Includes 1,316,145 shares issuable upon the exercise of stock options that are exercisable or will become exercisable within 60 days of March 26, 2014.

(3) Includes 87,784 shares issuable upon the exercise of stock options that are exercisable or will become exercisable within 60 days of March 26, 2014.

(4) Includes (i) 638,155 shares held by Coniston Corporation, an entity of which Mr. Manzo was the sole owner. In December 2012, Mr. Manzo transferred 99% of the non-voting shares of Coniston Corporation to several irrevocable trusts established for the benefit of his children. Mr. Manzo retained the remaining 1% of the shares of Coniston and retains all voting power with respect to Coniston shares; and (ii) 316,017 shares issuable upon the exercise of options held individually by Mr. Manzo that are exercisable or will become exercisable within 60 days of March 26, 2014.

(5) Includes (i) 897,512 shares held by Nancelou Inc., an entity of which 50% is owned by Louis Grasmick and Nancy Grasmick, husband and wife, as tenants by the entirety, and the other 50% of which is owned by Grant Grasmick, the son of Louis Grasmick and Nancy Grasmick, and, as a result, Louis Grasmick, Nancy Grasmick and Grant Grasmick may be deemed to have shared voting and dispositive power with respect to the shares beneficially owned by Nancelou, Inc.; and (ii) 316,017 shares issuable upon the exercise of options held individually by Mr. Grasmick that are exercisable or will become exercisable within 60 days of March 26, 2014.

(6) Includes 126,415 shares issuable upon the exercise of stock options which are exercisable or will become exercisable within 60 days of March 26, 2014.

(7) Includes 87,784 shares issuable upon the exercise of stock options which are exercisable or will become exercisable within 60 days of March 26, 2014.

(8) Includes (i) 30,988 shares held by Mr. Kazam; (ii) 300 shares issuable upon the exercise of outstanding warrants held by Mr. Kazam; (iii) 12,276 shares held by the Kazam Family Trust, of which Mr. Kazam's spouse is the trustee and his children are beneficiaries, and as to which Mr. Kazam disclaims beneficial ownership except to the extent of any pecuniary interest therein; (iv) 3,310 shares held by Mr. Kazam's spouse as custodian for the benefit of their minor children, to which Mr. Kazam disclaims beneficial ownership except to the extent of his pecuniary interest therein; and (v) 3,310 shares held by the Kash Family Foundation, of which Mr. Kazam is trustee but as to which he has no pecuniary interest.

(9) Includes 2 shares held by Mr. Schafer.

(10) Includes (i) 259,357 shares held by Dr. Linda Marbán, and (ii) 290,480 shares issuable upon the exercise of options held by Dr. Marbán which are exercisable or will become exercisable within 60 days of March 26, 2014. Dr. Linda Marbán is our Chief Executive Officer.

(11) Includes 118,325 shares issuable upon the exercise of stock options which are exercisable or will become exercisable within 60 days of March 26, 2014.

(12) Represents the change of control bonus paid to Ms. Horton as part of the Employment Agreement between her and the Company dated August 3, 2012, as amended from time to time. As part of the change of control bonus and in connection with the merger between Nile and Capricor, the Company issued to Ms. Horton 77,208 shares of the Company's common stock on a post-Reverse Stock Split basis following completion of the merger between Nile and Capricor. The shares were issued pursuant to the Company's Amended and Restated 2005 Stock Option Plan.

(13) All of Mr. Davies' outstanding options expired unexercised upon the termination of his employment with the Company in January 2014.

(14) Includes 3,164,154 shares held by Dr. Eduardo Marbán.

(15) Includes (i) 1,556,141 shares held by MD BTI, LLC, which has the sole power to vote or direct the vote of, and sole power to dispose or direct the disposition of, all 1,556,141 shares held by it, (ii) 324,196 shares held by MD BTI, Inc.; and (iii) 54,602 shares held individually by Edward A. St. John. Edward St. John, LLC, a Delaware limited liability company, is the company manager (the "Company Manager") of MD BTI, LLC. Edward A. St. John, an individual, is the general manager of Company Manager. As the company manager of MD BTI, LLC, Company Manager is deemed to be the beneficial owner of the shares held by MD BTI, LLC and is therefore deemed to have shared voting and dispositive power over the 1,556,141 shares held by MD BTI, LLC. Mr. St. John is the sole member and general manager of Company Manager and is therefore deemed to be the beneficial owner of the shares held by Company Manager. Additionally, Mr. St. John is the president of MD BTI, Inc. and is therefore deemed to be the beneficial owner of the shares held by MD BTI, Inc. As a result of the foregoing, Mr. St. John has the sole power to vote or direct the vote of 54,602 Shares; has the shared power to vote or direct the vote of 1,880,337 Shares; has the sole power to dispose or direct the disposition of 54,602 Shares; and has the shared power to dispose or direct the disposition of 1,880,337 Shares.

(16) Includes 1,324,086 shares held by Cedars-Sinai Medical Center.

Securities Authorized for Issuance Under Equity Compensation Plans

Capricor Therapeutics, Inc. has three equity-incentive plans that have been approved by stockholders: (i) the Amended and Restated 2005 Stock Option Plan (the former Nile plan); (ii) the 2006 Stock Option Plan; and (iii) the 2012 Restated Equity Incentive Plan. The Company also has maintains the 2012 Non-Employee Director Stock Option Plan, which has not been approved by stockholders. The following table sets forth certain information as of December 31, 2013 with respect to the Company's equity incentive plans:

Plan category	Number of Securities to be Issued Upon Exercise of Outstanding Options		Weighted-Average Exercise Price of Outstanding Options	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column)
Equity compensation plans approved by security holders:				
The Amended and Restated 2005 Stock Option Plan	22,033	$	34.15	21,272
The 2006 Stock Option Plan	737,607	$	0.38	-
The 2012 Restated Equity Incentive Plan	1,491,612	$	0.32	1,920,491
Equity compensation plans not approved by stockholders:				
2012 Non-employee Director Stock Option Plan	2,637,267	$	0.37	60,044
Total	**4,888,519**	**$**	**0.51**	**2,001,807**

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

Certain Relationships and Related Transactions

Cedars-Sinai Medical Center

On July 27, 2010, Cedars-Sinai Medical Center ("CSMC") acquired 263,158 shares of Capricor, Inc.'s Series A-2 Convertible Preferred Stock and on April 20, 2012 acquired 375,000 shares of Capricor, Inc.'s A-3 Convertible Preferred Stock, which were exchanged for 1,324,086 shares of common stock of the Company after the effects of the merger between Nile and Capricor.

On January 4, 2010, Capricor entered into an Exclusive License Agreement with CSMC, (the CSMC License Agreement), for certain intellectual property rights. In 2013, the CSMC License Agreement was amended twice resulting in, among other things, a reduction in the percentage of sublicense fees which would have been payable to CSMC. Effective December 30, 2013, Capricor entered into an Amended and Restated Exclusive License Agreement with CSMC (the Amended CSMC License Agreement) pursuant to which, among other things, certain definitions were added or amended, the timing of certain obligations was revised and other obligations of the parties were clarified. The Amended CSMC License Agreement provides for the grant of an exclusive, world-wide, royalty-bearing license by CSMC to Capricor (with the right to sublicense) to conduct research using the patent rights and know-how and develop and commercialize products in the field using the patents rights and know-how. In addition, Capricor has the exclusive right to negotiate for an exclusive license to any future rights arising from work conducted by or under the direction of Dr. Eduardo Marbán on behalf of CSMC. In the event the parties fail to agree upon the terms of an exclusive license, Capricor shall have a non-exclusive license to such future rights, subject to royalty obligations. Pursuant to the CSMC License Agreement, CSMC was paid a license fee and Capricor was obligated to reimburse CSMC for certain fees and costs incurred in connection with the prosecution of certain patent rights. Additionally, Capricor was required to meet certain spending and development milestones. Pursuant to the Amended CSMC License Agreement, Capricor remains obligated to pay royalties on sales of royalty-bearing products as well as a percentage of the consideration received from any sublicenses or other grant of rights. In 2010, Capricor discontinued its research under some of the patents.

Capricor presently maintains its laboratory and research facilities in leased premises located at CSMC. Such premises are being leased on a month-to month basis and may be terminated upon 30 days' notice to Capricor. With the permission of CSMC, Capricor presently manufactures its cells in an accredited GMP facility which is owned by and located within CSMC. Capricor's intention is to manufacture cells at this facility for its Phase II trial.

Dr. Frank Litvack (Executive Chairman)

Since April, 2012, Dr. Frank Litvack has been serving as Capricor's Executive Chairman. In April 2012, Dr. Frank Litvack was given a director package when he agreed to serve as the Executive Chairman of Capricor, Inc. Pursuant to that Board package, Dr. Litvack was paid a consulting fee of $4,000 per month commencing upon his election to the Board. Such compensation increased to $10,000 per month upon Capricor, Inc.'s receipt of a CIRM award. Dr. Litvack was granted an option for a number of shares of Company common stock equal to ten percent (10%) of the outstanding shares of all Company stock on a fully diluted basis (the "Initial Option"), calculated as if all options and warrants granted or contemplated to be granted to Company employees, directors and other eligible participants had been granted and exercised as of the grant date of the Initial Option. 25% of the Initial Option vested on the first day of the month after his election to the Capricor, Inc. Board of Directors. The remainder was to vest at the rate of 1/36 per month over the following 36 month period. In connection with the merger between Nile and Capricor, Dr. Litvack's options were converted into options for the Company's common stock. He thus holds the following option grants for (i) 1,545,435 shares at $0.37 per share (ii) 140,270 at $0.37 per share (iii) 207,485 at $0.30 per share calculated after giving effect to the merger between Nile and Capricor.

Under Dr. Litvack's previous agreement with Capricor, Inc., upon the closing of each Qualified Financing until such time that Capricor, Inc. reached a threshold of $10 million financing (including the sums previously received from sales of Series A-3 shares), Dr. Litvack was to be granted an additional option to purchase that number of shares of Capricor, Inc. common stock necessary to maintain Dr. Litvack's equity position at ten percent (10%) of the outstanding shares of all Capricor, Inc. stock on a fully diluted basis (the "Anti-Dilution Rights"). On August 21, 2013, Capricor, Inc. entered into an agreement and release of all claims pursuant to which Dr. Litvack was granted an additional option to purchase 207,485 option shares calculated after giving effect to the merger between Nile and Capricor in exchange for forfeiture of these Anti-Dilution Rights. In addition, the terms of each of Dr. Litvack's stock option agreements were modified to extend the exercise period during which he has to exercise his options for Company common stock after he ceases to be a service provider to the Company from 90 days to one year.

On March 24, 2014, the Company entered into a consulting agreement with Dr. Litvack memorializing the $10,000 per month compensation arrangement described above. The agreement is terminable upon 30 days' notice.

On May 1, 2012, Dr. Litvack entered into a sublease with Capricor pursuant to which he subleased from Capricor an office and an administrative bay located within Capricor's leased premises in Beverly Hills, California for a monthly rate of $2,500. On April 1, 2013, the foregoing sublease was terminated and Reprise Technologies LLC, a limited liability company which is wholly owned by Dr. Litvack, executed a new sublease for an office and administrative bay within Capricor's leased premises for a monthly rate of $2,500. Such sublease is on a month-to-month basis and is terminable upon 30 days' written notice by either party.

Director Independence

In determining whether the members of our board of directors and its committees are independent, we have elected to use the definition of "independence" set forth in the listing standards of the NASDAQ Stock Market, which requires that a majority of the board of directors qualify as independent, as determined by the board of directors. After considering all relevant relationships and transactions, our board of directors, in consultation with legal counsel, has determined that Messrs. Schafer, Dunbar, Musket, Collier, Manzo, Grasmick and Dr. Litvack are "independent" within the meaning of the applicable listing standards of the NASDAQ Stock Market. In making this determination, the board of directors found that none of these directors had a material or other disqualifying relationship with us. In addition to transactions required to be disclosed under SEC rules, the board of directors considered certain other relationships in making its independence determinations, and determined in each case that such other relationships did not impair the director's ability to exercise independent judgment on our behalf.

Dr. Marbán, our Chief Executive Officer, is not an independent director by virtue of her employment with us. Mr. Kazam is also deemed not an independent director due to his previous relationship, and that of his consulting firm Two River Consulting, LLC, with Nile Therapeutics, Inc.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Auditor Fees

The following is a summary of the fees billed to us by Rose, Snyder & Jacobs LLP and Crowe Horwath LLP, our independent registered public accounting firms, for professional services rendered for fiscal years ended December 31, 2013 and 2012:

	Fiscal Year Ended December 31,	
Service Category	**2013**	**2012**
Audit Fees	$ 194,150	$ 100,880
Audit-Related Fees	—	2,044
Tax Fees	14,720	6,500
All Other Fees	—	—
Total Fees	$ 208,870	$ 109,424

In the above table, in accordance with the SEC's definitions and rules, "audit fees" are fees for professional services for the audit and review of our annual financial statements, as well as the audit and review of our financial statements included in our registration statements filed under the Securities Act and issuance of consents and for services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements except those not required by statute or regulation; "audit-related fees" are fees for assurance and related services that were reasonably related to the performance of the audit or review of our financial statements, including attestation services that are not required by statute or regulation, due diligence and services related to acquisitions; "tax fees" are fees for tax compliance, tax advice and tax planning; and "all other fees" are fees for any services not included in the first three categories.

Audit Committee Pre-Approval Process

Pursuant to our Audit Committee Charter, before the independent registered public accounting firm is engaged by the Company or its subsidiaries to render audit or non-audit services, the Audit Committee pre-approves the engagement. Audit Committee pre-approval of audit and non-audit services is not required if the engagement for the services is entered into pursuant to pre-approval policies and procedures established by the Audit Committee regarding the Company's engagement of the independent registered public accounting firm, provided the policies and procedures are detailed as to the particular service, the Audit Committee is informed of each service provided and such policies and procedures do not include delegation of the Audit Committee's responsibilities under the Exchange Act to the Company's management. The Audit Committee may delegate to one or more designated members of the Audit Committee the authority to grant pre-approvals, provided such approvals are presented to the Audit Committee at a subsequent meeting. If the Audit Committee elects to establish pre-approval policies and procedures regarding non-audit services, the Audit Committee must be informed of each non-audit service provided by the independent registered public accounting firm. Audit Committee pre-approval of non-audit services (other than review and attest services) also is not be required if such services fall within available exceptions established by the SEC. None of the services provided by our independent registered public accounting firm for fiscal 2013 or 2012 were obtained in reliance on the waiver of the pre-approval requirement afforded in SEC regulations.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

2.1 Agreement and Plan of Merger, dated as of August 15, 2007, by and among SMI Products, Inc., Nile Merger Sub, Inc. and Nile Therapeutics, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on August 17, 2007).

2.2 Agreement and Plan of Merger and Reorganization, dated as of July 7, 2013, by and among Nile Therapeutics, Inc., Bovet Merger Corp. and Capricor, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on July 9, 2013).

2.3 First Amendment to Agreement and Plan of Merger and Reorganization, dated as of September 27, 2013, by and between Nile Therapeutics, Inc., Bovet Merger Corp. and Capricor, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on October 3, 2013).

3.1 Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed with the Commission on February 9, 2007).

3.2 Certificate of Amendment of Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed with the Commission on November 26, 2013).

3.3 Bylaws of the Company (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K, filed with the Commission on February 9, 2007).

4.1 Form of Warrant issued to Investors in July 2009 Private Placement (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-3, filed with the Commission on August 13, 2009).

4.2 Form of Warrant issued to Placement Agent in July 2009 Private Placement (incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-3, filed with the Commission on August 13, 2009).

4.3 Warrant Agreement, dated April 21, 2010, between the Company and American Stock Transfer & Trust Company, LLC, as Warrant Agent (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on April 22, 2010).

4.4 Form of Unit Warrant issued to Investors in April 2010 Public Offering (incorporated by reference to Exhibit 4.5 to the Company's Annual Report on Form 10-K, (included as part of Exhibit 4.4 thereof) filed with the Commission on June 21, 2013).

4.5 Form of Representative's Warrant issued to Maxim Group, LLC in connection with April 2010 Public Offering (incorporated by reference to Exhibit 4.3 to the Company's Current Report on Form 8-K, filed with the Commission on April 22, 2010).

4.6 Form of Warrant issued to Investors in June 2011 Private Placement (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on June 24, 2011).

4.7 Form of Warrant issued to Investors in March 2012 Registered Offering (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on April 2, 2012).

10.1 Form of Convertible Note Purchase Agreement entered into among the Company and various accredited investors on March 15, 2013 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on March 22, 2013).

10.2 Form of Note issued to Various Accredited Investors on March 15, 2013 (includes Form of Warrant as Exhibit A) (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on March 22, 2013).

10.3 First Amendment to the Secured Convertible Promissory Notes (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission on October 3, 2013).

10.4 Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated August 3, 2012 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission on August 7, 2012). †

10.5 Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated November 2, 2012 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission November 5, 2012). †

10.6 Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated March 21, 2013 (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K, filed with the Commission on March 22, 2013). †

10.7 Employment Agreement by and between Capricor, Inc. and Linda Marbán, dated September 1, 2010. *†

10.8 Employment Agreement between Capricor, Inc. and Anthony Davies, dated February 18, 2013. *†

10.9 Consulting Agreement between Capricor, Inc. and Frank Litvack, dated March 24, 2014. *†

10.10 Separation Agreement and Release between the Company and Darlene Horton, M.D., dated November 20, 2013. *†

10.11 Form of Indemnification Agreement. * †

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10.30 Clinical Trial Funding Agreement, dated February 25, 2011, between the Company and Medtronic, Inc. (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q, filed with the Commission on May 16, 2011).+

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21.1	List of Subsidiaries.*
23.1	Consent of Rose Snyder & Jacobs, LLP.*
24.1	Power of Attorney (included on signature page hereof).*
31.1	Certification of Principal Executive Officer.*
31.2	Certification of Principal Financial Officer.*
32.1	Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*
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101	The following financial information from the Company's Annual Report on Form 10-K for the annual period ended December 31, 2013, formatted in eXtensible Business Reporting Language (XBRL): (i) Consolidated Balance Sheets as of December 31, 2013 and 2012, (ii) Consolidated Statements of Operations for the years ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, (iii) Consolidated Statement of Stockholders' Equity (Deficit) for the period from July 5, 2005 (inception) through December 31, 2013, (iv) Consolidated Statements of Cash Flows for the years ended December 31, 2013 and 2012, and for the period from July 5, 2005 (inception) through December 31, 2013, and (v) Notes to Consolidated Financial Statements.

* Filed herewith.
† Indicates management contract or compensatory plan or arrangement.
+ The Company has received confidential treatment with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.
‡The Company has requested confidential treatment with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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, on March 31, 2014.

CAPRICOR THERAPEUTICS, INC.

By: /s/ Linda Marbán, Ph.D.
Linda Marbán, Ph.D.
Chief Executive Officer

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned officers and directors of Capricor Therapeutics, Inc., hereby severally constitute Linda Marbán, Ph.D. and Anthony Bergmann, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, any and all amendments to said Form 10-K, and generally to do all such things in our names and in our capacities as officers and directors to enable Capricor Therapeutics, Inc. to comply with the provisions of the Securities Exchange Act of 1934, and all requirements of the U.S. Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to any and all amendments hereto.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	**Title**	**Date**
/s/ Linda Marbán, Ph.D. Linda Marbán, Ph.D.	Chief Executive Officer and Director *(Principal Executive Officer)*	March 31, 2014
/s/ Anthony J. Bergmann Anthony J. Bergmann	Vice President of Finance *(Principal Financial and Accounting Officer)*	March 31, 2014
/s/ Frank Litvack, M.D. Frank Litvack, M.D.	Executive Chairman	March 31, 2014
/s/ Joshua A. Kazam Joshua A. Kazam	Director	March 31, 2014
/s. Earl M. Collier Earl M. Collier	Director	March 31, 2014
/s/ Louis V. Manzo Louis V. Manzo	Director	March 31, 2014
/s/ Louis J. Grasmick Louis J. Grasmick	Director	March 31, 2014
/s/ Gregory W. Schafer Gregory W. Schafer	Director	March 31, 2014
/s/ George W. Dunbar George W. Dunbar	Director	March 31, 2014
/s/ David B. Musket David B. Musket	Director	March 31, 2014

INDEX OF EXHIBITS FILED WITH THIS REPORT

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of August 15, 2007, by and among SMI Products, Inc., Nile Merger Sub, Inc. and Nile Therapeutics, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on August 17, 2007).
2.2	Agreement and Plan of Merger and Reorganization, dated as of July 7, 2013, by and among Nile Therapeutics, Inc., Bovet Merger Corp. and Capricor, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on July 9, 2013).
2.3	First Amendment to Agreement and Plan of Merger and Reorganization, dated as of September 27, 2013, by and between Nile Therapeutics, Inc., Bovet Merger Corp. and Capricor, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Commission on October 3, 2013).
3.1	Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed with the Commission on February 9, 2007).
3.2	Certificate of Amendment of Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed with the Commission on November 26, 2013).
3.3	Bylaws of the Company (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K, filed with the Commission on February 9, 2007).
4.1	Form of Warrant issued to Investors in July 2009 Private Placement (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-3, filed with the Commission on August 13, 2009).
4.2	Form of Warrant issued to Placement Agent in July 2009 Private Placement (incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-3, filed with the Commission on August 13, 2009).
4.3	Warrant Agreement, dated April 21, 2010, between the Company and American Stock Transfer & Trust Company, LLC, as Warrant Agent (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on April 22, 2010).
4.4	Form of Unit Warrant issued to Investors in April 2010 Public Offering (incorporated by reference to Exhibit 4.5 to the Company's Annual Report on Form 10-K (included as part of Exhibit 4.4 thereof), filed with the Commission on June 21, 2013).
4.5	Form of Representative's Warrant issued to Maxim Group, LLC in connection with April 2010 Public Offering (incorporated by reference to Exhibit 4.3 to the Company's Current Report on Form 8-K, filed with the Commission on April 22, 2010).
4.6	Form of Warrant issued to Investors in June 2011 Private Placement (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on June 24, 2011).
4.7	Form of Warrant issued to Investors in March 2012 Registered Offering (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on April 2, 2012).
10.1	Form of Convertible Note Purchase Agreement entered into among the Company and various accredited investors on March 15, 2013 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed with the Commission on March 22, 2013).
10.2	Form of Note issued to Various Accredited Investors on March 15, 2013 (includes Form of Warrant as Exhibit A) (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed with the Commission on March 22, 2013).
10.3	First Amendment to the Secured Convertible Promissory Notes (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission on October 3, 2013).
10.4	Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated August 3, 2012 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission on August 7, 2012). †

10.5 Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated November 2, 2012 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Commission November 5, 2012). †

10.6 Letter Agreement between Nile Therapeutics, Inc. and Darlene Horton, M.D., dated March 21, 2013 (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K, filed with the Commission on March 22, 2013). †

10.7 Employment Agreement by and between Capricor, Inc. and Linda Marbán, dated September 1, 2010. *†

10.8 Employment Agreement between Capricor, Inc. and Anthony Davies, dated February 18, 2013. *†

10.9 Consulting Agreement between Capricor, Inc. and Frank Litvack, dated March 24, 2014. *†

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Exhibit 10.7

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made as of September 1, 2010, by and between CAPRICOR, INC., a Delaware corporation, with its principal place of business presently in California (hereinafter referred to as "Capricor"), and LINDA S. MARBAN, PH.D., a California resident (hereinafter referred to as "Dr. Marban"),

Explanatory Statement

A. Capricor desires to employ Dr. Marban as its Chief Executive Officer and President in accordance with the terms and conditions of this Agreement.

B. Dr. Marban desires to serve in the employ of Capricor on a 3/4full-time basis as Chief Executive Officer and President, subject to the terms and conditions of this Agreement.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants, promises, agreements, representations, and warranties of Capricor and Dr. Marban, each to the other made, the Explanatory Statement which shall be deemed a substantial part hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Capricor and Dr. Marban hereby covenant, promise, agree, represent, and warrant as follows:

SECTION 1. EMPLOYMENT.

1.1. Engagement of Employment. Effective as of September 1, 2010 (the "Employment Commencement Date"), Capricor hereby employs Dr. Marban, and Dr. Marban accepts such employment as Chief Executive Officer and President, and Dr. Marban agrees to render such duties as are set forth in Section 1.2, subject to the terms and conditions of this Agreement.

1.2. Duties. During Dr. Marban's employment under this Agreement, Dr. Marban shall render to the best of her ability, on behalf of Capricor and on a 3/4 full-time basis, and at the direction of Capricor, services as Capricor' s Chief Executive Officer and President, and such other duties as the Board of Directors shall direct. In particular, subject to oversight and direction of the Board of Directors, Dr. Marban shall:

(a) manage, oversee, and direct Capricor's operations;

(b) be primarily responsible for implementing the strategic goals and objectives of Capricor;

(c) give direction and leadership to the achievement of Capricor's philosophy, mission, and annual goals and objectives;

(d) support operations and administration of Capricor's Board of Directors by advising and informing Board members and interfacing between Board members and staff;

(e) oversee the design, marketing, promotion, and quality of Capricor's products and services;

(f) together with any Chief Operating Officer, any Vice President of Finance, or other appropriate officers recommend an annual budget for Board approval and prudently manage Capricor's resources with those budget guidelines according to current laws and regulations;

(g) effectively manage Capricor's human resources according to authorized personnel policies and procedures that fully conform to current laws and regulations;

(h) ensure that Capricor and its mission, programs, products, and services are consistently presented in a positive image to stockholders and the public;

(i) oversee investor relations, and fundraising planning and implementation, including identifying resource requirements, researching funding sources, establishing strategies to approach investors, submitting proposals, and managing investor records and documentation;

(j) assist in the selection and evaluation of Board members; (k) be available as a contact for appropriate investors;
(1) provide strategic counsel to the Board of Directors regarding
Capricor's growth prospects;

(m) ensure that all financial and non-financial reporting requirements are met on a timely and regular basis; and

(n) perform such other managerial and operational functions within or outside the scope of the above-referenced services as may be requested from time to time by the Board of Directors.

Dr. Marban shall report to the Board of Directors.

1.3. Exclusivity. Except as may be expressly approved in advance by the Board of Directors in writing or by resolution, Dr. Marban shall not pursue other employment, consulting, Board service, or professional endeavors during her employment; provided, however, because Dr. Marban is being employed as a 3/4full-time employee under this Agreement, Dr. Marban is permitted to continue to work as a part-time employee for Cedars-Sinai Medical Center, provided that such service does not interfere with the performance of Dr. Marban’s duties
under Section 1.2 herein.

1.4. Duration. Dr. Marban shall serve as the Chief Executive Officer and President of the Company until such time when the Company determines it is necessary to hire a full-time Chief Executive Officer. Upon the employment of a new Chief Executive Officer, if the Company does not employ Dr. Marban at a level of at least a Vice-President of the Company, then the Company shall pay Dr. Marban an amount (as a severance payment) equal to three (3) months of Dr. Marban's then current salary and the vesting of her then unvested stock options shall be accelerated by six (6) months.

1.5. Offices and Support. Capricor shall provide Dr. Marban with suitable office space and equipment, including access to telephone, facsimile, photocopying, and any other equipment reasonably required for Dr. Marban to perform her duties as set forth in Section 1.2 herein.

SECTION 2. COMPENSATION.

2.1 Salary. Capricor shall pay Dr. Marban (in addition to any benefits provided for in this Agreement) an annual salary of One Hundred Fifty Thousand Dollars ($150,000.00) (the "Annual Salary"), payable biweekly in arrears, and subject to customary payroll deductions in accordance with the general practice of Capricor.

2.2 Performance Bonus Compensation. In addition to the Annual Salary provided for by Section 2.1, upon such terms as are hereafter promulgated by the Board of Directors and subject to customary payroll deductions in accordance with the general practice of Capricor, Capricor shall pay Dr. Marban additional compensation in the form of an annual bonus (the "Annual Performance-Based Bonus") as follows:

(a) Setting of Goals and Payment Upon Advancement. On or before December of each year during Dr. Marban's employment, Dr. Marban and Capricor's Board of Directors shall establish challenging performance-based goals relating to Dr. Marban's and Capricor's performance over the following calendar year (the "Performance Goals"). Capricor shall pay Dr. Marban an Annual Performance-Based Bonus, in cash, of up to twenty percent (20%) of the Annual Salary (pro-rated, as appropriate) upon achieving (in the judgment of the Board of Directors) the Performance Goals;

(b) Payment. Payment of the Annual Performance-Based Bonus earned with respect to a particular calendar year shall be payable as of March 1 of the following year (or upon such later, appropriate date if the applicable Performance Goals are based in part upon financial reports not then received); and

(c) Other. If Dr. Marban is not employed by Capricor as of December 31 of any calendar year and/or if Dr. Marban is in default of any material term of this Agreement, then Capricor may, in its sole discretion, discontinue or lessen any and all payments attributable to the Annual Performance-Based Bonus.

2.3 Benefits. Dr. Marban shall be provided with at least such health, dental, disability, life insurance, and other benefits as may be provided to comparable management-level employees of Capricor from time to time and subject to the terms of any such plans or programs. Additionally, Dr. Marban shall be eligible to participate in any pension and/or profit sharing plans or employee stock incentive programs that may be provided by Capricor for its key employees generally in accordance with the provisions of any such plans, as the same may be in effect on and after the date hereof.

SECTION 3. VACA TION LEAVE, PERSONAL LEAVE, SICK LEAVE, AND HOLIDAYS.

3.1. Vacation and Personal Leave. Dr. Marban shall be entitled to "Vacation" during each calendar year as set forth in this Section 3.1 and as follows: Twenty (20) working days for "Vacation" during each twelve (12) month period during which Dr. Marban is employed under this Agreement. Vacation shall be used for all vacation, personal leave, sick leave, and any other time during which Dr. Marban is not required to perform the duties set forth in Section
1.2. Dr. Marban shall take Vacation at such time or times in accordance with the policy of
Capricor so as not to disrupt Capricor's operations. During Dr. Marban's Vacation, the Annual Salary, and all benefits paid and provided pursuant to this Agreement, shall be paid and provided in full. Up to ten (10) unused Vacation days for any given year may be carried over to the following year; any other unused Vacation days shall be paid out in accordance with applicable law and such policy as the Board of Directors may adapt from time to time.

3.2. Holidays. In addition to Vacation, Dr. Marban shall be entitled to New Year's Eve (112 day), New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, the day after Thanksgiving, Christmas Eve, Christmas, and such other holidays as are recognized by Capricor in accordance with applicable federal, state, or local laws and as are offered to comparable employees of Capricor.

SECTION 4. BUSINESS EXPENSES. Dr. Marban is authorized to incur reasonable expenses, including travel expenses, in connection with Dr. Marban's exercise of her duties under this Agreement. It is intended by Capricor and Dr. Marban that all such expenses shall be ordinary and necessary expenses incurred in connection with the duties of Dr. Marban under this Agreement. Capricor may establish guidelines, budgets, pre-approval requirements, and restrictions pertaining to Dr. Marban’s authorization to incur business expenses on behalf of Capricor and Dr. Marban shall comply with all Capricor policies relating to the authorization, verification, and approval of such expenses. Dr. Marban shall be entitled to book "business class" tickets for international travel. Submission of expense reports will be made monthly. Dr. Marban shall be reimbursed for all authorized business expenses within thirty (30) days of submission of such expenses, provided that such expenses have been approved by the Board of Directors.

SECTION 5. INCENTIVE STOCK OPTION AGREEMENT. Contemporaneously with this Agreement, Capric or has granted Dr. Marban the opportunity to purchase up to Two Hundred Thousand (200,000) shares of Capricor's Common Stock. This grant shall be made in accordance with Capricor's 2006 Stock Option Plan, as amended from time to time. Capricor and Dr. Marban shall execute an Incentive Stock Option Agreement between Capricor and Dr. Marban, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Dr. Marban’s Stock Option Agreement does not obligate Dr. Marban to exercise her options to purchase stock of Capricor nor obligates Capricor to continue Dr. Marban's employment.

SECTION 6. CONFIRMATION OF "AT WILL" EMPLOYMENT AND TERMINATION.

(a) Dr. Marban acknowledges and confirms that she is an "at will" employee and that her employment may be terminated at any time by the Board of Directors of Capricor, with or without cause. Dr. Marban shall adhere to and obey all Capricor policies as they now exist and as they may be adopted and amended from time to time.

(b) The following actions, failures or events by or affecting Dr. Marban shall constitute "Cause" for termination within the meaning of clause (a) above: (i) determination by the Board of Directors of Capricor, acting in good faith and with reasonable justification, that Dr. Marban's performance of her duties hereunder has been unsatisfactory, after first giving written notice to Dr. Marban that her performance has been unsatisfactory (which notice shall set forth in reasonable detail the nature of the unsatisfactory performance), (ii) failure by Dr. Marban to obey the reasonable and lawful directions of the Board of Directors, (iii) Dr. Marban's willful breach of any material agreement or covenant of this Agreement or any breach of any fiduciary duty owed to Capricor, (iv) conviction of, or being charged with, having committed a felony involving fraud or an act of dishonesty against Capricor, (v) acts of dishonesty or moral turpitude that are detrimental to Capricor, or (vi) acts or omissions that Dr. Marban knew or should have reasonably known were likely to damage the business of Capricor. With regard to clause (i) above, Dr. Marban shall be given thirty (30) days to cure the unsatisfactory performance specified in any notice given by Capricor, and if Dr. Marban so cures any such performance, Dr. Marban subsequently shall not be subject to termination pursuant to such clause merely by reason of Capricor giving one or more notices of other unsatisfactory performances without having further opportunities to cure such unsatisfactory performances, except that Dr. Marban shall be subject to termination if an unsatisfactory performance subsequently occurs, or two (2) or more additional unsatisfactory performances (whether or not cured) occur, during the six (6) month period following such cure. Clause (i) may be invoked by Capricor any number of times and cure of deficiencies contained in any notice shall not be construed as a waiver of such clause nor prevent Capricor from issuing any subsequent notices thereunder.

(c) In the event that Dr. Marban's employment is terminated by Capricor during the term of this Agreement other than (i) for Cause, (ii) upon the death of Dr. Marban, or (iii) subject to applicable law, upon Dr. Marban's disability (either (A) permanent or (B) rendering and/or anticipating to render Dr. Marban unable to fulfill her duties under Section 1.2 for at least three months), then Capricor shall pay to Dr. Marban, her Annual Salary calculated on a pro rata basis through the date of termination and, in addition, as a severance payment, the amount of Annual Salary that Dr. Marban would have otherwise been entitled to receive, paid in monthly intervals in accordance with Capricor's payroll practices, during the three (3) month period commencing on the date of termination (such amounts being herein referred to as the "Severance Payments").

(d) Dr. Marban shall not be entitled to receive any Severance Payments pursuant to this Section 6 unless Dr. Marban has executed and delivered to Capricor a general release in form and substance satisfactory to Capricor and may only receive such payments so long as Dr. Marban has not breached any of the provisions of this Agreement. Amounts payable pursuant to this Section 6 are in lieu of any severance pay that would otherwise be payable to Dr. Marban upon termination of her employment with Capricor under Capricor's severance pay policies, if any.

SECTION 7. CONFIDENTIALITY, NON -COMEPTITION, NON-SOLICITATION AND OWNERSHIP OF WORKS. Dr. Marban hereby covenants, agrees, and acknowledges that the December 1, 2006 Employee Invention Assignment, Non-Disclosure, Non-Solicitation, and Non-Competition Agreement between the Company and Dr. Marban (the "Employee Invention Agreement") is in full force and effect (to the extent enforceable under applicable law) and agrees to abide by the terms and conditions of such Employee Invention Agreement.

SECTION 8. CONSULTING AGREEMENT. Dr. Marban hereby agrees that the terms and conditions of the March 31, 2007 Consulting Agreement by and between the Company and Cardio Sciences Consulting, Inc. is binding on Dr. Marban until August 31, 2010, at which time such Consulting Agreement shall be superseded and replaced by this Agreement in all respects, including that Dr. Marban shall become an employee of the Company rather than an independent contractor to the Company.

SECTION 9. CONSTRUCTION OF AGREEMENT: CHOICE OF LAW, SEVERABILITY, AND NUMBER. The validity, legality, and construction of this Agreement or of any of its provisions shall be determined under the laws of the State of California (without regard to its principles of conflicts of law) except that the laws of the State of Delaware shall govern all matters as to the Incentive Stock Option Agreement. If any provision contained in this Agreement cannot be enforced to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and Capricor and Dr. Marban consent and agree that such provision may be judicially modified accordingly in any proceeding brought to enforce such provision. The invalidity, illegality, or inability to enforce any provision of this Agreement shall not affect or limit the validity and enforceability of any other provision hereof. Where context requires, the plural shall include the singular and vice versa.

SECTION 10. NOTICES. All notices and communications hereunder shall be in writing and shall be deemed given when sent postage prepaid by registered or certified mail, return receipt requested, by hand delivery with a signed returned copy, or by delivery of a nationally recognized overnight delivery service, and addressed as follows:

If intended for Capricor:	Capricor, Inc. 8700 Beverly Boulevard - Davis 1099 Los Angeles, California 90048
With a copy to:	William E. Carlson, Esquire Shapiro Sher Guinot & Sandler 2000 Charles Center South 36 South Charles Street Baltimore, Maryland 21201
If intended for Dr. Marban:	Linda S. Marban, Ph.D. 815 North Roxbury Drive Beverly Hills, California 90210

If, however, a party furnishes another party with notice of a change of address, as provided in this Section, then all notices and communications thereafter shall be addressed as provided in such notice.

SECTION 11. ASSIGNMENT. The rights and obligations of the parties to this Agreement shall not be assignable or delegable by Dr. Marban, Capricor may assign this Agreement in connection with any subsequent merger, consolidation, sale or other transfer of all or substantially all of the assets of Capricor or similar reorganization of a successor corporation.

SECTION 12. ENTIRE AGREEMENT. This Agreement, which is the product of a negotiation between Capricor and Dr. Marban, the Incentive Stock Option Agreement, and the Employee Invention Agreement contain the entire understanding between Capricor and Dr. Marban with respect to matters set forth herein and therein and supersedes all other oral and written agreements or understandings between them with respect to matters set forth herein and therein. No modification or addition hereto or waiver or cancellation of any provision shall be valid except as provided in a writing signed by the party against whom such modification, addition, waiver, or cancellation is being enforced.

SECTION 13. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, Capricor and Dr. Marban have executed this Employment Agreement as of the day and year first above written.

ATTEST:

/s/ William E. Carlson

William E. Carlson, Secretary

CAPRICOR, INC.

By: /s/ Linda Marban (SEAL)
Linda S. Marban, Ph.D.
Chief Executive Officer

WITNESS:

_____

/s/ Linda Marban (SEAL)
Dr. Linda S. Marban

Exhibit 10.8

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("**Agreement**") is made and shall be effective as of February 18, 2013 (the "**Effective Date**"), by and between **Capricor, Inc**., a Delaware corporation, whose offices are located at 8840 Wilshire Blvd., 3rd Floor, Beverly Hills, California 90211 (the "**Company**"), and **Dr. Anthony H. Davies** ("**Employee**") who resides at 15945 Niles Road, Los Gatos, California 95033.

A. Capricor extended an offer of employment to Employee pursuant to an Offer Letter dated January 9, 2013 which has been accepted by Employee (the "**Offer Letter**").

B. The parties now desire to enter into a definitive agreement which shall set forth the full terms and conditions of Employee's employment.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree as follows:

1. EMPLOYMENT. The Company hereby agrees to employ Employee, and Employee hereby agrees to accept employment with the Company, upon the terms and conditions herein set forth.

2. DUTIES AND POWERS OF EMPLOYEE

2.1 Duties of Employee. . Employee shall serve as the Chief Technology Officer of the Company reporting directly to the Chief Executive Officer. In that capacity, Employee shall do and perform all services, acts or things necessary or advisable to develop, manage and execute a to-market commercialization plan for the Company's therapeutic products (including, but not limited to CDC's). Employee's responsibilities shall include, without limitation, the following:

- process development and manufacturing;
- evaluating information and making recommendations to the Company's Board of Directors (the "**Board**") regarding process development and manufacturing for new products being considered by the Company;
- participating in the Company's fundraising activities, when necessary, which may include travel from time to time;
- evaluating off-site manufacturing options, including those outside the U.S. and making recommendations regarding same;

- supervising the manufacturing, process development and, if requested, quality divisions including all employees therein; and
- working with the Company's team to formulate budgets for expansion of the Company.

During the duration of his employment, and except for periods of illness, vacation, or reasonable leaves of absence, Employee shall devote his full time and attention to the business and affairs of the Company, as such business and affairs now exist and as they hereafter may be changed or added to, under and pursuant to the general direction of the Company's Board.

2.2 Place of Performance. Employee shall perform most of his duties from the Company's offices located in Los Angeles, California unless otherwise specifically authorized in writing. However, the parties acknowledge that as of the Effective Date of this Agreement, Employee is residing in Los Gatos, California and that for a period not to exceed six (6) months from the Effective Date (the "**Relocation Period**"), Employee shall be required to commute to Los Angeles to perform his responsibilities. During the Relocation Period or until Employee actually relocates to Los Angeles, whichever occurs first, Employee shall spend at least three (3) days each week in Los Angeles and work remotely on the remaining two (2) days of the week, unless Employee is traveling to other locations on behalf of the Company. Before the expiration of the Relocation Period, Employee shall be required to relocate his residence to Los Angeles.

2.3 Other Activities. During the continuation of his employment hereunder, Employee shall not provide any work or services to any other person or organization without the prior written consent of the Chief Executive Officer or the Board, which consent may be withheld in their sole and absolute discretion. Nothing contained herein shall prohibit Employee from making passive personal investments in publicly traded companies so long as Employee's investment does not constitute an equity position greater than five percent (5%) of such company's outstanding securities.

3. COMPENSATION

3.1 Base Salary. In consideration of the services to be provided by Employee during his employment hereunder, Employee shall receive a base salary of two hundred sixty thousand dollars ($260,000) per annum, which sum shall be payable in semi-monthly installments consistent with Company pay practices.

3.2 Bonuses. In addition to the base salary, Employee will also be considered for an annual bonus at the end of each fiscal year of the Company in an amount up to twenty percent (20%) of his base salary, the awarding and amount of which will be in the discretion of the Board and dependent upon successful completion of performance-based milestones to be determined by the Chief Executive Officer and the Company's Compensation Committee. The Company shall have the discretion to pay any amount awarded either in cash or in options to purchase Common Shares of the Company valued in a like amount. If options are granted to Employee as a bonus, they will be deemed fully vested on the date of grant. If Employee does not work for the entire fiscal year of the Company and/or if Employee is in default of any material term of this Agreement, the Company, in its discretion, may discontinue, deny, prorate or reduce the amount of any bonus which otherwise could be awarded.

3.3 Commuting Expenses. During the Relocation Period and while Employee is commuting to Los Angeles, the Company will reimburse Employee for all travel expenses incurred by him including airline flights at the best available coach rates, ground transportation, lodging at rates pre-approved by the Chief Executive Officer and meals while in Los Angeles (collectively, the "**Commuting Expenses**"). Once Employee has actually completed his move to Los Angeles, the Company will provide Employee with a housing allowance of four thousand dollars ($4,000) per month for a period of nine (9) months. If Employee's move is completed within the Relocation Period, the reimbursement of the Commuting Expenses shall cease. All such payments to Employee shall be subject to deductions for taxes and other withholdings as required by applicable Federal and state law. Each such expense shall be reimbursable only if Employee furnishes to the Company adequate records, receipts and other documentary evidence of any such expenses incurred. Reimbursements shall be made within thirty (30) days of the Company's receipt of such expense records from Employee.

3.4 Stock Options.

(a) Grant of Stock Option. As further consideration for the services to be provided by Employee hereunder, subject to the approval of the Company's Board, Employee shall be granted a stock option under the Company's 2012 Restated Equity Incentive Plan (the "**Stock Plan**") to purchase an aggregate of 91,245 shares of the Company's Common Stock (the "**Option Shares**"). The Option Shares shall vest at the rate of twenty-five percent (25%) per year over a four-year period commencing on the first anniversary of the date of grant and continuing at the rate of twenty-five percent (25%) on each of the three (3) anniversary dates thereafter. The exercise price for the Option Shares shall be equal to the fair market value of the shares on the date of grant as determined by the Company's Board. The Option Shares shall be further subject to the provisions of the Stock Plan and the applicable Stock Option Agreement to be executed by the Company and Employee.

(b) Accelerated Vesting. In the event of a Change of Control of the Company (as defined below) and Employee's employment is terminated, or his position or responsibilities are materially diminished, within the twelve (12) month period following the effective date of such Change of Control, the vesting of all of Employee's then unvested Option Shares shall be accelerated and deemed fully vested as if the termination had not occurred; provided, however, that the exercise of such Option Shares shall be governed by the provisions of the relevant plan and stock option agreement applicable thereto.

(i) The term "**Change of Control**" means: (1) a sale of all or substantially all of the assets of the Company; or (2) the acquisition of more than fifty percent (50%) of the voting power of the outstanding securities of the Company by another person or entity by means of any transaction or series of related transactions (including, without limitation, reorganization, merger or consolidation) unless the stockholders of record of the Company as constituted immediately prior to such acquisition will, immediately after such acquisition (by virtue of their continuing to hold such stock and/or their receipt in exchange therefor of securities issued as consideration for the outstanding stock of the Company) hold at least fifty percent (50%) of the voting power of the surviving or acquiring entity.

3.5 Deduction of Taxes. The Company shall have the right to deduct or withhold from the compensation due to Employee hereunder any and all sums required for Federal Income and Social Security taxes and all other federal, state or local taxes now applicable or that may be enacted and become applicable in the future.

4. OTHER BENEFITS

4.1 Insurance. Commencing on the first day of the month following the thirty (30)-day period after the Effective Date of this Agreement, and so long as Employee remains employed by the Company, Employee shall be entitled to participate in any medical and dental insurance plan which is from time to time generally made available to other senior Employees of the Company. The right to receive such insurance benefits shall vest if and only if any of the foregoing types of insurance plans are adopted and maintained by the Company. In addition, commencing on the second year of Employee's employment, the sum of one thousand dollars ($1,000) shall be deposited into a flexible spending account earmarked for Employee's benefit to be used only for qualified medical expenses. If Employee's employment is terminated for whatever reason before such sum is expended by him, any remaining balance will be cancelled upon termination of employment.

4.2 Vacation and Personal Leave.

(i) Vacation. Employee shall be entitled to a maximum of fifteen (15) working days' vacation time during each one-year period of this Agreement without loss of compensation, to be taken at a time or times mutually agreed upon by the Company and Employee. Vacation days may be taken only at such times as are mutually convenient for the Company and Employee. If Employee is unable for any reason to take the total amount of authorized vacation time for any year, Employee may accrue no more than five (5) days of that time and add it to vacation time for any following year or alternatively, may receive a cash payment in an amount equal to the amount of annual salary attributable to that period. Once the maximum accrual has been reached, all further accruals will cease. Vacation accruals will recommence after Employee has taken his vacation and his accrued hours have dropped below the maximum or Employee has received pay in lieu of the vacation time.

(ii) Personal Days. Employee shall be entitled to a maximum of four (4) working days' personal leave (including sick days) during each one-year period of this Agreement without loss of compensation.

4.3 Business Expenses. The Company shall reimburse Employee monthly for all business expenses incurred by Employee in performing his duties hereunder, including, without limitation: (a) expenses incurred for business travel; (b) meals, lodging, and ground transportation expenses; (c) pre-approved promotional expenses; (d) long distance telephone charges; and (e) any other expenses which the Company determines is necessary in connection with the performance of Employee's duties hereunder. Each such expense shall be reimbursable only if it is of such a nature qualifying it as a proper deduction on the federal and state income tax returns of the Company. Employee shall furnish to the Company adequate records, receipts and other documentary evidence required by federal and state statutes and regulations issued by the appropriate taxing authorities for the substantiation of that expenditure as an income tax deduction.

4.4 Sarbanes-Oxley Act of 2002. Notwithstanding anything herein to the contrary, if the Company determines, in its good faith judgment, that any provision of this Agreement is likely to be interpreted as a personal loan prohibited by the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder (the "**Act**"), then such provision shall be modified as necessary or appropriate so as to not violate the Act and if this cannot be accomplished, then the Company shall use its reasonable efforts to provide Employee with similar, but lawful, substitute benefits at a cost to the Company not to significantly exceed the amount the Company would have otherwise paid to provide such benefit(s) to Employee.

5. OBLIGATIONS OF EMPLOYEE

5.1 Confidential and Proprietary Information. Employee acknowledges and agrees that he has been given, and during the continuance of this Agreement and in the course of discharging his duties hereunder he will have access to and become acquainted with, information and know-how concerning the operation, products and processes of the Company which are confidential and/or proprietary to the Company (and/or its licensors and affiliates). As a condition of Employee's employment, Employee agrees to execute an At-Will Employment, Confidential Information, and Invention Assignment Agreement (the " **Proprietary Rights Agreement"**) which, among other things, shall set forth Employee's obligations with respect to the Company's confidential and proprietary information. An executed copy of the Proprietary Rights Agreement shall be attached hereto as **Exhibit A** and incorporated herein by reference.

5.2 Non-Competition and Non-Solicitation By Employee. Employee acknowledges and agrees that his duty of loyalty to the Company is of paramount importance. As a condition of Employee's employment, Employee acknowledges and agrees to abide by the provisions regarding non-competition and non-solicitation set forth in the Proprietary Rights Agreement attached hereto as **Exhibit A**.

5.3 Equitable Remedies. In the event of a breach or threatened breach of the provisions of Section 5 of this Agreement, including its subsections, the Company shall be entitled to an injunction enjoining Employee from such breach, but nothing herein shall be construed as prohibiting the Company from pursuing in addition any other remedies available for such breach or threatened breach.

6. TERMINATION OF EMPLOYMENT

6.1 At-Will Employment. The employment of Employee shall commence on the Effective Date and shall continue in effect until the termination hereof by either party. The employment of Employee is At-Will and may be terminated at the will of either the Company or Employee, with or without cause or notice.

6.2 Payments Due Upon Termination. Upon termination of Employee's employment, the Company shall pay to Employee on such date required by applicable law, a lump sum amount in cash equal to Employee's base salary and other payments due through the Date of Termination to the extent not theretofore paid.

7. GENERAL PROVISIONS

7.1 Notices. Any notices to be given by either party to the other may be effected either by personal delivery in writing, by facsimile or electronic transmission or by mail, registered or certified, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change its address by written notice in accordance with this section. Notices personally delivered or sent by facsimile transmission shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated two (2) days after the date on which they are mailed.

7.2 Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Employee by the Company, including the Offer Letter but excluding the Proprietary Rights Agreement and a Dispute Resolution and Mutually Binding Arbitration Agreement to be executed by the parties, and contains all of the covenants and agreements between the parties with respect to that employment in any manner whatsoever. Each party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, other than those set forth herein, have been made by any party, or anyone acting on behalf of any party, and that no other agreement, statement, or promise between the parties not contained in this Agreement shall be valid or binding on the parties. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

7.3 Severability. If any one or more provisions in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, such provision shall be judicially modified accordingly to make such provision enforceable and if not possible to reasonably do so, such provision shall be deemed excluded from this Agreement. In such case, the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

7.4 Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

7.5 Governing Law. This Agreement and each of its provisions shall be governed by and construed in accordance with the laws of the State of California (without regard to its conflict of law principles), except that the laws of the State of Delaware shall govern all matters as to the Stock Plan and Stock Option Agreement.

7.6 Agreement Binding. This Agreement shall inure to the benefit of and be binding upon the Company and its affiliates, successors and assigns. The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it as if no such succession had taken place.

7.7 Survival. Notwithstanding any provision of this Agreement to the contrary, the provisions of Sections 5 and 7 (and each of their subsections) shall survive the expiration or termination of this Agreement as necessary to give full effect to all of the provisions contained herein.

7.8 Headings and Captions. Section headings and captions used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

Employee:

/s/ Anthony Davies
Dr. Anthony H. Davies

Capricor, Inc.

By: /s/ Linda Marban
Linda Marbán, Ph.D.
Chief Executive Officer

Exhibit 10.9

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT ("**Agreement**") is made and shall be effective as of the 24th day of March, 2014 (the "**Effective Date**"), by and between **Capricor, Inc.,** a Delaware corporation with its offices at 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California 90211 ("**Capricor**") and **Frank Litvack, MD,** whose address is c/o 8550 Wilshire Blvd., Ste. 840, Los Angeles, California 90010 **("Consultant").**

RECITALS

A. Capricor is engaged in research and development of stem-cell therapies for the treatment of cardiovascular disease.

B. Consultant is a medical practitioner and businessman experienced in the development, operation and financing of medtech and biotech companies in the healthcare industry.

C. Consultant has been providing consulting services and advice to Capricor since 2010 and the parties are desirous of memorializing the terms of Consultant's continuing consulting relationship with Capricor.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement and intending to be legally bound hereby, the parties mutually agree as follows:

1. Engagement of Consultant.

1.1 Engagement. Capricor hereby agrees to continue the engagement of Consultant, and Consultant hereby agrees to accept such continuing engagement with Capricor, to serve as an advisor and consultant to the management of Capricor and its parent, Capricor Therapeutics, Inc., ("**CAPR**") and to provide such other consultation and advice as may be requested from time to time (collectively the "**Services**"). In such capacity, Consultant shall use his best efforts and abilities in the performance of the Services hereunder. Capricor may, from time to time, contract with the Consultant for other services and other specific projects as may be agreed to by the parties.

1.2 Services Non-Exclusive. During the continuance of this Agreement, it shall not be a violation of this Agreement for Consultant to engage in other ventures or activities, whether existing now or in the future, including, but not limited to, rendering services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, as long as such duties or pursuits do not materially interfere with the services required to be performed by Consultant hereunder. If Consultant is engaged or desires to engage in other ventures or activities in the same or similar business in which Capricor is engaged, Consultant shall disclose in writing to Capricor the nature and scope of such other business ventures or activities. Capricor may terminate this Agreement if Capricor believes that Consultant's participation in such venture or activity would pose an actual or potential conflict of interest or would be materially detrimental to the business interests of Capricor. Consultant shall disclose on **Exhibit A,** attached hereto, the names of each person or entity for whom Consultant provides services which may present an actual or potential conflict of interest with Capricor. Such **Exhibit A** shall be updated regularly by Consultant.

2. Relationship of the Parties. Consultant is an independent contractor and is not an agent, partner, joint venturer or employee of Capricor. No provision of this Agreement shall be deemed to create or imply any contract of employment between Capricor and Consultant. In his capacity as a consultant, Consultant shall have no authority to bind Capricor in any manner or create any liability for Capricor unless authorized by the Board of Directors or Capricor's Chief Executive Officer. Consultant shall not be treated as an employee for purposes of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Act, income tax withholding and applicable state laws, including, without limitation, those pertaining to workers' compensation, unemployment compensation and state income tax withholding. Consultant acknowledges that he shall not be eligible for any pension, vacation, sick pay or other benefits that Capricor may provide to its employees. Consultant is responsible for the payment of all required taxes, whether federal, state or local in nature, including, but not limited to, income taxes, Social Security taxes, Federal Unemployment Compensation taxes, and any other fees, charges, licenses or other payments required by law relating to Consultant's engagement by Capricor hereunder. Consultant shall indemnify Capricor and hold it harmless from and against all claims, demands, losses, costs, liabilities, judgments, and attorneys' fees that Capricor may incur that arise out of or relate to any failure of Consultant to pay such taxes and/or contributions.

3. Remuneration. As compensation for the Services rendered hereunder, Capricor will pay Consultant at the rate of ten thousand dollars ($10,000) per month for the Services. Payments will be made on a monthly basis. Consultant shall report as income all compensation received by him hereunder.

4. Expenses. Consultant will be reimbursed for such reasonable expenses for travel and lodging, necessary and actually incurred in the performance of the Services, including, without limitation, costs actually incurred for any meeting that Capricor requests Consultant to attend; provided, however, that in order to qualify for reimbursement, all such expenses must be approved in advance in writing by Capricor. Consultant agrees to supply Capricor with receipts and such other supporting documentation requested by Capricor for all expenses submitted for reimbursement. Payment for such expenses shall be made within the next check cycle, but not more than thirty (30) days after receipt of supporting documentation.

5. Confidential Information.

5.1 Consultant has executed a Nondisclosure Agreement with Capricor dated January 30, 2013, a copy of which is attached hereto as **Exhibit B** (the "**NDA**"). The terms and conditions of the NDA shall be incorporated herein by reference and shall be deemed a part of this Agreement, applicable hereto and applicable to any confidential information received from CAPR as well.

5.2 All Confidential Information shall be the sole property of Capricor, its affiliates and its assigns, and Capricor, its affiliates and its assigns, as applicable, shall be the sole owner of all patents and other intellectual property rights in connection therewith. Consultant shall and does hereby assign to Capricor any rights Consultant may have or may acquire in such Confidential Information.

5.3 Except to the extent reasonably necessary to perform the Services on behalf of Capricor, Consultant agrees to maintain in strictest confidence and not to disclose or use, either during or at any time after the termination of this Agreement, any Confidential Information belonging to Capricor, its affiliates or assigns, whether or not in written form, without first obtaining the written permission of Capricor.

5.4 Consultant recognizes that Capricor has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on Capricor's part to maintain the confidentiality of such information and, in some cases, to use it only for certain limited purposes. Consultant agrees that it owes Capricor and such third parties, both during the term of this Agreement and thereafter, a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation (except in a manner that is consistent with Capricor's agreement with such third party) or use it for the benefit of any person or entity other than Capricor or such third party (consistent with Capricor's agreement with such third party).

5.5 Upon the termination of this Agreement, Consultant will deliver to Capricor (and will not keep in Consultant's possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, computer disks other documents, materials or property, together with all copies thereof (in whatever medium recorded) belonging to Capricor, its affiliates, licensors, successors or assigns.

5.6 Unless the prior written consent of Capricor has been obtained, Consultant shall not discuss or mention in scientific publications, medical literature, abstracts or verbal presentations any information regarding Capricor, including, without limitation, any information related to Capricor's business, products, processes, data, plans, strategies or Confidential Information, unless such information is in the public domain not by reason of a breach of any confidentiality obligation owed to Capricor.

6. Property Rights of the Parties

6.1 As used in this Agreement, the term "Inventions" shall refer to any new or useful art, discovery, development, contribution, finding or improvement whether or not patentable, and all related know-how. Inventions include, but are not limited to, all trade secrets, designs, discoveries, formulae, processes, methods, manufacturing techniques, computer software, improvements, and ideas.

6.2 Consultant will promptly disclose, and hereby assigns, to Capricor, all right, title and interest worldwide of Consultant in and to all Inventions, which have been or shall be made, conceived, learned, or reduced to practice or writing by Consultant, either alone or with others in connection with or related to Capricor's products and processes during the continuance of this Agreement or after the termination hereof. Consultant acknowledges that all original works of authorship which are made by Consultant (solely or jointly with others) in the performance of the Services and which are protected by copyrights are "works made for hire," as that term is defined in the United States Copyright Act (17 U.S.C., Section 101).

6.3 Consultant will, both during and after termination of this Agreement, assist Capricor, at Capricor's expense, in every proper manner to obtain for Capricor and to maintain and enforce, in any and all countries, patents and copyrights on all of Capricor's Inventions assigned by Consultant to Capricor, and for such purpose Consultant shall sign all documents related to such of Capricor's Inventions as Capricor may reasonably request. In the event that Capricor is unable for any reason whatsoever to secure Consultant's signature to any lawful and necessary document required to apply for or execute any copyright or patent application with respect to any Capricor Invention requiring an assignment by Consultant hereunder, Consultant hereby irrevocably designates and appoints Capricor and its duly authorized officers and agents as its agents and attorneys-in-fact to act for and in its behalf and instead of Consultant, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other rights thereon with the same legal force and effect as if executed by Consultant.

7. Termination.

7.1 Term/Termination. Subject to earlier termination as provided herein, this Agreement shall commence on the Effective Date and shall continue in force until terminated by one of the parties hereto. Consultant shall have the right to terminate this Agreement at any time after giving Capricor at least seven (7) days' prior written notice with or without cause; (b) Capricor shall have the right to terminate this Agreement upon thirty (30) days' written notice to Consultant with or without cause; and (c) Capricor shall have the right to immediately terminate this Agreement upon notice to Consultant upon the occurrence of any Termination Event (as defined below).

7.2 For purposes of this Agreement, the term "**Termination Event**" shall mean the occurrence of any of the following:

(a) The commission of an act of fraud or dishonesty by Consultant;

(b) The unauthorized use or disclosure of Confidential Information by Consultant;

(c) The willful or habitual neglect by Consultant in the performance of the Services;

(d) Consultant is convicted of a felony or other crime involving moral turpitude; and

(e) Any other conduct by Consultant which is injurious to the business or reputation of Capricor.

8. Assignability. This Agreement is personal between Consultant and Capricor. Consultant shall not assign Consultant's rights or delegate his duties under this Agreement, in whole or in part, without the prior written consent of Capricor, which consent can be withheld at Capricor's sole discretion. Capricor shall have the right to assign its rights and delegate its duties under this Agreement in whole or in part to a successor to Capricor without the consent of Consultant.

9. Compliance with Business Ethics and Laws

9**.1 Ethical Conduct**. It is the policy of Capricor to conduct its business at all times in accordance with the highest standards of corporate, business and medical ethics. Consultant agrees to comply with those standards in all matters relating to the Services and all other performance under or pursuant to this Agreement.

9**.2 Compliance with Laws**. Consultant shall comply with all applicable laws affecting this Agreement and his performance hereunder and, without limiting the generality of the foregoing, shall maintain all licenses which may be required under local law in order to enable him lawfully to perform his obligations under this Agreement.

9**.3 Anti-bribery and Anti-Corruption Cause**. Consultant confirms that he has not given or promised to give, will not give or promise to give any payment or anything of value, directly or indirectly, to any government, public institution, public international organization or public official in connection with this Agreement for the purpose of obtaining or retaining business or any other improper advantage. Consultant represents that no payment made under this Agreement is intended to influence any government, public institution, public international organization or public official with regard to the sale of Capricor's products or the conduct of its trials. Each party represents that no payment made to the other pursuant to this Agreement proceeds of any illegal activity.

9.4 Materiality. Non-compliance by Consultant with the provisions of this Section 9 shall constitute a material breach of this Agreement and shall constitute grounds for its termination in accordance with Section 7.2 hereof.

10. General Provisions.

10.1 Notices. Any notices to be given by either party to the other may be effected either by personal delivery in writing, by facsimile or electronic transmission, courier or by mail, registered or certified, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change its address by written notice in accordance with this section. Notices personally delivered, sent by courier or sent by facsimile or electronic transmission shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated two (2) days after the date on which they are mailed.

10.2 Agreement Binding. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, successors and permissible assigns.

10.3 Severability. If any covenant, condition or other provision contained in this Agreement is held to be invalid, void or unenforceable by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision contained herein. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

10.4 Interpretation of Agreement. No provision of this Agreement is to be interpreted for or against either party because that party or that party's legal representative drafted such provision.

10.5 Entire Agreement. This Agreement and the NDA set forth the entire agreement and understanding of the parties relating to Consultant's consulting relationship with Capricor. No representation, promise or inducement has been made by either party that is not embodied in this Agreement and the NDA, and neither party shall be bound by or liable for any alleged representation, promise or inducement not so set forth. Except as set forth herein, all prior negotiations, representations and agreements are waived, merged herein and superseded hereby. Notwithstanding the foregoing, nothing in this Agreement is intended to supersede, waive or nullify any agreement previously entered into between Capricor and Consultant, including, without limitation, Stock Option Agreements, which shall remain in full force and effect.

10.6 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. The state and federal courts of the State of California in Los Angeles County shall have exclusive jurisdiction to determine any controversies arising in connection with this Agreement or the relationship of the parties.

10.7 Modifications. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by each of the parties.

10.8 Waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. The failure of either party at any time or times to require performance of any provision hereof shall in no manner affect the party's right at a later time to enforce the same.

10.9 Survival. Notwithstanding any provision of this Agreement to the contrary, the provisions of Sections 2, 5, 6, and 10 (and each of their subsections) shall survive the expiration or termination of this Agreement as necessary to give full effect to all of the provisions contained herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth below.

CAPRICOR, INC.	**CONSULTANT**
By: /s/ Linda Marban	/s/ Frank Litvack
Linda Marbán, Chief Executive Officer	Frank Litvack, MD.
Date: March 24, 2014	Date: March 21, 2014

EXHIBIT A

CONSULTANT'S DISCLOSURE OF OTHER

ACTIVITIES AND OWNERSHIP INTERESTS

POSING ACTUAL AND POTENTIAL CONFLICTS OF INTEREST

1. _____

2. _____

3. _____

4. _____

5. _____

EXHIBIT B

NONDISCLOSURE AGREEMENT

Exhibit 10.10

NILE THERAPEUTICS, INC.
63 Bovet Road, Suite 421
San Mateo, CA 94402

November , 2013
Hand Delivered

Personal and Confidential

Darlene Horton, M.D.
850 De Haro Street
San Francisco, CA 94107

Re: Separation Agreement and Release

Dear Darlene:

As we have discussed with you, your employment with Nile Therapeutics, Inc. (the "Company") will end effective upon the closing of the transactions contemplated by the Agreement and Plan of Merger and Reorganization dated July 7, 2013, as amended (the "Merger Agreement"), among the Company, Capricor, Inc. and Bovet Merger Corp.

The purpose of this Separation Agreement and Release letter ("Agreement") is to set forth the severance pay and benefits to which you are entitled under that letter agreement between you and the Company dated August 3, 2012, as amended from time to time (your "Employment Agreement"), in exchange for your agreement to the terms and conditions of this Agreement as required by your Employment Agreement.

By your signature below, you agree to the following terms and conditions:

1. End of Employment. Your employment with the Company will end effective at the close of business on November , 2 013. You acknowledge that you have received your final paycheck, which includes payment for services through such date. You have received all wages, compensation and monies on account of benefits owed to you by virtue of your employment with the Company or termination thereof. If applicable, information regarding your right to elect COBRA coverage will be sent to you via separate letter.

You are not eligible for any other payments or benefits by virtue of your employment with the Company or termination thereof, except for those expressly described in this Agreement. You will not receive the severance pay and benefits described in Section 2 of this Agreement if you (i) do not sign this Agreement and return it to the Company by the stated due date, or (ii) rescind this Agreement after signing it.

2. Change of Control Compensation. Specifically in consideration of your signing this Agreement and subject to the limitations, obligations, and other provisions contained in this Agreement, in accordance with your Employment Agreement, the Company agrees to issue to you 3,860,401 shares (the "Bonus Shares") of the Company's common stock, par value $0.001 per share, which shall represent the Company's entire obligation to pay to you a "Change of Control Bonus" in accordance with your Employment Agreement. It is understood that the number of Bonus Shares described in the preceding sentence is prior to giving effect to a proposed I-for-50 reverse split of the Company's common stock that is anticipated to be effected immediately prior to the consummation of the transactions described in the Merger Agreement (the "Reverse Split"). Accordingly, you understand that the actual stock certificate representing the Bonus Shares may reflect a reduced number of shares so as to appropriately reflect the effect of the Reverse Split. The Company shall issue to you the Bonus Shares no later than the sixtieth (60th) day following the date you received this Agreement, and only provided that you do not rescind your release in accordance with Section 5, below. Upon receipt of the Bonus Shares described in this Section 2, you acknowledge and agree that you will have received all pay and benefits owing to you under your Employment Agreement.

3. Release of Claims. Specifically in consideration of the Bonus Shares described in Section 2, to which you would not otherwise be entitled, by signing this Agreement you, for yourself and anyone who has or obtains legal rights or claims through you, agree to the following:

a. Notwithstanding the provisions of Section 1542 of the Civil Code of the State of California (see Section 3.f. below), you hereby do release and forever discharge the "Released Parties" (as defined in Section 3.e. below) of and from any and all manner of claims, demands, actions, causes of action, administrative claims, liability, damages, claims for punitive or liquidated damages, claims for attorney's fees, costs and disbursements, individual or class action claims, or demands of any kind whatsoever, you have or might have against them or any of them, whether known or unknown, in law or equity, contract or tort, arising out of or in connection with your employment with the Company, or the termination of that employment, or otherwise, and however originating or existing, from the beginning of time through the date of your signing this Agreement.

b. This release includes, without limiting the generality of the foregoing, any claims you may have for wages, bonuses, commissions, penalties, compensation, deferred compensation, vacation pay, equity rights (including all rights to stock options granted to you under the Company's 2005 Stock Option Plan, as amended, and all rights to any other stock options to acquire the Company's common stock (whether granted pursuant to any stock or equity incentive plan or otherwise), other paid time off, separation payor benefits, defamation, invasion of privacy, negligence, emotional distress, breach of contract, estoppel, improper discharge (based on contract, common law, or statute, including any federal, state or local statute or ordinance prohibiting discrimination or retaliation in employment), violation of the United States Constitution, the California Constitution, the California Fair Employment and Housing Act, Cal. Gov't Code § 12900 et seq., California Family Rights Act, Cal. Gov't Code § 12945.1, et seq., the California

Unruh Civil Rights Act, Cal. Civ. Code §§ 51-54.3, California Discrimination in Payment on Basis of Sex, Cal. Lab. Code §§ 1197.5, 1199 and 1199.5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Employee Retirement Income Security Act of 1976, 29 U.S.C. § 1001 et seq., the Family and Medical Leave Act, 29 U.S.C. § 2601 et ~., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101, et seq., the Sarbanes-Oxley Act of 2002, any waivable claim arising under California codes, and any claim for retaliation, harassment or discrimination based on sex, pregnancy, race, color, religion, creed, age, national origin, ancestry, disability (physical or mental), marital status, sexual orientation or affectional preference, genetic information, military status or discharge, or other protected class, or sexual or other harassment. You hereby waive any and all relief not provided for in this Agreement. You understand and agree that, by signing this Agreement, you waive and release any past, present, or future claim to employment with the Company.

c. If you file, or have filed on your behalf, a charge, complaint, or action, you agree that the payments and benefits described above in Section 2 is in complete satisfaction of any and all claims in connection with such charge, complaint, or action and you waive, and agree not to take, any award of money or other damages from such charge, complaint, or action.

d. You are not, by signing this Agreement, releasing or waiving (1) any vested interest you may have in any 401(k) or profit sharing plan by virtue of your employment with the Company, (2) any rights or claims that may arise after the Agreement is signed, (3) the right to receive the compensation, including the Bonus Shares, specifically promised to you under Section 2 of this Agreement, (4) the right to institute legal action for the purpose of enforcing the provisions of this Agreement, (5) any rights you have under workers compensation laws, (6) any rights you have under state unemployment compensation benefits laws, (7) the right to file a charge with a governmental agency such as the Equal Employment Opportunity Commission ("EEOC"), although, as noted above, you waive, and agree not to take, any award of money or other damages if you file such a charge or have a charge filed on your behalf, (8) the right to testify, assist, or participate in an investigation, hearing, or proceeding conducted by a governmental agency, including the EEOC, or (9) any rights you have under the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

e. The "Released Parties," as used in this Agreement, shall mean Nile Therapeutics, Inc. and its parent, subsidiaries, divisions, insurers, if any, and its and their present and former officers, directors, shareholders, trustees, employees, agents, attorneys, representatives and consultants, and the successors and assigns of each, whether in their individual or official capacities, and the current and former trustees or administrators of any pension or other benefit plan applicable to the employees or former employees of the Company, in their official and individual capacities.

f. Waiver of Section 1542 Rights. Except as set forth in this Agreement, you understand and agree that this Release SHALL APPL Y TO ALL UNKNOWN OR

UNANTICIPATED CLAIMS, ACTIONS OR DEMANDS OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH YOUR EMPLOYMENT BY THE COMPANY OR THE TERMINATION OF THAT EMPLOYMENT, AS WELL AS THOSE KNOWN AND ANTICIPATED. You hereby waive any and all rights under Section 1542 of the Civil Code of the State of California and irrevocably and unconditionally release and forever discharge the Company from and with respect to all claims described in Section 3 of this Agreement. Section 1542 has been duly explained to you and reads as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

You further acknowledge that you are aware that you may hereafter discover facts in addition to or different from those you know or believe to be true with respect to the disputes that are resolved by this separation agreement and release, but that it is your intention to fully, finally, and forever release all claims related to those disputes, whether or not you know about them.

4. Notice of Right to Consult Attorney and Forty-Five (45) Calendar Day Consideration Period. By signing this Agreement, you acknowledge and agree that the Company has informed you by this Agreement that (1) you have the right to consult with an attorney of your choice prior to signing this Agreement, and (2) you are entitled to forty-five (45) calendar days from your receipt of this Agreement to consider whether the terms are acceptable to you. You have the right, if you choose, to sign this Agreement prior to the expiration of the forty-five (45) day period.

5. Notification of Rights under the Federal Age Discrimination in Employment Act (29 U.S.C. § 621 et seq.). You are hereby notified of your right to rescind the release of claims contained in Section 3 with regard to claims arising under the federal Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., within seven (7) calendar days of your signing this Agreement. In order to be effective, the rescission must (a) be in writing; (b) delivered to Chief Executive Officer, Capricor Therapeutics, Inc. (f/k/a Nile Therapeutics, Inc.), 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, CA 90211 by hand or mail within the required period; and (c) if delivered by mail, the rescission must be postmarked within the required period, properly addressed to the Company's Chief Executive Officer, as set forth above, and sent by certified mail, return receipt requested. You understand and agree that if you rescind any part of this Agreement in accordance with this Section 5, the Company will have no obligation to provide you the payments and other consideration described in Section 2 of this Agreement and you will be obligated to return promptly to the Company any payment(s) and other consideration already received in connection with Section 2 of this Agreement.

6. Return of Property. You acknowledge and agree that all documents and materials relating to the business of, or the services provided by, the Company are the sole property of the Company. You agree and represent that you have returned to the Company all of its property, including but not limited to, all documents and materials, whether on computer disc, hard drive or other form, and all copies thereof, within your possession or control, which in any manner relate to the business of, or the duties and services you performed on behalf of the Company.

7. Non-Admission. It is expressly understood that this Agreement does not constitute, nor shall it be construed as, an admission by the Company or you of any liability or unlawful conduct whatsoever. The Company and you specifically deny any liability or unlawful conduct.

8. Successors and Assigns. This Agreement is personal to you and may not be assigned by you without the written agreement of the Company. The rights and obligations of this Agreement shall inure to the successors and assigns of the Company.

9. Enforceability. If a court finds any term of this Agreement to be invalid, unenforceable, or void, the parties agree that the court shall modify such term to make it enforceable to the maximum extent possible. If the term cannot be modified, the parties agree that the term shall be severed and all other terms of this Agreement shall remain in effect.

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

11. Full Agreement. This Agreement contains the full agreement between you and the Released Parties and may not be modified, altered, or changed in any way except by written agreement signed by both parties. The parties agree that this Agreement supersedes and terminates any and all other written and oral agreements and understandings between the parties, including your Employment Agreement. Notwithstanding the foregoing, if you have previously signed an agreement or agreements with the Company containing confidentiality, trade secret, nondisparagement, nonsolicitation, inventions, and/or similar provisions, your obligations under such agreement(s) shall continue in full force and effect according to their terms and will survive the termination of your employment.

12. Counterparts. This Agreement may be executed by facsimile or PDF transmission and in counterparts, each of which shall be deemed an original and all of which shall constitute one instrument.

13. Acknowledgment of Reading and Understanding. By signing this Agreement, you acknowledge that you have read this Agreement, including the release of claims contained in Section 3 and the Memorandum attached hereto, and understand that the release of claims is a full and final release of all claims you may have against the Company and the other entities and individuals covered by the release. By signing, you also acknowledge and agree that you have entered into this Agreement knowingly and voluntarily.

The deadline for accepting this Agreement is 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. If not accepted by such time, the offer contained herein will expire.

After you have reviewed this Agreement and obtained whatever advice and counsel you consider appropriate regarding it, please evidence your agreement to the provisions set forth in this Agreement by dating and signing the Agreement. Please then return a signed Agreement to me no later than 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. Please keep a copy for your records.

[signature page follows]

We thank you for your service to Nile and wish you all the best.

Sincerely,

Nile Therapeutics, Inc.

/s/ Daron Evans
DaronEvans
Chief Financial Officer

Enclosure (OWBPA Memorandum)

ACKNOWLEDGMENT AND SIGNATURE

By signing below, I, Darlene Horton, acknowledge and agree to the following:

- I have had adequate time to consider whether to sign this Separation Agreement and Release.
- I have read this Separation Agreement and Release carefully.
- I understand and agree to all of the terms of the Separation Agreement and Release.
- I am knowingly and voluntarily releasing my claims against the Company and the other persons and entities defined as the Released Parties.
- I have not, in signing this Agreement, relied upon any statements or explanations made by the Company except as for those specifically set forth in this Separation Agreement and Release.
- I intend this Separation Agreement and Release to be legally binding.
- I am signing this Separation Agreement and Release on or after my last day of employment with the Company.

Accepted this 15th day of November, 2013.

/s/ Darlene Horton
Darlene Horton

MEMORANDUM

The Older Workers Benefit Protection Act is a federal law that requires certain information be provided to employees who are age 40 or older and are part of an exit incentive or other employment termination program. For that reason, you are being given this memo.

1. Persons Covered. The decisional unit that the Company considered in deciding who to terminate as a result of the closing of the transactions contemplated by the Agreement and plan of Merger dated July 7, 2013, as amended, among the Company, Capricor, Inc. and Bovet Merger Corp. and offer severance pay and benefits in accordance with their applicable agreements was the President & Chief Executive Officer and Chief Financial Officer of the Company.

2. Eligibility Factors. To be eligible for consideration for severance pay and benefits, an individual must have been selected for termination by the Company from the decisional unit described above. The Company considered the following factors when making termination decisions: position held

3. Time Limits. Severance pay and benefits are being made available upon termination of employment to those employees as indicated on the attached Exhibit A. You will have 45 days from the day you receive the Separation Agreement and Release ("Agreement") accompanying this Memorandum to consider whether the Agreement is acceptable to you and to accept or reject it. If you accept the Agreement you will, from the date you sign it, have seven days to rescind your release of federal Age Discrimination in Employment Act claims.

4. Job Titles and Ages. The job titles and ages of all individuals who have been selected for termination and offered severance pay and benefits are listed in the attached Exhibit A. The job titles and ages of all individuals in the decisional unit who were not selected for termination are listed in the attached Exhibit B. Note: Ages were determined as of November 15,2013.

Exhibit A

The following is a listing of the ages and job titles of employees in the decisional unit who were selected for termination and offered severance pay and benefits per their applicable agreement, for signing a release.

TITLE	AGE
President & Chief Executive Officer	51
Chief Financial Officer	40

Exhibit B

The following is a listing of the ages and job titles of employees in the decisional unit who were not selected for termination.

TITLE AGE

None.

Exhibit 10.11

INDEMNIFICATION AGREEMENT

This Indemnification Agreement, dated as of _____, 2014 is made by and between **CAPRICOR THERAPEUTICS, INC.,** a Delaware corporation (the "***Company***"), and _____**,** a director, officer or key employee of the Company or one of the Company's subsidiaries or Affiliates or other service provider who satisfies the definition of Indemnifiable Person set forth below ("***Indemnitee***").

RECITALS

A. The Company is aware that competent and experienced persons are increasingly reluctant to serve as representatives of corporations unless they are protected by comprehensive liability insurance and indemnification, due to increased exposure to litigation costs and risks resulting from their service to such corporations, and due to the fact that the exposure frequently bears no relationship to the compensation of such representatives;

B. The members of the Board of Directors of the Company (the "***Board***") have concluded that to retain and attract talented and experienced individuals to serve as representatives of the Company and its Subsidiaries and Affiliates and to encourage such individuals to take the business risks necessary for the success of the Company and its Subsidiaries and Affiliates, it is necessary for the Company to contractually indemnify certain of its representatives and the representatives of its Subsidiaries and Affiliates, and to assume for itself maximum liability for Expenses and Other Liabilities in connection with claims against such representatives in connection with their service to the Company and its Subsidiaries and Affiliates;

C. Section 145 of the Delaware General Corporation Law ("***Section 145***"), empowers the Company to indemnify by agreement its officers, directors, employees and agents, and persons who serve, at the request of the Company, as directors, officers, employees or agents of other corporations, partnerships, joint ventures, trusts or other enterprises, and expressly provides that the indemnification provided thereby is not exclusive; and

D. The Company desires and has requested Indemnitee to serve or continue to serve as a representative of the Company and/or the Subsidiaries or Affiliates of the Company free from undue concern about inappropriate claims for damages arising out of or related to such services to the Company and/or the Subsidiaries or Affiliates of the Company.

AGREEMENT

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

(a) Affiliate. For purposes of this Agreement, "***Affiliate***" of the Company means any corporation, partnership, limited liability company, joint venture, trust or other enterprise in respect of which Indemnitee is or was or will be serving as a director, officer, trustee, manager, member, partner, employee, agent, attorney, consultant, member of the entity's governing body (whether constituted as a board of directors, board of managers, general partner or otherwise), fiduciary, or in any other similar capacity at the request, election or direction of the Company, and including, but not limited to, any employee benefit plan of the Company or a Subsidiary or Affiliate of the Company.

(b) Expenses. For purposes of this Agreement, "***Expenses***" means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all attorneys' fees and related disbursements, and other out-of-pocket costs), paid or incurred by Indemnitee in connection with either the investigation, defense or appeal of, or being a witness in, a Proceeding (as defined below), or establishing or enforcing a right to indemnification under this Agreement, Section 145 or otherwise; provided, however, that Expenses shall not include any judgments, fines, ERISA excise taxes or penalties or amounts paid in settlement of a Proceeding.

(c) Indemnifiable Event. For purposes of this Agreement, "***Indemnifiable Event***" means any event or occurrence related to Indemnitee's service for the Company or any Subsidiary or Affiliate as an Indemnifiable Person (as defined below), or by reason of anything done or not done, or any act or omission, by Indemnitee in any such capacity.

(d) Indemnifiable Person. For the purposes of this Agreement, "***Indemnifiable Person***" means any person who is or was a director, officer, trustee, manager, member, partner, employee, attorney, consultant, member of an entity's governing body (whether constituted as a board of directors, board of managers, general partner or otherwise) or other agent or fiduciary of the Company or a Subsidiary or Affiliate of the Company.

(e) Independent Counsel. For purposes of this Agreement, "***Independent Counsel***" means legal counsel that has not performed services for the Company or Indemnitee in the five years preceding the time in question and that would not, under applicable standards of professional conduct, have a conflict of interest in representing either the Company or Indemnitee.

(f) Other Liabilities. For purposes of this Agreement, "***Other Liabilities***" means any and all liabilities of any type whatsoever (including, but not limited to, judgments, fines, penalties, ERISA (or other benefit plan related) excise taxes or penalties, and amounts paid in settlement and all interest, taxes, assessments and other charges paid or payable in connection with or in respect of any such judgments, fines, ERISA (or other benefit plan related) excise taxes or penalties, or amounts paid in settlement).

(g) Proceeding. For the purposes of this Agreement, "***Proceeding***" means any threatened, pending, or completed action, suit or other proceeding, whether civil, criminal, administrative, investigative, legislative or any other type whatsoever, preliminary, informal or formal, including any arbitration or other alternative dispute resolution and including any appeal of any of the foregoing.

(h) Subsidiary. For purposes of this Agreement, "***Subsidiary***" means any entity of which more than 50% of the outstanding voting securities are owned directly or indirectly by the Company.

2. Agreement to Serve. The Indemnitee agrees to serve and/or continue to serve as an Indemnifiable Person in the capacity or capacities in which Indemnitee currently serves the Company as an Indemnifiable Person, and any additional capacity in which Indemnitee may agree to serve, until such time as Indemnitee's service in a particular capacity shall end according to the terms of an agreement, the Company's Certificate of Incorporation or Bylaws, governing law, or otherwise. Nothing contained in this Agreement is intended to create any right to continued employment or other form of service for the Company or a Subsidiary or Affiliate of the Company by Indemnitee.

3. Mandatory Indemnification.

(a) Agreement to Indemnify. In the event Indemnitee is a person who was or is a party to or witness in or is threatened to be made a party to or witness in any Proceeding by reason of an Indemnifiable Event, the Company shall indemnify Indemnitee from and against any and all Expenses and Other Liabilities incurred by Indemnitee in connection with (including in preparation for) such Proceeding to the fullest extent not prohibited by the provisions of the Company's Bylaws and the Delaware General Corporation Law ("***DGCL***"), as the same may be amended from time to time (but only to the extent that such amendment permits the Company to provide broader indemnification rights than the Bylaws or the DGCL permitted prior to the adoption of such amendment).

(b) Exception for Amounts Covered by Insurance and Other Sources. Notwithstanding the foregoing, the Company shall not be obligated to indemnify Indemnitee for Expenses or Other Liabilities of any type whatsoever (including, but not limited to judgments, fines, penalties, ERISA excise taxes or penalties and amounts paid in settlement) to the extent such have been paid directly to Indemnitee (or paid directly to a third party on Indemnitee's behalf) by any directors and officers, or other type, of insurance maintained by the Company.

(c) Company Obligations Primary. The Company hereby acknowledges that Indemnitee may have rights to indemnification for Expenses and Other Liabilities provided by a third party. ("***Other Indemnitor***"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and the Company's Bylaws (or any other agreement between the Company and Indemnitee) and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this Agreement without regard to any rights that Indemnitee may have against the Other Indemnitor. The Company hereby irrevocably waives, relinquishes and releases any equitable rights to contribution, subrogation, indemnification or any other recovery of any kind from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder. The Company further agrees that no reimbursement of Other Liabilities or payment of Expenses by the Other Indemnitor to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder, and that the Company shall be obligated to repay the Other Indemnitor for all amounts so paid or reimbursed to the extent that the Company has an obligation to indemnify Indemnitee for such Expenses or Other Liabilities hereunder. The Company further agrees that no advancement or payment by the Other Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this Section 3.

4. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of any Expenses or Other Liabilities but not entitled, however, to indemnification for the total amount of such Expenses or Other Liabilities, the Company shall nevertheless indemnify Indemnitee for such total amount except as to the portion thereof for which indemnification is prohibited by the provisions of the Company's Bylaws or the DGCL. In any review or Proceeding to determine the extent of indemnification, the Company shall bear the burden to establish, by clear and convincing evidence, the lack of a successful resolution of a particular claim, issue or matter and which amounts sought in indemnity are allocable to claims, issues or matters which were not successfully resolved.

5. Liability Insurance. So long as Indemnitee shall continue to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and thereafter so long as Indemnitee shall be subject to any possible claim or threatened, pending or completed Proceeding as a result of an Indemnifiable Event, the Company shall use reasonable efforts to maintain in full force and effect for the benefit of Indemnitee as an insured (i) liability insurance issued by one or more reputable insurers and having the policy amount and deductible deemed appropriate by the Board and providing in all respects coverage at least comparable to and in the same amount as that provided to the Chairman of the Board or the Chief Executive Officer of the Company and (ii) any replacement or substitute policies issued by one or more reputable insurers providing in all respects coverage at least comparable to and in the same amount as that being provided to the Chairman of the Board or the Chief Executive Officer of the Company. The purchase, establishment and maintenance of any such insurance or other arrangements shall not in any way limit or affect the rights and obligations of the Company or of Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights and obligations of the Company or the other party or parties thereto under any such insurance or other arrangement.

6. Mandatory Advancement of Expenses.

(a) Advancement. If requested by Indemnitee, the Company shall advance prior to the final disposition of the Proceeding all Expenses reasonably incurred by Indemnitee in connection with (including in preparation for) a Proceeding related to an Indemnifiable Event. Indemnitee hereby undertakes to repay such amounts advanced if, and only if and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company under the provisions of this Agreement, the Company's Bylaws or the DGCL. The advances to be made hereunder shall be paid by the Company to Indemnitee or directly to a third party designated by Indemnitee within thirty (30) days following delivery of a written request therefor by Indemnitee to the Company. Indemnitee's undertaking to repay any Expenses advanced to Indemnitee hereunder shall be unsecured and shall not be subject to the accrual or payment of any interest thereon.

(b) Exception. Notwithstanding the provisions of Section 6(a), the Company shall not be obligated to make any further advance of Expenses to Indemnitee if any one of the following determines in good faith that the facts known to them at the time such determination is made demonstrate clearly and convincingly that Indemnitee acted in bad faith: (i) those members of the Board consisting of directors who were not parties to the Proceeding for which a claim is made under this Agreement ("***Independent Directors***"), even though less than a quorum, (ii) by a committee of Independent Directors designated by a majority vote of Independent Directors, even though less than a quorum, (iii) Independent Counsel, by written legal opinion, or (iv) a panel of arbitrators (one of whom is selected by the Company, another of whom is selected by Indemnitee and the last of whom is selected by the first two arbitrators so selected). The Company shall have the option to submit the question of whether Indemnitee has acted in bad faith to one of the four alternative decision makers set forth in the preceding sentence and to select the decision maker, but following a favorable determination to Indemnitee rendered by the first decision maker selected, the Company may not submit the matter to another of the named decision makers. If the Company elects to submit the matter to Independent Counsel, such counsel shall be selected by Indemnitee and approved by the Independent Directors or a committee of Independent Directors (which approval may not be unreasonably withheld). Any decision maker so selected shall render a decision within thirty (30) days of such decision maker's selection (which shall include in the case of Independent Counsel or a panel of arbitrators, when the person or persons acting as such counsel or such panel has or have been selected as provided above).

If a decision is made by the decision maker that Indemnitee acted in bad faith, Indemnitee shall have the right to apply to the Delaware Court of Chancery for the purpose of determining whether Indemnitee has acted in bad faith.

7. Notice and Other Indemnification Procedures.

(a) Notification. Promptly after receipt by Indemnitee of notice of the commencement of or the threat of commencement of any Proceeding, Indemnitee shall, if Indemnitee believes that indemnification or advancement of Expenses with respect thereto may be sought from the Company under this Agreement, notify the Company of the commencement or threat of commencement thereof. However, a failure so to notify the Company promptly following Indemnitee's receipt of such notice shall not relieve the Company from any liability that it may have to Indemnitee except to the extent that the Company is materially prejudiced in its defense of such Proceeding as a result of such failure.

(b) Insurance and Other Matters. If, at the time of the receipt of a notice of the commencement of a Proceeding pursuant to Section 7(a) above, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the issuers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such insurance policies.

(c) Assumption of Defense. In the event the Company shall be obligated to advance the Expenses for any Proceeding against Indemnitee, the Company, if deemed appropriate by the Company, shall be entitled to assume the defense of such Proceeding as provided herein. Following delivery of written notice to Indemnitee of the Company's election to assume the defense of such Proceeding, the approval by Indemnitee (which approval shall not be unreasonably withheld) of counsel designated by the Company and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees and expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. If (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have notified the Board in writing that Indemnitee has reasonably concluded that there is likely to be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, or (C) the Company fails to employ counsel to assume the defense of such Proceeding, the fees and expenses of Indemnitee's counsel shall be subject to indemnification and/or advancement pursuant to the terms of this Agreement. Nothing herein shall prevent Indemnitee from employing counsel for any such Proceeding at Indemnitee's expense.

(d) Settlement. The Company shall not be liable to indemnify Indemnitee under this Agreement or otherwise for any amounts paid in settlement of any Proceeding effected without the Company's written consent. Neither the Company nor any Subsidiary or Affiliate shall enter into a settlement of any Proceeding that might result in the imposition of any Expense, Other Liability, penalty, limitation or detriment on Indemnitee, whether indemnifiable under this Agreement or otherwise, without Indemnitee's written consent. Neither the Company nor Indemnitee shall unreasonably withhold consent from any settlement of any Proceeding.

8. Determination of Right to Indemnification.

(a) Success on the Merits or Otherwise. To the extent that Indemnitee has been successful on the merits or otherwise in defense of any Proceeding referred to in Section 3(a) above or in the defense of any claim, issue or matter described therein, the Company shall indemnify Indemnitee against Expenses actually and reasonably incurred in connection therewith.

(b) Indemnification in Other Situations. In the event that Section 8(a) is inapplicable, the Company shall also indemnify Indemnitee if Indemnitee has not failed to meet the applicable standard of conduct for indemnification.

(c) Forum. Indemnitee shall be entitled to select the forum in which determination of whether or not Indemnitee has met the applicable standard of conduct shall be decided, and such election will be made from among the following:

(1) Those members of the Board who are Independent Directors even though less than a quorum;

(2) A committee of Independent Directors designated by a majority vote of Independent Directors, even though less than a quorum; or

(3) Independent Counsel selected by Indemnitee and approved by the Board, which approval may not be unreasonably withheld, which counsel shall make such determination in a written opinion.

If Indemnitee is an officer or a director of the Company at the time that Indemnitee is selecting the forum, then Indemnitee shall not select Independent Counsel as such forum unless there are no Independent Directors or unless the Independent Directors agree to the selection of independent counsel as the forum.

The selected forum shall be referred to herein as the "Reviewing Party."

(d) As soon as practicable, and in no event later than thirty (30) days after receipt by the Company of written notice of Indemnitee's choice of forum pursuant to Section 8(c) above, the Company and Indemnitee shall each submit to the Reviewing Party such information as they believe is appropriate for the Reviewing Party to consider. The Reviewing Party shall arrive at its decision within a reasonable period of time following the receipt of all such information from the Company and Indemnitee, but in no event later than thirty (30) days following the receipt of all such information, provided that the time by which the Reviewing Party must reach a decision may be extended by mutual agreement of the Company and Indemnitee. All Expenses associated with the process set forth in this Section 8(d), including but not limited to the Expenses of the Reviewing Party, shall be paid by the Company.

(e) Delaware Court of Chancery. Notwithstanding a final determination by any Reviewing Party that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the Court of Chancery, for the purpose of enforcing Indemnitee's right to indemnification pursuant to this Agreement.

(f) Expenses. The Company shall indemnify Indemnitee against all Expenses incurred by Indemnitee in connection with any hearing or Proceeding under this Section 8 or under Section 6(b) involving Indemnitee and against all Expenses and Other Liabilities incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims of Indemnitee in any such Proceeding was frivolous or made in bad faith.

9. Exceptions. Any other provision herein to the contrary notwithstanding,

(a) Claims Initiated by Indemnitee. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify or advance Expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except (1) with respect to Proceedings brought to establish or enforce a right to indemnification under this Agreement, any other statute or law, as permitted under Section 145, or otherwise, (2) where the Board has consented to the initiation of such Proceeding, or (3) with respect to Proceedings brought to discharge Indemnitee's fiduciary responsibilities, whether under ERISA or otherwise, but such indemnification or advancement of Expenses may be provided by the Company in specific cases if the Board finds it to be appropriate; or

(b) Actions Based on Federal Statutes Regarding Profit Recovery and Return of Bonus Payments The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee on account of (i) any suit in which judgment is rendered against Indemnitee for an accounting of profits made from the purchase or sale by Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of l934 and amendments thereto or similar provisions of any federal, state or local statutory law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(c) Unlawful Indemnification. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee for Other Liabilities if such indemnification is prohibited by law.

10. Non-exclusivity. The provisions for indemnification and advancement of Expenses set forth in this Agreement shall not be deemed exclusive of any other rights which Indemnitee may have under any provision of law, the Company's Certificate of Incorporation or Bylaws, the vote of the Company's stockholders or disinterested directors, other agreements, or otherwise, both as to acts or omissions in his or her official capacity and to acts or omissions in another capacity while serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and Indemnitee's rights hereunder shall continue after Indemnitee has ceased serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and shall inure to the benefit of the heirs, executors and administrators of Indemnitee.

11. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, (i) the validity, legality and enforceability of the remaining provisions of the Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

12. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) and except as expressly provided herein, no such waiver shall constitute a continuing waiver.

13. Successors and Assigns. The terms of this Agreement shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto.

14. Notice. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given (i) if delivered by hand and a receipt is provided by the party to whom such communication is delivered, (ii) if mailed by certified or registered mail with postage prepaid, return receipt requested, on the signing by the recipient of an acknowledgement of receipt form accompanying delivery through the U.S. mail, (iii) personal service by a process server, or (iv) delivery to the recipient's address by overnight delivery (e.g., FedEx, UPS or DHL) or other commercial delivery service. Addresses for notice to either party are as shown on the signature page of this Agreement, or as subsequently modified by written notice complying with the provisions of this Section 14. Delivery of communications to the Company with respect to this Agreement shall be sent to the attention of the Company's Chief Executive Officer.

15. No Presumptions. For purposes of this Agreement, the termination of any Proceeding, by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law or otherwise. In addition, neither the failure of the Company or a Reviewing Party or one of the decision makers described in Section 6(b) to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by the Company including a determination pursuant to Section 6(b), or a Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of Proceedings by Indemnitee to secure a judicial determination by exercising Indemnitee's rights under Section 6(b) or 8(e) of this Agreement shall be a defense to Indemnitee's claim or create a presumption that Indemnitee has failed to meet any particular standard of conduct or did not have any particular belief or is not entitled to indemnification under applicable law or otherwise.

16. Survival of Rights. The rights conferred on Indemnitee by this Agreement shall continue after Indemnitee has ceased to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and shall inure to the benefit of Indemnitee's heirs, executors and administrators.

17. Subrogation and Contribution.

(a) Except as otherwise expressly provided in this Agreement, in the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights.

(b) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by or on behalf of Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

18. Specific Performance, Etc. The parties recognize that if any provision of this Agreement is violated by the Company, Indemnitee may be without an adequate remedy at law. Accordingly, in the event of any such violation, Indemnitee shall be entitled, if Indemnitee so elects, to institute Proceedings, either in law or at equity, to obtain damages, to enforce specific performance, to enjoin such violation, or to obtain any relief or any combination of the foregoing as Indemnitee may elect to pursue.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

20. Headings. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

21. Governing Law. This Agreement shall be governed exclusively by and construed according to the laws of the State of Delaware, as applied to contracts between Delaware residents entered into and to be performed entirely with Delaware.

22. Consent to Jurisdiction. The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any Proceeding which arises out of or relates to this Agreement.

Remainder of page intentionally left blank

The parties hereto have entered into this Indemnification Agreement effective as of the date first above written.

CAPRICOR THERAPEUTICS, INC.

By: _____

Name: _____

Title: _____

Indemnitee:

_____

Print Name

_____

Address

_____

Exhibit 10.31

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

LICENSE AGREEMENT

THIS EXCLUSIVE LICENSE AGREEMENT (the "Agreement") is made this 21 day of June, 2006 by and between **UNIVERSITA DEGLI STUDI DI ROMA "LA SAPIENZA"** (fiscal code 80209930587, VAT No. 02133771002), located in Rome, piazzale Aldo Moro, 00185, Rome, Italy ("LICENSOR"), and **CAPRICOR INC.,** a corporation organized and existing under the laws of the State of Delaware and with principal place of business located at 2415 Old Bosley Road, Lutherville, Maryland 21093, United States of America ("LICENSEE"). (LICENSOR and LICENSEE each a "Party"; and together the "Parties" herein).

WHEREAS, LICENSOR is owner by assignment from […***…]; and

WHEREAS, LICENSOR is owner by assignment from the Inventors of all their right, title and interest in the TECHNOLOGY as defined below; and

WHEREAS, LICENSEE wishes to obtain an exclusive license in the TERRITORY to practice the above-referenced invention covered by LICENSED PATENT RIGHTS in the United States and in certain foreign countries, and to make, have made, use, have used, sell and have sold in the commercial market the products made in accordance therewith; and

WHEREAS, LICENSOR wishes to grant such a license to LICENSEE in accordance with the terms of the Agreement.

NOW, THEREFORE in consideration of the foregoing premises, the Parties agree as follows:

I. DEFINITIONS

1.1 AFFILIATES means any corporation, firm, partnership or other entity, whether *de jure* or *de facto*, which directly or indirectly owns, is owned by or is under common ownership with a party to this Agreement to the extent of at least fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affaire of the entity.

1.2 EFFECTIVE DATE is the date first set Forth above,

1.3 FIELD OF USE means all fields.

1.4 LICENSED PATENT RIGHTS means patent rights to any subject matter claimed in or covered by any of the following: […***…] (both applications together the "Parent Applications" as set forth in Appendix A); includes any continuations and divisionals, continuations-in-part, patents issuing thereon and all reissues, re-examinations, divisions or extensions thereof, and any and all foreign patents and patent applications

1.5 LICENSED PRODUCT means any process or method, material, compositions, drug, or other product, the manufacture, use, or sale of which would constitute, but for the license granted to LICENSEE pursuant to this Agreement, an infringement of a claim of Patent Rights (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

1.6 NET SALES REVENUES means the gross sales revenues and fees billed by LICENSEE and AFFILIATES from the sale of Licensed Product less trade discounts allowed, refunds, returns and recalls, amounts allowed for bad debt, outward bound transportation and delivery charges, transportation and product liability insurance, government- mandated retroactive price reductions, tariff duties, and sales taxes.

In the event that LICENSEE and/or AFFILIATES sell LICENSED PRODUCT(S) in combination with a device for delivery or as part of a kit and such other devices or components (collectively "Other Components"), then NET SALES REVENUES for purposes of royalty payments shall be calculated using one of the following methods: (x) if all LICENSED PRODUCT(S) and Other Components contained in the combination are available separately, then NET SALES REVENUES, shall be calculated by multiplying the NET SALES REVENUES of the combination by the fraction A/A+B, where A is the invoice price of all LICENSED PRODUCT(S) in the combination and B is the invoice price of all Other Components in the combination; (y) if the combination includes Other Components which are not sold separately (but all LICENSED PRODUCT(S) contained in the combination are available separately), then NET SALES REVENUES shall be calculated by multiplying the NET SALES REVENUES of the combination by the fraction A/C, where A is defined above and C is the invoice price of the combination; and (z) if the LICENSED PRODUCT(S) and the Other Components in the combination are not sold or available separately, then NET SALES REVENUES for purposes of determining royalties on the combination shall be calculated by multiplying NET SALES REVENUES of the combination by the fraction D/D+E, where D is the fully burdened manufacturing cost of LICENSED PRODUCT(S) at the point of assembly into the combination and E is the fully burdened manufacturing cost of the Other Components included in the combination at such point.

In the event any LICENSED PRODUCT(S) shall be sold by Company to an AFFILIATE or among AFFILIATES for subsequent resale to an unaffiliated third party, then the royalty due hereunder shall be based upon the greater of: (a) NET SALES REVENUES received by Company from the AFFILIATE and (b) NET SALES REVENUES received by the AFFILIATE from the purchaser of such LICENSED PRODUCT(S).

1.7 TERRITORY means worldwide.

II.

II. LICENSE GRANT

2.1 LICENSOR hereby grants to LICENSEE and LICENSEE accepts, subject to the terms and conditions hereof, an exclusive right in the FIELD OF USE, in the TERRITORY to make, have made, use, have used, export, import, offer for sale, sell, and have sold the Licensed Products in Italy, the United States, and worldwide in the Exclusive Field, subject to Retained Rights (below) and freely and fully sublicenseable-LICENSEE shall have a […***…] first right of negotiation to have the reasonable opportunity to license from LICENSOR any new and separate patent applications assigned to LICENSOR by any of the Inventors, not falling within the definition of "PATENT RIGHTS," but utilizing (or enabling the use of) cardiac stem cells in cardiac care.

2.2 LICENSOR also grants to LICENSEE the right to issue sublicenses to third parties to make, have made, export, import, use, have used, sell, have sold, and offer for sale LICENSED PRODUCTS as long as LICENSEE has current exclusive rights thereto under this Agreement and shall compensate LICENSOR pursuant to Section 3.4 of this Agreement for sublicenses.

2.3 LICENSOR, subject to Section 10.4, reserves and retains the right (and the rights granted to LICENSEE herein shall be limited accordingly) to make, use, and practice for its own internal research by (only) the Inventors and/or for educational purposes the inventions falling within the scope of the LICENSED PATENT RIGHTS.

III. FINANCIAL OBLIGATIONS, PAYMENT AND REPORTS

3.1 LICENSEE shall pay to LICENSOR a License Issue Fee of […***…]:

- the first installment of […***…] shall be transferred within […***…] immediately following the EFFECTIVE DATE;
- the second installment of […***…] will be due and payable within […***…] following the EFFECTIVE DATE

3.2 LICENSEE shall assure to LICENSOR Minimum Annual Royalties Guaranteed described below:
- […***…] per annum for the rolling two years immediately starting with the third coming year since the EFFECTIVE DATE;
- […***…] per annum starting with the third year and during the period this Agreement is in force as set forth below.

Minimum Annual Royalties are fully creditable.

3.3 LICENSEE shall pay LICENSOR […***…] of all royalties received as a result of sublicenses granted pursuant to Section *2.2* of this Agreement (which royalties for the purpose of this Section 3.3 shall be "net" of any third-party royalties paid by LICENSEE (or by any AFFILIATE or sublicensee on behalf of LICENSEE) for any such third-party royalties due to be paid under a license agreement from any such third party to LICENSEE).

***Confidential Treatment Requested**

3.4 Royalties shall accrue when LICENSED PRODUCTS, with respect to the NET SALES REVENUES of which earned royalty payments are required under this Agreement, are invoiced to the customer by LICENSEE or an AFFILIATE.

3.5 LICENSEE shall provide LICENSOR with semestral reports as to its R&D, regulatory, and commercialization progress.

3.6 LICENSEE shall be responsible for the collection and payment of all royalties owed to LICENSOR resulting from any sublicense(s) granted by LICENSEE.

3.7 LICENSEE understands and agrees that a declaration of invalidity by a court of competent jurisdiction of any patent under the LICENSED PATENT RIGHTS shall not be prejudicial to this Agreement with respect to royalties previously paid to LICENSOR by LICENSEE. Therefore, should any such patent be declared invalid, LICENSOR shall have no obligation to repay to LICENSEE the license issue fee nor any portion of the royalties already received from LICENSEE in accordance with the provisions of this Agreement.

3.8 LICENSEE shall maintain at its principal office usual books of account and records showing its actions under this Agreement. Such books and records shall be open to inspection and copying, upon reasonable notice during usual business hours by an independent certified public accountant reasonably acceptable to LICENSEE for two (2) years after the calendar quarter to which they pertain, for purposes of verifying the accuracy of the royalties paid by LICENSEE under this Agreement at LICENSOR's expense. Such audits shall not occur more frequently than once during any period of one year. LICENSOR and any such independent certified public accountant shall treat LICENSEE's books and records as confidential.

3.9 In the event that any payment due under this Agreement is not made when due, the payment shall accrue interest from the date due at the rate of 0.8% per month; *provided, however,* that in no event shall such rate exceed the maximum legal annual interest rate.

3.10 Until such time as LICENSOR provides LICENSEE with written notice to the contrary, all payments to the LICENSOR by LICENSEE pursuant to this Agreement shall be paid […***…].

3.11 Royalties and payments arising from sublicensee royalties shall be paid to LICENSOR on a quarterly basis on or before each April 30, My 31, October 31, and January 31 for the preceding quarter ending upon March 31, June 30, September 30, and December 31, respectively, and shall be paid with a report detailing such royalties and payments.

3.12 In accordance with Sections 3.1, 3.2 and 3.3 above, License Issue Fee and Royalties due by LICESEE to the LICENSOR shall be secured by a first demand irrevocable bank guarantee (with a branch in Italy). The bank guarantee shall be presented to LICENSOR within the first rolling month since the EFFECTIVE DATE and shall terminate automatically in any case of termination of the Agreement.

IV. PATENT PROSECUTION

***Confidential Treatment Requested**

4.1 During the term of this Agreement, LICENSOR shall control patent filing, prosecution and maintenance, upon consultation with LICENSEE. Both Parties shall instruct patent counsel to cross copy each other with copies of all documents (or drafts thereof) pertaining to the filing, prosecution or maintenance of the Patent Rights to enable both parties to have a meaningful opportunity to review and comment thereon.

4.2 During the period that this Agreement is in force:

a. If LICENSEE desires to have a patent application filed in any country(ies) in which a patent application is not then being prosecuted LICENSEE shall notify LICENSOR, in writing, and shall bear the responsibility to file, prosecute such applications and maintain the resulting patents.

b. LICENSOR shall diligently prosecute and maintain the LICENSED PATENT RIGHTS (including any additional patents included by virtue of Section 4.2a herein) using its counsel of choice. LICENSOR shall provide LICENSEE with copies of all relevant documentation so that LICENSEE may be informed and apprised of the continuing prosecution and LICENSEE agrees to keep such documentation confidential.

c. All invoices relating to the reasonable costs of prosecution and maintenance of patents in the Selected Countries shall be sent directly to LICENSEE by LICENSOR's counsel of choice. LICENSEE shall have thirty (30) days from the date of LICENSEE's receipt of such invoices to make payment to LICENSOR's counsel of choice.

d. It shall be the responsibility of LICENSOR, whether directly or through LICENSOR's counsel of choice, to notify and keep LICENSEE informed of the status of all pending and issued claims under the LICENSED PATENT RIGHTS.

V. INFRINGEMENT

5.1 Each Party shall promptly notify the other Party in writing of any suspected infringement(s) of the LICENSED PATENT RIGHTS and shall inform the other Party of any evidence of such infringement(s).

5.2 LICENSOR shall have the first right to enforce any patent within Patent Rights and the Field against any infringement or alleged infringement. LICENSOR shall reasonably cooperate in any such litigation at LICENSEE's expense, including being named as a party plaintiff. If LICENSOR does not take all necessary action to enforce a particular patent, LICENSEE has the option (but not the obligation) to do so.

VI. TERM AND TERMINATION

6.1 This Agreement, unless extended or earlier terminated as provided herein, shall remain in effect until the later of: (a) the last claim of any patent or patent application comprising LICENSED PATENTS RIGHTS has expired or been abandoned

6.2 This AGREEMENT may be terminated immediately by either party upon written notice should the other party become insolvent, file a petition under any bankruptcy or insolvency act, or have any such petition filed against it, or offer any general composition to its creditors, because of the happening of such act, event or offer.

6.3 LICENSEE may terminate, for any reason, upon giving LICENSOR ninety (90) days written notice. Prior obligations, such as payment of owed royalties, are not affected by termination.

6.4 Termination of this Agreement shall not terminate LICENSEE's obligation to file all reports and to pay all royalties with respect to LICENSED PRODUCTS which shall have accrued hereunder.

6.5 All rights and licenses granted under or pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, as amended (the "Code"), licenses of rights to "intellectual property" as defined under Section 101 of the Code. The parties agree that LICENSEE is a licensee of such rights under this Agreement and shall retain and may fully exercise all rights under the Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against LICENSOR or its assignee under the Code, LICENSEE shall be entitled to (x) take control of the patent prosecution of the Patent Rights and (y) receive a complete duplicate of (or complete access to, as appropriate) any such intellectual properly and all embodiments of such intellectual property. Such intellectual property and embodiments, if not already in LICENSEE's possession, shall be, within ten (10) days of the commencement of such proceeding, delivered to it upon LICENSOR's receipt of a request therefore, unless LICENSOR (or a trustee on behalf of LICENSOR) elected to continue to perform all of its obligations under this Agreement. Nothing herein shall constitute LICENSEE's acquiescence or agreement that all or any portion of this Agreement is subject to rejection.

VII. BREACH AND CURE

7.1 In addition to applicable legal standards, LICENSEE shall be in material breach of this Agreement for failure to pay amounts due pursuant to Section III (FINANCIAL OBLIGATIONS).

7.2 Either party shall have the right to cure its material breach. The cure shall be effected within a reasonable time but in no event later than ninety (90) days after written notice of breach given by the non-breaching party.

VIII. WARRANTY

8.1 LICENSOR represents and warrants that: (a) it owns the entire right, title and interest in the patent applications or patents comprising the LICENSED PATENT RIGHTS in the FIELD OF USE; (b) it has the power and authority to grant licenses under said LICENSED PATENT RIGHTS; (c) it has not made and shall not make any commitments to third parties inconsistent with or in derogation of this Agreement; (d) it shall advise LICENSEE within thirty (30) days (or more promptly if and as practicable) of learning of any legal action or proceeding being instituted against LICENSOR relating to the LICENSED PATENT RIGHTS; and, (e) to the knowledge of LICENSOR, the LICENSED PATENTS RIGHTS are valid and enforceable and have not been challenged by a third party in any judicial or administrative proceeding.

8.2 Each Party represents and warrants to the other that (a) such Party is an entity or corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) such Party has the legal power and authority to execute, deliver and perform this Agreement; (c) the execution, delivery and performance by such Party of this Agreement has been duly authorized; (d) this Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (e) the execution, delivery and performance of this Agreement will not cause or result in a violation of any law, of such Party's charter documents, or of any contract by which such Party is bound.

IX. COMPLIANCE WITH GOVERNMENTAL OBLIGATIONS

In exercising its rights in this Agreement, LICENSEE shall fully comply, at its own expense, with all governmental requirements and binding requests directed to it, and will provide all information and assistance necessary to comply with the governmental requests. Failure to take necessary action and to comply with said requirements and requests shall be considered a material breach of this Agreement. LICENSOR disclaims any obligations or liabilities arising under the license provisions of this Agreement if LICENSEE is charged in a governmental action for not complying with or fails to comply with any governmental regulations.

X. CONFIDENTIALITY

10.1 During the course of negotiating this Agreement, the Parties may have exchanged confidential information and may continue to exchange such information during the term of this Agreement With regard to the other Party's Confidential Information, the receiving Party must use the Confidential Information solely for purposes of fulfilling its obligations under this Agreement and must safeguard the Confidential Information against disclosure to others with the same degree of care as each Party exercises with their own confidential information of a similar nature, but in no event less than a reasonable degree of care.

10.2 The obligations of the recipient of the Confidential Information under this Section X (CONFIDENTIALITY) do not apply to information:

a. that is now, or becomes in the future, public knowledge other than through unauthorized acts or omissions of the recipient Party;
b. that is lawfully obtained by the recipient Party from a third party without restrictions on use, duplication or disclosure;
c. that the recipient Party can demonstrate by written records was previously known to the recipient Party or is developed by the recipient Party without reference to the Confidential Information; or,
d. that is required to be disclosed by law, provided that the Party intending to make a disclosure required by law will give written notification to the other Party prior to such disclosure.

10.3 Confidential Information covered by this Section X (CONFIDENTIALITY) must be maintained as confidential for a period of […***…] after termination of this Agreement.

***Confidential Treatment Requested**

10.4 LICENSEE agrees LICENSOR and/or inventors may publish manuscripts, abstractsor give seminars presenting the results of the research (by virtue of Section 2.3 herein) after the proposed publication or presentation has been notified in writing to LICENSEE thirty (30) days before.

XI. DISPUTE RESOLUTION

11.1 This Agreement, including the performance and enforceability hereof, shall be governed by and construed in accordance with the laws of Italy without regard to the conflict of law provisions found therein.

11.2 Both Parties will use reasonable efforts to reach an amicable negotiated settlement of any dispute concerning the interpretation or operation of this agreement. Disputes concerning this agreement shall not be litigated. If negotiation fails to resolve a dispute within sixty (60) days, either Party can require binding arbitration under the AAA International Arbitration Rules and this Article XI (provided that any inventor, sublicense, patent infringer, or other person or entity involved in such dispute either is already bound to participate in the same binding arbitration process or agrees in writing to do so, i.e., a Party cannot be bound to arbitration to resolve a dispute that is or could also be the subject of a separate litigation proceeding). If the Parties cannot agree within thirty (30) days on the choice of an arbitrator, each Party shall appoint its own arbitrator and those arbitrators shall jointly appoint a chairperson of an arbitral tribunal. Each Party shall be afforded reasonable opportunity for pre-arbitration discovery. An arbitral award shall not include punitive damages, costs, or interim measures. Each Party shall pay its own costs and an equal share of all other costs of mediation and arbitration, except for the exceptional circumstance in which an arbitral award may require the payment of all costs by a Party who has brought a plainly frivolous dispute. Unless otherwise agreed by the Parties when the occasion arises, arbitration shall be held in Milan, Italy This provision survives the Termination of this Agreement.

XII. MISCELLANEOUS

12.1 This Agreement sets forth the entire agreement between the parties concerning the subject matter hereof and supersedes all previous and contemporaneous representations and agreements, written or oral. No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed on behalf of each party by an authorized representative.

12.2 LICENSEE shall not assign or otherwise transfer, whether directly or indirectly, in whole or in part this Agreement, voluntarily, involuntarily, or by any other means (except to an AFFILIATE, or by operation of law including any merger or consolidation, substantial change in ownership or control of LICENSEE's business), without the prior written consent of LICENSOR, which consent shall not be unreasonably withheld. This restriction does not limit or restrict LICENSEE's rights under Sections 2.1 and 2.1 to sublicense. This Agreement shall bind the Parties, their successors and their permitted assigns.

12.3 This Agreement shall not be binding upon the Parties until it has been signed below on behalf of each Party by an authorized representative, in which event, it shall be effective as of the EFFECTIVE DATE.

12.4 Should any provision of this Agreement be held invalid, illegal or unenforceable, by a court or other entity of competent jurisdiction, such provision shall be considered void. All other provisions, rights and obligations shall remain enforceable.

12.5 No failure or delay by a party in exercising any of its rights or remedies hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or farther exercise thereof of any other right or remedy. The rights and remedies of the parties provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

12.6 Headings used herein are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

12.7 This Agreement may be signed in counterparts, each of which together shall constitute one and the same Agreement, binding on the parties as if each had signed the same document. Any facsimile transmission of this Agreement that is signed by an authorized representative of a party is legally binding and enforceable and shall be recognized by the parties as an original document, but the parties shall nevertheless make commercially reasonable efforts to obtain original signatures.

UNIVERSITA DEGLI STUDI DI ROMA "LA SAPIENZA"

/s/ Renato Guarini

By: Renato Guarini

Rector

CAPRICOR INC.

/s/ Eduardo Marbán

By: Eduardo Marban, M.D., Ph.D.

President

(SEAL)

ATTEST:

By: /s/ William E. Carlson

William E, Carlson, Esquire Secretary

APPENDIX A
LICENSED PATENT RIGHTS

[…***…]

***Confidential Treatment Requested**

***Confidential Treatment Requested**

***Confidential Treatment Requested**

Exhibit 10.32

***** Text Omitted and Filed Separately**
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

EXCLUSIVE LICENSE AGREEMENT

BETWEEN

THE JOHNS HOPKINS UNIVERSITY

&

CAPRICOR, INC.

JHU Ref: DM – 4562

LICENSE AGREEMENT

THIS EXCLUSIVE LICENSE AGREEMENT (this "Agreement") is entered into by and between THE JOHNS HOPKINS UNIVERSITY, a Maryland corporation having an address at 3400 N. Charles Street, Baltimore, MD 21218-2695 ("JHU") and CAPRICOR, INC., a Delaware corporation having an address at 2415 Old Bosley Road, Lutherville, MD 21093 ("Company"), with respect to the following:

RECITALS

WHEREAS, valuable inventions as identified by name and JHU reference numbers on Exhibit A attached hereto and incorporated herein by this reference were developed during the course of research conducted by those individuals who are identified on Exhibit A hereto as inventors by having their respective names underlined thereon (all hereinafter, "Inventors"); and

WHEREAS, JHU has acquired through assignment all right, title, and interest, with the exception of certain retained rights by the United States government, in said valuable inventions; and

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new methods, but is without capacity to commercially develop, manufacture, and distribute any such products or methods; and

WHEREAS, Company desires to obtain exclusive rights under the PATENT RIGHTS in order to commercially develop, manufacture, use, and distribute such products and processes throughout the world;

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

All references to particular Exhibits, Articles, or Paragraphs shall mean the Exhibits to, and Paragraphs and Articles of, this Agreement, unless otherwise specified. For the purposes of this Agreement and the Exhibits hereto, the following words and phrases shall have the following meanings:

1.1 "AFFILIATED COMPANY" as used herein in either singular or plural shall mean any corporation, company, partnership, joint venture or other entity, which controls, is controlled by or is under common control with Company. For purposes of this Paragraph 1.1, "control" shall mean the direct or indirect ownership of at least fifty percent (50%) of the voting stock or other ownership interest of such entity.

1.2 "EFFECTIVE DATE" of this License Agreement shall mean the date the last party hereto has executed this Agreement.

1.3 "EXCLUSIVE LICENSE" shall mean a grant by JHU to Company of its entire right and interest in the PATENT RIGHTS throughout the world, subject (if and to the extent any NIH funds were used for the licensed invention) to rights retained by the United States government in accordance with the Bayh-Dole Act of 1980 (established by P.L. 96-517 and amended by P.L. 98-620, codified at 35 USC § 200 et. seq. and implemented according to 37 CFR Part 401), and subject to the retained right of JHU to make, have made, provide, and use for its and The Johns Hopkins Health Systems' nonprofit academic research purposes, LICENSED PRODUCT(S) and LICENSED SERVICE(S), including the ability to distribute any biological material covered by the PATENT RIGHTS to non-commercial entities for nonprofit academic research use as is customary in the scientific community; *provided, however*, that any transfer of such biological material may only be made with advance notice to the Company and pursuant to the Materials Transfer Agreement attached hereto as Exhibit B.

1.4 "FINANCING MILESTONE" shall mean Company's raise of $1,000,000 (One Million Dollars) or more in equity and/or convertible debt.

1.5 "FIRST COMMERCIAL SALE" shall mean the first sale of a LICENSED PRODUCT or a LICENSED SERVICE by Company, an AFFILIATED COMPANY or a SUBLICENSEE for consideration in an arm's-length transaction following recipient from the appropriate government agency of marketing approval for such LICENSED PRODUCT or such LICENSED SERVICE.

1.6 "KNOW-HOW" shall mean (a) biological materials in JHU's possession that were developed by Inventors of PATENT RIGHTS and which are disclosed in PATENT RIGHTS, and any portions, progeny, or unmodified derivatives thereof and (b) any other tangible know-how in JHU's possession that may be necessary or useful for the effective exercise of the PATENT RIGHTS in the LICENSED FIELD.

1.7 "LICENSED FIELD" shall mean any and all commercial and research fields.

1.8 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any material, composition, drug, or other product, the manufacture, use, or sale of which by Company, an AFFILIATED COMPANY, or a SUBLICENSEE would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

1.9 "LICENSED SERVICE(S)" as used herein in either singular or plural shall mean the performance on behalf of a third party by Company, an AFFILIATED COMPANY or a SUBLICENSEE of any method, including any drug discovery or screening, or the manufacture
of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but not be limited to, direct, contributory, or inducement to infringe).

1.10 "NET SALES" shall mean gross sales revenues and fees billed by Company, AFFILIATED COMPANIES, and SUBLICENSEE(S) from the sale of LICENSED PRODUCT(S) less (a) trade discounts allowed; (b) amounts repaid or credited by reason of refunds, returns, and recalls; (c) outbound transportation and delivery charges (including insurance premiums related thereto), if separately included in the invoiced amount; (d) government-mandated retroactive price reductions; (e) amounts allowed for bad debt; and (f) sales taxes, tariff duties, and other government charges (other than income taxes) related to the manufacture, use, transportation, or sale of LICENSED PRODUCT(S).

In the event that Company, AFFILIATED COMPANIES, and SUBLICENSEE(S) sell LICENSED PRODUCT(S) in combination with other active ingredients or substances or as part of a kit containing other component(s) (including, but not limited to, devices for delivery), and such other ingredients, substances or components, if manufactured, used or sold by an unlicensed party would not constitute an infringement of PATENT RIGHTS (collectively "Other Components"), then Net Sales for purposes of royalty payments shall be calculated using one of the following methods: (x) if all LICENSED PRODUCT(S) and Other Components contained in the combination are available separately, then NET SALES shall be calculated by multiplying the NET SALES of the combination by the fraction A/A+B, where A is the invoice price of all LICENSED PRODUCT(S) in the combination and B is the invoice price of all Other Components in the combination; (y) if the combination includes Other Components which are not sold separately (but all LICENSED PRODUCT(S) contained in the combination are available separately), then NET SALES shall be calculated by multiplying the NET SALES of the combination by the fraction A/C, where A is defined above and C is the invoice price of the combination; and (z) if the LICENSED PRODUCT(S) and the Other Components in the combination are not sold or available separately, then NET SALES for purposes of determining royalties on the combination shall be calculated by multiplying NET SALES of the combination by the fraction D/D+E, where D is the fully burdened manufacturing cost of LICENSED PRODUCT(S) at the point of assembly into the combination and E is the fully burdened manufacturing cost of the Other Components included in the combination at such point.

In the event any LICENSED PRODUCT(S) shall be sold by Company to an AFFILIATED COMPANY or among AFFILIATED COMPANIES for subsequent resale to an unaffiliated third party, then the royalty due hereunder shall be based upon the greater of: (a) NET SALES received by Company from the AFFILIATED COMPANY and (b) NET SALES received by the AFFILIATED COMPANY from the purchaser of such LICENSED PRODUCT(S).

In the event that consideration in lieu of money is received by Company, AFFILIATED COMPANIES, or SUBLICENSEE(S) from the sale of LICENSED PRODUCT(S) in an arms-length transaction, the fair market value of such consideration shall be included in the determination of NET SALES for such sale. Such fair market value shall be determined by the Company, AFFILIATED COMPANY or SUBLICENSEE, as applicable, in good faith.

1.11 "NET SERVICE REVENUES" shall mean gross service revenues and fees billed by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) for the performance of LICENSED SERVICE(S) less (a) amounts allowed for bad debt and (b) sales and/or use taxes and other government charges (other than income taxes) imposed upon and with specific reference to the LICENSED SERVICE(S). In the event that Company, AFFILIATED COMPANIES or SUBLICENSEE(S) sell a LICENSED SERVICE(S) in combination with other services, then NET SERVICE REVENUES for purposes of royalty payments shall be calculated by multiplying the NET SERVICE REVENUES of the combination by the fraction A/A+B, where A is the invoice price of all LICENSED SERVICE(S) and B is the invoice price of all other services in the combination.

1.12 "PATENT RIGHTS" shall mean the patents and patent applications set forth in Exhibit A attached hereto, together with any patents that issue on any of the patent applications set forth in Exhibit A, any reissues, reexaminations, renewals, extensions, divisions, and continuations of the foregoing, any foreign counterparts to any of the foregoing, and any other form of patent coverage (including, subject to the limitation below, continuations-in-part) claiming priority to any of the foregoing patents and patent applications. Continuations-in-part are included to the extent that the subject matter of such continuation-in-part application is described in and enabled by the disclosure of the initial JHU patent application.

1.13 "SUBLICENSEE" as used herein in either singular or plural shall mean any person or entity other than an AFFILIATED COMPANY to which Company has granted a sublicense under this Agreement.

ARTICLE 2
LICENSE GRANT

2.1 Grant. Subject to the terms and conditions of this Agreement, JHU hereby grants to Company an EXCLUSIVE LICENSE to make, have made, use, import, offer for sale, and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the United States and worldwide under the PATENT RIGHTS in the LICENSED FIELD. In order to facilitate Company's development of LICENSED PRODUCTS and LICENSED SERVICES, JHU additionally grants Company a non-exclusive license to KNOW-HOW in the LICENSED FIELD. In furtherance of such license, JHU shall (a) reduce to writing and provide to Company, upon Company's reasonable and occasional request, utilization procedures, best practices, protocols, and the like and (b) promptly provide Company, upon Company's reasonable request, reasonable quantities of biological materials covered by the PATENT RIGHTS.

2.2 Sublicense. Company may sublicense others under this Agreement with prior notice to JHU, and shall provide a copy of each such sublicense agreement to JHU promptly after it is executed. For the avoidance of doubt, Company need not seek JHU's consent prior to executing a sublicense agreement. Each sublicense shall be consistent with the terms of this Agreement.

2.3 Government Rights. Company acknowledges that the United States government has retained certain rights under the PATENT RIGHTS and that Company may be subject to certain laws and regulations applicable to the grant/contract award under which the associated inventions were made. Company shall comply with such laws and regulations to the extent applicable.

2.4 "Financing Milestone" Condition Precedent. The effectiveness of the grant under Article 2 of this Agreement is conditioned upon Company achieving the FINANCING MILESTONE on or before that day that is nine (9) months after the EFFECTIVE DATE (or upon any later date as Company and JHU may hereafter agree in writing). Upon Company's achievement of the FINANCING MILESTONE, Company shall so inform JHU in writing and this Agreement shall be deemed to be effective as of the EFFECTIVE DATE. Prior to the achievement of the FINANCING MILESTONE, Articles 4, 8, 9, and 10 shall apply. In the event that the FINANCING MILESTONE is not achieved prior to the deadline stated in this Paragraph 2.4, this Agreement shall thereupon and thereafter be null and void except for any pre-termination obligations of Company under Paragraphs 3.8 and 4.1.

ARTICLE 3
FEES, ROYALTIES, & PAYMENTS

3.1 License Fee. Company shall pay to JHU, within thirty (30) days of the later of (a) the EFFECTIVE DATE of this Agreement and (b) Company achieving the FINANCING MILESTONE, the initial license fee set forth in Exhibit C. JHU will not submit an invoice for the license fee, which is nonrefundable and shall not be credited against royalties or other fees.

3.2 Annual Maintenance Fee. Company shall pay to JHU a nonrefundable, non-creditable annual maintenance fee as set forth in Exhibit C. This annual maintenance fee shall be due within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the first anniversary.

3.3 Minimum Annual Royalties. Company shall pay to JHU minimum annual royalties in the amounts set forth in Exhibit C. These minimum annual royalties shall be due within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the first anniversary. Any such minimum annual royalties shall be credited against running royalties due pursuant to Paragraph 3.4(a) during such anniversary year (i.e., running from anniversary date to anniversary date) and (b) against subsequent years; *provided, however*, in respect to applying such payments as credits against subsequent years, that such credit not reduce the amount otherwise payable to JHU in any royalty payment period by more than […***…] and with any amount unable to be credited by operation of the preceding clause being carried forward into each subsequent royalty payment period until the full credit has been realized.

3.4 Royalties. Company shall pay to JHU, on a country-by-country basis, a running royalty on NET SALES and NET SERVICE REVENUES at the rates set forth in Exhibit C**.** All non-US income taxes related to LICENSED PRODUCT(S) or LICENSED SERVICE(S) sold under this Agreement shall be paid by Company and shall not be deducted from royalty or other payments due to JHU. Only one royalty shall be due and payable for the manufacture, use, or sale of a LICENSED PRODUCT or LICENSED SERVICE, irrespective of the number of claims within the PATENT RIGHTS that would be infringed by the manufacture, use, or sale of such LICENSED PRODUCT or LICENSED SERVICE.

***Confidential Treatment Requested**

3.5 Exclusions from Revenue. Neither of the following shall be included in NET SALES or NET SERVICE REVENUES: (a) the transfer of a LICENSED PRODUCT to an AFFILIATED COMPANY for sale by such AFFILIATED COMPANY in a transaction that will be royalty-bearing, and (b) the transfer of a LICENSED PRODUCT to, or provision of a LICENSED SERVICE for, a third party without consideration in connection with the development or testing of a LICENSED PRODUCT or LICENSED SERVICE. In addition, NET SALES and NET SERVICE REVENUES shall be reduced by […***…] in connection with the sale of a LICENSED PRODUCT or provision of a LICENSED SERVICE to or on behalf of the United States government in respect of any rights that may be retained by the United States government under the PATENT RIGHTS in the LICENSED FIELD.

3.6 Sublicense Consideration. Company shall pay to JHU the percentage of Sublicense Consideration as set forth in Exhibit C. For purposes of this Paragraph 3.6, the term "Sublicense Consideration" shall mean consideration of any kind received by the Company or AFFILIATED COMPANIES from SUBLICENSEE(S) in consideration for the grant of a sublicense under the PATENT RIGHTS, including up-front licensing fees, milestone payments, and any premium paid by the SUBLICENSEE(S) over Fair Market Value for stock of the Company or an AFFILIATED COMPANY in consideration for such sublicense, but excluding license maintenance fees, running royalties, funding for product development, research work, clinical studies and regulatory approvals performed by or for the Company or AFFILIATED COMPANIES or third parties pursuant to a specific agreement including a performance plan and commensurate budget, and equity investments at no more than Fair Market Value. The term "Fair Market Value" shall mean, for a publicly-traded security, the average closing price of that security (as reported by the securities exchange or market on which it is listed) during twenty (20) trading day period ending on the trading day prior to the announcement of its purchase by the SUBLICENSEE(S) or, for a security that is not publicly traded, the fair market value of such security as determined in good faith by the Board of Directors of the Company or AFFILIATED COMPANY that issued the shares.

3.7 Payment Reduction If Rights Non-Exclusive. If Company has a joint ownership interest in a particular PATENT RIGHT in the LICENSED FIELD or if JHU is not the assignee under the rights of all of the inventors of the invention(s) claimed in a particular PATENT RIGHT, then (a) all payments due to JHU pursuant to Paragraphs 3.2 through 3.6 hereof shall be reduced by […***…] and (b) Company shall be entitled to credit […***…] of all payments previously paid to JHU pursuant to Paragraphs 3.1 through 3.6 hereof (to the extent not already adjusted by operation of clause (a) above) against future payment obligations to JHU hereunder (as such obligations shall be adjusted by operation of clause (a) above).

3.8 Patent Cost Reimbursement. In addition to the provisions of Paragraph 4.1 below, notwithstanding the condition precedent set forth in Paragraph 2.4, Company will reimburse JHU for all reasonable, documented, out-of-pocket costs incurred up to and including the EFFECTIVE DATE of this Agreement in connection with the preparation, filing, prosecution, and maintenance of the PATENT RIGHTS in the LICENSED FIELD. Such reimbursement shall be made in three (3) equal annual installments, with the first such payment due within thirty (30) days of the EFFECTIVE DATE of this Agreement.

***Confidential Treatment Requested**

3.9. Milestone Payments. Company shall pay JHU within one hundred twenty (120) days after the achievement of each of the milestones such payments as are set forth in Exhibit C.

3.10 Form of Payment. All payments under this Agreement shall be made in U.S. Dollars by the Company. Checks are to be made payable to "The Johns Hopkins University". Wire transfers may be made through:

Bank:

[…***…]

Wire info:

[…***…]

If needed for international wires:

[…***…]

Company shall be responsible for any and all costs associated with wire transfers.

3.11 Late Payments. In the event that any payment due hereunder is not made when due, the payment shall accrue interest beginning on the tenth day following the due date thereof, at two (2) percentage points above the prime interest rate quoted by *The Wall Street Journal (Eastern Edition)* on the date said payment is due, the interest being compounded annually; *provided however*, that in no event shall said interest rate exceed the maximum applicable legal interest rate.

***Confidential Treatment Requested**

ARTICLE 4
PATENT PROSECUTION, MAINTENANCE, & INFRINGEMENT

4.1 Prosecution & Maintenance. JHU shall prepare, file, prosecute, and maintain all patents and patent applications under the PATENT RIGHTS upon authorization of Company and Company shall be exclusively licensed thereunder. Title to all such patents and patent applications shall reside in JHU. JHU shall have full and complete control over all patent matters in connection therewith under the PATENT RIGHTS; *provided, however*, that JHU shall instruct patent counsel to cross-copy Company with copies of all documents (or drafts thereof) pertaining to the preparation, filing, prosecution, or maintenance of the PATENT RIGHTS so as to enable Company to have a meaningful opportunity to review and comment thereon. JHU will consider and incorporate reasonable comments received from Company. Company shall reimburse JHU, within forty-five (45) days of the receipt of an invoice from JHU, for all reasonable, documented, out-of-pocket costs incurred by JHU after the EFFECTIVE DATE in connection with the preparation, filing, prosecution, and maintenance of the PATENT RIGHTS in the LICENSED FIELD. Company will provide payment authorization to JHU at least one (1) month before an action is due, provided that Company has received timely notice of such action from JHU. Failure to provide authorization can be considered by JHU as a Company decision not to authorize an action. In any country where Company elects not to have a patent application filed or to pay expenses associated with preparing, filing, prosecuting, or maintaining a patent application or patent, JHU may prepare, file, prosecute, and/or maintain the patent application or patent at its own expense and for its own exclusive benefit and Company thereafter shall not be licensed under such patent or patent application in such country.

4.2 Notification. Each party will notify the other promptly in writing of any known or suspected third party infringement of any PATENT RIGHTS or if any action for a declaration of non-infringement or invalidity of PATENT RIGHTS is made by a third party, or if any allegation of infringement of third party patents is made against either party, an AFFILIATED COMPANY, or a SUBLICENSEE as a result of the manufacture, use or sale of a LICENSED PRODUCT or provision of a LICENSED SERVICE.

4.3 Infringement.

(a) Company shall have the first right to respond to any challenge or infringement of the PATENT RIGHTS at its own expense and shall at all times keep JHU informed as to the status thereof. Company may, in its sole judgment and at its own expense, institute suit against any such infringer or alleged infringer and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof and recover, for its account, any damages, awards, or settlements resulting therefrom, subject to Paragraph 4.4. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU agrees to be included as a party plaintiff in any such action and shall otherwise reasonably cooperate in any such action at Company's expense.

(b) If, within ninety (90) days of providing to or receiving from Company notice of third party infringement of the PATENT RIGHTS pursuant to the preceding paragraph, Company does not exercise its first right to initiate legal action or initiate discussions to avert
legal action (by license or otherwise), then JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards, or settlements resulting therefrom; *provided, however*, that JHU shall give good faith consideration to the position of Company in declining to bring any action in the first instance.

4.4 Recovery. Any recovery of monetary damages by Company under Paragraph 4.3(a) shall be allocated to the parties in the following manner: (a) first, Company shall be reimbursed for all costs and expenses incurred by it in connection with such action; (b) any remaining compensatory damages shall be divided […***…].

4.5 Right to Sublicense Infringers. Company shall have the sole right, subject to the terms and conditions hereof, to sublicense any alleged infringer for future use of the PATENT RIGHTS in the LICENSED FIELD.

ARTICLE 5
OBLIGATIONS OF THE PARTIES

5.1 Reports. Company shall provide to JHU within thirty (30) days of the end of each calendar quarter after the FIRST COMMERCIAL SALE, a written report to JHU of the amount of LICENSED PRODUCT(S) sold, and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) thereof. Payment of any such royalties due shall accompany such report. The report of sales and royalties due shall be substantially in the format of the sales and royalty report form given in Exhibit D. Prior to the FIRST COMMERCIAL SALE, Company shall submit to JHU, on an annual basis, a full written report describing Company's, AFFILIATED COMPANIES' or any SUBLICENSEE'S technical efforts towards meeting its obligations under the terms of this Agreement.

5.2 Records. Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 5.1, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of sales and other information required in Paragraph 5.1. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall **reveal that an error has been made in the amount equal to ten percent (10%) or more of such payment, such costs shall be borne by Company. Company shall include in any agreement with its AFFILIATED COMPANIES or its SUBLICENSEE(S) which permits such party to make, use or sell the LICENSED PRODUCT(S)** or provide LICENSED SERVICE(S), a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICE(S) and other information as required in Paragraph 5.1 and permit JHU to inspect such records as required by this Paragraph.

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5.3 Diligence. Company shall exercise commercially reasonable and diligent efforts to develop and to introduce the LICENSED PRODUCT(S) and LICENSED SERVICE(S) into the commercial market as soon as practicable, consistent with sound and reasonable business practice and judgement; thereafter, until the expiration of the Agreement, Company shall endeavor to keep LICENSED PRODUCT(S) and LICENSED SERVICE(S) reasonably available to the public. Company shall also exercise commercially reasonable efforts to ensure that the PATENT RIGHTS can be commercialized as broadly and as speedily in the LICENSED FIELD as good scientific and business judgement would deem possible.

5.4 Patent Acknowledgement. Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws, or Company shall be responsible for any damages lost as a result of the failure to so mark.

ARTICLE 6
REPRESENTATIONS

6.1 Representations by JHU. JHU warrants that, to the best of its knowledge following due inquiry, it has all right, title, and interest in and to the PATENT RIGHTS with the exception of certain retained rights of the United States government. JHU warrants that it has not licensed or assigned any right or interest in or to the PATENT RIGHTS to a third party in the LICENSED FIELD, that it has the right to grant the rights and licenses granted hereunder and such rights have been validly granted, and that such grant does not require the consent of a third party. JHU does not warrant the validity of any patents or that practice under such patents or use of KNOW-HOW shall be free of infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 6.1, COMPANYAGREES THAT THE PATENT RIGHTS AND KNOW-HOW ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICE(S) INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT AND SERVICE LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT,
INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT AND SERVICE LICENSED UNDER THIS AGREEMENT. COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND SERVICE MANUFACTURED, USED, OR SOLD BY COMPANY, ITS SUBLICENSEE(S) AND AFFILIATED COMPANIES WHICH IS A LICENSED PRODUCT(S) OR LICENSED SERVICE(S) AS DEFINED IN THIS AGREEMENT.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification. JHU and the Inventors will have no legal liability exposure to third parties if JHU does not license the LICENSED PRODUCT(S) and LICENSED SERVICE(S), and any royalties JHU and the Inventors may receive is not adequate compensation for such legal liability exposure. Therefore, JHU requires Company to protect JHU and Inventors from such exposure to the same manner and extent to which insurance, if available, would protect JHU and Inventors. Furthermore, JHU and the Inventors will not, under the provisions of this Agreement or otherwise, have control over the manner in which Company or its AFFILIATED COMPANIES or its SUBLICENSEE(S) or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICE(S) from any of the foregoing entities, develop, manufacture, market or practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICE(S). Therefore, Company, AFFILIATED COMPANY and SUBLICENSEE shall indemnify, defend with counsel reasonably acceptable to JHU, and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities, whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit, except those which arise from any use of the PATENT RIGHTS or KNOW-HOW resulting from the use by JHU of the rights JHU has retained under this Agreement. JHU shall notify Company promptly of any claims and Company shall have the right to control the defense, settlement or compromise of any such claim, and Company shall have no obligation to an indemnified party hereunder for a claim that is settled or compromised without Company's prior written consent and whether or not JHU or the Inventors are alleged to be negligent or otherwise responsible for any injuries to persons or property. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICE(S), by an AFFILIATED COMPANY or an agent or a SUBLICENSEE(S) or a third party on behalf of or for the account of Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICE(S) from Company, shall be considered Company's practice of said inventions for purposes of this Paragraph. The obligation of Company to defend and indemnify as set out in this Paragraph shall survive the termination of this Agreement, shall continue even after assignment of rights and responsibilities to an affiliate or sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

ARTICLE 8
CONFIDENTIALITY

8.1 Confidentiality. If necessary, the parties will exchange information that they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a secrecy agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the confidential nature of the information and that the information shall be treated accordingly. Notwithstanding the foregoing, Company shall have the right to disclose confidential information of JHU to a third party that undertakes obligations of confidentiality and non-use with respect to such information at least as restrictive as Company's obligations hereunder.

The obligations of this Paragraph shall also apply to AFFILIATED COMPANIES and/or SUBLICENSEE(S) provided such information by Company. JHU's, Company's, AFFILIATED COMPANIES, and SUBLICENSEE's obligations under this Paragraph shall extend until three (3) years after the termination of this Agreement.

8.2 Exceptions. The recipient's obligations under Paragraph 8.1 shall not extend to any part of the information:

a. that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or

b. that can be demonstrated from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of secrecy to the disclosing party prior to the disclosure; or

c. that becomes part of the public domain or publicly known by publication or otherwise by some means other than an unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party; or

e. that is required to be disclosed by law, government regulation or court order.

8.3 Right to Publish. JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS, the inventions contained therein and KNOW-HOW, provided such publication is first submitted to Company for review, comment, and consideration of appropriate action. JHU shall submit such manuscripts, abstracts or the like to Company for review at least thirty (30) days prior to the date of submission for publication or submission of the abstract or oral disclosure. Company shall notify JHU within thirty (30) days of receipt of such submission whether it appears that any patent applications may need to be filed in connection with obtaining or maintaining the PATENT RIGHTS. Written publication or other disclosure by JHU shall be deferred to permit the filing of any necessary patent applications, provided said deferral shall in no event exceed ninety (90) days from the date of receipt by Company of said disclosure. Further, confidential information of Company as defined in Paragraph 8.1 shall not be included in any manuscript, abstract or the like without first obtaining written approval from Company, which consent may be withheld in Company’s sole discretion.

ARTICLE 9
TERM & TERMINATION

9.1 Term. The term of this Agreement shall commence on the EFFECTIVE DATE and shall continue, in each country, until the date of expiration of the last to expire patent included within PATENT RIGHTS in that country or if no patents issue then for a term of […***…] from the EFFECTIVE DATE of this Agreement.

9.2 Termination By Either Party.

(a) This Agreement may be terminated by either party, in the event that the other party (a) files a petition under the Bankruptcy Act, makes an assignment for the benefit of creditors, voluntarily has a receiver appointed for it or a substantial part of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors or (b) fails to perform or otherwise breaches any of its obligations hereunder, if, following the giving of notice by the terminating party of its intent to terminate and stating the grounds therefor, the party receiving such notice shall not have cured the failure or breach within thirty (30) days. In no event, however, shall such notice or intention to terminate be deemed to waive any rights to damages or any other remedy which the party giving notice of breach may have as a consequence of such failure or breach.

(b) All rights and licenses granted under or pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, as amended (the "Code"), licenses of rights to "intellectual property" as defined under Section 101 of the Code. The parties agree that Company is a licensee of such rights under this Agreement and shall retain and may fully exercise all rights under the Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against JHU or its assignee under the Code, Company shall be entitled to (x) take control of the patent prosecution of the Patent Rights and (y) receive a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property. Such intellectual property and embodiments, if not already in Company's possession, shall be, within ten (10) days of the commencement of such proceeding, delivered to it upon JHU's receipt of a request therefore, unless JHU (or a trustee on behalf of JHU) elects to continue to perform all of its obligations under this Agreement. Nothing herein shall constitute Company's acquiescence or agreement that all or any portion of this Agreement is subject to rejection.

9.3 Termination by Company. Company may terminate this Agreement and the licenses granted herein, for any reason, upon giving JHU sixty (60) days written notice.

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9.4 Obligations and Duties upon Termination. If this Agreement is terminated pursuant to Paragraphs 9.2(a) or 9.3, both parties shall be released from all obligations and duties imposed or assumed hereunder to the extent so terminated, except as expressly provided to the contrary in this Agreement. Upon termination, both parties shall cease any further use of the confidential information disclosed to the receiving party by the other party. Termination of this Agreement, for whatever reason, shall not affect the obligation of either party to make any payments for which it is liable prior to or upon such termination. Termination shall not affect JHU's right to recover unpaid royalties or fees or reimbursement for patent expenses incurred pursuant to Paragraph 4.1 prior to termination. Upon termination, Company shall submit a final royalty report to JHU and any royalty payments and unreimbursed patent expenses due JHU shall become immediately payable, and all tangible manifestations of KNOW-HOW shall be returned to the appropriate Inventors or destroyed. Furthermore, upon termination of this Agreement, all rights in and to the PATENT RIGHTS and KNOW-HOW shall revert immediately to JHU at no cost to JHU. Upon termination of this Agreement, any SUBLICENSEE(S) shall become a direct licensee of JHU, provided that JHU's obligations to SUBLICENSEE(S) are no greater than JHU's obligations to Company under this Agreement. Company shall provide written notice of such to each SUBLICENSEE(S) with a copy of such notice provided to JHU.

ARTICLE 10
MISCELLANEOUS

10.1 Use of Name. Company shall not use the name of The Johns Hopkins University or The Johns Hopkins Health System or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors of PATENT RIGHTS in any advertising, promotional or sales literature or fundraising documents without prior written consent from an authorized representative of JHU, except that Company may advise any other party that it is licensed by JHU under this Agreement. Company shall allow at least five (5) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent. Notwithstanding the foregoing, Company shall have the right to use the name of JHU without JHU's prior written consent where such use is required by law, rule or regulation (*e.g.,* federal and state securities laws). In addition, once JHU has consented to a particular disclosure, Company shall not be required to seek JHU's consent to make the same disclosure in a subsequent document.

10.2 No Partnership. Nothing in this Agreement shall be construed to create any agency, employment, partnership, joint venture or similar relationship between the parties other than that of a licensor/licensee. Neither party shall have any right or authority whatsoever to incur any liability or obligation (express or implied) or otherwise act in any manner in the name or on the behalf of the other, or to make any promise, warranty or representation binding on the other.

10.3 Notice of Claim. Each party shall give the other party or its representative immediate notice of any suit or action filed, or prompt notice of any claim made, against them arising out of the performance of this Agreement.

10.4 Product Liability. Prior to initial human testing or first commercial sale of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) as the case may be in any particular country, Company shall establish and maintain, in each country in which Company, an AFFILIATED COMPANY or SUBLICENSEE(S) shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICE(S), product liability or other appropriate insurance coverage in the minimum amount of […***…] per claim (with an industry reasonable "annual aggregate" dollar limit to be agreed upon by JHU and Company) and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained. JHU shall be listed as an additional insured in Company's said insurance policies. If such Product Liability insurance is underwritten on a 'claims made' basis, Company agrees that any change in underwriters during the term of this Agreement will require the purchase of 'prior acts' coverage to ensure that coverage will be continuous throughout the term of this Agreement. If JHU and Company are unable to reach agreement as to the industry reasonable "annual aggregate" dollar limit, either JHU or Company may request arbitration. Upon such request, within fifteen (15) days thereafter, the parties shall agree upon a single arbitrator to review the matter, but if they cannot so agree, they shall each name an arbitrator, and the two arbitrators shall select a third arbitrator. One of the arbitrators shall be a member of the Association of University Technology Managers. The parties shall submit the issue to the arbitrators on written brief only, there shall be no formal hearing. Briefs shall be filed within thirty (30) days of selection of the arbitrator, or the panel, and shall include the party's suggestion of the aggregate amount, and the basis therefore.

10.5 Governing Law. This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of Maryland applicable to contracts solely executed and wholly to be performed within the State of Maryland without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement shall be brought in the state or federal courts of Maryland.

10.6 Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

If to Company: Capricor, Inc.
2415 Old Bosley Road
Lutherville, MD 21093
Attn: President

with a copy to: Shapiro Sher Guinot & Sandler
36 S. Charles Street, Suite 2000

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Baltimore, MD 21201
Attn: […***…]

If to JHU: Johns Hopkins Technology Transfer
100 North Charles Street, 5th Floor
Baltimore, MD 21201
Attn: […***…], Executive Director

10.7 Compliance with All Laws. In all activities undertaken pursuant to this Agreement, JHU and Company each covenant and agree that it will comply in all material respects with applicable Federal, state and local laws and statutes as may be in effect at the time of performance and all valid rules, regulations and orders thereof regulating such activities.

10.8 Successors and Assigns. Neither this Agreement nor any of the rights or obligations created herein, except for the right to receive any remuneration hereunder, may be assigned by either party, in whole or in part, without the prior written consent of the other party, except that either party shall be free to assign this Agreement in connection with a merger, consolidation, or sale of all or substantially all of its assets without the consent of the other. Any consents requested hereunder shall not be unreasonably withheld or delayed. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto.

10.9 No Waivers; Severability. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement, and no waiver shall be effective unless made in writing. Any provision hereof prohibited by or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be deemed ineffective and deleted herefrom without affecting any other provision of this Agreement. It is the desire of the parties hereto that this Agreement be enforced to the maximum extent permitted by law, and should any provision contained herein be held by any governmental agency or court of competent jurisdiction to be void, illegal and unenforceable, the parties shall negotiate in good faith for a substitute term or provision which carries out the original intent of the parties.

10.10 Entire Agreement; Amendment. Company and JHU acknowledge that they have read this entire Agreement and that this Agreement, including the attached Exhibits, constitutes the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which communications are merged herein. It is expressly understood and agreed that (i) there being no expectations to the contrary between the parties hereto, no usage of trade, verbal agreement or another regular practice or method dealing within any industry or between the parties hereto shall be used to modify, interpret, supplement, or alter in any manner the express terms of this Agreement; and (ii) this Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

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10.11 Delays or Omissions. Except as expressly provided herein, no delay or omission to exercise any right, power or remedy accruing to any party hereto, shall impair any such right, power or remedy to such party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or in any similar breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

10.12 Force Majeure. If either party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement.

10.13 Further Assurances. Each party shall, at any time and from time to time, upon the reasonable request of the other party, execute and deliver to the other such instruments and documents and shall take such actions as may be required to more effectively carry out the terms, purposes and intent of this Agreement.

10.14 Survival. Articles 6, 7 and 8 and Paragraphs 3.10, 4.1, 9.4, 10.1, 10.3, 10.5, 10.6, 10.13 and 10.14 (and related definitions) shall survive the expiration or any termination of this Agreement.

10.15 No Third Party Beneficiaries. Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

10.16 Headings. Article and paragraph headings are for convenient reference and not a part of this Agreement. All Exhibits are incorporated herein by this reference.

10.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed but one instrument.

[Signatures on Following Page.]

IN WITNESS WHEREOF, this Exclusive License Agreement shall take effect as of the EFFECTIVE DATE, when it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY

By: /s/ Jill A. Tarzian Sorensen
Jill A. Tarzian Sorensen, J.D.
Executive Director, JHTT

June 21, 2006

CAPRICOR, INC.

By: /s/ Eduardo Marbán
Eduardo Marbán, M.D.
President

June 22, 2006

[SEAL]

William E. Carlson
William E. Carlson, Esq.
Secretary

EXHIBIT A. PATENT RIGHTS.
EXHIBIT B. MATERIAL TRANSFER AGREEMENT.
EXHIBIT C. LICENSE FEE & ROYALITIES.
EXHIBIT D. SALES & ROYALTY REPORT FORM.

EXHIBIT A

PATENT RIGHTS

[…***…]

***Confidential Treatment Requested**

EXHIBIT B

MATERIAL TRANSFER AGREEMENT

Johns Hopkins University School of Medicine
MATERIAL TRANSFER AGREEMENT
FOR NON-PROFIT RECIPIENTS

1. Parties to this Agreement

Providing Scientist:

Providing Organization: **Johns Hopkins University**

Address: **Johns Hopkins Technology Transfer**
100 North Charles Street, 5th Floor
Baltimore, MD 21201

"PROVIDER" shall mean the Providing Organization through its employee, the Providing Scientist.

Recipient Scientist:

Recipient Organization:

Address:

"RECIPIENT" shall mean the Recipient Organization through its employee, the Recipient Scientist.

2. Material(s)

Material(s) provided:

"MATERIAL(S)" means the provided materials described above and any Progeny and Unmodified Derivatives thereof. Progeny is an unmodified descendant from the provided material, such as virus from virus, cell from cell, or organism from organism. Unmodified Derivatives are substances created by the RECIPIENT which constitute an unmodified functional subunit or product expressed by the provided material, such as subclones of unmodified cell lines, purified or fractionated subsets of the provided material, proteins expressed by DNA/RNA supplied by the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line. MATERIAL(S) shall not include: (a) Modifications, or (b) other substances created by the recipient through the use of the MATERIAL(S) which are not Modifications, Progeny, or Unmodified Derivatives. Modifications are materials made by the RECIPIENT which contain/incorporate the MATERIAL(S).

The MATERIAL(S), including, but not limited to, MATERIAL(S) contained or incorporated in Modifications, are the sole property of the PROVIDER and are made available as a service to the research community. RECIPIENT acknowledges that certain intellectual property rights claiming the MATERIAL(S) have been granted to Capricor, Inc. ("Capricor"), and that except as expressly provided in this Agreement, no rights are provided to RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of PROVIDER or Capricor.

3. Research

The RECIPIENT agrees that THE MATERIAL(S) SHALL NOT BE USED IN HUMAN SUBJECTS, IN CLINICAL RESEARCH, OR FOR DIAGNOSTIC PURPOSES INVOLVING HUMAN SUBJECTS. The PROVIDER agrees that the MATERIAL(S) were not obtained from human subjects.

The RECIPIENT agrees to use the MATERIAL(S) in compliance with all applicable statutes and regulations, including the Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of animals and/or recombinant DNA.

The RECIPIENT agrees that the MATERIAL(S) will be used solely for internal research purposes in the laboratory of the Recipient Scientist and under his/her direct supervision.

The RECIPIENT agrees that the MATERIAL(S) will not be used for any Commercial Purpose. Commercial Purpose shall mean the sale, lease, license, or other transfer of the MATERIAL(S) or Modifications to a for-profit organization. Commercial Purposes shall also include uses of the MATERIAL(S) or Modifications by any organization, including RECIPIENT, to perform contract research or other research sponsored by a for-profit entity, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL(S) or Modifications to a for-profit organization.

The RECIPIENT agrees that the MATERIAL(S) and Modifications (except as set forth below) will not be transferred to any third party without the PROVIDER's written consent. Nothing in this Agreement shall preclude the PROVIDER from transferring the MATERIAL(S) to other interested third parties for commercial or research purposes. The RECIPIENT shall have the right, without restriction, to distribute to third parties substances created by the RECIPIENT through the use of the MATERIAL(S) provided those substances are not Progeny or Unmodified Derivatives. The RECIPIENT may transfer Modifications to not-for-profit research institutions under a material transfer agreement containing terms substantially similar to those contained in this Agreement.

If RECIPIENT's research with MATERIAL or Modifications results in a patentable invention ("Invention"), RECIPIENT agrees promptly to disclose the Invention to PROVIDER and Capricor on a confidential basis. Inventorship will be determined in accordance with United States patent law (whether or not patentable) and ownership shall follow inventorship. In the case of a joint invention between PROVIDER and RECIPIENT or among PROVIDER, RECIPIENT and Capricor ("Joint Invention"), the applicable parties agree to negotiate in good faith an exclusive license agreement for such Joint Invention with Capricor. If RECIPIENT decides not to pursue the further development of an Invention or Joint Invention hereunder, then PROVIDER or Capricor may elect to pursue the patenting or commercial development of said Invention or Joint Invention at its/their sole discretion. PROVIDER, RECIPIENT and Capricor shall each have the right to use such Inventions and Joint Inventions for internal research purposes without payment of any license fees or royalties. In addition, Capricor shall have an exclusive, first option to obtain an exclusive, worldwide, royalty-bearing commercial license for each Invention or Joint Invention conceived solely by RECIPIENT or jointly by PROVIDER and RECIPIENT, with such option to be valid for a period of six (6) months from the date on which Capricor received written notice of the disclosure of such Invention or joint Invention.

4. Publications

This Agreement shall not be interpreted to prevent or delay the publication of research findings resulting from the use of the MATERIAL(S). The Recipient Scientist agrees to provide appropriate acknowledgement of the source of the MATERIAL(S) in all publications resulting from the use of the MATERIAL(S). Recipient Scientist further agrees to furnish PROVIDER and Capricor with a copy of the manuscript or abstract disclosing such findings prior to submission thereof and not less than thirty (30) days prior to their publication or disclosure. PROVIDER and Capricor shall promptly provide RECIPIENT with any comments relating to said publication or presentation and RECIPIENT may proceed with said publication or presentation after taking due consideration of such comments. If no response is received from PROVIDER or Capricor within thirty (30) days of the date of the proposed publication or disclosure was received by PROVIDER and Capricor, respectively, it will be conclusively presumed that the publication or disclosure may proceed without delay. If PROVIDER or Capricor determines that the proposed publication or disclosure contains patentable subject matter that requires protection, then PROVIDER or Capricor may request the delay of the presentation or disclosure for a period of time not to exceed ninety (90) days for the purpose of allowing the pursuit of such patent protection. Patent applications shall be prepared, filed, prosecuted and maintained by the owner(s) of the subject intellectual property unless and until an alternative arrangement is mutually agreed upon by all of the owners of such intellectual property and Capricor.

5. Miscellaneous

The MATERIAL(S) are understood to be experimental in nature and may have hazardous properties. The PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the MATERIAL(S). Neither PROVIDER (including, but not limited to, its directors, trustees, officers, employees, students, and agents, as applicable) nor Capricor will be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER or Capricor.

Neither party shall use the name of the other or any contraction or derivative thereof or the name(s) of the other party's faculty members, employees, or students, as applicable, in any advertising, promotional, sales literature, or fundraising documents without prior written consent from the other party.

In the event that the MATERIAL(S) are not received by the RECIPIENT, this Agreement shall terminate ninety (90) days after the Effective Date and neither party shall have any further obligations or responsibilities under this Agreement. Otherwise, this Agreement will terminate one (1) year from the Effective Date. Notwithstanding the foregoing, those provisions which by their nature should survive such termination, shall survive such termination, *provided however*, that no obligations under this Agreement shall survive beyond five (5) years following the Effective Date. Promptly upon the one year termination date, RECIPIENT, unless otherwise instructed by PROVIDER, agrees to destroy the MATERIAL(S).

The parties to this Agreement, the RECIPIENT and the PROVIDER, hereby indicate their agreement to the terms of this Agreement by affixing the signature below of an appropriate representative or officer who is specifically authorized to execute documents of this type. The "Effective Date" of this Agreement shall be the date that the last party hereto signs this Agreement.

RECIPIENT ORGANIZATION		PROVIDING ORGANIZATION	
By:	_____	**By:**	_____
Name:	_____	**Name:**	_____
Title:	_____	**Title:**	

The Recipient Scientist and Providing Scientist, by affixing their signatures below, acknowledge that they have read, understood, and agree to comply with the terms of this Agreement.

Recipient Scientist		Providing Scientist	
By:	_____	**By:**	_____
Name:	_____	**Name:**	_____
Title:	_____	**Title:**	_____
Date:	_____	**Date:**	_____

EXHIBIT C

LICENSE FEE & ROYALTIES

[…***…]

Development Milestone	Payment
Successful completion of a full Phase I clinical study […***…]	$100,000
[…***…]	[…***…]

***Confidential Treatment Requested**

[…***…]	
[…***…]	[…***…]
Full FDA market approval.	$1,000,000 (which shall be paid in four (4) equal, quarterly installments, the first being on such 120th day).

***Confidential Treatment Requested**

EXHIBIT D

QUARTERLY SALES & ROYALTY REPORT

FOR LICENSE AGREEMENT BETWEEN CAPRICOR, INC. AND THE JOHNS HOPKINS UNIVERSITY DATED JUNE ____, 2006

FOR PERIOD OF _____ TO _____

TOTAL ROYALTIES DUE FOR THIS PERIOD $_____

PRODUCT ID	PRODUCT NAME	*JHU REFERENCE	1st COMMERCIAL SALE DATE	TOTAL NET SALES/SERVICES	ROYALTY RATE	AMOUNT DUE

* Please provide the JHU Reference Number or Patent Reference

This report format is to be used to report quarterly royalty statements to JHU. It should be placed on Company letterhead and accompany any royalty payments due for the reporting period. This report shall be submitted even if no sales are reported.

Exhibit 10.33

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

AGREEMENT TO AMEND EXCLUSIVE LICENSE AGREEMENT

This Agreement to amend ("the Amendment") the Exclusive License Agreement JHTT#A02186 dated June 22, 2006 ("the Agreement") is between Capricor, a Delaware corporation located at 8700 Beverly Blvd., Davis Building, Room D-1063, Los Angeles, CA 90048 ("the Company") and Johns Hopkins University, a Maryland corporation located at 3400 N. Charles Street Baltimore, MD 21218-2695 ("JHU") (collectively "the Parties").

RECITALS

Whereas, the Parties are interested in adding related Patent Rights to the Agreement;

Accordingly, the Parties agree as follows:

AMENDMENT

[…***…]

CONSIDERATION

[…***…]

MISCELLANEOUS

This Amendment shall become effective on the last date signed hereto.
All other terms and conditions of the License remain in force and effect.

IN WITNESS WHEREOF, the Parties or authorized representatives of the Parties have executed this Amendment.

The Johns Hopkins University Capricor, Inc.

By: /s/ R. Keith Baker	By: /s/ Linda Marbán
R. Keith Baker	Linda Marban
Director	Chief Executive Officer
Technology Transfer	
Date: 5/13/09	Date: 5/11/2009

***Confidential Treatment Requested**

Exhibit 10.34

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

SECOND AMENDMENT TO LICENSE AGREEMENT

This Second Amendment to the License Agreement and first amendment (JHU Agreement (JHTT # A02186 and A16248 dated 22-June-2006 and 05-May-2009, collectively, the "Agreement"), is entered into as of 20 December 2013 by and among CAPRICOR, INC, a Delaware corporation having an address at 8840 Wilshire Blvd, 2nd Floor, Beverly Hills, CA 90211 ("Company"), and Johns Hopkins University ("JHU"), having offices at 3400 N. Charles Street, Baltimore, MD 21218-2695.

RECITAL

In consideration of mutual promises contained herein, the parties hereto agree as follows:

AMENDMENT

1. **Terms**. Capitalized terms in this Amendment shall have the same meaning as those in the Agreement, unless specifically defined in this Amendment. All section and paragraph references refer to sections or paragraphs as applicable, in the Agreement. References to the term "Agreement" in the Agreement shall be deemed to include the Amendment.

2. **Interpretation**. Except as expressly modified herein, the Agreement shall remain in full force and effect in accordance with its terms. To the extent there are any inconsistencies or ambiguities between this Amendment and the Agreement, the terms of this Amendment shall supersede the Agreement.

3. **Amendments to the License Agreement:**

A. Delete Paragraph 1.8 and replace with:

1.8 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any material, composition, drug, or other product, the manufacture, use, or sale of which by Company, an AFFILIATED COMPANY, or a SUBLICENSEE would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a VALID CLAIM of the PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

B. Delete Paragraph 1.9 and replace with:

1.9 "LICENSED SERVICE(S)" as used herein in cither singular or plural shall mean the performance on behalf of a third party by Company, an AFFILIATED COMPANY or a SUBLICENSEE of any method, including any drug discovery or screening, or the manufacture of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a VALID CLAIM of the PATENT RIGHTS

(infringement shall include, but not be limited to, direct, contributory, or inducement to infringe).

C. Add Paragraph 1.14

1.14 "VALID CLAIM" shall mean a claim of an issued patent or pending patent application included within the PATRENT RIGHTS, which claim has not (a) lapsed, been canceled or become abandoned, (b) been declared invalid or unenforceable by a non-appealable decision or judgment of a court or other appropriate body or authority of competent jurisdiction, or (c) been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, provided that an unissued claim in a pending application shall not constitute a VALID CLAIM beyond […***…] from the priority date of the application in which it is pending, provided further that if later issued such claim shall constitute a VALID CLAIM upon issuance.

D. Add the following to 4.3 ("Infringement"), after the last sentence of section (a):

"Company may choose to delegate its first right to respond to any challenge or infringement of the PATENT RIGHTS to a SUBLICENSEE upon written permission of JHU."

E. Delete Paragraph 4.4 and replace with:

4.4 Recovery. Any recovery of monetary damages by Company or SUBLICENSEE under Paragraph 4.3(a) shall be allocated to the parties in the following manner: (a) first, Company and SUBLICENSEE, as applicable, shall be reimbursed for all costs and expenses incurred by it in connection with such action; […***…].

F. Delete Paragraph 5.1 and replace with:

5.1 Reports.

a. Company shall provide to JHU within thirty (30) days of the end of each calendar quarter after the FIRST COMMERCIAL SALE, a written report to JHU of the amount of LICENSED PRODUCT(S) sold, and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company and AFFILIATED COMPANIES.

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Company shall provide to JHU within thirty (30) days of the end of each calendar quarter in which corresponding information is received from SUBLICENSEES and commencing after the FIRST COMMERCIAL SALE by a SUBLICENSEE, a written report to JHU of the amount of LICENSED PRODUCT(S) sold, and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by SUBLICENSEE(S) thereof.

b. Payment of any such royalties due shall accompany such report. The report of sales and royalties due shall be substantially in the format of the sales and royally report form given in Exhibit D. Prior to the FIRST COMMERCIAL SALE, Company shall submit to JHU, on an annual basis, a full written report describing Company's, AFFILIATED COMPANIES' or any SUBLICENSEE'S technical efforts towards meeting its obligations under the terms of this Agreement.

G. Add the following after the last sentence of Paragraph 5.4 ("Patent Acknowledgement"):

"Notwithstanding the foregoing, Company shall not be required to mark its products pursuant to the foregoing if Company is marking its products in accordance with its normal business practices and such practices are in accordance with applicable marking laws."

H. Delete Item 5 from Exhibit C and replace with:

[…***…]

Development Milestone	Payment
Successful completion of a full Phase I clinical study […***…]	$100,000
[…***…]	[…***…]

***Confidential Treatment Requested**

[…***…]	[…***…]
Full FDA market approval.	$1,000,000 (which shall be paid in four (4) equal, quarterly installments, the first being on such 120th day).

For the avoidance of doubt, each of the above milestones shall be payable once only upon the first achievement of that milestone by the first Licensed Product or Licensed Service to achieve such milestone. No further payments of a milestone shall be due for subsequent achievement of the same milestones by other Licensed Products or Licensed Services. These milestone payments shall be fully creditable against payments owed by Company to JHU on account of SUBLICENSE CONSIDERATION attributable to milestone payments received by Company from a sublicensee on account of a sublicense under the PATENT RIGHTS.

IN WITNESS WHEREOF, this Amendment shall take effect as of the Amendment Effective Date after it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY

By: /s/ Wesley D. Blakeslee
Name: Wesley D. Blakeslee, J.D.
Title: Executive Director
Johns Hopkins Technology Transfer

Date: Dec. 20, 2013

CAPRICOR

By: /s/ Karen Krasney
Name: Karen Krasney
Title: EVP, General Counsel

Date: Jan. 9, 2014

***Confidential Treatment Requested**

Exhibit 10.35
*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

Amended and Restated
Technology License Agreement

This Amended and Restated License Agreement ("**Amended Agreement**") is entered into by and between**:**

Mayo Foundation For Medical Education And Research, a Minnesota charitable corporation, located at 200 First Street SW, Rochester, Minnesota 55905-0001 ("**MAYO**"); and

Nile Therapeutics, Inc., a Delaware corporation, (previously named Nile Pharmaceuticals, Inc.) located at 63 Bovet Rd. #421, San Mateo, California 94402 ("**NILE**"), each a "Party," and collectively, "Parties."

WHEREAS**,** the Parties entered into that certain Technology License Agreement with respect to a novel chimeric natriuetic peptide known as Cenderitide ("**CD-NP**") dated January 20, 2006 (the "**Original CD-NP Effective Date**"), which was amended by that certain amendment dated June 2, 2008 (collectively referred to as the "**Original CD-NP Agreement**");

WHEREAS**,** the Parties entered into that certain Technology License Agreement with respect to a synthetic natriuretic polypeptide known as "**CU-NP**" dated June 13, 2008 (the "**Original CU-NP Effective Date**")(referred to as the "**Original CU-NP Agreement**");

WHEREAS, the Parties are desirous of amending and restating the Original CD-NP Agreement and the Original CU-NP Agreement in their entirety and creating a single Amended and Restated Technology Licensee Agreement on the terms set forth below (the "**Amended Agreement**");

WHEREAS, MAYO possesses certain intellectual property and know-how relating to certain Products (as hereinafter defined), including, without limitation,**CD-NP** and **CU-NP,** and desires to make its patent rights available for the development and commercialization of the Products for public use and benefit;

WHEREAS, MAYO is willing to grant, and NILE is willing to accept, an exclusive license under certain patent rights for the purpose of developing and commercializing such Products, as set forth below; and

WHEREAS, NILE will have the exclusive rights to design, develop, commercialize, market, sublicense and sell any Products in accordance with the grant of rights hereunder;

NOW, THEREFORE, in consideration of the foregoing and their mutual covenants set forth below, the Parties agree as follows:

Article 1 - Definitions

For purposes of this Amended Agreement, each term defined in this Article will have the meaning specified for it below and will be applicable both to the singular and plural forms:

1.01"Affiliate":

(a) with respect to MAYO means any corporation or other entity within the same "controlled group of corporations" as MAYO or its parent, Mayo Clinic. For purposes of this definition, the term "controlled group of corporations" will have the same definition as Section 1563 of the Internal Revenue Code as of November 10, 1998, but will include corporations or other entities which if not a stock corporation, more than fifty percent (50%) of the board of directors or other governing body of such corporation or other entity is controlled by a corporation within the controlled group of corporations of MAYO or Mayo Clinic. MAYO's Affiliates include, but are not limited to: Mayo Clinic; Mayo Collaborative Services, Inc.; Mayo Clinic - Methodist Hospital; Mayo Clinic - Saint Marys Hospital; Mayo Clinic Florida; Mayo Clinic Arizona; and its Mayo Clinic Health System entities;

(b) with respect to NILE means any corporation or other person controlling, controlled by or under common control with NILE.

(c) The term "control" means the possession, directly or indirectly, of the power to direct the management and policies of a corporation or person, whether through the ownership of voting securities, by contract or otherwise. Control shall be deemed to exist in the case of the ownership, directly or indirectly, of 50% or more of the equity interests in any such corporation.

1.02 "Change of Control" shall mean a merger, consolidation, acquisition or transfer of all, or substantially all, of the business interests of NILE to which this Amended Agreement relates (each a "**transaction**"), where the total of all shareholders of NILE immediately prior to the effective date of such transaction beneficially own, immediately following the effective date of such transaction, securities representing less than 50% of the combined voting power of the surviving corporation's then outstanding voting securities.

1.03 "Commercialization" means all steps that must be taken to put a Product on the market in the Territory after all necessary regulatory approvals have been obtained, including, without limitation, the manufacturing, marketing, distribution and/or sublicensing of such Product.

1.04 "**Confidential Information**" means all confidential, unpublished, nonpublic and/or proprietary information of either Party and its affiliates, whether in written, printed, verbal or electronic form, including, without limitation: research and development activities, pre-clinical study information, clinical trial information and data, product design details and specifications, databases, equipment, electronic media products, protocols, technology and know-how, sales and marketing plans, finances and business forecasts, procurement requirements, vendor information, customer lists, personnel information, and strategic plans, related to the Development and Commercialization of a Product provided by one Party to the other in the course of their activities under this Amended Agreement. Confidential Information will not include information that: (a) is now, or hereafter becomes generally known or available to the public through no act or failure to act on the part of the receiving Party; (b) was acquired by the receiving Party before receiving such information from the disclosing Party through no breach of any duty of confidentiality owed to the disclosing Party and without restriction as to its use or disclosure; (c) is hereafter rightfully furnished to the receiving Party by a third party without any breach of any duty of confidentiality owed to the disclosing party and without restriction as to its use or disclosure; or (d) is information that the receiving Party can document was independently developed by the receiving Party without any use of the disclosing Party's Confidential Information.

1.05 "Development" means the process of creating and assembling the data and files necessary to obtain regulatory approval for a Product including, without limitation, all pre-clinical and clinical research and trials on such Product.

1.06 "Effective Date" means November 14, 2013, the effective date of this Amended Agreement.

1.07 "FDA" means the Food and Drug Administration within the Department of Health and Human Services of the United States.

1.08 "Field" means all therapeutic indications.

1.09 "Future Patents" means any patents and/or patent applications claiming Inventions invented after the Original CD-NP Effective Date, with respect to CD-NP, and after the

Original CU-NP Effective Date, with respect to CU-NP, and not identified on **Exhibit A,** through any use of the Patent Rights or Know-How licensed hereunder, which Inventions arise from work conducted by or under the direction of Dr. John Burnett, alone or jointly with NILE, and any patents and/or patent applications (including provisional patent applications) in any country corresponding to any of the foregoing, and all divisions, continuations, continuations-in-part, reissues, reexaminations, supplementary protection certificates and extensions thereof, whether domestic or foreign, and any patent that issues thereon. Future Patents shall be (i) owned by MAYO if invented by MAYO; (ii) owned by NILE if invented by NILE; or (iii) jointly owned by MAYO and NILE if jointly invented by MAYO and NILE. For the avoidance of doubt, NILE has been informed […***…].

1.10 "Government Rights" means rights, if any, of the United States Government to the MAYO Patents under Public Law 96-517 and Public Law 98-620, as amended or augmented by other similar laws.

1.11 "IND" means investigational new drug application to be filed with the FDA or its equivalent in a foreign jurisdiction.

1.12 "Invention" shall mean all unpatented, patentable and patented inventions, discoveries, designs, apparatuses, systems, machines, methods, processes, uses, devices, models, composition of matter, technical information, trade secrets, know-how, codes, programs or configurations of any kind which are in the Field.

1.13 "Know-How" means all technical information and data, whether or not patented, presently known or learned, invented, or (a) with respect to CD-NP, developed by Drs. John Burnett and/or Ondrej Lisy while they are employees of MAYO; and (b) with respect to CU-NP, developed by Drs. John Burnett and/or Candace Lee while they are employees of MAYO, and in each case, which is owned and controlled by Mayo and is useful in the Development and Commercialization of a Product to the extent that such technical information and data are necessary or useful for the use or practice of the MAYO Patents or Know-How as permitted herein. […***…].

1.14 "MAYO Improvements" means (a) with respect to CD-NP, any and all new developments relating solely to Products made by or arising out of the laboratories of Drs. John Burnett and Ondrej Lisy, while they were employees of MAYO during the […***…] following the Original CD-NP Effective Date; and (b) with respect to CU-NP, any and all new developments relating solely to Products made by or arising out of the laboratories of Drs. John Burnett and Candace Lee, while they were employees of MAYO during the […***…] following the Original CU-NP Effective Date, in each case, including improved methods of manufacture and production techniques, and shall include, but not be limited to, new or additional analogs of the Product, therapeutic indications and developments intended to enhance the safety and efficacy of the Product. The Parties agree that no MAYO Improvements were made during either, respective, […***…].

1.15 "MAYO Patents" means the issued United States and foreign patents and the pending applications of MAYO […***…] set forth in**Exhibit A**, attached hereto (including provisional patent applications) together with any and all substitutions, extensions, divisionals, continuations, continuations-in-part (to the extent that the subject matter is disclosed and enabled in the parents), or foreign counterparts of such patent applications and patents which issue thereon anywhere in the world, including reexamined and reissued patents, supplementary protection certificates and extensions thereof, whether domestic or foreign, and any patent that issues thereon.

1.16 "Net Sales" means the gross amount invoiced by NILE, its Affiliates or Sublicensees for the sale of a Royalty Bearing Product in the Territory to a third party, less the following:

(a) sales, tariff duties, excise or use taxes, value added taxes, directly imposed on or with reference to particular sales;

(b) credits or allowances for defective, rejected or returned Products; and

(c) regular trade and discount allowances;

provided, however, that sales of Products to hospitals or other institutions to be used in the conduct of clinical trials shall not be included in the calculation of Net Sales. Leasing, lending, consigning or any other activity by means of which a third party acquires the right to possession or use of a Product will be considered a sale for the purpose of determining Net Sales. If the Royalty Bearing Product is sold as part of a larger bundle or kit that incorporates or includes other products in addition to the Royalty Bearing Product, Net Sales will be computed using an average net selling price of the Royalty Bearing Product

sold separately, or if such net selling price is unavailable, it will be computed using that part of such sale as the Parties reasonably agree is allocated to the value of the Royalty Bearing Product as compared to the value of the larger bundle or kit sold with the Royalty Bearing Product.

1.17 "NDA" shall mean a New Drug Application to be filed in the United States with the FDA or its equivalent in a foreign jurisdiction.

1.18 "NILE Improvements" means any and all new developments relating to Products made by, discovered, or developed by or on behalf of NILE or arising out of NILE's laboratories or work conducted by NILE following the Original CD-NP Effective Date with respect to CD-NP, or following the Original CU-NP Effective Date with respect to CU-NP, including improved methods of manufacture and production techniques, and shall include, but not be limited to, new or additional analogs of the Product, therapeutic indications and developments intended to enhance the safety and efficacy of the Product. NILE Improvements shall be owned by NILE. For purposes of clarity, developments of MAYO shall not be considered as being developed by or on behalf of NILE unless otherwise agreed in writing by the parties.

1.19 "NILE Patents" means the issued United States and foreign patents and the pending applications of NILE related to the Products as set forth in **Exhibit B**, attached hereto (including provisional patent applications) together with any and all substitutions, extensions, divisionals, continuations, continuations-in-part (to the extent that the subject matter is disclosed and enabled in the parents), or foreign counterparts of such patent applications and patents which issue thereon anywhere in the world, including reexamined and reissued patents, supplementary protection certificates and extensions thereof, whether domestic or foreign, and any patent that issues thereon.

1.20 "Phase II" means a human clinical trial, the principal purpose of which is to evaluate the effectiveness of the Product for a particular indication in patients with the disease and to determine the common short-term side effects and risks associated with the Product as required in 21 C.F.R. §312. For purposes of this Amended Agreement, a Phase II study shall be deemed to have been initiated when the first patient in a new Phase II Study for chronic heart failure (excluding any clinical trial conducted by NILE prior to the Effective Date of this Amended Agreement) has been dosed with the Product.

1.21 "Phase III" means expanded controlled and uncontrolled human clinical trials performed after Phase II evidence suggesting effectiveness of the Product has been obtained, and is intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit-risk relationship of the Product and to provide an adequate basis for physician labeling, as required in 21 C.F.R. §312. If a Phase II/Phase III study is undertaken, a Phase III study will not be deemed initiated until the Phase II arm of the study has been completed and the final study report has been completed. A Phase III study shall be deemed to have been initiated when the first patient in the Phase III Study has been dosed with the Product.

1.22 "Product(s)" means any method, service or product within the Field, utilizing or derived in any manner whatsoever from any of the MAYO Patents, the manufacture, use, offer for sale, sale or importation of which would infringe the MAYO Patents or the NILE Patents.

1.23 "Reports" means written summaries for each Product generally describing NILE's efforts with respect to Development and Commercialization of a Product, including:

(a) tests and research completed;

(b) any filings made with any regulatory authorities;

(c) any regulatory approvals received;

(d) a response to any comments that MAYO has made to any earlier Report, including NILE's rationale for rejecting any suggestion contained in such comments;

(e) reports or minutes of any formal meetings with regulatory authorities, whether convened in person or otherwise; and

(f) any other major regulatory event, including but not limited to, placement of a "clinical hold" on a trial.

1.24 "**Royalty Bearing Product**" means any Product that is covered by any Valid Claim of one or more of the MAYO Patents or, in the case of a CD-NP Product, the NILE Patents.

1.25 "**Sublicensee"** means an entity to which NILE grants a sublicense under this Amended Agreement.

1.26 "Valid Claim" means an issued claim of any unexpired patent or claim of any pending patent application included among the MAYO Patents and the NILE Patents, (i) which has not been held unenforceable, unpatentable or invalid by a decision of a court or governmental body of competent jurisdiction, (ii) which is unappealable or unappealed within the time allowed for appeal, (iii) which has not been rendered unenforceable through disclaimer or otherwise, and (iv) which has not been lost through an interference proceeding or abandoned; provided, however, that an unissued claim in a pending application shall not constitute a Valid Claim beyond […***…] from the filing date of the application in which it is pending.

1.27 "Territory" means world-wide.

Article 2 -- Development and Commercialization

2.01 Prior Activities of Nile. The Parties acknowledge that pursuant to the Original CD-NP Agreement and the Original CU-NP Agreement, NILE implemented a program for the Development of the Products by:

(a) conducting a significant research and development program to develop the CD-NP Product;

(b) expending significant amounts towards the research and development of such Product; and

(c) complying with all applicable laws in performing its obligations under the Original CD-NP Agreement and the Original CU-NP Agreement, including in connection with obtaining the regulatory approvals.

NILE shall have the exclusive right to continue with the Development and Commercialization of the Products to make, have made, market, sell, import, export, distribute and otherwise commercialize the Products in the Territory, subject to the terms of this Amended Agreement.

2.02 Scientific Advisory Board. NILE will assemble a Scientific Advisory Board ("**SAB**") consisting of experienced thought leaders in the area of congestive heart failure. Dr. John Burnett and Dr. Horng Chen will be invited by NILE to participate with the SAB, subject to restrictions, if any, of MAYO's Medical/Industry Committee and Conflict of Interest Committee, and subject to their reasonable availability.

2.03 Development Plans and Reports. NILE agrees to provide MAYO with Reports semi-annually, within thirty (30) days of June 30th and December 31st of each calendar year during the Term hereof.

2.04 Consultation Regarding Reports. MAYO shall review the Reports and promptly inform NILE if MAYO reasonably believes that the Development or Commercialization plans presented in the Reports are not adequate for a Product. NILE and MAYO will mutually confer, provided however, notwithstanding anything to the contrary herein, NILE has the final decision-making authority regarding the Development and Commercialization of the Products, provided that, in any event, if NILE fails to perform its obligations as set forth in Section 7.05 below, MAYO shall have the right to exercise its rights to terminate this Amended Agreement in accordance therewith.

2.05 Receipt of Regulatory Approval. NILE shall notify MAYO within five (5) business days of receiving official notice of any regulatory approval for any Product.

Article 3 - Grant of Rights

3.01 Grant of Rights. MAYO grants to NILE, within the Field and Territory, an exclusive, world-wide, royalty-bearing license, with the right to sublicense pursuant to Section 3.08, under the MAYO Patents and Improvements, and a nonexclusive right under the Know-How, in each case to develop, make, have made, use, sell, import, offer to sell and commercialize Products within the Territory and within the Field.

3.02 First Right of Negotiation to Acquire Future MAYO Patents and New Improvements.

(a) With respect to any Future Patents and any improvements related to CD-NP and CU-NP developed after (i) the expiration of the […***…] commencing on the Original CD-NP Effective Date with respect to CD-NP, and (ii) the expiration of the […***…] commencing on the Original CU-NP Effective Date with respect to CU-NP ("**New Improvements**"), NILE shall have the exclusive right of first negotiation for, at NILE's option, the exclusive or non-exclusive rights to such Future Patents owned (solely or jointly) by or assigned to MAYO and any New Improvements owned (solely or jointly) by or assigned to MAYO, not falling within the definition of MAYO Patents or Improvements hereunder. Such exclusive first right of negotiation shall be effective as of 1 June 2016, or as of such date when NILE shall have paid to MAYO all Unpaid Fees. However, prior to the date that such right of first negotiation shall be effective, upon disclosure to Mayo Clinic Ventures of any Future Patents or New Improvements, MAYO shall give NILE written notification thereof and NILE shall have the right to pay all Unpaid Fees at that time, which payment shall initiate the period for the exclusive first right of negotiation. Such notification shall be treated as MAYO's Confidential Information.

(b) As of 1 June 2016, or as of such date when NILE shall have paid to MAYO all Unpaid Fees, NILE shall have […***…] days thereafter in which to negotiate to acquire the exclusive or non-exclusive rights to any such Future Patents and/or New Improvements, such negotiations to be concluded within […***…], unless extended by written agreement of the Parties. If the Parties are unable to agree on commercial terms within said

[…***…] negotiation period, MAYO shall have no further obligation to NILE and can freely disclose, dispose of and exploit such Future Patents and/or New Improvements.

3.03 Reservation of Rights. The grant of rights in Section 3.01 is subject to the government rights of the United States government, if any, in the MAYO Patents and Know-How, and subject to MAYO's reservation of rights to make, have made and use the MAYO Patents and Products on a royalty-free basis for MAYO's and its Affiliates' internal clinical, research and education programs.

3.04 Supply of Product. The Parties acknowledge that on January 15, 2013, NILE delivered to MAYO sufficient quantities of CD-NP to support MAYO's clinical and pre-clinical studies until […***…]. MAYO shall continue to support the CD-NP and CU-NP program through clinical and pre-clinical studies, as may be funded by grants from the National Institutes of Health and other institutions. Any future supply of CD-NP or CU-NP will be provided for these purposes by NILE, at NILE's cost, if such supply is available for such purposes at the time requested. Such request shall not be made more than once per calendar year. The Parties acknowledge that the Product supplied to MAYO has been delivered on an "AS-IS" basis without warranty of any kind. With respect to any Product delivered to MAYO by NILE, the following shall apply:

(a) **Intellectual Property Rights.** To the extent that Dr. John Burnett or Dr. Horng Chen develops or produces any Know-How, New Improvements or other intellectual property rights related to the Products (collectively "**Related IP**"), including Related IP resulting from any clinical trials conducted by MAYO using the Products, such Related IP shall be subject to the first right of negotiation granted to NILE hereunder as set forth in Section 3.02 of this Amended Agreement.

(b) **Right of Publication.** If MAYO wishes to publish, publicly disclose or submit for publication an article, manuscript, abstract, report, poster, presentation or other material (collectively "**Manuscrip**t") that includes any information with respect to any Know-How, New Improvements or other intellectual property rights related to the Products, including such Related IP resulting from any clinical trials conducted by MAYO using the Products, as would be reasonably required for purposes of publication in a peer-reviewed scientific journal, it may do so subject to the conditions set forth in subsection (i) below.

(i) **Review Period**. MAYO shall deliver a copy of the Manuscript or other materials intended for publication to NILE at least thirty (30) days prior to the earlier of publication or submission for publication. NILE will

review and respond with its comments, if any, within (30) days of receipt of such Manuscript or other materials. MAYO shall consider in good faith any comments submitted by NILE regarding the content thereof and shall delete any Confidential Information of NILE that NILE requests in writing be deleted. In no event will any Confidential Information of NILE be released in any Manuscript or other public release without NILE's prior written approval.

3.05 All Other Rights Reserved. Except as granted in Section 3.01 and 3.02, or as otherwise expressly granted herein, no other license is granted by MAYO under any intellectual property rights owned or controlled by MAYO, including any patents, know-how, copyrights, proprietary information, and trademarks. All such rights are expressly reserved by MAYO. Except as provided herein, NILE acknowledges that in no event will this Amended Agreement be construed as an assignment by MAYO to NILE of any intellectual property rights.

3.06 Confidentiality. During the Term, and for a period of […***…], each Party hereto agrees to keep confidential by not disclosing to any third party any Confidential Information disclosed by one Party (the "**Disclosing Party**") to the other (the "**Receiving Party**"). Additionally, each Party agrees not to use, at any time following the execution of this Amended Agreement, any Confidential Information of the other Party for its own benefit or for the benefit of any other person or entity for any purpose other than as is necessary for complying with the terms and conditions of this Amended Agreement.

(a) Nothing contained herein shall restrict or limit the ability of either Party to provide Confidential Information of the other Party, including, without limitation, pursuant to a demand by a government or regulatory authority or as otherwise may be required under applicable securities or other laws or regulations, provided the Receiving Party shall provide the Disclosing Party with prompt written notice of such requirement prior to such disclosure to allow the Disclosing Party to seek a protective order or other remedy where time permits. In the event that a protective order or other remedy is not obtained, or that the Disclosing Party waives compliance with the provisions hereof, Recipient agrees to furnish only that portion of the Confidential Information which Recipient reasonably believes is legally required to be furnished. For purposes of clarity, either Party shall have the right to disclose the terms and conditions of this Agreement to its professional advisors and other third parties with whom it is involved in business discussions so long as such third parties have executed written nondisclosure agreements with the Disclosing Party. For avoidance of doubt, any violation of the obligations stated in this Section 3.06 constitutes a material breach of this Amended Agreement.

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(b) Notwithstanding any other provision contained in this Amended Agreement, NILE shall have the right, without obtaining the prior written consent of MAYO, to disclose the existence of this Amended Agreement in filings made with the any government agency such as may be required to comply with applicable securities laws and in communications to its shareholders.

(c) The Receiving Party acknowledges and agrees that all of the Disclosing Party's Confidential Information is owned solely by the Disclosing Party's (or its licensors or Affiliates) and that nothing contained in this Amended Agreement will be construed as granting any rights to the Receiving Party, by license or otherwise, to any of the Disclosing Party's Confidential Information, all of which rights are specifically reserved by the Disclosing Party. The Receiving Party further agrees not to copy all or any part of the Confidential Information or any documentation related thereto except as necessary to support the performance of the Receiving Party under this Amended Agreement and further, not to modify, adapt, translate, reverse engineer, decompile, disassemble, or otherwise attempt to discover any additional information with respect to the Confidential Information. NO WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY THE DISCLOSING PARTY UNDER THIS AGREEMENT WITH RESPECT TO ANY CONFIDENTIAL INFORMATION DISCLOSED PURSUANT HERETO.

(d) The Receiving Party agrees that its obligations hereunder are necessary and reasonable to protect the Disclosing Party's business interests and that the unauthorized disclosure or use of the Disclosing Party's Confidential Information may cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. The Receiving Party further acknowledges and agrees that in the event of any actual or threatened breach of this Amended Agreement, the Disclosing Party may have no adequate remedy at law and accordingly, that the Receiving Party may have the right to seek an immediate injunction enjoining any breach or threatened breach of this Amended Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such breach or threatened breach.

(e) This Agreement shall apply to any Confidential Information disclosed to the Receiving Party after the Original CD-NP Effective Date and to Confidential Information disclosed earlier to the extent the parties began discussions prior to the Effective Date.

(f) Upon the request of the Disclosing Party, the Receiving Party will promptly return to the Disclosing Party or destroy (at the Disclosing Party's option) all material embodying Confidential Information in its possession or under its control, including all written material, software, CD's, DVD's or other medium on which Confidential Information is stored and the like, and all copies and derivatives thereof. Notwithstanding the foregoing, the Receiving Party may retain in its legal files one copy of the Confidential Information solely to support compliance with the Agreement. Notwithstanding the foregoing, it is acknowledged that copies that reside on computer system backups will not be destroyed. Retention of information on a backup computer system beyond the period of protection shall not relieve the Receiving Party of its non-disclosure and non-use obligations.

3.07 Availability of Product to MAYO . Once a Product becomes commercially available, to the extent permitted by law, NILE willprovide Products to MAYO and their Affiliates solely for it and their use for internal clinical, research and education programs in the Field at most favored nation pricing, *i.e.* no more than the lowest price available to NILE's commercial customers for the Products for use in the Field.

3.08 Sublicensee Actions. NILE may enter into sublicensing agreements under the MAYO Patents and Future Patents, Know-How and New Improvements, if applicable. NILE shall not receive, or agree to receive, anything of value in lieu of cash or equity as consideration from a third party under a sublicense agreement without the prior written consent of MAYO. For purposes of clarity, Sublicense consideration shall not include (a) any amounts paid to NILE specifically designated for co-development purposes, pre-clinical and clinical research and development of the Product, (b) any amounts paid to NILE for product manufacturing, or (c) purchases of debt or equity securities of NILE. NILE agrees that any sublicense agreement shall (i) contain provisions at least as favorable to MAYO for the protection of MAYO's rights and the limitation of MAYO's liability exposure as the terms of this Amended Agreement, including without limitation with respect to name use, limitation of liability and indemnification and development and commercialization obligations commensurate in scope as those set forth for NILE in this Amended Agreement, (ii) to the fullest extent applicable, contain all rights and obligations due to MAYO contained in this Amended Agreement, (iii) name MAYO as a third party beneficiary and (iv) not permit the sublicensee to grant further sublicenses, *provided, however*, that a sublicensee may grant further sublicenses with MAYO's prior, written, express consent. NILE shall be and remain responsible for enforcing such sublicensees' obligations under the respective sublicense agreement, and any action by a sublicensee that would, if conducted by NILE, be a breach of this Amended Agreement, shall be deemed a breach of this Amended Agreement by NILE; provided, however, that NILE shall have sixty (60) days after notice from MAYO of any such breach in which to cure the same. NILE shall ascertain, calculate, audit and collect all royalties that become payable by such sublicensee hereunder and take appropriate enforcement action against such Sublicensee for any failure to pay or to properly calculate payments. Any purported sublicense in violation of this Section 3.08 shall be void. NILE shall furnish to MAYO a true and complete copy of each sublicense agreement and each amendment thereto, within thirty (30) days after the sublicense or amendment has been executed, which copy shall be the Confidential Information of NILE.

Article 4 - Consideration and Royalties

4.01 Initial Consideration and Other Payments to MAYO.

(a) The Parties acknowledge that upon execution of the Original CD-NP Agreement, NILE paid MAYO an up-front payment of […***…] as consideration for entering into the Original CD-NP Agreement. This initial payment is nonrefundable and is not an advance or creditable against any royalties otherwise due under this Amended Agreement.

(b) The Parties acknowledge that upon execution of the Original CU-NP Agreement, NILE paid MAYO an up-front payment of […***…] as consideration for entering into the Original CU-NP Agreement. This initial payment is nonrefundable and is not an advance or creditable against any royalties otherwise due under this Amended Agreement.

(c) The Parties acknowledge that pursuant to the Original CD-NP Agreement, NILE issued to MAYO 827,651 shares of NILE common stock.

(d) The Parties acknowledge that pursuant to the Original CD-NP Agreement, on MAYO's behalf and at MAYO's direction, NILE issued 551,767 shares of NILE common stock to Florida Research Heart Foundation.

(e) The Parties acknowledge that pursuant to the Original CU-NP Agreement, NILE issued to MAYO 49, 689 shares of NILE Common Stock.

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(f) The Parties acknowledge that pursuant to Section 4.03 of the Original CD-NP Agreement, NILE issued to MAYO an additional 63,478 shares of NILE Common Stock in relation to the Discovery Translation Award to Dr. Burnett.

(f) The Parties acknowledge that in July 2008, pursuant to the Original CD-NP Agreement, NILE made a milestone payment of $400,000 to MAYO.

(g) The Parties acknowledge and agree that no further milestone payments shall be due to MAYO under the Original**CD-NP** Agreement or the Original CU-NP Agreement.

(h) Upon execution of this Amended Agreement, NILE shall issue to MAYO four hundred thousand (400,000) shares of NILE's unregistered Common Stock as additional consideration for the grants of rights hereunder with respect to CD-NP.

(i) Upon execution of this Amended Agreement, NILE shall issue to MAYO five hundred thousand (500,000) shares of NILE's unregistered Common Stock as additional consideration for the grants of rights hereunder with respect to CU-NP.

The stock to be provided in accordance with Section 4.01 (h and i) shall be issued to MAYO and, subject to compliance with applicable federal and state securities laws, to MAYO employees and third parties, as directed by MAYO. All stock shall be remitted to MAYO for distribution.

4.02 Milestone Payments. Upon the occurrence of an event listed below, NILE will make the following payments to MAYO:

[…***…]

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[…***…]

4.03 Earned Royalties.

(a) **CD-NP Products.** NILE or its Sublicensees will pay MAYO […***…] of the Net Sales of Royalty Bearing CD-NP Products covered by at least one Valid Claim of the MAYO Patents or the NILE Patents in the Territory in which the Product is sold. The Earned Royalties shall be payable in accordance with Section 5.01. Royalty Bearing CD-NP Products transferred to MAYO or its Affiliates are not considered transfers for purposes of determining Net Sales or for calculating Earned Royalties. No Earned Royalties are due MAYO on transfers to MAYO or MAYO Affiliates.

(b) **CU-NP Products.** NILE or its Sublicensees will pay MAYO […***…] of the Net Sales of Royalty Bearing CU-NP Products covered by at least one Valid Claim of the MAYO Patents in the Territory in which the Product is sold, in each case, where such Patents pertain to CU-NP. The Earned Royalties shall be payable in accordance with Section 5.01. Royalty Bearing CU-NP Products transferred to MAYO or its Affiliates are not considered transfers for purposes of determining Net Sales or for calculating Earned Royalties. No Earned Royalties are due MAYO on transfers to MAYO or MAYO Affiliates. If in any calendar year, NILE or a Sublicensee, makes

payments other than those required in this Agreement in order to obtain or maintain license rights necessary to develop, make, have made, use, offer to sell, import or otherwise commercialize a Royalty Bearing CU-NP Product, NILE or its Sublicensee shall have the right to deduct such payments from the Royalties otherwise payable hereunder with respect to such Royalty Bearing CU-NP Product, provided that the Royalties to be paid hereunder shall not be reduced to less than […***…] in such calendar year, and provided further, that no such reduction shall apply if such payments are made solely in respect of licenses for technology separate from the Products themselves, such as a delivery system.

(c) Only one royalty shall be due and payable for the manufacture, use or sale of a Royalty Bearing Product, irrespective of the number of claims within the Patents that would be infringed by the manufacture, use or sale of a Royalty Bearing Product.

4.04 License Maintenance Fees. Subject to the abatement provisions set forth in Section 4.05 of this Amended Agreement, in order for NILE to maintain its exclusive license, NILE will be required to pay MAYO a License Maintenance Fee of […***…] per calendar year for each of CD-NP and CU-NP until the first patient is dosed in a Phase III clinical trial of CD-NP or CU-NP, as applicable, after which such License Maintenance Fee shall increase to […***…] in each calendar year thereafter for each of CD-NP and CU-NP, until termination or expiration of this Amended Agreement. The License Maintenance Fees shall be due on or before the 17 th day of January during each calendar year during the Term so long as this Amended Agreement remains in force and effect. Except as otherwise provided in Section 4.05, the failure to pay License Maintenance Fees shall be considered a material breach of this Amended Agreement.

4.05 Temporary Financial Relief. The Parties hereby acknowledge and agree that pursuant to the terms of the Original CD-NP Agreement and the Original CU-NP Agreement, as of the Effective Date of this Amended Agreement, NILE owes MAYO the negotiated sum of […***…] for past due Know-How fees, lab work, License Maintenance Fees and MAYO Patent prosecution and maintenance fees (collectively, the "**Unpaid Fees**"). Subject to satisfaction by NILE of the payment terms in Exhibit C and Section 8.01, the Parties agree that any additional fees and amounts owing, whether or not billed, accrued or incurred prior to the date of this Amended Agreement are hereby waived and extinguished. MAYO hereby further waives any and all breaches and defaults by NILE occurring under the Original CD-NP Agreement and the Original CU-NP Agreement prior to the Effective Date of this Amended Agreement including, without limitation, defaults for nonpayment of the Unpaid Fees. NILE shall repay the Unpaid Fees, with interest, as specified in **Exhibit C**.

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4.06 Interest. Any payment that is not made on or before the date when due under this Amended Agreement shall accrue interest thereon from and including such date and until but excluding the date of payment. The interest rate will be set at a per annum rate equal to LIBOR plus two per-cent (2%) for a one-year deposit in U.S. dollars as of the day the payment became due and shall be annually reset to the LIBOR rate existing on each anniversary date thereafter until paid.

4.07 Taxes. NILE is responsible for all applicable taxes (other than net income taxes), duties, import deposits, assessments, and other governmental charges, however designated, that are now or hereafter will be imposed by any authority in or for the Territory, based on or relating to:

(a) the Product or use of the MAYO Patents by NILE and/or NILE's Sublicensees; or

(b) the import of the Product into the Territory by NILE and/or NILE's Sublicensees.

Notwithstanding the foregoing, NILE shall not be responsible for any taxes arising from transactions to which MAYO or any of its Affiliates may be parties exclusive of transactions with NILE.

4.08 No Deductions for Taxes. Except as otherwise stated herein, or unless otherwise agreed to in writing by MAYO and NILE, all payments to be made by NILE to MAYO under this Amended Agreement represent net amounts MAYO is entitled to receive, and shall not be subject to any deductions or offsets by NILE for any reason whatsoever unless otherwise specifically set forth in this Amended Agreement. NILE, however, is not responsible for any payments, including income tax, required to be paid by MAYO on funds received from or on behalf of NILE.

4.09 U.S. Currency. All payments to MAYO under this Amended Agreement will be made by draft drawn on a United States bank, and payable in United States dollars.

4.10 Material Breach. It shall be a material breach of this Amended Agreement if NILE shall fail to make any payment **pursuant to Article 4 of** this Amended Agreement when such payment is due or by the end of any applicable cure period.

Article 5 - Accounting and Reports

5.01 Royalty Reports and Payments. NILE will, after Commercialization of at least one Product, deliver to MAYO on or before July 15th and January 15th of each calendar year a written report for the previous 6-month period (*i.e.* January – June and July – December, respectively) stating, for each Product and for each country in the Territory in which there are Net Sales:

(a) the number of Products sold during the period covered by the written report;

(b) a description of all deductions from gross receipts applied to determine Net Sales;

(c) the amount of royalties due thereupon for the period covered by the written report; and

(d) the exchange rates used to calculate the royalties due.

Each such report shall be accompanied by the royalty payment due for such 6-month period in accordance with this Article 5.

5.02 Audit Rights. NILE agrees to maintain the Records and to require any permitted Sublicensees to maintain the Records. "**Records**" mean complete and accurate records showing clearly all transactions that are relevant to any sales, costs, expenses and payments under this Amended Agreement, to be kept in a manner consistent with generally accepted accounting principles and standard operating procedures. MAYO shall have the right, at its expense, through a certified public accountant or like person reasonably acceptable to NILE, to examine the records of NILE and its Sublicensees during regular business hours before the Termination or expiration of this Amended Agreement and for three (3) years thereafter, provided that such examination shall not take place more often than once a year and shall be limited to a report on the accuracy of royalty statements and payments. If the audit report for any License Year discloses an underpayment discrepancy in royalties owed by NILE and royalties paid by NILE to MAYO that exceeds five percent (5%) of total Net Sales or Sublicense Revenue made until the date of completion of the audit, NILE shall pay the reasonable expense of the audit and pay to MAYO the entire amount of the discrepancy plus interest within thirty (30) days from the date upon which MAYO notified NILE of the discrepancy. Interest shall be computed at the rate which is set forth in Section 4.06 above. Discrepancies in royalty payments for a License Year identified by the audit report amounting to less than five percent (5%) shall be paid by the end of the calendar quarter in which the audit was made.

Article 6 – Representations, Warranties and Indemnification

6.01 Representations and Warranties.

(a) MAYO hereby represents and warrants to the best of its counsel's knowledge the following:

(i) MAYO has the full right and power to perform the obligations and grant the License set forth in this Agreement;

(ii) There are no outstanding agreements, assignments or encumbrances in existence inconsistent with the provisions of this Amended Agreement.

(iii) Subject to Section 3.03, MAYO owns or possesses all right, title and interest in and to the MAYO Patents free and clear of all liens, charges, encumbrances or other restrictions or limitations of any kind whatsoever.

(iv) Subject to Section 3.03, there are no licenses, options, restriction, liens, rights of third parties, disputes, royalty obligations, proceedings or claims relating to, affecting, or limiting its rights or the rights of NILE under this Amended Agreement, which imposes obligations upon MAYO or gives any rights to MAYO which, in either case, would adversely affect the rights of NILE or the obligations of MAYO under this Amended Agreement.

(v) There is no claim, pending or threatened, of infringement, interference or invalidity regarding, any part or all of the MAYO Patents and their use as contemplated in the underlying patent applications as presently drafted or as contemplated under this Amended Agreement.

(vi) MAYO has provided, or shall provide prior to the execution of this Amended Agreement, a copy of all pending patents and applications related to CD-NP and CU-NP.

(b) NILE hereby represents and warrants to the best of its knowledge it does not know of any prior art that NILE would have the obligation to disclose pursuant to Section 7.04 hereto.

6.02 No Warranties. Notwithstanding the foregoing, nothing in this Amended Agreement will be construed as:

(a) a warranty or representation by MAYO as to the validity or scope of any of the MAYO Patents; or

(b) an obligation to bring or to prosecute actions against third parties for infringement of the MAYO Patents; or

(c) a warranty or representation that the manufacture, use, sale, offer for sale or importation of any Product or the use or practice of any of the MAYO Patents are free from infringement or misappropriation of a third party's intellectual property rights.

6.03 Disclaimer. MAYO HAS NOT MADE AND PRESENTLY MAKES NO PROMISES, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, REGARDING THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT FOR THE PRODUCTS OR MAYO PATENTS. THE KNOW-HOW AND MAYO PATENTS PROVIDED OR LICENSED UNDER THIS AMENDED AGREEMENT ARE PROVIDED "AS IS," "WITH ALL FAULTS," AND "WITH ALL DEFECTS".

NILE is solely responsible for determining whether the MAYO Patents and Know-How provided or licensed hereunder have applicability or utility in NILE's manufacturing and design activities. NILE assumes all risk and liability in connection with such determination.

6.04 Indemnification.

(a) **Indemnification by NILE.** NILE will defend, indemnify, and hold harmless MAYO and MAYO's Affiliates from any and all third party claims, actions, demands, judgments, losses, costs, expenses, damages and liabilities (including but not limited to reasonable attorneys' fees and other out-of-pocket expenses incurred in litigation) (collectively, "**Claims**"), regardless of the legal theory asserted, arising out of or connected with: (a) the use by NILE of the MAYO Patents, MAYO Future Patents, Know-How or New Improvements, if any, furnished or licensed under this Amended Agreement; (b) the development, design, manufacture, distribution, use, sale, or other disposition of products, including Products, by NILE or its transferees; and (c) any act or omission of NILE, including any clinical trial funded or conducted by NILE, unless such Claims are judicially determined to have arisen out of the negligence or willful misconduct of MAYO or its Affiliates. As used herein, MAYO and its Affiliates include the trustees, officers, agents, and employees of MAYO and its Affiliates. NILE will, during the Term, carry occurrence-based business liability insurance, including products liability (when applicable), in an amount and for a time period sufficient to cover the liability assumed by NILE hereunder, such amount being at least Three Million Dollars (US $3,000,000), provided that a lesser amount shall be acceptable to MAYO until such time as the Product enters into human clinical trials. In addition, such policy will name MAYO as an additional-named insured party.

(b) **Indemnification by MAYO**. MAYO will defend, indemnify, and hold harmless NILE and NILE's Affiliates from any and all third party claims, actions, demands, judgments, losses, costs, expenses, damages and liabilities (including but not limited to reasonable attorneys' fees and other out-of-pocket expenses incurred in litigation) (collectively, "**Claims**"), regardless of the legal theory asserted, arising out of or connected with: (a) the use by MAYO of any drug products provided by NILE pursuant hereto in any pre-clinical or clinical trial funded or conducted by MAYO, unless such Claims are judicially determined to have arisen out of the negligence or willful misconduct of NILE or its Affiliates. As used herein, NILE and its Affiliates include the trustees, officers, agents, and employees of NILE and its Affiliates and successors in interest. MAYO will, during the Term, carry occurrence-based liability insurance and contractual liability, in an amount and for a time period sufficient to cover the liability assumed by MAYO hereunder, such amount being at least […***…].

(c) **Procedure**. With respect to any Claim giving rise to indemnification hereunder, the indemnitee shall be required to tender the defense thereof to the indemnifying Party and the indemnifying Party shall have the right to assume sole control of the defense, settlement or disposition thereof, including, without limitation, the selection of defense counsel. The indemnitee shall be required to fully cooperate with the indemnifying Party in the defense and settlement of all such Claims at the indemnifying Party's request and expense. If the indemnifying Party assumes any such defense, the indemnifying Party shall not be liable for any legal or other expenses subsequently incurred directly by the indemnitee in connection with such defense. So long as the indemnifying Party is diligently conducting the defense of the claim, (i) the indemnitee will not consent to the entry of any judgment or enter into any settlement with respect to the Claim without the prior written consent of the indemnifying Party, and (ii) the indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Claim without the prior written consent of the indemnitee, which consent will not be unreasonably withheld or delayed; provided, however, that such consent of the indemnitee will not be required if the judgment or settlement contains a full release of Claims against the indemnitee and does not contain any admission of wrongdoing by the indemnitee. Notwithstanding any other provision of this subsection, if an indemnitee withholds its consent to a bona fide settlement offer, where but for such action the indemnifying Party could have settled such Claim, the indemnifying Party will be required to indemnify the indemnitee only up to a maximum of the bona fide settlement offer for which the indemnifying Party could have settled such claim.

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6.05 Additional Waivers. IN NO EVENT WILL EITHER PARTY'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL, OR FUTURE DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO CASE WILL MAYO'S LIABILITY OF ANY KIND EXCEED THE TOTAL AMOUNTS WHICH HAVE ACTUALLY BEEN PAID TO MAYO BY NILE AS OF THE DATE OF FILING OF THE ACTION AGAINST MAYO WHICH RESULTS IN THE SETTLEMENT OR AWARD OF DAMAGES.

Article 7 - Term and Termination

7.01 Term. Unless sooner terminated, this Amended Agreement shall continue in full force and effect until the later of (a) the expiration of the last to expire Valid Claim contained in the MAYO Patents, or (b) the 20th anniversary of this Amended Agreement. Upon such expiration, NILE shall be deemed to have a fully paid-up license to any Know-How as provided in Section 3.01 herein.

7.02 Material Breach. MAYO shall be entitled to terminate this Amended Agreement at any time based upon material breach if NILE has failed to cure such material breach within […***…] of receipt of notice by NILE from MAYO that NILE is in breach. Any such notice from MAYO shall identify with specificity the basis for its assertion of material breach.

7.03 Termination for Other than Material Breach. NILE may terminate this Amended Agreement without cause upon ninety (90) days prior written notice to MAYO.

7.04 Termination for Challenge. MAYO may terminate this Amended Agreement by transmitting a notice of termination to NILE in the event NILE challenges the validity or enforceability of any of the MAYO Patents Rights in any manner; provided, however, that notwithstanding anything contained in this Section 7.04, if NILE believes that it has the obligation under applicable law to disclose prior art to any applicable patent authority or office, such disclosure shall not be deemed a challenge for purposes of this Section 7.04 and MAYO shall not have the right to terminate the licenses granted pursuant to this or any other agreement. NILE will notify MAYO of any disclosure made by it pursuant to this Section.

7.05 Termination for Development Delay. MAYO may terminate this Amended Agreement by transmitting a notice of termination to NILE in the event NILE or a Sublicensee (a) has not initiated the next clinical trial of a CD-NP Product within […***…] after the Effective Date of this Amended Agreement or (b) has not initiated a clinical trial of a CU-NP Product within […***…] after the Effective Date of this Amended Agreement. For purposes of clarity, initiation of a clinical trial shall be deemed to have occurred when the first person enrolled in the clinical trial has been dosed with the Product. The selection of the Product to be evaluated in the next clinical trial shall be at the sole discretion of NILE or its Sublicensee, and the initiation of such clinical trial shall constitute full satisfaction of NILE'S diligence obligations under this Agreement with respect to the Products. If MAYO transmits a notice of Termination for Development Delay, then NILE shall transfer to MAYO (a) whatever rights NILE has in pre-clinical and clinical studies related to the Products; and (b) any rights NILE may have in any active INDs related to the Products. If MAYO fails to transmit a notice of termination to NILE to terminate this Amended Agreement and NILE then initiates a clinical trial of a Product, then upon such initiation, MAYO'S right to terminate for a development delay shall be extinguished and of no further force or effect.

7.06 Insolvency of Company. MAYO shall have the right to terminate this Amended Agreement by transmitting a notice of termination to NILE in the event NILE ceases conducting business in the normal course, files for bankruptcy protection, makes a general assignment for the benefit of creditors, admits in writing its inability to pay its debts as they are due, permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under any statute of any governing authority relating to insolvency or the protection of rights of creditors. In such event, NILE will provide copies (or the originals if available) of all toxicity, efficacy and other data generated by NILE and NILE will transfer to MAYO any rights NILE may have in any active INDs related to Products.

7.07 Effect of Termination. Upon termination of this Amended Agreement, all rights granted herein will immediately revert to MAYO with no further notice or action required on MAYO's behalf. NILE shall also transfer to MAYO those items and rights set forth in Section 7.05(a) and (b) above and other data generated solely by NILE (including by contractors or agents on their behalf) in the course of NILE's efforts to develop Products or obtain governmental approval for the sale of Products, for use in connection with the development and commercialization of Products. For purposes of clarity, NILE shall not be obligated to transfer to MAYO any rights it may have in the NILE Patents.

7.08 Survival. The following obligations survive the expiration or termination of this Amended Agreement:

(a) NILE's obligation to supply reports covering the time period up to the date of termination or expiration;

(b) MAYO's right to receive payments, fees, and royalties accrued or accruable from payment at the time of any termination or expiration;

(c) NILE's obligation to maintain records after termination for the period required by applicable law, and MAYO's right to have those records inspected during such period;

(d) any cause of action or claim of MAYO, accrued or to accrue, because of any action or omission by NILE for a period of […***…] after the termination;

(e) any cause of action or claim of NILE, accrued or to accrue, because of any action or omission by MAYO for a period of […***…] after the termination;

(f) NILE's obligations stated in Sections 3.06 and 3.08; Sections 7.07, 7.09 and 7.10; and the applicable sections of Articles 6 and 10; and

(g) MAYO's obligations stated in Section 3.06, 7.09 and 7.10 and the applicable sections of Articles 6 and 10.

7.09 Inventory. NILE shall notify MAYO within thirty (30) days of the effective date of termination of this Amended Agreement the amounts, if any, of Product that NILE, its Sublicensees and distributors then have in inventory in each country or Territory. At MAYO's election, NILE, its Sublicensees and distributors may sell the Product in that country or Territory if NILE pays any royalties due thereon in accordance with Sections 4.03 and 5.01. In the event that MAYO does not permit the sale of the inventory, MAYO will direct NILE to return the inventory to MAYO or to destroy the inventory; provided that MAYO shall pay to NILE the full then current market price thereof, including the cost of shipping, insurance and costs of destruction, if any.

***Confidential Treatment Requested**

7.10 Return of Confidential Information. Within thirty (30) days of the effective date of termination of this Amended Agreement, each of the Parties shall return all of the other Party's Confidential Information, including all copies thereof; provided, however, that each Party shall be entitled to retain one copy of all such Confidential Information in its legal department so that any continuing obligations of confidentiality may be determined.

Article 8 – Filing, Prosecution and Maintenance of the MAYO Patents.

8.01 Filing, Prosecution and Maintenance of the MAYO Patents. Following execution of this Amended Agreement, NILE shall be responsible for the prosecution and maintenance of all MAYO Patents and MAYO Patent applications, at NILE's expense, using counsel reasonably acceptable to MAYO, and shall keep MAYO informed of prosecution. NILE shall also be responsible for paying any prosecution and maintenance fees of all MAYO Patents and MAYO Patent applications now existing and included in this Amended Agreement, which services were rendered after April 1, 2013.

8.02 Term Extension for the MAYO PATENTS. NILE will have the sole right to decide on which of the MAYO Patent(s) to obtain a patent term extension; provided that NILE will consider MAYO's input on the matter.

Article 9 – MAYO Patent Enforcement

9.01 Third Party Litigation. In the event a third party institutes a suit against NILE for patent infringement involving a Product, NILE will promptly inform MAYO and keep MAYO regularly informed of the proceedings. In the event the third party sues or joins MAYO, NILE will have the right to control the defense of the suit provided, however, that MAYO may be represented by counsel of its own selection, and at its own expense. Each Party will bear its own costs of the suit and with respect to any suit defended by NILE, NILE will be entitled to all sums recovered, after each party has been reimbursed for its respective legal fees and costs. If NILE declines to defend the action, MAYO shall have the right to control the defense of the suit provided, however, that NILE may be represented by counsel of its own selection, and at its own expense. With respect to any suit defended by MAYO, MAYO will be entitled to all sums recovered, after each party has been reimbursed for its respective legal fees and costs.

9.02 Infringement by Third Party. NILE and MAYO will promptly inform the other Party in writing of any alleged infringement of any MAYO Patent and provide the other Party with available evidence of such infringement, and MAYO and NILE will have the right to
institute an action for infringement of the MAYO Patents consistent with the following:

(a) If MAYO and NILE agree to institute suit jointly, then the suit will be brought in the names of both parties. NILE will exercise control over such action, provided, however, that MAYO may, if it so desires, be represented by counsel of its own selection, and at its own expense.

(b) In the absence of an agreement to institute a suit jointly, NILE may institute suit and, at its option, join MAYO as a plaintiff. In that event, NILE will bear the entire cost of such litigation, including attorneys' fees. MAYO will cooperate reasonably with NILE, except financially, in such litigation. NILE will not settle or enter into a voluntary disposition of the action without MAYO's prior written consent, which consent shall not be unreasonably withheld.

(c) In the absence of an agreement to institute a suit jointly, and if NILE determines not to institute a suit, as provided in paragraph (b) of this Section 9.02, then MAYO may institute suit and, at its option, join NILE as a plaintiff in the litigation. MAYO will bear the entire cost of such litigation, including attorneys' fees. NILE will cooperate reasonably with MAYO, except financially, in such litigation. MAYO will not settle or enter into a voluntary disposition of the action without NILE's prior written consent, which consent shall not be unreasonably withheld.

(d) Absent an agreement to the contrary, any recovery from any such action shall (i) first be applied to reimburse the costs and expenses of the Party bringing the action; (ii) second, to reimburse the costs and expenses of the other Party in connection with the action; and (c) […***…].

(e) If either Party institutes a suit under this Section 9.02 and then decides to abandon the suit, it will first provide timely written notice to the other Party of its intention to abandon the suit, and the other Party, if it wishes, may continue prosecution of such suit, provided, however, that the sharing of expenses and the treatment of any recovery in such suit will be agreed-upon separately by the Parties.

9.03 MAYO Patent Marking. To the extent commercially feasible and customary in the trade, NILE will mark all Products that are manufactured or sold under this Amended Agreement with the number of each issued patent within the MAYO Patents and/or NILE Patents that cover such Product(s). Any such marking will be in conformance with the patent laws and other laws of the country of manufacture or sale.

***Confidential Treatment Requested**

Article 10 – General Provisions

10.01 Name Use. This Amended Agreement does not convey any right to use any of the other Party's names or logos other than where required by law, rule or regulation. Neither Party may use publicly for publicity, promotion, or otherwise, any logo, name, trade name, service mark or trademark of the other Party or its Affiliates, or any simulation, abbreviation or adaptation of the same, or the name of any of the other Party's employee or agent without such other Party's prior, written, express consent other than where required by law, rule or regulation. MAYO's marks include, but are not limited to, the terms "MAYO®" and "MAYO CLINIC®." Any violation of this Section 10.01 constitutes a material breach of this Amended Agreement. Upon execution of this Amended Agreement, representatives of the Parties shall agree upon a mutually acceptable form of disclosure that can be utilized by either of them without obtaining the prior consent of the other Party.

10.02 Assignment. NILE may assign its rights and obligations under this Amended Agreement to (a) an Affiliate or (b) a third party in conjunction with an acquisition or Change of Control; in each case without MAYO's prior written consent; provided that NILE shall remain responsible for the performance of its assignee, the assignee agrees to assume and be bound by the provisions of this Amended Agreement in writing and NILE promptly notifies MAYO of such assignment. MAYO's written consent, which shall not be unreasonably withheld, conditioned or delayed, shall be required prior to any other assignment of NILE's rights or obligations hereunder. Any other purported assignment is void.

10.03 Waiver. The failure of a Party to complain of any default by another Party or to enforce any of such Party's rights, no matter how long such failure may continue, will not constitute a waiver of the Party's rights under this Amended Agreement. The waiver by a Party of any breach of any provision of this Amended Agreement shall not be construed as a waiver of any subsequent breach of the same or any other provision. No part of this Amended Agreement may be waived except by the further written agreement of the Parties.

10.04 Governing Law and Jurisdiction. This Agreement shall be governed by and construed under the laws of the State of Delaware, without regard to its conflict of law provisions. To the extent the substantive and procedural law of the United States would apply to this Agreement, it supersedes the application of Delaware law.

10.05 Headings. The headings of articles and sections used in this document are for convenience of reference only, and shall not affect the meaning or interpretation of this Amended Agreement.

10.06 Notices. All notices and other business communications between the Parties related to this Amended Agreement shall be in writing, shall be sent by (a) first class mail, certified, (b) nationally recognized courier service, (c) personal delivery or (c) facsimile or electronic mail, and in each case shall be addressed to the Parties at the addresses set forth below or to such other address(es) as may be furnished by written notice in the manner set forth herein. Notice shall be deemed to have been served 48 hours after posting. Notices delivered by personal service or courier shall be deemed served on the documented date of delivery and if sent by facsimile or electronic transmission, on the day when the fax or e-mail was sent to the other Party provided that the sending Party has a confirmed receipt and that the deemed day of receipt of the notice by receiving Party was on a working day of the receiving Party and within business hours, otherwise, it will be deemed received on the following working day. Notices shall be sent to the following:

If to MAYO:

Mayo Foundation for Medical Education and Research
Mayo Clinic Ventures
200 First Street SW
Rochester, Minnesota 55905-0001
Attn: Ventures Operations
Telephone:507-293-3900
Facsimile:507-284-5410
Email:intellectualproperty@mayo.edu

COPY TO:
Mayo Legal
Attn: General Counsel
Telephone: 507-284-2650
Facsimile: 507-284-0929

If to NILE:

Nile Therapeutics, Inc.
63 Bovet Rd. #421
San Mateo, CA 94402
Attn: […***…]
Telephone: […***…]
Email: […***…]

***Confidential Treatment Requested**

Notices sent by certified mail shall be deemed delivered on the third day following the date of mailing. A Party may change its address or facsimile number by giving written notice in compliance with this section.

10.07 Limitation of Rights Created. This Amended Agreement is intended only to benefit the Parties hereto and is not intended to confer upon any other person any rights or remedies hereunder.

10.08 Independent Contractors. It is mutually understood and agreed that the relationship between the Parties is that of independent contractors. No Party is the agent, employee, or servant of the other. Except as specifically set forth herein, no Party shall have or exercise any control or direction over the methods by which the other Party performs work or obligations under this Amended Agreement. Further, nothing in this Amended Agreement is intended to create any partnership, joint venture, or lease, expressly or by implication, between the Parties.

10.09 Entire Agreement. This Amended Agreement constitutes the final, complete and exclusive agreement between the Parties with respect to its subject matter and supersedes all past and contemporaneous agreements, promises, and understandings, whether oral or written, between the Parties including the Original Agreement.

10.10 Binding Effect. This Amended Agreement shall be binding upon and inure to the benefit of the Parties, their heirs, legal representatives, successors and assigns.

10.11 Severability. In the event any provision of this Amended Agreement is held to be invalid or unenforceable, the remainder of this Amended Agreement shall remain in full force and effect as if the invalid or unenforceable provision had never been a part of this Amended Agreement.

10.12 Amendments. This Amended Agreement may not be amended or modified except by a writing signed by the Parties and identified as an amendment to this Amended Agreement.

10.13 Construction. The Parties agree to all of the terms of this Amended Agreement and have had the opportunity to review it thoroughly prior to its execution. That one Party or another may have drafted all or a part of this Amended Agreement will not cause this Amended Agreement to be read more strictly against the drafting Party. This Amended Agreement, and any changes to it, will be interpreted on the basis that the Parties contributed equally to the drafting of all of its parts.

10.14 Nondisclosure. Except as permitted herein, neither Party will disclose any of the terms of this Amended Agreement without the express, prior, written consent of the other Party, or unless required by law or a regulatory authority.

10.15 Counterparts. This Amended Agreement shall become binding as of the Effective Date when any one or more counterparts hereof, individually or taken together, shall bear the signatures of each of the Parties hereto. This Amended Agreement may be executed in any number of counterparts, each of which shall be an original as against any Party whose signature appears thereon but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, MAYO and NILE have caused this Amended Agreement to be signed as of the Effective Date by their respective representatives.

Mayo Foundation for Medical Education and Research:	**Nile Therapeutics, Inc.:**
/s/ Daniel D. Estes	/s/ Daron Evans
Daniel D. Estes	*Daron Evans*
Assistant Treasurer	*Chief Financial Officer*
November 14, 2013	*November 11, 2013*
Date	*Date*
Read, Understood and Agreed:	
/s/ John C. Burnett, M.D.	November 14, 2013
John C. Burnett, M.D.	*Date*

EXHIBIT A

MAYO PATENTS

[…***…]

***Confidential Treatment Requested**

[…***…]

***Confidential Treatment Requested**

EXHIBIT B

PATENTS OWNED AND CO-OWNED BY NILE

[…***…]

***Confidential Treatment Requested**

EXHIBIT C

REPAYMENT SCHEDULE FOR UNPAID FEES

[…***…]

***Confidential Treatment Requested**

Exhibit 10.36

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

AMENDED AND RESTATED
EXCLUSIVE LICENSE AGREEMENT

This Amended and Restated Exclusive License Agreement ("Restated Agreement") is entered into and effective this 30th day of December, 2013 ("Amended Effective Date") by and between **Cedars-Sinai Medical Center,** a California nonprofit public benefit corporation ("CSMC"), with offices at 8700 Beverly Boulevard, Los Angeles, California 90048-1865, and **Capricor, Inc.,** a Delaware corporation ("Licensee"), with offices at 8840 Wilshire Blvd., 2nd Floor, Beverly Hills, California 90211.

R E C I T A L S

A. CSMC and Licensee entered into an Exclusive License Agreement effective the 4th day of January, 2010 ("Original Effective Date") and a first and Second Amendment thereto dated February 25, 2013 and April 19, 2013, respectively (collectively, the "Original Agreement").

B. CMSC and Licensee wish to further amend and restate the Original Agreement in its entirety and hereby enter into this Amended and Restated Exclusive License Agreement on the terms set forth below (the "Restated Agreement").

C. CSMC owns and/or is entitled to grant license rights with respect to certain Patent Rights and Know-How (as defined below) invented or developed in connection with research performed at CSMC's Heart Institute, under the direction of Dr. Eduardo Marbán ("Marbán").

D. Under the Original Agreement, CSMC desired to have the Patent Rights and the Know-How developed, used and commercialized in the Field of Use (as defined below) by Licensee, and Licensee desired to obtain an exclusive, worldwide license to conduct research in the Field of Use, and to develop, manufacture, use and sell Products (as defined below) in the Field of Use, using the Patent Rights and the Know-How in accordance with the terms of the Original Agreement. Such original intent of the parties is equally applicable to this Restated Agreement. Other than the rights expressly granted by CSMC hereunder within the Field of Use, Licensee acknowledges that CSMC shall retain all other rights with respect to the Patent Rights and the Know-How.

E. CSMC and Licensee intend that the execution, delivery and performance of this Agreement by each party, and the consummation of the transactions contemplated hereunder, shall not at any time threaten CSMC's tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code, or cause CSMC to be in default under any of CSMC's issued and outstanding tax-exempt bonds.

Now, Therefore, in consideration of the mutual covenants and premises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree to restate and amend the Original Agreement in its entirety as follows:

1. Definitions

1.1 "Affiliate" or **"Affiliates"** shall mean any corporation, person or entity, which controls, is controlled by, or is under common control with, a party to this Agreement without regard to stock or other equity ownership. For purposes hereof, the terms "control" and "controls" mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a corporation, person or entity, whether through the ownership of voting securities, by contract or otherwise.

1.2 "Confidential Information" shall mean any confidential or proprietary information furnished by one party (the "Disclosing Party") to the other party (the "Receiving Party") in connection with this Agreement, including, without limitation, all specifications, know-how, trade secrets, technical information, drawings, software, models, business information and patent applications pertaining to the Patent Rights and Know-How, and as further provided in Section 10 hereof.

1.3 "FDA" shall mean the United States Food and Drug Administration, or any successor agency thereof.

1.4 "Field of Use" shall mean cardiac stem cells, cardiospheres and cardiosphere derived cells, including methods of obtaining, culturing, delivering and modifying same, and any derivatives and products thereof.

1.5 "Funding Agencies" shall mean any public or private granting agencies which have provided funding to CSMC or to Marbán for the development of any of the Patent Rights or Know-How prior to the Original Effective Date. For the sake of clarity, the parties agree that Licensee shall not be considered a Funding Agency hereunder.

1.6 "Future Patent Rights" shall mean any patents and/or patent applications claiming Inventions other than those in Schedule A through any use of the Patent Rights or Know-How licensed hereunder arising from work conducted by or under the direction of Marbán at or on behalf of CSMC, alone or jointly with Licensee**,** and any patents and/or patent applications (including provisional patent applications) in any other country corresponding to any of the foregoing, and all divisions, continuations, continuations-in-part, reissues, reexaminations, supplementary protection certificates and extensions thereof, whether domestic or foreign, and any patent that issues thereon. Future Patent Rights shall be owned (i) by CSMC if invented by CSMC; or (ii) jointly owned by CSMC and Licensee if jointly invented by CSMC and Licensee. For the avoidance of doubt, Inventions that are the subject of a continuation-in-part application that claims priority to the Patent Rights are licensed under this Agreement, and are not considered Future Patent Rights.

1.7 "Invention" shall mean all unpatented, patentable and patented inventions, discoveries, designs, apparatuses, systems, machines, methods, processes, uses, devices, models, composition of matter, technical information, trade secrets, know-how, codes, programs or configurations of any kind which are in the Field of Use.

1.8 "Know-How" shall mean all technical information and data, whether or not patented, presently known or hereafter learned, invented, or developed arising from work conducted by or under the direction of Marbán at or on behalf of CSMC that is useful in the development and commercialization of a Product to the extent that such technical information and data are necessary or useful for the use or practice of the Patent Rights, Future Patent Rights or Licensee Improvements, as permitted under this Restated Agreement. Know-How includes, but is not limited to, information in the Field of Use described in Schedule B. Know-How is and shall remain owned by CSMC.

1.9 "Licensee Improvements" shall mean any and all processes, uses, designs, applications, methods and compositions-of-matter, indications, improvements, enhancements and modifications in the Field of Use directly based upon or directly created using the Patent Rights and/or Know-How and which were discovered or developed by or on behalf of Licensee (exclusive of work performed by CSMC or by Marbán at or on behalf of CSMC) during the term of this Agreement; *provided, however*, that any of the foregoing created or developed by or on behalf of Marbán in the premises leased or licensed to Licensee by CSMC, or otherwise outside of CSMC's facilities for or on behalf of Licensee, shall be also be deemed Licensee Improvements. Licensee Improvements shall be owned by Licensee.

1.10 "Patent Rights" shall mean the patents and/or patent applications described on Schedule A attached hereto, as the same may be amended from time to time, and all patents and/or patent applications (including provisional patent applications) in any other country corresponding to any of the foregoing, and all divisions, continuations, continuations-in-part, reissues, reexaminations, supplementary protection certificates and extensions thereof, whether domestic or foreign, and any patent that issues thereon. The Patent Rights are all owned by CSMC.

1.11 "Product" or **"Products"** shall mean any human therapeutics, diagnostics (including algorithms or any components thereof), bioinformatics and any other human health care products and/or services in the Field of Use utilizing or derived in any manner whatsoever from any of the Patent Rights, Know-How or Licensee Improvements, which Product(s), except for the license granted hereunder, would infringe a Valid Claim, the Patent Rights or those Future Patent Rights licensed to Licensee.

1.12 "Stand-Alone Applications" shall mean any and all patents and patent applications describing processes, uses, designs, applications, methods and compositions-of-matter, indications, improvements, enhancements and modifications and technical information that are not directly based upon or directly created using the Patent Rights and/or Know-How and which were discovered or developed by or on behalf of Licensee (exclusive of work performed by CSMC or by Marbán at or on behalf of CSMC) during the term of this Agreement. For the avoidance of doubt, Marbán (or any other person with an

appointment at CSMC) may be an inventor or creator of the Stand-Alone Applications, provided that Marbán (or said person with an appointment at CSMC) is acting solely at and on behalf of Licensee. The Stand-Alone Applications shall be owned by Licensee, and shall not be considered Future Patent Rights or Know-How.

1.13 "Territory" shall mean the entire world.

1.14 "Valid Claim" shall mean a claim of an issued patent or pending patent application included within the Patent Rights or Future Patent Rights, which claim has not (a) lapsed, been canceled or become abandoned, (b) been declared invalid or unenforceable by a non-appealable decision or judgment of a court or other appropriate body or authority of competent jurisdiction, or (c) been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, provided that (i) an unissued claim in a pending application shall cease to be a Valid Claim beyond […***…] from the priority date of the application in which it is pending (the "**Cessation Date**"); (ii) if such claim is subsequently issued, such claim shall constitute a Valid Claim upon issuance; and (iii) Licensee shall pay CSMC as a part of the next Royalty Report and payment due the amount of Royalties that would have been due on the sales, if any, of Royalty Bearing Products that were made during the period commencing on the Cessation Date through the date on which the Valid Claim was subsequently issued.

2. License

2.1 Grant of Exclusive Rights. Subject to the terms of this Restated Agreement, CSMC hereby grants to Licensee, and Licensee hereby accepts from CSMC, the exclusive, worldwide license, with the right to grant sublicenses (subject to the terms of Section 2.2 hereof), during the term of this Restated Agreement (as provided in Section 6 hereof) to conduct research in the Field of Use using the Patent Rights and Know-How and to develop, use, make, have made, practice, import, carry out, manufacture, have manufactured, offer for sale, sell and/or have sold Products in the Field of Use in the Territory using the Patent Rights and Know-How. The foregoing grant of exclusivity is made expressly subject to the following:

(a) All applicable laws and regulations, including, without limitation, the requirements of federal law pertaining to the manufacture of products within the United States;

(b) All applicable rules of the Funding Agencies which have provided funding to CSMC or to any of its employees (including Marbán) for the development of the Patent Rights and Know-How; and

(c) The following non-exclusive rights to the Patent Rights and Know-How, which are retained by CSMC within the Field of Use:

(i) Subject to Licensee's right to prior review to determine the patentability thereof (which shall expire forty-five (45) days after Licensee's receipt thereof), the right to submit for publication the scientific findings from research conducted by or through CSMC or its investigators (including Marbán) related to the Patent Rights and Know-How, and

in the event Licensee determines that a patent shall be applied for, then CSMC shall refrain from submitting any such scientific findings for publication for an additional thirty (30) days;

(ii) Except as provided in subparagraph (d) of this Section 2.1, the right (A) to use any tangible or intangible information contained in the Patent Rights or Know-How (so long as CSMC shall treat such information as Confidential Information and maintain its confidentiality in accordance with Section 10 hereof), for CSMC's internal teaching and other internal educationally-related and non-commercial (except for charges to its own patients) clinical purposes, where clinical use does not involve a third party funding grant to commercialize such information, (B) to obtain research funding for further study and development thereof from governmental and other nonprofit organizations (including grant applications), and (C) to pursue a regulatory approval through the FDA, provided that that a copy of any grant application or FDA submission is provided to Licensee, in confidence and for informational purposes only, prior to submission; and

(iii) Except as provided in subparagraph (d) of this Section 2.1, the right to conduct research using the Patent Rights, Future Patent Rights and Know-How, and to develop, use, make, practice, carry-out, and otherwise exploit the Patent Rights, Future Patent Rights and Know-How (so long as CSMC shall treat such information as Confidential Information and maintain its confidentiality in accordance with Section 10 hereof) for CSMC's internal research and non-commercial (except for charges to its own patients) clinical purposes, where clinical use does not involve a third party funding grant to commercialize any Product.

(d) Except as provided by Section 2.3 hereof, CSMC shall not, under any circumstances, grant and/or transfer any rights retained by CSMC under Section 2.1(c) to any third party (other than to Licensee or, where required by applicable law, rule, regulation, governmental policy or contract, to any Funding Agency or the United States Government) to commercialize Inventions or information related thereto derived directly from the Patent Rights or Know-How in the Field of Use as a result of CSMC's teaching and internal research and clinical activities with respect to the Patent Rights and Know-How otherwise permitted by Sections 2.1(c)(ii) and (iii) above.

(e) Notwithstanding any other provision hereof to the contrary, all rights to the Patent Rights, Future Patent Rights and Know-How outside of the Field of Use are retained by CSMC.

2.2 Right to Sublicense or Assign Rights. Licensee shall have the right to grant sublicenses or to assign any or all of the rights granted hereunder consistent with this Agreement; *provided, however,* that Licensee shall not sublicense or assign its rights to any part of the Patent Rights or Know-How licensed under this Restated Agreement, or assign its rights under this Restated Agreement, to any entity which is not a recognized biopharmaceutical or pharmaceutical company which is either (a) listed on Schedule C hereto, or (b) generally recognized in such industries and has a level of science, management and investors of such quality as shall be acceptable to CSMC (each, an "Acceptable Assignee") on the basis of CSMC's prior written consent (which consent shall not be unreasonably withheld). CSMC shall respond to Licensee's request for consent within fifteen (15) business days of receipt from

Licensee of (i) a written request for consent and (ii) the relevant information CSMC may need in assessing the request regarding the proposed transaction and the potential sublicense or assignee, as the case may be. In order to preserve and protect the value of the Patent Rights and Know-How, Licensee shall obtain the prior written consent of CSMC prior to entering into any sublicense or assignment with any party who is not an Acceptable Assignee under clause (a) above. For the avoidance of doubt, Licensee does not need CSMC's written consent to enter into any sublicense or assignment with any party who is an Acceptable Assignee under clause (a) above. Licensee shall also keep CSMC reasonably informed with respect to the progress of any relations entered into with any sublicenses or assignments entered into by Licensee with any Acceptable Assignee (or any other party for whom CSMC has given its prior written consent). As an express condition of any such sublicense or assignment, Licensee will be responsible for enforcing each sublicensee's obligations, any such assignee or sublicensee shall be required to agree in writing to be bound by commercially reasonable royalty reporting and record keeping, indemnification and inspection provisions, and the applicable provisions of this Restated Agreement, including, without limitation, those pertaining to the use of CSMC's name and marks, indemnification of CSMC and the use of CSMC's Confidential Information under its sublicense and, in particular, royalty payment obligations due on such sublicensee's sales of Products. If Licensee shall conduct one or more audits of its sublicensees or assignees hereunder during the term hereof, Licensee shall provide copies of all audit reports to CSMC on a timely basis. The covenants pertaining to the use of CSMC's name and marks, the indemnification of CSMC and the use of CSMC's Confidential Information in any sublicense or assignment shall run for the benefit of CSMC, who shall be expressly stated as being a third-party beneficiary thereof with respect to the covenants set forth in this Restated Agreement. Licensee understands and agrees that none of its permitted sublicenses hereunder shall reduce in any manner any of its obligations set forth in this Restated Agreement.

2.3 Certain Future Rights. The following shall pertain to Future Patent Rights in the Field of Use ("Future Rights"):

(a) Subject to the rights and applicable rules of the Funding Agencies or the United States Government, and to the extent it would not impair or jeopardize any efforts of CSMC to obtain domestic or foreign rights thereto, CSMC and Marbán shall provide Licensee with prompt written disclosure of the Future Rights arising from work conducted by or under the direction of Marbán at or on behalf of CSMC. Subject to the rights and applicable rules of the Funding Agencies, Licensee shall have, […***…] after either (a) receipt by Licensee of written notice from CSMC disclosing in adequate detail any such Future Rights, or (b) written notification by Marbán to each of Licensee and CSMC disclosing in adequate detail any such Future Rights, the exclusive first right to negotiate with CSMC to obtain one or more exclusive licenses to the Future Rights, upon such terms and conditions as shall be agreed by the parties hereto, which terms and conditions shall include provisions for fair market value consideration for the grant of any such licenses, which provisions shall not exceed the compensation terms set forth in this Restated Agreement. If Licensee declines or fails to pursue, or if the parties fail to conclude negotiations for an exclusive license to, such Future Rights during the […***…] specified above (or such longer period as may be agreed to in writing by the parties), then CSMC shall have the right to commence discussions with any other party concerning such Future Rights. For the avoidance of doubt, until CSMC and/or Marbán

has provided the aforementioned written notice to Licensee and Licensee has had the opportunity to exercise its right of first negotiation, CSMC shall not disclose or enter into any discussions with any third parties regarding the Future Rights. Subject to the provisions of this Section 2.3, Licensee acknowledges and agrees that CSMC expressly retains and reserves: (i) any and all right, title and interest in and to the Future Rights that are not jointly developed with Licensee and (ii) joint right, title and interest in and to the Future Rights that are jointly developed with Licensee, whether or not in the Field of Use and, accordingly, no exclusive license to any of CSMC's Future Rights is granted to Licensee under this Restated Agreement. CSMC shall use its reasonable and continuing efforts during the term of this Restated Agreement, in accordance with its policies and procedures, where appropriate, to file and maintain patent applications claiming Inventions.

(b) **Grant of Non-Exclusive Rights.** Subject to the terms of this Restated Agreement, if CSMC and Licensee fail to agree upon the terms of an exclusive license for Future Rights pursuant to Section 2.3(a) above, CSMC hereby grants to Licensee, and Licensee hereby accepts from CSMC, a non-exclusive, worldwide license, with the right to grant sublicenses (subject to the terms of Section 2.2 hereof), during the term of this Restated Agreement (as provided in Section 6 hereof) to conduct research in the Field of Use using the Future Rights and to develop, use, make, have made, practice, import, carry out, manufacture, have manufactured, offer for sale, sell and/or have sold Products in the Field of Use in the Territory using the Future Rights. Any Future Right to which a non-exclusive license is granted to Licensee pursuant to this Section shall be subject to the Royalty provisions of Section 4.2, but if a Patent Royalty pursuant to Section 1(b) of Schedule E is payable solely on account of a non-exclusively licensed Future Right, the royalty shall be reduced to a reasonable amount mutually agreed upon by the parties; provided, however, that in the absence of an agreement, the reduction will be at least […***…] of the royalties that would otherwise be payable. The foregoing grant is made expressly subject to the following:

(i) All applicable laws and regulations, including, without limitation, the requirements of federal law pertaining to the manufacture of products within the United States; and

(ii) All applicable rules of the Funding Agencies which have provided funding to CSMC or to any of its employees (including Marbán) for the development of the Future Rights.

2.4 Stand-Alone Applications. Licensee shall own all right title and interest in and to the Inventions claimed in any Stand-Alone Applications; provided, however, that nothing in this Restated Agreement shall be deemed to allow or permit Licensee to file Stand-Alone Applications for the purpose of avoiding its royalty obligations to CSMC. All Inventions disclosed in Stand-Alone Applications shall not be the basis of any royalty or fee payments to CSMC under this Restated Agreement.

2.5 License to Use Improvements. Licensee shall own Licensee Improvements, and hereby grants to CSMC the following nonexclusive, royalty-free, fully paid-up rights and licenses to the Licensee Improvements:

(a) Except as provided below in this Section 2.5, the right and license to use any tangible or intangible information contained in the Licensee Improvements (so long as CSMC shall treat such information as Confidential Information and maintain its confidentiality in accordance with Section 10 hereof), for CSMC's internal teaching and other internal educationally-related and non-commercial (except for charges to its own patients) clinical purposes, where clinical use does not involve a third party funding grant to commercialize such information, and to obtain research funding from Funding Agencies, provided that a copy of any grant application is provided to Licensee, in confidence and for informational purposes only, prior to submission; and

(b) Except as provided below in this Section 2.5, the right and license to conduct research using the Licensee Improvements (so long as CSMC shall treat information concerning the License Improvements as Confidential Information and maintain its confidentiality in accordance with Section 10 hereof), and to develop, use, make, practice and carry out the Licensee Improvements for CSMC's internal teaching and internal research and non-commercial (except for charges to its own patients) clinical purposes, where clinical use does not involve a third party funding grant to commercialize any Product.

Except as provided in Section 2.3 hereof, CSMC shall not, under any circumstances, grant and/or transfer any rights granted to CSMC under this Section 2.5 to any third party (other than to Licensee or, where required by applicable law, rule, regulation, governmental policy or contract, to any Funding Agency or the United States Government) to commercialize Inventions in the Field of Use resulting directly from the Licensee Improvements as a result of CSMC's internal research and clinical activities with respect to the Licensee Improvements otherwise permitted by Sections 2.5(a) and (b) above.

2.6 Milestones. Licensee acknowledges that it is important to CSMC, and a requirement of the United States Government under Title 35, Section 203 of the United States Code, that Licensee pursue the development, commercialization and marketing of Products and otherwise exercise commercially reasonable efforts to maximize the value of this Restated Agreement to CSMC. Licensee shall be deemed to have exercised commercially reasonable efforts to maximize the value of this Restated Agreement to CSMC, and the milestone requirements of this Section 2.6 shall be deemed to have been met, if Licensee meets the respective requirements set forth on Schedule D hereto, with each such requirement being deemed a separate and independent condition (each, a "Milestone"). Within sixty (60) days after each anniversary of the Original Effective Date, Licensee shall prepare and deliver to CSMC an annual written report (to be certified by an executive officer of Licensee) indicating its compliance with the Milestones. If Licensee fails to meet any annual Milestone designated in Schedule D hereto, CSMC may, at its option and as its sole remedy for Licensee' breach of this Section 2.6, upon written notice to Licensee, convert the exclusive license granted under Section 2.1 hereof to a non-exclusive license or to a co-exclusive license, or terminate the license as provided under Title 35, Section 203 of the United States Code. Notwithstanding the foregoing, prior to CSMC exercising such option, Licensee shall have the opportunity to cure any failure for a period of ninety (90) days after receipt of written notice from CSMC of its intent to exercise its option.

3. Representations And Warranties

3.1 Rights to Technology. Except for the rights, if any, of the Funding Agencies or the United States Government, CSMC represents and warrants to Licensee that, to the best of its actual, current knowledge (without investigation outside of CSMC as to such representations and warranties) (a) it has the right to grant the licenses in this Restated Agreement, (b) it has not granted licenses to the Patent Rights or Know-How to any other party that would restrict the rights granted hereunder except as stated herein and (c) there are no claims, judgments or settlements to be paid by CSMC with respect to the Patent Rights or Know-How or pending claims or litigation relating to the Patent Rights or Know-How. Except for any potential or actual rights of Funding Agencies, the United States Government or Licensee, CSMC is not aware that any additional rights or licenses are necessary for Licensee to exercise its licensed rights granted by CSMC under this Restated Agreement.

3.2 Limited Warranty. CSMC makes no representation or warranty other than those expressly specified in this Restated Agreement. Licensee accepts the Patent Rights and Know-How on an "AS-IS" basis. CSMC MAKES NO EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHER ATTRIBUTES OF ANY OF THE PATENT RIGHTS OR KNOW-HOW.

3.3 Rights Retained by Funding Agencies. Licensee acknowledges that to the extent that the Patent Rights and Know-How have been developed in part under one or more funding agreements ("Funding Agreements") with one or more Funding Agencies, such Funding Agencies have certain statutory, non-exclusive rights relative thereto for use for government purposes as well as regulatory or statutory "march-in rights" (collectively, "Statutory Rights"). Licensee also acknowledges that to the extent that the Future Patent Rights and Know-How may be developed in part under one or more Funding Agreements with one or more Funding Agencies, such Funding Agencies may have certain Statutory Rights relative thereto. This Restated Agreement is explicitly made subject to such Statutory Rights and, to the extent of any conflict between any such Statutory Rights and this Restated Agreement, such Statutory Rights shall prevail.

4. Consideration

In consideration of the execution and delivery by CSMC of this Restated Agreement, Licensee agrees as follows:

4.1 License Fee. Pursuant to the Original Agreement, Licensee paid to CSMC a non-refundable license fee in an amount […***…], and agreed to pay the costs, including attorneys' fees and filing fees, actually incurred to the Original Effective Date by CSMC in the prosecution of the Patent Rights.

4.2 Payment of Royalties. Licensee shall pay to CSMC certain royalties, which shall be determined and paid in accordance with Schedule E hereto.

4.3 Acknowledgement of Fair Market Value. CSMC acknowledges and agrees that the royalties and other obligations of Licensee under this Restated Agreement constitute fair market value for the rights granted to Licensee under this Restated Agreement based on arms'-length negotiations with Licensee.

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4.4 Licensee Challenge of Patent Rights. Licensee acknowledges that an essential element of this Restated Agreement is to respect the intellectual property rights of Licensor. Accordingly, Licensee agrees that if it directly or through a third party indirectly contests the validity or enforceability of any Patent Rights or Future Patent Rights licensed or sublicensed to it by Licensor under this Restated Agreement or assists any third party in doing so with respect to the Field of Use, Licensee: (i) agrees that Licensor may immediately terminate any and all licenses granted to Licensee under this Restated Agreement or under any other agreement, *provided, however,* that to the extent that Licensor does not terminate license rights granted to Licensee, the applicable rates for Royalties under Schedule E hereto shall be doubled beginning from the time at which the relevant Patent Rights and/or Future Patent Rights are challenged; (ii) agrees to disburse any and all proceeds received from any sublicense of the applicable Patent Rights and/or Future Patent Rights throughout its duration to CSMC; and (iii) Licensee agrees to reimburse Licensor for all costs actually incurred in connection with the applicable legal proceedings. In the event that all or any portion of this Section 4.4 is invalid, illegal or unenforceable, then the parties will use their best efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) which, insofar as practical, gives effect to the intent of this Section 4.4. Notwithstanding anything contained in this Section 4.4, if Licensee is advised by legal counsel that it has the obligation under applicable law to disclose prior art to the any applicable patent authority or office, such disclosure shall not be deemed a challenge for purposes of this Section 4.4 and CSMC shall not have the right to terminate the licenses granted pursuant to this or any other agreement and none of the other rights set forth above shall become effective.

5. Patent Rights

5.1 Prosecution. Commencing as of the Original Effective Date, Licensee shall assume, in coordination with CSMC, full responsibility for the application, maintenance, reexamination, reissue, opposition and prosecution of any kind (collectively "Prosecution") relating to the Patent Rights in the Territory, including, but not limited to, payment of all costs, fees and expenses related thereto. Subject to the approval of CSMC (which approval shall not be unreasonably withheld), Licensee shall have the right to select counsel with respect to the responsibility assumed by Licensee in this Section 5.1, and Licensee shall diligently pursue the Prosecution of the Patent Rights to the benefit of CSMC. For all purposes of the patent Prosecution, CSMC shall be the named "client" of such patent counsel. Each party shall provide the other with copies of any and all material or communications with the United States Patent and Trademark Office, or any foreign patent office, and CSMC shall be afforded the opportunity of prior review and comment on such action or paper.

5.2 Abandonment, Disclaimers, Etc. Licensee shall obtain the prior written consent of CSMC (which consent shall not be unreasonably withheld), prior to irrevocably abandoning, disclaiming, withdrawing, seeking reissue or allowing to lapse any material patent, patent application or Licensee Improvements relating to the Patent Rights. In the event that Licensee shall elect to abandon the Prosecution or maintenance of any patent or patent application included in the Patent Rights or Future Patent Rights, Licensee shall notify CSMC of such election at least thirty (30) days before a final due date which would result in the irrevocable abandonment or bar of patentability of the subject matter of the patent or patent application. In such event, CSMC may, at its sole option and expense, continue Prosecution or maintenance of the patent application or patent. Licensee further agrees that it shall not file any continuation-in-part application relating to the Patent Rights unless the additional disclosure or material to be included in the continuation-in-part application is necessary or appropriate to support the patentability of a claim recited in a parent application on which the continuation-in-part application is based. If CSMC disagrees with Licensee's conclusion that such a filing or contemplated filing of a continuation-in-part application is either necessary or appropriate to support the patentability of a claim recited or capable of being recited in a patent application within fifteen (15) business days after receiving notice of filing or contemplated filing of continuation-in-part application, then the matter shall be submitted for resolution to independent patent counsel mutually agreed upon by the parties, who will determine whether a continuation-in-part application is necessary or appropriate in accordance with this Section 5.2. Any decision made by such independent patent counsel shall be conclusive and binding on the parties hereto.

5.3 Expenses. Licensee shall pay all expenses resulting from its obligations in Section 5.1 hereof. CSMC shall exercise reasonable efforts to cause Marbán (to the extent he is available and on CSMC's staff as an employee) and other applicable CSMC employees to cooperate fully with Licensee with respect to the Prosecution, maintenance and protection of the Patent Rights and Future Patent Rights, and CSMC shall be reimbursed for all reasonable out-of-pocket expenses as such expenses are incurred.

6. Term And Termination

6.1 Term. Unless earlier terminated as provided in Section 6.2 hereof, the term of this Restated Agreement shall be deemed to have commenced on the Original Effective Date and shall expire, on a country-by-country basis, on the date upon which the last to expire of the patents covering the Patent Rights or the Future Patent Rights. Upon such termination, Licensee shall be deemed to have a fully paid-up license to any Know-How as provided in Section 2.1 herein.

6.2 Termination. Except as provided by Section 6.3 hereof, and in addition to the provisions of Section 4.4,

(a) this Agreement shall automatically terminate upon the occurrence of any of the following events, unless waived by CSMC: (i) Licensee has substantially ceased business operations; (ii) Licensee dissolves, liquidates or institutes any proceeding for the winding up of its business; (iii) Licensee, pursuant to or within the meaning of Title 11 of the United States Code or any similar law of any jurisdiction for the relief of debtors (each, a "Bankruptcy Law"): (A) commences a voluntary case in bankruptcy or any other action or proceeding for any other similar relief under any Bankruptcy Law; (B) consents by answer or otherwise to the commencement against it of an involuntary case of bankruptcy; (C) seeks or consents to the appointment of a receiver, trustee, assignee, liquidator, custodian or similar official (collectively, a "Custodian") of it or for all or substantially all of its assets; or (D) makes a general assignment for the benefit of its creditors; or (iv) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (A) is for relief against Licensee in an involuntary case of bankruptcy against Licensee; (B) appoints a Custodian of Licensee for all or substantially all of its assets; or (C) orders the liquidation of Licensee, and the order remains unstayed and in effect for forty-five (45) days, or any dismissal, stay rescission or termination thereof ceases to remain in effect.

(b) CSMC shall have the right, at its discretion, to terminate this Restated Agreement if the performance by either party to this Restated Agreement of any term, covenant, condition or provision hereof (i) shall jeopardize (A) the licensure of CSMC, (B) CSMC's participation in the Medicare, Medi-Cal or other reimbursement or payment programs, (C) the full accreditation of CSMC by the Joint Commission or any other state or nationally recognized accreditation organization, or (D) CSMC's tax-exempt status or its tax-exempt bonds; or (ii) is deemed illegal or unethical by any recognized governmental agency or body. Upon the occurrence of any of the items set forth in this subparagraph (b), CSMC shall provide written notice to Licensee setting forth the reason for such termination (which termination shall be effective immediately).

(c) CSMC shall have the right, at its discretion, (i) to terminate this Restated Agreement upon thirty (30) days' written notice from CSMC if, within such thirty (30) day period Licensee shall fail to pay fully any royalty payment required by Section 4.2 hereof or Schedule E hereto or (ii) to terminate this Restated Agreement upon ninety (90) days' written notice from CSMC if, within such ninety (90) day period Licensee shall fail to undertake commercially reasonable efforts to exploit the Patent Rights or the Future Patent Rights in the Field of Use in the Territory, provided that if the parties cannot agree on whether commercially reasonable efforts have been undertaken, determination of any alleged failure to undertake commercially reasonable efforts shall be submitted for resolution to an Arbitrator mutually agreed upon by the parties whose decision shall be conclusive and binding upon the parties hereto.

(d) CSMC shall have the right, at its discretion, to terminate this Restated Agreement upon sixty (60) days' written notice from CSMC if, within such sixty (60) day period, Licensee shall fail to cure fully any breach or default of any material obligation under this Restated Agreement as described in such written notice detailing the facts of such breach with reasonable specificity; *provided, however,* that Licensee may avoid such termination if, before the end of such 60-day period (unless a longer cure period is expressly provided herein), such breach or default has been cured by Licensee to the reasonable satisfaction of CSMC.

(e) Licensee shall have the right, at its discretion, to terminate this Restated Agreement upon ninety (90) days' written notice from Licensee if, within such ninety (90) day period, CSMC shall fail to cure fully any breach or default of any material obligation under this Restated Agreement as described in such written notice detailing the facts of such breach with reasonable specificity; *provided, however,* that CSMC may avoid such termination if, before the end of such 90-day period, such breach or default has been cured by CSMC to the reasonable satisfaction of Licensee.

(f) This Restated Agreement shall terminate upon the mutual written agreement of the parties hereto (such termination to be effective as of the date mutually agreed upon in such written agreement).

6.3 Obligations Upon Termination. Upon any termination of this Restated Agreement pursuant to Section 6.2 hereof, nothing herein shall be construed to release any party from any liability for any obligation incurred through the effective date of termination (e.g., confidentiality, reimbursement of patent expenses incurred prior to such date, etc.) or for any breach of this Restated Agreement prior to the effective date of such termination. Licensee may, for a period of one (1) year after the effective date of such termination, sell all tangible Products customarily classified as "inventory" that it has on hand at the date of termination, subject to payment by Licensee to CSMC of the applicable royalty or royalties, as set forth in Schedule E; *provided*, that any such action by Licensee does not subject CSMC to any of the occurrences set forth in Section 6.2(b) hereof.

6.4 Effect of Termination. In the event of any termination of this Restated Agreement pursuant to Section 6.2 hereof, where such termination has not been caused by any action or inaction on the part of any sublicensee of Licensee or by any breach by such sublicensee of its obligations under its sublicense from Licensee, such termination of this Restated Agreement shall be without prejudice to the rights of each non-breaching sublicensee of Licensee and each non-breaching sublicensee shall be deemed to be a licensee of CSMC thereunder, and CSMC shall be entitled to all rights, but shall not be subject to any obligations (other than the grant of license and appurtenant obligations under this Restated Agreement to the extent provided for in such sublicense) of Licensee thereunder. This Section 6.4, however, shall not be applicable if this Restated Agreement has been terminated under Section 6.2(b) under circumstances where the application of this Section 6.4 would subject CSMC to any of the occurrences set forth in Section 6.2(b).

6.5 Right to Institute Legal Actions. Notwithstanding the provisions of Section 6.2 hereof, CSMC, on the one hand, and Licensee, on the other hand, may institute any other legal action or pursue any other remedy against the other party permitted by applicable law if the other party does not substantially cure any breach or default of any material obligation as provided herein.

6.6 Reversion of Rights. Notwithstanding anything to the contrary set forth herein (including, but not limited to, Section 5 hereof), full responsibility for prosecution of the Patent Rights shall, at the option of CSMC (exercisable in its sole and absolute discretion), and at its sole expense from the date of reversion, revert to CSMC upon any termination of this Restated Agreement.

7. Infringement By Third Parties

7.1 Notice. Promptly upon learning of any infringement, misappropriation or other unauthorized use of the Patent Rights, Licensee shall notify CSMC. Promptly upon learning of any infringement, misappropriation or other unauthorized use of the Patent Rights, CSMC shall notify Licensee.

7.2 Enforcement. Licensee shall have the first right and the obligation to enforce, at its sole expense, any Patent Rights and any Future Patent Rights to the extent licensed hereunder against infringement by third parties and shall notify CSMC in writing in advance of all such enforcement efforts. Upon Licensee's undertaking to pay all expenditures reasonably incurred by CSMC, CSMC shall reasonably cooperate in any such enforcement and, as necessary, join as a party therein. Licensee shall reimburse CSMC for all expenses, including reasonable attorneys' fees, incurred in connection with any such enforcement. In the event that Licensee does not file suit against or commence settlement negotiations with a substantial infringer of Patent Rights or Future Patent Rights within ninety (90) days of receipt of a written demand from CSMC that Licensee bring suit, then the parties will consult with one another in an effort to determine whether a reasonably prudent licensee would institute litigation to enforce the patent in question in light of all relevant business and economic factors (including, but not limited to, the projected cost of such litigation, the likelihood of success on the merits, the probable amount of any damage award, the prospects for satisfaction of any judgment against the alleged infringer, the possibility of counterclaims against the parties hereto, the impact of any possible adverse outcome on Licensee and the effect any publicity might have on the parties' respective reputations and goodwill). If, after such process, it is determined that a suit should be filed and Licensee does not file suit or commence settlement negotiations forthwith against the infringer, then CSMC shall have the right, at its own expense, to enforce any Patent Rights licensed hereunder on behalf of itself and Licensee. Any amount recovered in any such action or suit, whether by judgment or settlement, shall be paid to or retained entirely by whichever party brought the action, or where both parties participate in such action or suit, fifty percent (50%) of all such amounts shall be allocated to each party, after first paying each party's out-of-pocket expenses, including reasonable attorneys' fees.

7.3 Defense Of Patent Rights. In the event that any Patent Rights or Future Patent Rights are the subject of a legal action seeking declaratory relief or of any reexamination or opposition proceeding instituted by a third party, the parties agree to promptly consult with each other concerning the defense of such actions or proceedings. If the parties agree that such defense should be undertaken, then Licensee shall bear the expenses, including attorneys' fees, associated with such defense and in any recoupment of expenses. If the parties disagree, then the party desiring to defend the action or proceeding may proceed with such defense and will bear its own expenses, and be entitled to all sums recovered.

8. Indemnification

8.1 (a) Indemnification by Licensee. Subject to Section 8.2 hereof, Licensee shall hold harmless, defend and indemnify CSMC and each of its officers, directors, employees (including Marbán), agents and sponsors of the research (except Licensee) (each, an

"Indemnified Party", and collectively, the "Indemnified Parties") from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees and expenses and costs of investigation, whether or not suit is filed) suffered or incurred by any of the Indemnified Parties in any action, suit, litigation, arbitration or dispute of any kind ("Action") arising or resulting from any negligence or willful acts or omissions on the part of Licensee, its Affiliates or sublicensees in connection with (a) their use the Patent Rights or Know-How and/or (b) the exercise of their rights hereunder or under any sublicense, including, but not limited to (i) the preclinical development and clinical testing of Products, and (ii) the manufacture, sale, use, marketing, or other disposition of Products developed, manufactured, sold, marketed, used or otherwise disposed of under this Restated Agreement. As part of its obligations hereunder, Licensee shall defend any Action brought against any of the Indemnified Parties with counsel of its own choosing and reasonably acceptable to CSMC, and neither CSMC nor any other Indemnified Party shall enter into any settlement of any such Action without first obtaining prior approval of Licensee. Licensee shall pay all costs, including attorney's fees, incurred in enforcing this indemnification provision. Should CSMC or any other Indemnified Party not afford Licensee the right to defend any such Action, or should CSMC or any other Indemnified Party not obtain the approval of Licensee to any such settlement, Licensee shall have no obligation to indemnify CSMC or any other Indemnified Party hereunder. Should Licensee fail to provide a defense for the Indemnified Parties as required hereunder, then Licensee shall reimburse CSMC for its out-of-pocket expenses (including reasonable attorneys' fees and expenses and costs of investigation) which are incurred as a result of any investigation, defense or settlement relating to the foregoing, which reimbursement shall be made to CSMC upon receipt by Licensee of invoices reflecting in reasonable detail such expenses incurred by CSMC.

(b) Insurance. Licensee shall obtain and maintain insurance policies (including clinical trial insurance, products liability and general liability policies at such time as is appropriate) which are reasonable and necessary to cover its activities and to comply with the indemnification obligations set forth above. Such insurance policies shall name CSMC as an additional insured party, and shall provide for the following minimum coverage amounts: (i) a minimum of […***…] in coverage per occurrence for the general liability policy; (ii) upon initiation of any human clinical studies of Products, Licensee shall have first obtained clinical trial insurance coverage in a minimum of […***…] per occurrence and […***…]; and (iii) upon Licensee's first commercial, arms-length sale of a Product, Licensee shall have first obtained products liability insurance coverage in a minimum of […***…] per occurrence and […***…] (each of the events described in subsections (ii) and (iii) shall be referred to as a "Triggering Event"). Licensee shall provide CSMC with prompt written notice of any material change in coverage under such policies. Within thirty (30) days of a Triggering Event (subject to extension if reasonably required) and annually thereafter, Licensee shall provide CSMC with a certificate of insurance issued by the appropriate insurance company evidencing the insurance coverage required by this Section 8.1(b), together with copies of the endorsement which specifies CSMC as an additional insured and the declarations page for each such insurance policy. The certificate of insurance, endorsements and declarations pages (and any renewals or replacements thereof), if required, shall be sent to CSMC by prepaid, first class, certified mail, return receipt requested, at the following address: Cedars-Sinai Medical Center, Technology Transfer Office, 8797 Beverly Boulevard, Suite 206, Los Angeles, CA 90048."

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8.2 Notice of Claim. CSMC shall promptly notify Licensee in writing of any claim or Action or material threat thereof brought against any Indemnified Party in respect of which indemnification may be sought and, to the extent allowed by law, shall reasonably cooperate with Licensee in defending or settling any such claim or Action. No settlement of any claim, Action or threat thereof received by CSMC and for which CSMC intends to seek indemnification (for itself or on behalf of any other Indemnified Party) shall be made without the prior joint written approval of Licensee and CSMC.

9. Use Of Names and Media Segments

9.1 Licensee shall not, unless as required by any law or governmental regulation, use the name of CSMC, and/or any of its trademarks, service marks, trade names or fictitious business names or media segments owned by CSMC that are directly related to work conducted by or under the direction of Marbán at CSMC without express prior written consent of the Vice President for Marketing and Communications of CSMC, which shall not be unreasonably withheld. Further, prior to any reference by Licensee to the names or marks of CSMC in any manner, Licensee shall provide CSMC with a writing reflecting the proposed reference so that CSMC can review the reference within a reasonable period of time prior to the proposed use thereof by Licensee. CSMC shall review the request from Licensee and shall endeavor to provide a response within five (5) business days of receiving the requisite information required in order to review the request. This limitation includes, but is not limited to, use by Licensee in any regulatory filing, advertising, offering circular, prospectus, sales presentation, news release or trade publication. Subject to compliance by Licensee with the foregoing, which shall be deemed conditions precedent to any use of CSMC's name or marks by Licensee, Licensee shall ensure that the name of CSMC is used as scientifically or academically appropriate in the "byline" of any article, abstract, manuscript or any other publication related to the subject matter hereof.

10. Confidentiality

10.1 Non-Disclosure. The parties hereto shall keep the terms of this Restated Agreement and all business and scientific discussions relating to the business of the parties strictly confidential. All patient information to which a party is given access by the other party shall be subject to the provisions of the Confidentiality of Medical Information Act (Cal. Civ. Code §§56, et seq.) and the Health Insurance Portability and Accountability Act of 1996, and all regulations promulgated thereunder. It may, from time to time, be necessary for the parties, in connection with performance under this Restated Agreement, to disclose Confidential Information (including know-how) to each other. The Receiving Party (as defined in Section 1.2 hereof) shall keep in strictest confidence the Confidential Information of the Disclosing Party (as defined in Section 1.2 hereof), using the standard of care it normally uses for information of like character, and shall not disclose the Confidential Information to any third party or use it except as expressly authorized by the prior written consent of the Disclosing Party or as otherwise permitted by this Restated Agreement; *provided, however,* that Licensee may disclose the Confidential Information received from CSMC to its Affiliates and sublicensees as shall be reasonably necessary to carry out the intent of this Agreement or any sublicense granted by Licensee as contemplated by this Restated Agreement if, but only if, such Affiliates and/or sublicensees each execute a confidentiality agreement containing confidentiality provisions no less restrictive than those confidentiality provisions contained in this Section 10. The Receiving Party's obligation hereunder shall not apply to Confidential Information that the Receiving Party can show:

(a) Is or later becomes part of the public domain through no fault or neglect of the Receiving Party;

(b) Is received in good faith from a third party having no obligations of confidentiality tothe Disclosing Party, *provided* that the Receiving Party complies with any restrictions imposed by the third party;

(c) Is independently developed, as established by written documentation existing prior to receipt of the Confidential Information, by the Receiving Party without use of the Disclosing Party's Confidential Information; or

(d) Is required by law or regulation to be disclosed (including, without limitation, in connection with FDA filings, filings with another government agency or as required under the California Public Records Act), *provided* that the Receiving Party uses reasonable efforts to restrict disclosure and toobtain confidential treatment and provides notice, prior to disclosure, to the Disclosing Party.

10.2 Limits on Permitted Disclosures. Each party agrees that any disclosure or distribution of the other party's Confidential Information within its own organization shall be made only as is reasonably necessary to carry out the intent of this Restated Agreement. The parties further agree that all of their respective officers, employees, agents, representatives or approved sublicensees to whom any Confidential Information is disclosed or distributed shall have agreed to maintain its confidentiality. In such event, the Receiving Party shall identify with reasonable particularity, upon request by the Disclosing Party, each person within the Receiving Party's organization to whom the Receiving Party has disclosed or distributed Confidential Information.

10.3 Legally Required Disclosures. If a subpoena or other legal process concerning Confidential Information is served upon any party hereto pertaining to the subject matter hereof, the party served shall notify the other party immediately, the other party shall cooperate with the party served, at the other party's expense, in any effort to contest the validity of such subpoena or other legal process. This Section 10.3 shall not be construed in any way to limit any party's ability to satisfy any disclosure of its relationship with the other party required by any governmental authority.

10.4 Patent Rights as Confidential Information. The Patent Rights are understood by Licensee to be the Confidential Information of CSMC to the extent "unpublished" as such term is construed under the United States Patent Laws. As such, Licensee's confidentiality obligations hereunder automatically extend to any and all Know-How and to any and all patent applications of CSMC relating to any Patent Rights, Future Patent Rights and Know-How and to any and all communications with the United States Patent Office, and any foreign patent office relating to any Patent Rights, Future Patent Rights or Know-How, subject to Section 10.1(a)-(d).

10.5 Return of Confidential Information. In the event of any termination of this Restated Agreement, the Receiving Party shall promptly return all Confidential Information and any copies made thereof previously made available to the Receiving Party by the Disclosing Party, except that the Receiving Party shall have the right to retain one copy of such Confidential Information in its legal files to monitor its compliance under this Restated Agreement.

10.6 Remedies. Both parties acknowledge and agree that it would be difficult to measure damages for breach by either party of the covenants set forth in this Section 10, and that injury from any such breach would be incalculable, and that money damages would therefore be an inadequate remedy for any such breach. Accordingly, either party shall be entitled, in addition to all other remedies available hereunder or under law or equity, to injunctive or such other equitable relief as a court may deem appropriate to restrain or remedy any breach of such covenants.

11. Patent Marking

In the event any Product is the subject of a patent under the Patent Rights or Future Patent Rights, Licensee shall mark all products made, sold or otherwise disposed of by or on behalf of it or any of its sublicensees with the word "Patented" followed by the number of the licensed patent. In such case, Licensee shall mark any Product made using a process or method covered by any such Patent Rights or Future Patent Rights with the number of each such patent and, if such Product is covered by Future Patent Rights, Licensee shall respond to any request or disclosure under Title 35, Section 287(b)(4)(B) of the United States Code by only notifying CSMC of the request for disclosure. Notwithstanding the foregoing, Licensee shall not be required to mark its products pursuant to the foregoing if Licensee is marking its products in accordance with its normal business practices and such practices are in accordance with applicable marking laws.

12. Miscellaneous

12.1 Notices. Any notice, request, instruction or other document required by this Restated Agreement shall be in writing and shall be deemed to have been given (a) if mailed with the United States Postal Service by prepaid, first class, certified mail, return receipt requested, at the time of receipt by the intended recipient, (b) if sent by Federal Express® or other overnight carrier, signature of delivery required, at the time of receipt by the intended recipient, or (c) if delivered personally, addressed as follows:

in the case of CSMC to:

Cedars-Sinai Medical Center
8700 Beverly Boulevard
Los Angeles, California 90048-1865
Attention: Senior Vice President for Finance & CFO

with a copy to Vice President for Legal Affairs

or in the case of Licensee to:

Capricor, Inc.
8840 Wilshire Blvd., 2nd Floor
Beverly Hills, California 90211
Attention: […***…]

with a copy to […***…], *Knobbe Martens, 2040 Main Street, 14th Floor, Irvine, California 92614*

or to such other address or to such other person(s) as may be given from time to time under the terms of this Section 12.1.

12.2 Compliance with Laws. Each party shall comply with all applicable federal, state and local laws and regulations in connection with its activities pursuant to this Restated Agreement.

12.3 Governing Law. This Restated Agreement shall be construed and enforced in accordance with the laws of the United States of America and of the State of California, irrespective of choice of laws provisions. The parties agree that all actions or proceedings arising in connection with this Restated Agreement shall be tried and litigated exclusively in the State and Federal courts located in the County of Los Angeles, State of California. The parties hereby expressly consent to the personal jurisdiction of such courts.

12.4 Waiver. Failure of any party to enforce a right under this Restated Agreement shall not act as a waiver of that right or the ability to assert that right relative to the particular situation involved.

12.5 Enforceability. If any provision of this Restated Agreement shall be found by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of the remainder of this Restated Agreement.

12.6 Modification. No change, modification, or addition or amendment to this Restated Agreement, or waiver of any term or condition of this Restated Agreement, is valid or enforceable unless in writing and signed and dated by the authorized officers of the parties to this Restated Agreement.

12.7 Entire Agreement. This Restated Agreement and the Schedules hereto (which are incorporated herein by this reference as if fully set forth herein) constitute the entire agreements among the parties with respect to the subject matter hereof and thereof, and replace and supersede as of the date hereof and thereof any and all prior agreements and understandings, whether oral or written, between the parties with respect to the subject matter of such agreements, including the Original Agreement.

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12.8 Successors. Except as otherwise expressly provided in this Restated Agreement, this Restated Agreement shall be binding upon, inures to the benefit of, and is enforceable by, the parties and their respective heirs, legal representatives, successors and permitted assigns.

12.9 Construction. This Restated Agreement has been prepared, examined, negotiated and revised by each party and their respective attorneys, and no implication shall be drawn and no provision shall be construed against any party to this Restated Agreement by virtue of the purported identity of the drafter of this Restated Agreement or any portion thereof.

12.10 Counterparts. This Restated Agreement may be executed simultaneously in one or more counterparts, each of which shall constitute one and the same instrument. This Restated Agreement may be executed by facsimile.

12.11 Attorneys' Fees. In the event of any action at law or in equity between the parties hereto to enforce any of the provisions hereof, the unsuccessful party to such litigation shall pay to the successful party all reasonable costs and expenses, including reasonable attorneys' fees, incurred therein by such successful party; and if such successful party shall recover a judgment in any such action or proceeding, such reasonable costs, expenses and attorneys' fees may be included in and as part of such judgment.

12.12 Assignment. This Restated Agreement shall be binding upon and shall inure to the benefit of each party and its respective successors and permitted assigns. This Restated Agreement is personal to Licensee and only assignable by Licensee in accordance with Section 2.2. CSMC shall have the right to assign its rights hereunder as part of any reorganization or bond financing.

12.13 Further Assurances. At any time and from time to time after the Original Effective Date, each party shall do, execute, acknowledge and deliver, and cause to be done, executed, acknowledged or delivered, all such further acts, transfers, conveyances, assignments or assurances as may be reasonably required to consummate the transactions contemplated by this Restated Agreement.

12.14 Survival. The following sections shall survive any expiration or earlier termination of this Restated Agreement: Section 2.1(c) (retention of certain non-exclusive rights by CSMC), Section 8 ("Indemnification"), Section 9 ("Use of Names") and Section 10 ("Confidentiality"). The provisions set forth in Schedule E also shall survive any expiration or earlier termination of this Restated Agreement, to the extent set forth therein.

In Witness Whereof, the parties have caused their duly authorized representatives to execute this Restated Agreement as of the date first above written.

LICENSEE":

Capricor, Inc.

By: /s/ Karen Krasney

Name: Karen Krasney

Title: EVP General Counsel

Date:
1/9/2014

"CSMC":

Cedars-Sinai Medical Center, a California nonprofit public benefit corporation

By: /s/ Richard Katzman
Shlomo Melmed, M.D. (Richard Katzman for)
Senior Vice President for
Academic Affairs

Date: 12/31/2013

By: /s/ Edward M. Prunchunas
Edward M. Prunchunas
Senior Vice President for Finance
and CFO

Date: 12/30/2013

Schedule Listing

SCHEDULE A

Patent Rights

[…***…]

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[…***…]

***Confidential Treatment Requested**

SCHEDULE B

Know-How

[…***…]

***Confidential Treatment Requested**

SCHEDULE C

APPROVED SUBLICENSEE/ASSIGNEE COMPANIES

[…***…]

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SCHEDULE D

MILESTONES

1. Licensee or its sublicensees shall expend at least the following amounts toward the development or promotion of at least one (1) Product based on the Patent Rights and Technical Information:

[…***…]

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[…***…]

***Confidential Treatment Requested**

SCHEDULE E

ROYALTY PROVISIONS

All capitalized terms not otherwise defined in this **Schedule E** shall have the meanings ascribed to them in the Amended and Restated Exclusive License Agreement to which this **Schedule E** is attached (the "Restated Agreement").

1. Royalties. Licensee shall pay, or cause to be paid, to CSMC aggregate royalty fees (each, a "Royalty" and collectively, the "Royalties") equal to the following percentage of the amount of the Gross Sales Price (as defined in Paragraph 6(a) below) received by Licensee, its Affiliates or its sublicensees from the Sale (as defined in Paragraph 6(b) below) of Royalty Bearing Products (as defined in Section 6(c) below) or Intellectual Property (as defined in Paragraph 6(d) below) to non-Affiliate parties. The Royalty shall be determined as follows:

(a) For any jurisdictions in which no Valid Claim exists, an amount equal to […***…] for the Sale of Royalty Bearing Products or Intellectual Property covered by the Patent Rights or Know-How in that jurisdiction ("the Know-How Royalty"). Licensee's obligation to pay a Know-How Royalty shall end as specified in Section 6.1 of the Restated Agreement; provided, however, that in no event shall a Know-How Royalty be payable in any jurisdiction beyond […***…] from the first commercial sale of a Royalty Bearing Product in that jurisdiction.

(b) For any jurisdictions in which a Valid Claim does exist, an amount equal to […***…] for the Sale of Royalty Bearing Products or Intellectual Property covered by the Patent Rights or Future Patent Rights in that jurisdiction ("the Patent Royalty").

(c) An amount equal to […***…] of all cash payments, including upfront, technology access fees, lump sum and similar payments paid by or received from any sublicensees or any Affiliate or non-Affiliate parties by Licensee in consideration for any sublicense or other grant of rights under the Restated Agreement, **excluding** payments received by Licensee (i) solely for the purchase of equity securities, (ii) as consideration for the sale of substantially all of Licensee's assets, (iii) as sublicense royalty payments made in connection with the sale of Royalty Bearing Products, so long as Licensee pays or causes to be paid to CSMC Royalties on amounts received by Licensee's sublicensees under the preceding subparagraphs of this Paragraph 1 (including subparagraphs (a) and (b) hereof), (iv) as loans or in connection with the issuance of debt instruments, (v) from third parties for costs related to general and administrative expenses, product and manufacturing development, co-development activities, clinical trials, or research and development activities, or (vi) to be used for the costs of procuring intellectual property rights from third parties which may be necessary for the development of Products.

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(d) If the Sale of any Royalty Bearing Product is covered by more than one Intellectual Property Right, multiple royalties shall not be due to CSMC.

Licensee may not sell Royalty Bearing Products to any distributor or other third party other than for a reasonable price arrived at through arms'-length negotiations.

2. No Duplicative Royalties. Subject to the provisions of Paragraph 1(a) above, in those circumstances in which a Royalty is payable to CSMC from the sale of a Royalty Bearing Product by an Affiliate or sublicensee of Licensee, and in which a royalty is also payable to Licensee from the Sale of the same Royalty Bearing Product by the same Affiliate or sublicensee, then Licensee shall not be required to pay a Royalty to CSMC with respect to the royalties so received by Licensee on the same Royalty Bearing Product, if and to the extent the required royalty is received by CSMC from the Affiliate or sublicensee. This exclusion is intended to avoid the payment of duplicative royalties, shall be strictly construed, and shall not apply to other forms of compensation paid to Licensee by its Affiliates or sublicensees.

3. Suspension of Obligations.

(a) In the event that Licensee is legally prevented from commercializing one or more Products as a result of patent infringement issues relating to the Patent Rights, all of Licensee's obligations with respect to such Products, including, without limitation, Royalty and other payment obligations under this **Schedule E**, milestone and diligence obligations related to that particular Product in that jurisdiction, shall be suspended unless and until such patent infringement issues are resolved. In the event that any such issues are not resolved during the term of the Restated Agreement, or in the event that such issues are resolved in a manner that would continue to prevent Licensee from commercializing such Products, then Licensee shall have no further obligations hereunder with respect to such Products.

(b) In the event that Licensee Improvements result in the development and commercialization of new or improved technology, to the point that the commercially available Product(s) no longer (i) infringe upon any Valid Claims or claims embodied in the Patent Rights, (ii) utilize any Know-How or (iii) embody the original processes, methods, designs, or applications that were commercialized based on the Patent Rights or Know-How, then the Royalty rate shall be reduced to […***…] for such Product(s).

4. Payment and Accounting.

(a) Payment Terms and Reports. Royalties on account of sales by Licensee shall accrue and be payable to CSMC by Licensee on a quarterly basis within […***…] following the end of each calendar quarter in which any Sale of a Royalty Bearing Product by Licensee occurs. Licensee shall use the standard royalty reporting form set forth in Schedule F hereto. Royalties on account of sales or payments made by a sublicensee shall accrue and be payable to CSMC by Licensee on a quarterly basis within […***…] following the end of the calendar quarter in which payment is received by Licensee from a sublicensee. Each payment of Royalties shall be accompanied by a statement setting forth in reasonable detail (i) with respect to Sales of Royalty Bearing Products, the number and each type of Royalty Bearing

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Product sold and the Gross Sales Price applicable thereto, (ii) with respect to Sales of Intellectual Property, the nature of the Sale and revenues applicable thereto, and (iii) such additional details as may be reasonably requested by CSMC for the determination of Royalties payable hereunder. The Royalty Bearing Products shall be considered as being sold for the purpose of the calculation of royalties under this Restated Agreement when the Products have been invoiced. Except as otherwise provided in Paragraph 4(c) of this **Schedule E**, all Royalties shall be paid in United States dollars and shall be made without off set (except as expressly provided in Paragraph 5 below) and free and clear of (and without any deduction or withholding for) any taxes, duties, levies, imposts or similar fees or charges.

(b) Records and Audits. Licensee shall create and maintain complete and accurate records and documentation concerning all Sales of Royalty Bearing Products or Intellectual Property by Licensee, its Affiliates and sublicensees in sufficient detail to enable the Royalties payable hereunder to be determined. Licensee shall retain such records and documentation for not less than seven (7) years from the date of their creation. During the term of this Restated Agreement and for a period of three (3) years thereafter, CSMC and its representatives shall have the right to audit such records and documentation as shall pertain to the determination and payment of Royalties. Such examiners shall have reasonable access during regular business hours to Licensee's offices and the relevant records, files and books of account, and shall have the right to examine any other records reasonably necessary to determine the accuracy of the calculations provided by Licensee under this Schedule. The costs of any such audit shall be borne by CSMC, unless as a result of such inspection it is determined that the amounts payable by Licensee for any period are in error by greater than five percent (5%), in which case the costs of such audit shall be borne by Licensee. CSMC shall report the results of any such audit to Licensee within forty-five (45) days of completion. Thereafter, Licensee shall promptly pay to CSMC the amount of any underpayment discovered in such audit, or CSMC shall credit to Licensee against future Royalty payments the amount of any overpayment discovered in such audit, as the case may be. In addition, Licensee shall pay interest on any underpayment at the rate that is the lower of (i) five percent (5%) over the rate of interest announced by Bank of America in Los Angeles, California (or any successor in interest thereto or any commercially equivalent financial institution if no such successor exists) to be its "prime rate", or (ii) the highest rate permitted by applicable law, from the date such amount was underpaid to the date payment is actually received.

(c) Currency Transfer Restrictions. If any restrictions on the transfer of currency exist in any country or other jurisdiction so as to prevent Licensee from making payments to CSMC, Licensee shall take all commercially reasonable steps to obtain a waiver of such restrictions or to otherwise enable Licensee to make such payments. If Licensee is unable to do so, Licensee shall make such payments to CSMC in a bank account or other depository designated by CSMC in such country or jurisdiction, which payments shall be in the local currency of such country or jurisdiction, unless payment in United States dollars is permitted. Any payment by Licensee to CSMC on the basis of Sales of Royalty Bearing Products or Intellectual Property in currencies other than United States dollars shall be calculated using the appropriate foreign exchange rate for such currency quoted in the California edition of *The Wall Street Journal* for the close of business of the last banking day of the calendar quarter in which such payment is being made.

(d) Late Charges. A service charge of five percent (5%) per month, not to exceed the maximum rate allowed by applicable law, shall be payable by Licensee on any portion of Licensee's outstanding Royalty balance that is not paid to CSMC within thirty (30) days past the due date.

(e) Taxes. Licensee shall pay, or cause to be paid, any and all taxes required to be paid or withheld on any sales, licenses or other transfers for value of Royalty Bearing Products or Intellectual Property (other than taxes imposed on the income or revenues of CSMC); *provided, however,* that under no circumstances shall the amounts of such taxes be deducted from the total amount of payments otherwise due to CSMC hereunder. Upon CSMC's request, Licensee shall secure and send to CSMC proof of any such taxes withheld and paid by Licensee, its Affiliates or sublicensees.

5. Right of Offset. In the event that Licensee reasonably determines that any Royalty Bearing Product infringes upon the rights of a third party (because of the use of the Patent Rights or the Know-How in the manufacture, use or sale of such Royalty Bearing Product) and, as a result, Licensee becomes obliged to obtain a license from such third party to such rights, then, in lieu of any other right or remedy, Licensee shall have the right to deduct from the Royalties otherwise payable hereunder with respect to such Royalty Bearing Product the amount, up to a maximum of […***…] of the Royalties otherwise payable, that Licensee is obliged to pay under the license in order to obtain from the third party whose rights are so infringed the right to such Royalty Bearing Product.

6. Certain Definitions.

(a) "Gross Sales Price" means the gross amount of all revenues (whether in the form of cash, property or otherwise) received by Licensee, its Affiliates or sublicensees from the sale, license or other transfer for value of Royalty Bearing Products or Intellectual Property *less* (but only to the extent separately itemized as a part of the gross price charged): (i) transportation, handling, insurance and sales taxes, and (ii) rebates and other allowances actually paid or allowed and which are standard and customary in the industry; *provided, however,* that no deduction shall be made for royalties, commissions, costs of collection or similar items payable with respect to the Royalty Bearing Products or Intellectual Property. For the purposes of the definition of "Gross Sales Price", it is acknowledged and agreed by the parties that Sales to wholly-owned subsidiaries of Licensee shall not be included.

(b) "Sales" means the sale, license or other transfer for value.

(c) "Royalty Bearing Products" means (i) any Product that is covered by a Valid Claim of any of the Patent Rights or Future Patent Rights, or (ii) any Product that, although not covered by a Patent Right or Future Patent Right, includes or embodies, as a part of such Product, Know-How that is licensed to Licensee hereunder.

(d) "Intellectual Property Right" means the Patent Rights, Future Patent Rights and Know-How.

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Schedule F
Royalty Reporting Form

Licensee name:
Reporting period:
Date of report:
Date of first commercial sale:

Royalty Report

Product (list products by name)	**No. units sold**	**Invoiced price per unit**	**Gross sales**	**Allowable deductions (attached itemized detail)**	**Country of sale/foreign currency/ conversion rate**	**Net sales**
Product name						
Product name						
Product name						
Total						

Total net sales	$
Royalty rate	
Royalty due	$

Total royalty due: $_____

Non-Royalty Sublicense Revenue Report

Total Non-Royalty Sublicense Revenue received	$
Date received	
Applicable percentage payable to CSMC	
Total Non-Royalty Sublicense Revenue payable to CSMC	$

Report prepared by:
Title:
Date:

Please send report to:

Cedars-Sinai Medical Center
8700 Beverly Boulevard

Los Angeles, California 90048-1865
Attention: Senior Vice President for Finance & CFO
with a copy to Vice President for Legal Affairs

Please send electronic copy to CSTechTransfer@cshs.org.

SCHEDULE F

Exhibit 10.37

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

COLLABORATION AGREEMENT AND LICENSE OPTION

This Collaboration Agreement and License Option (this "*Agreement*"), dated as of December 27, 2013 (the "*Effective Date*"), is made by and between Capricor, Inc., a Delaware corporation, having its principal place of business at 8840 Wilshire Boulevard, 2nd Floor, Beverly Hills, California 90211 (*"Capricor"*), and Janssen Biotech, Inc., a Pennsylvania corporation, and having an office at 800/850 Ridgeview Drive, Horsham, Pennsylvania 19044 (*"JBI"*). Capricor and JBI are sometimes referred to herein individually as a *"Party"* and collectively as the *"Parties."*

WHEREAS, Capricor is a biotechnology company that conducts pharmaceutical research, development, and manufacturing;

WHEREAS, Capricor is developing certain products containing CDCs and CAP-1002 (each as defined below) for the treatment, diagnosis or prevention of cardiac diseases, disorders, and conditions and other therapeutic use, has access to intellectual property rights to certain CDCs and Cardiospheres (as defined below), and has developed extensive know-how relating to the manufacturing of such CDCs and Cardiospheres and data from pre-clinical and clinical studies of CDCs and Cardiospheres;

WHEREAS, JBI has existing pharmaceutical research, development, manufacturing, importing, exporting, commercialization, and selling capabilities;

WHEREAS, Capricor and JBI each desire to collaborate to develop CDC Cells and CDC Products (as defined below), in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. DEFINITIONS.

The following terms and their correlatives have the following meanings:

1.1. *"Affiliate"* means any corporation or other entity which directly or indirectly controls, is controlled by or is under common control with a Party, for so long as such control exists. For the purposes of this Section 1.1 ("Affiliate"), "control" shall mean: (i) in the case of any corporate entity, direct or indirect ownership of more than fifty percent (50%) of the stock having the right to vote for the election of directors thereof or (ii) in the case of any non-corporate entity, direct or indirect ownership of more than fifty percent (50%) of the equity or income interest therein.

1.2. *"Agreement"* shall have the meaning set forth in the Preamble.

1.3. "*ALLSTAR Dossier*" means the ALLSTAR Trial Six Month Top Line Report and all raw data related thereto.

1.4. "*ALLSTAR Trial*" means the human clinical trial entitled Allogeneic Heart Stem Cells to Achieve Myocardial Regeneration having the ClinicalTrials.gov identifier of NCT01458405, as may be amended.

1.5. "*Business Day*" means a day other than Saturday, Sunday, or bank or other public holiday in Beverly Hills, California.

1.6. *"Calendar Quarter"* means a financial quarter based on the Johnson & Johnson Universal Financial Calendar for that year, a copy of which, for 2014 is attached hereto as Johnson & Johnson Universal Financial Calendar Schedule and which is used for JBI's internal and external reporting purposes.

1.7. *"Calendar Year"* means the universal calendar that Johnson & Johnson uses as part of its financial reporting system, as provided to Capricor from time to time and as consistent with the 2014 universal calendar attached hereto as the Johnson & Johnson Universal Financial Calendar.

1.8. *"CAP-1002"* means, for the purposes of this Agreement, allogeneic cardiosphere derived Cells tested in the ALLSTAR trial.

1.9. *"Capricor"* shall have the meaning set forth in the Preamble.

1.10. *"Capricor Indemnitees"* shall have the meaning set forth in Section 11.1 (Indemnification by JBI).

1.11. "*Cardiosphere(s)*" means multicellular clusters containing allogeneic Cells developed from human cardiac tissue grown in culture.

1.12. "*Cardiosphere Derived Cells*" or "*CDCs*" mean Cell(s) that result from dissociation of Cardiospheres or subsequent culture of such Cells.

1.13. "*CDC Cells*" means CAP-1002 and allogeneic Cardiospheres and CDCs to which JBI may obtain an exclusive license pursuant the Exclusive License Agreement Term Sheet.

1.14. *"CDC Product"* means any pharmaceutical product in any dosage form containing CDC Cells.

1.15. "*Cells*" means a biological unit capable of division to produce further units, and consisting of a nucleus, other organelles and cytoplasm containing macromolecules including nucleic acids, proteins, polysaccharides, and lipids, bounded by a membrane.

1.16. *"Claims"* has the meaning set forth in Section 11.1 (Indemnification by JBI).

1.17. "*CMC Committee*" means the committee described in Section 5.1 (CMC Committee).

1.18. "CMC *Development Budget*" shall have the meaning set forth in Section 2.1(h) (CMC Development Budget).

1.19. *"CMC Development Plan*" means the written plan for manufacturing CDC Cells and CDC Products in the Field by the Parties under FDA and EMA regulations an initial draft of which is attached as CMC Development Plan Schedule, attached hereto, and which may be amended from time to time in accordance with the terms of this Agreement.

1.20. *"Commercially Reasonable Efforts"* means, with respect to an objective, active and sustained efforts to achieve such objective in as prompt a manner as is reasonably practicable under the circumstances consistent with those efforts and resources that a party of similar size and resources in the pharmaceutical/biotechnology industry would normally use with respect to achieving such objective.

1.21. *"Confidential Information"* means the meaning set forth in Section 8.1 (Confidentiality; Exceptions).

1.22. *"Control"* means, with respect to any Information, Patent Right or other intellectual property right, the possession (whether by ownership or license) by a Party or its Affiliate of the conditional or unconditional ability to grant to the other Party access, ownership, a license or a sublicense as required herein to such Information, Patent Right, or other intellectual property right without violating the terms of any agreement or other arrangement with any Third Party in existence as of the Effective Date. In the case that the ability to grant is conditional (as with certain sublicenses), Control will require that the other Party be able to and agrees to satisfy such condition(s).

1.23. *"Effective Date"* has the meaning set forth in the Preamble.

1.24. "*Exclusive License Agreement Term Sheet*" means the term sheet attached to this Agreement in the Exclusive License Agreement Term Sheet Schedule.

1.25. "*Disputed Amount(s)*" means invoice amounts that are subject to a bona fide dispute raised by Capricor within thirty (30) days of Capricor's receipt of such invoice.

1.26. *"Development"* or *"Develop"* means non-clinical and clinical drug development activities pertaining to a pharmaceutical product, including toxicology, pharmacology, test method development and stability testing, process and manufacturing development, formulation development, delivery system development, quality assurance and quality control development, statistical analysis, clinical studies (including pre- and post-approval studies), regulatory affairs, pharmacovigilance and regulatory approval and clinical study regulatory activities (including regulatory activities directed to obtaining pricing and reimbursement approvals).

1.27. *"EMA"* means the European Medicines Agency, and any successor agency thereto.

1.28. *"European Union"* means the member states that are signatories to the Treaty of the European Union at the relevant time during the Term of this Agreement.

1.29. *"Exploit"* means to research, Develop, make, have made, use, import, export, commercialize, sell and offer for sale. Cognates of the word "Exploit" shall have correlative meanings.

1.30. *"FDA"* means the United States Food and Drug Administration or any successor agency thereto.

1.31. "*Field*" means the treatment, diagnosis or prevention of cardiac diseases, disorders, and conditions.

1.32. *"Force Majeure"* has the meaning set forth in Section 14.7(Force Majeure).

1.33. "*FTE*" means a full-time person, or more than one person working the equivalent of a full-time person, where "full-time" is considered one thousand seven hundred fifty (1750) hours per Calendar Year. No individual may record more than 1.0 FTE (i.e., no overtime paid), except in the case of documented, invoiced overtime paid to Third Party contractors for services directly related to CDC Product.

1.34. *"FTE Payments*" has the meaning set forth in Section 6.2(a) (FTE/OOP Payment).

1.35. "*FTE Rate*" means a rate of […***…] FTE per annum for one (1) FTE. FTE Rate shall be adjusted annually in proportion to the Consumer Price Index for all Urban Consumers for July of prior year to July of current year, as published by the U.S. Department of Labor, Bureau of Statistics (national CPI-U; Base Period: 1982-84=100; available at http://www.bls.gov/cpi/home.htm). Rate changes shall be effective as of the first day of the 1st Calendar Quarter of the Calendar Year.

1.36. "*Indemnifying Party*" has the meaning set forth in Article 11.

1.37. "*Indemnified Party*" has the meaning set forth in Article 11.

1.38. *"Information"* means all information not generally known to the public, including tangible and intangible techniques, technology, practices, trade secrets, inventions (whether patentable or not), methods, knowledge, know-how, conclusions, skill, experience, test data and results (including pharmacological, toxicological, manufacturing, and clinical test data and results), analytical and quality control data, results or descriptions, software and algorithms, including works of authorship and copyrights.

1.39. *"Interest. Rate"* means two percent (2%) plus the thirty (30) day U.S. Dollar LIBOR rate effective for the date that payment was due, as published by The Wall Street Journal, Eastern U.S. Edition, on the date such payment was due (or, if unavailable on such date, the first date thereafter on which such rate is available), or, if lower, the maximum rate permitted by Law.

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1.40. "*Invention(s)*" has the meaning set forth in Section 7.1 (Inventions Ownership).

1.41. "*Joint Steering Committee*" or "*JSC*" means the committee described in Section 2.2 (Joint Steering Committee).

1.42. "*Law*" means, individually and collectively, any and all laws, ordinances, rules, directives, administrative circulars and regulations of any kind whatsoever of any Governmental Authority within the applicable jurisdiction.

1.43. *"JBI"* shall have the meaning set forth in the Preamble.

1.44. *"JBI Know-How"* means Information Controlled by JBI or its Affiliate that is necessary or useful for the Exploitation of a CDC Product.

1.45. *"JBI Indemnitees"* has the meaning set forth in Section 11.2(Indemnification by Capricor).

1.46. *"Losses"* has the meaning set forth in Section 11.1 (Indemnity by JBI).

1.47. "*Materials*" means any tangible chemical or biological material, including any libraries, DNA, RNA, clones, cells, and any expression product, progeny, derivative or other improvement thereto.

1.48. "*Out- of- Pocket Costs*" shall mean the amounts paid to Third Party vendors or contractors, for services, materials, equipment or supplies provided by them directly in the performance of activities under the CMC Development Plan, to the extent such services, materials, equipment or supplies apply directly to the CDC Product.

1.49. "*OOP Payment*" has the meaning set forth in Section 6.2(a) (FTE/OOP Payments).

1.50. "*Option*" means the right of JBI pursuant to this Agreement, to enter into with Capricor an Exclusive License Agreement pursuant to Section 4.3 (Option Grant).

1.51. "*Option Period*" has the meaning set forth in Section 4.3 (Option Exercise).

1.52. *"Party"* and *"Parties"* has the meaning set forth in the Preamble.

1.53. "*Patent Right*" means any and all (a) patents, (b) pending patent applications, including, all provisional applications, substitutions, continuations, continuations-in-part, divisions and renewals and all patents granted thereon, (c) all patents-of-addition, reissues, reexaminations and extensions or restorations by existing or future extension or restoration mechanisms, including, supplementary protection certificates or the equivalent thereof, (d) inventor's certificates, (e) any other form of government-issued right substantially similar to any of the foregoing, and (f) all U.S. and foreign counterparts of any of the foregoing.

1.54. *"Phase II Trial*" or "*Phase IIb Trial*" means, with respect to the United States, any human clinical trial conducted in the specific patient population with the disease or condition of interest intended to be studied in a Phase III Trial for the purposes of preliminary assessment of safety and efficacy in the indication being studied, as described under 21 C.F.R. §312.21(b), and that, if the defined end-points are met, is sufficient to allow the Initiation of a Phase III Trial in the indication being studied, or, with respect to a jurisdiction other than the United States, an equivalent clinical study.

1.55. *"Phase III Trial"* means, with respect to the United States, any human clinical trial, that, if the defined end-points are met, is intended to be a pivotal trial for obtaining Regulatory Approval in the indication being studied or to otherwise establish safety and efficacy in patients with the indication being studied for purposes of filing for Regulatory Approval with the United States Food and Drug Administration (or its successor) as required under 21 C.F.R. §312.21(c), or, with respect to a jurisdiction other than the United States, an equivalent clinical study. In the event that a human clinical trial that would otherwise meet the definition of a Phase II Trial would, if the defined end-points are met, be sufficient to obtain Regulatory Approval in the indication being studied then, for purposes of this Agreement, such trial is considered a Phase III Trial.

1.56. *"Prosecution and Maintenance*" means, with respect to a Patent Right, the preparing, filing, and prosecuting of patent applications and maintenance of patents, as well as re-examinations, and reissues, with respect to such patents, together with the conduct of interferences and the defense of oppositions with respect to the particular patent application or patent; and *"Prosecute and Maintain"* shall have the correlative meaning.

1.57. *"Regulatory Filing"* means any filing with any Governmental Authority with respect to the development, manufacture, marketing, commercialization or reimbursement of a pharmaceutical product.

1.58. "*Six Month Top Line Report*" means a report generated by Capricor that will include the tables and listings set forth in the Six Month Top Line Report Schedule from the ALLSTAR Trial and may include such additional items agreed by the Parties.

1.59. *"Term"* means the period beginning on the Effective Date and ending upon the termination of this Agreement pursuant to Article 12 (Term and Termination).

1.60. *"Third Party"* means any entity other than a Party or an Affiliate of a Party.

1.61. "*United States*" or "*U.S.*" means the United States of America, including its territories and possessions, the District of Columbia and Puerto Rico.

2. DEVELOPMENT PLAN

2.1 CMC Development Plan.

(a) Within forty-five (45) days of the Effective Date, the Parties shall amend the CMC Development Plan to add top line operational details (which includes a detailed budget of the amount that Janssen may invoice for and the financial commitments to be made by Capricor for the CMC work (such budget, the "CMC *Development Budget*")). All manufacturing Development activities for CDC Cells and CDC Products contemplated by the Parties hereunder shall be set forth and carried out pursuant to the CMC Development Plan.

(b) *Amendments*. The CMC Development Plan may be amended from time to time by the CMC Committee in accordance with this Agreement and such amendments will be reflected in the CMC Development Plan. The CMC Development Plan is to be reviewed as necessary at each meeting of the CMC Committee and at any other time upon the reasonable request of either Party.

(c) *Diligence.* Each Party shall use Commercially Reasonable Efforts to perform (itself or through its Affiliates or by permitted subcontracting) its respective obligations under the CMC Development Plan, and shall reasonably cooperate with and provide reasonable support to the other Party in such other Party's performance of its responsibilities under the CMC Development Plan. The Parties acknowledge and agree, however, that no outcome or success is or can be assured and that failure to achieve desired results do not in and of itself constitute a breach or default of any obligation in this Agreement.

(d) *Permitted Subcontracting.* Each Party may subcontract any of its activities to be performed under the CMC Development Plan to a Third Party or to an Affiliate of the Party, provided that any such Third Party or Affiliate shall have entered into a written Agreement with such Party that includes terms and conditions protecting and limiting use and disclosure of Confidential Information, Materials and Information of the other Party at least to the same extent as under this Agreement, and requiring such Third Party or Affiliate, as applicable, and its employees, contractors and agents to grant such Party Control in and to any Patent Rights, Information and Materials created, conceived or reduced to practice in connection with the performance of any such subcontracted activities. Each Party shall remain responsible and liable for the performance by its Affiliates and subcontractors of its obligations hereunder, and shall cause its Affiliates and subcontractors to comply with the provisions of this Agreement, including, causing such third parties to make any and all assignments of ownership of intellectual property rights generated in carrying out a Party's obligation in accordance with the terms of this Agreement.

(e) *Records*. Each Party shall maintain, or cause to be maintained, records of its activities under the CMC Development Plan in sufficient detail and in good scientific manner appropriate for scientific, patent and regulatory purposes, which shall properly reflect all work included in the CMC Development Plan consistent with its internal procedures and policies.

(f) *Reports*. Each Party shall furnish to the CMC Committee a written report, within forty-five (45) days after the end of each Calendar Quarter, that (i) describes such Party's progress under the CMC Development Plan during the relevant Calendar Quarter and (ii) includes a summary of the results and data generated by such Party under the CMC Development Plan during the relevant Calendar Quarter, in each case to the extent reasonably necessary to support and advance the CMC Development Plan. For clarity, the written report required in this subsection is in addition to any other reporting requirements under this Agreement.

(g) *Materials*. Each Party may furnish to the other Party, as reasonably required, samples of Materials. The Party receiving any Materials shall not distribute or otherwise allow the release of Materials to any Third Party, except for subcontracting, in each case as permitted hereunder. All Materials delivered to the receiving Party are provided "AS IS", shall be used in compliance with all Laws, and shall be used with prudence and appropriate caution in any experimental work because not all of their characteristics may be known. In regard to the transfer of any Material between the Parties, unless specifically stated otherwise by the transferor as a condition to a voluntary transfer, such transfer of Material will also be a transfer of ownership to the transferee of the physical sample being transferred. Such transfer will not exhaust intellectual property rights attached to such Material. All voluntary transfers of Material under this Agreement may be subject to a Material Transfer Agreement executed by the Parties on mutually agreeable terms.

(h) *CMC Development Budget*. JBI and Capricor shall each expend the FTEs, internal costs and out-of-pocket expenses necessary for such Party to perform the activities allocated to it in accordance with the CMC Development Plan. In the conduct of the CMC Development Plan, each of JBI and Capricor may, at its sole option and own expense (unless otherwise agreed by the Parties), expend in excess of the expenses budgeted for performance of its activities for any phase of the CMC Development Plan. Unless otherwise agreed in writing by the Parties, Janssen may invoice Capricor under the CMC Development Budget not more than […***…] during Term of the Agreement.

2.2 Joint Steering Committee. Within thirty (30) days of the Effective Date, Capricor and JBI will assemble a JSC. Initially, the JSC will be composed of at least two, but no more than four, representatives of each Party, with an equal number appointed by each of Capricor and JBI. Each Party will provide a list of its representatives to the other Party within thirty (30) days after the Effective Date. Each Party will promptly notify the other Party in writing of any change in its appointed representatives. Each Party may invite employees and consultants to attend meetings of the JSC, subject to their agreement, who are bound to obligations of confidentiality, non-use, and assignment of inventions similar to those of that Party's members of the JSC.

(a) Meetings. The JSC will hold its first meeting within thirty (30) days of the Effective Date. While in existence, the JSC will meet on a quarterly basis by audio or video teleconference and, at a minimum, twice each year in person (which in-person meeting will be held on an alternating basis between Beverly Hills, California and site of JBI or any of its Affiliates, such to be agreed by the Parties). Each Party will bear its own costs relating to any

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JSC meeting. Meetings of the JSC are effective only if at least one representative of each Party is present at the meeting or participating by teleconference. The Parties will endeavor to schedule meetings of the JSC at least two (2) months in advance.

(b) Responsibilities. The duties of the JSC will include, but not be limited to, reviewing the progress of and amendments to the ALLSTAR Trial and reviewing Capricor's progress to generating the ALLSTAR Dossier. In addition, the JSC will discuss any other work ongoing at Capricor in the Field as well as the design and planning for Phase IIb and III clinical trials.

3. ALLSTAR TRIAL.

(a) Within thirty (30) days of the Effective Date, Capricor shall provide JBI with the current clinical protocol for the ALLSTAR trial.

(b) *Amendments*. Any material amendments proposed by Capricor to the ALLSTAR clinical protocol shall be presented to the JSC prior to being implemented, if reasonably practicable. For clarity, Capricor's ability to amend the ALLSTAR clinical protocol shall not alter Capricor's obligations relative to the ALLSTAR Dossier.

(c) *Diligence*. Capricor shall use Commercially Reasonable Efforts to complete dosing, data analysis, and generate the ALLSTAR Dossier.

(d) Reports. Capricor shall furnish to the JSC a written report, within forty-five (45) days after the end of each Calendar Quarter that describes Capricor's progress in the ALLSTAR Trial during the relevant Calendar Quarter.

(e) *Regulatory Filings.* Capricor shall file, in its own name, all Regulatory Filings for the ALLSTAR Trial and any other clinical studies performed during the Term.

4. GRANT OF LICENSE AND EXCLUSIVE OPTION

4.1 Capricor hereby grants to JBI a limited and non-exclusive license under intellectual property Controlled by Capricor solely to the extent needed for JBI to perform its obligations under the CMC Development Plan. No other right or license is granted by Capricor to JBI under this Agreement.

4.2 JBI hereby grants to Capricor a limited non-exclusive license under intellectual property Controlled by JBI solely to the extent needed for Capricor to perform its obligations under the CMC Development Plan. No other right or license is granted by JBI to Capricor under this Agreement.

4.3 Option Grant. Capricor grants to JBI an exclusive right pursuant to this Agreement to enter into an Exclusive License Agreement on terms which shall include (a) the financial terms, the definitions of Licensed Cells and Licensed Products and the License Grants specifically set forth in the Exclusive License Agreement Term Sheet; (b) other terms and conditions substantially the same as those in the Exclusive License Agreement Term Sheet; and (c) additional other customary terms and conditions to be negotiated and agreed by the Parties (the

"Option"). From the Effective Date until the period ending sixty (60) days after delivery of the ALLSTAR Dossier by Capricor to JBI (the "Option Period"), JBI shall have the right to notify Capricor of its desire to commence negotiations for the Exclusive License Agreement. Upon receipt of such notice by Capricor, both Parties shall commence good faith negotiations to conclude and execute an Exclusive License Agreement prior to the end of the Option Period according to the terms of the Exclusive License Agreement Term Sheet. During the Option Period, Capricor agrees not to negotiate nor solicit interest from any Third Party for any rights to CDC Cells and CDC Products.

4.4 Upon delivery of the ALLSTAR Dossier, JBI shall promptly notify Capricor of any asserted deficiencies and Capricor shall respond to such request as promptly as reasonably practicable. Janssen shall immediately notify Capricor that the ALLSTAR Dossier is free of deficiencies. In any event, should Janssen not respond to Capricor within five (5) Business Days of JBI's receipt of the ALLSTAR Dossier, the ALLSTAR Dossier shall be deemed to be delivered without deficiencies and the sixty (60) day period set forth in Section 4.3 shall start on the sixth business day of Janssen's silence with respect to the ALLSTAR Dossier. Additionally, JBI may request that the ALLSTAR Dossier be supplemented with reasonable additional relevant and material data and other information, and if such a request is made, Capricor shall respond to such request as promptly as reasonably practicable.

4.5 If an Exclusive License Agreement is not executed within sixty (60) days from JBI's receipt of the ALLSTAR Dossier, this Agreement will expire pursuant to Section 12.1 (Term).

4.6 Upon expiration of this Agreement by the failure of the Parties to mutually execute an Exclusive License Agreement prior to the end of the Option Period:

(a) JBI grants to Capricor a non-exclusive perpetual license to publish, disclose and use the Information of JBI that was utilized in the production of the clinical trial materials manufactured pursuant to the CMC Development Plan for any purpose; and

(b) JBI grants to Capricor an irrevocable, fully paid-up, nonexclusive license under patents Controlled by JBI utilized in the production of the clinical trial materials manufactured pursuant to the CMC Development Plan to make, use and sell CDC Products.

4.7 Prior to the expiration of the Option Period, Capricor shall provide JBI with an opportunity to review and comment on any amendment to any license listed in the Capricor Third Party License Schedule.

5. GOVERNANCE.

5.1. CMC Committee.

(a) CMC Committee. The Parties shall establish a CMC Committee, comprised of at least two (2) representatives of Capricor and at least two (2) representatives of JBI. As of the Effective Date, the representatives shall be […***…] for JBI (the "*JBI CMC Members*") and […***…] for Capricor (the "*Capricor CMC Members*"). The number of Capricor CMC Members

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shall be equal to the number of JBI CMC Members. Each Party may replace its representatives to the CMC Committee at any time upon written notice to the other Party. Each Party may invite non-voting employees and consultants to attend meetings of the CMC Committee, subject to their agreement, who are bound to obligations of confidentiality, non-use, and assignment of inventions similar to those of that Party's members of the CMC Committee.

(b) CMC Committee Chair. The CMC Committee shall be chaired by a Capricor CMC Member (the "*CMC Committee Chair*"). As of the Effective Date the CMC Committee Chair shall be […***…]. The responsibilities of the CMC Committee Chair include:

(i) providing written notification to each Party at least thirty (30) days in advance of each CMC Committee meeting;

(ii) collecting and organizing agenda items for each CMC Committee meeting;

(iii) preparing the meeting agenda and circulating it for review and approval by the CMC Committee Members and preparing written minutes of such meeting within fifteen (15) Business Days after such meeting

(iv) preparing the written minutes of each CMC Committee meeting and circulating such minutes for review and approval by the Parties, identifying action items to be carried out by the Parties.

(c) Meetings. The CMC Committee shall hold its first meeting within thirty (30) days of the Effective Date. While in existence, the CMC Committee shall meet on a quarterly basis by audio or video teleconference and, at a minimum, twice each year in person (which in-person meeting shall be held on an alternating basis between Beverly Hills, California and site of JBI or any of its Affiliates, such to be agreed by the Parties). Each Party shall bear its own costs relating to any CMC Committee meeting. Meetings of the CMC Committee are effective only if at least one representative of each Party is present at the meeting or participating by teleconference. Each Party shall be responsible for all of its own expenses of participating in the committee meetings. The Parties shall endeavor to schedule meetings of the CMC Committee at least two (2) months in advance. The CMC Committee Chair shall prepare the meeting agenda and shall circulate for review and approval by the CMC Committee Members and prepare written minutes of such meeting within fifteen (15) Business Days after such meeting. In the course of the review of the agenda by the CMC Committee members, each Party shall have the right to add items to the agenda. The Parties shall agree on the minutes of each meeting promptly.

(d) Responsibilities. Following the initiation of the Development Program under the CMC Development Plan, the CMC Committee shall oversee and supervise the overall performance of the CMC Development Plan and within such scope shall: (i) discuss and review the progress of the CMC Development Plan, (ii) review proposed material amendments to the CMC Development Plan; (iii) review the efforts of the Parties under the CMC

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Development Plan; (iv) assign activities under the CMC Development Plan consistent with the obligations of the Parties hereunder, and (v) to attempt to resolve any disputes on an informal basis.

(e) Decision-making. Regardless of the number of Capricor CMC Committee members or JBI CMC Committee members, each Party shall have one (1) vote, and the CMC Committee shall attempt to make decisions by consensus. In the event that a decision cannot be resolved by consensus, the chairperson shall make a final decision, provided, however, that the CMC Committee shall not make any decision that is inconsistent with the terms and conditions of this Agreement nor that would unilaterally impose (i) a financial obligation on the other Party beyond the scope of the agreed CMC Development Budget, or (ii) a technical obligation on the other Party that is beyond its current technical capability or capacity.

(f) Limits on CMC Committee Authority. Each Party shall retain the rights, powers and discretion granted to it under this Agreement and no such rights, powers, or discretion shall be delegated to or vested in the CMC Committee unless such delegation or vesting of rights is expressly provided for in this Agreement or the Parties expressly so agree in writing. The CMC Committee shall not have the power to amend, modify or waive compliance with this Agreement (other than as expressly permitted hereunder).

6. PAYMENTS.

6.1. Development Fee. JBI shall pay to Capricor, within eight (8) Business Days subsequent to the Effective Date, a one-time payment of Twelve Million Five hundred thousand U.S. Dollars ($12,500,000), which is non-refundable and non-creditable and not subject to set-off.

6.2. Research Funding.

(a) FTE/OOP Payments. Capricor shall reimburse JBI for expenditures incurred in its performance under the CMC Development Plan including FTE costs actually incurred at the FTE Rate (such reimbursement, the "*FTE Payments*") and Out of Pocket Costs (the "*OOPs Payments"),* in each case up to the maximum permitted under the CMC Development Budget for a given Calendar Quarter (such maximum referred to as "*FTE/OOP Maximum Payment*"). At the end of each Calendar Quarter, JBI shall provide Capricor with an invoice for the funded FTEs expended and reimbursable out of pocket expenses incurred during such Calendar Quarter up to the FTE/OOP Maximum Payment for that Calendar Quarter and Capricor shall reimburse all such amounts no later than forty-five (45) days after receipt of such invoice, excluding Disputed Amounts. The amount of a Disputed Amount may be withheld from payment of the specific invoice to which it relates. Disputed Amounts that Capricor subsequently agrees in writing to pay or that are required to be paid pursuant to a dispute resolution shall be paid within thirty (30) days from the date of such agreement or resolution. Any payments or portions thereof due hereunder that are not paid when due, excluding Disputed Amounts, will bear interest at the Interest Rate, calculated on the number of

days such payment is delinquent. The payment of interest will in no way limit any other remedies available to JBI. Should an invoice not be paid in full, (excluding Disputed Amounts) for at least six (6) months, JBI shall have no obligation to carry out its assigned activities under the CMC Development Plan until such payment has been received by JBI. The Parties recognize that, on a Calendar Quarter by Calendar Quarter basis, the actual FTE/OOP Payment due may change based on actual work conducted, but the annual budget amount set forth in the CMC Development Plan shall not change unless mutually agreed to by the Parties. With regards to reimbursement for Out of Pocket Expenses, JBI shall provide documentation supporting such expenses, such as invoices or pro forma invoices from Third Party vendors. With regards to reimbursement for funded FTEs, JBI shall provide documentation supporting the usage of such FTEs, such as an FTE time report break down by function. At Capricor's request (to be made no more than twice per Calendar Year), JBI shall provide Capricor with reasonable additional information to support FTE Payments, including documentation, reasonably requested by Capricor in support of invoiced FTE utilization.

(b) Records and Audits. JBI shall keep adequate books and records of accounting for all expenses incurred in carrying out the activities that were reimbursed using the FTE/OOP Payments and ensuring JBI's compliance hereunder. For the three (3) years following the end of the Calendar Year to which each pertains, such books and records of accounting will be kept at each of their principal place of business and no more than once per Calendar Year will be open for inspection during normal business hours upon at least forty five (45) days' prior written notice by an independent certified accountant selected by Capricor at Capricor's expense, and which is reasonably acceptable to JBI, for inspecting expenditure under the FTE/OOP Payments made by Capricor under this Agreement. Such accountant shall have executed and delivered to JBI, a customary confidentiality agreement as reasonably requested by JBI. The results of such inspection, if any, will be shared by the accountant with Capricor and JBI at either of JBI's or Capricor's request, and are binding on both JBI and Capricor. Any overbillings, by Capricor's choice, are to be paid either by being credited on the following Calendar Quarter's invoice or reimbursed to Capricor via check within forty-five (45) days of notification of the results of such inspection. Any underpayments are to be included in the following Calendar Quarter's invoice or paid separately consistent with the means in which JBI pays Capricor. Capricor shall pay for any such inspections, except that in the event there is a downward adjustment in billed expenses shown by such inspection of more than five percent (5%) of the amount billed over the period audited, JBI shall reimburse Capricor for any reasonable out-of-pocket costs of such accountant or related to such inspection. No Calendar Year will be subject to audit under this Section more than once.

(c) Manner of Payment. All payments to be made by a Party to another Party hereunder shall be by wire transfer to the relevant bank account detailed below or such other bank account as a Party (as applicable) may designate in writing from time to time during the Term.

To Capricor:

Account name: […***…]

To JBI:

Bank name: […***…]

(d) Late Payments. Except as otherwise specifically stated herein, if any payment due to be made by either Party hereunder is not made when due, such late payment shall bear interest at the Interest Rate, calculated on the number of days such payment is delinquent.

7. Intellectual Property

7.1. Inventions Ownership. Subject to the provisions of Article 4 and this Article 7, Capricor shall own all right, title and interest in and to all Patent Rights that that are conceived, and/or reduced to practice pursuant to the CMC Development Plan solely or jointly by the employees, agents or subcontractors of each Party that are necessary for the Exploitation of CDC Cells and CDC Products ("Arising Patent Rights"). JBI and its Affiliates shall execute, and shall have its employees and subcontractors and those of its Affiliates execute all documents necessary to transfer all right, title and interest in and to any such inventions to Capricor.

7.2. Exploitation of Inventions. Subject to the terms and conditions of this Agreement, including the licenses granted herein, Capricor may Exploit (including sublicensing) any Arising Patent Right pursuant to Section 6.2 without accounting to or obtaining consent from JBI.

7.3. Joint Development Agreement. This Agreement is a joint research agreement in accordance with 35 U.S.C. §103(c)(3) to Develop and Commercialize CDC Products. No Party is required by this reference to have any Patent Right to take advantage of or become

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subject to such §103(c)(3) except in accordance with the provisions of Article 7 regarding Prosecution and Maintenance of such Patent Right.

7.4. Prosecution and Maintenance. Capricor shall be responsible for the Prosecution and Maintenance and enforcement of Arising Patent Rights at its sole discretion and expense, unless otherwise agreed.

7.5. Defense and Settlement of Third Party Claims. If the Exploitation of any CDC Product is alleged by a Third Party to infringe a Third Party's Patent Right or other intellectual property right, the Party becoming aware of such allegation shall promptly notify the other Party. The Party that is alleged to infringe the Third Party's Patent Right or intellectual property right shall have the right to take such action as it deems appropriate in response to such allegation, and shall be solely responsible for all damages, costs and expenses in connection therewith, subject to the provisions of Article 9 (Representations, Warranties, and Covenants).

7.6. Capricor Third Party License. Notwithstanding any provision of this Article 7, if any provision conflicts with a Capricor Third Party License, the provision of the Capricor Third Party License controls.

7.7. Employee Agreements. Prior to beginning work relating to any aspect of the subject matter of this Agreement and/or being given access to Confidential Information of the other Party, each appropriate employee, consultant and/or agent of Capricor and JBI will have signed or will be bound to a commercially reasonable non-disclosure and/or invention assignment agreement. Each Party will be responsible for any compensation or payment to its employees, contractors or agents in connection with the invention of any Patent Right.

7.8. Cooperation. Each Party shall reasonably cooperate with the other Party in the Prosecution And Maintenance of the Arising Patent Rights pursuant to this Agreement. Such cooperation includes promptly executing all documents, or requiring inventors, subcontractors, employees, former employees (to the extent reasonably available) and consultants and agents to execute all documents, as reasonable and appropriate so as to enable the Prosecution And Maintenance or enforcement of any such Arising Patent Rights in any country.

8. CONFIDENTIALITY.

8.1. Confidentiality; Exceptions. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing or required as a condition of sublicense, the Parties agree that, during the Term and for five (5) years thereafter, but in no case before July 10, 2022, the receiving Party will keep confidential and will not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement any Information furnished to it by the other Party pursuant to this Agreement (collectively, *"Confidential Information"*). Notwithstanding the foregoing, Confidential Information will not include any information to the extent that it can be established by written documentation by the receiving Party that such information:

(a) is obtained or was already known by the receiving Party or its Affiliates as a result of disclosure from a Third Party that the receiving Party neither knew nor should have known was under an obligation of confidentiality to the disclosing Party with respect to such information;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving Party through no act or omission of the receiving Party or its Affiliates in breach of this Agreement;

(c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving Party or its Affiliates in breach of this Agreement; or

(d) was independently discovered or developed by the receiving Party or its Affiliates (without reference to or use of Confidential Information of the disclosing Party) as demonstrated by the receiving Party's documented evidence prepared contemporaneously with such independent Development or other equally competent evidence.

8.2. Authorized Disclosure. Except as expressly provided otherwise in this Agreement, each Party may use and disclose Confidential Information of the other Party solely as follows: (a) under appropriate confidentiality provisions substantially equivalent to those in this Agreement: (i) in connection with the performance of its obligations or as reasonably necessary or useful in the exercise of its rights under this Agreement, and (ii) to the extent it believes such disclosure is reasonably necessary in conducting the activities contemplated under this Agreement; (b) to the extent such disclosure is to a Governmental Authority as reasonably necessary in filing or prosecuting patent, and trademark applications in accordance with this Agreement, prosecuting or defending litigation in accordance with this Agreement, complying with applicable governmental regulations with respect to performance under this Agreement, filing Regulatory Filings, obtaining regulatory approval or fulfilling post-approval regulatory obligations for an CDC Product, or otherwise required by Law, ***provided, however,*** that if a Party is required by Law or the rules of any securities exchange or automated quotation system to make any such disclosure of the other Party's Confidential Information it will, except where impracticable for necessary disclosures (for example, in the event of medical emergency), give reasonable advance notice to the other Party of such disclosure requirement and, in the case of each of the foregoing, will use its reasonable efforts to secure confidential treatment of such Confidential Information required to be disclosed; (c) to advisors (including lawyers and accountants) on a need to know basis, in each case under appropriate confidentiality provisions or professional standards of confidentiality substantially equivalent to those of this Agreement; or (d) to the extent mutually agreed to by the Parties.

8.3. Confidential Treatment of Terms and Conditions. Neither Party shall disclose the terms and conditions of this Agreement except as may be required by Law or as necessary to effect terms of this Agreement, including the Option Right pursuant to 4.3 (Option Exercise). Notwithstanding the foregoing, with respect to complying with the disclosure requirements of any Governmental Authority in connection with any required filing of this Agreement, the Parties will consult with one another concerning which terms of this

Agreement will be requested to be redacted in any public disclosure of the Agreement, and in any event each Party will seek reasonable confidential treatment for any public disclosure by any such Governmental Authority. Notwithstanding the foregoing, the Parties will agree upon and permit Capricor to release a press release to announce the execution of this Agreement, which is attached hereto as the Press Release Schedule for use in responding to inquiries about the Agreement; thereafter, JBI and Capricor may each disclose to Third Parties the information contained in such press release without the need for further approval by the other, provided that such information is still accurate. Each Party will additionally have the right to issue additional press releases in regards to this Agreement and/or the CDC Products only with the prior written approval of the other Party or as required to comply with any Law or by the rules of any stock exchange or automated quotation system (in the case of such required disclosure, by providing ten (10) Business Days' notice to the other Party and reasonably considering comments provided by such other Party within three (3) Business Days after such notice). Any subsequent press release will contain the same accuracy and truthfulness as the original press release. An acceptable copy of this Agreement may be filed with the Securities and Exchange Commission, The New York Stock Exchange and/or the NASDAQ National Market as required by applicable law or regulation. In connection with such filing, the Parties will endeavor to obtain confidential treatment of economic and trade secret information.

8.4. Attorney-Client Privilege. Neither Party is waiving, nor will be deemed to have waived or diminished, any of its attorney work product protections, attorney-client privileges or similar protections and privileges as a result of disclosing information pursuant to this Agreement, or any of its Confidential Information (including Confidential Information related to pending or threatened litigation) to the receiving Party, regardless of whether the disclosing Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties: (a) share a common legal and commercial interest in such disclosure that is subject to such privileges and protections; (b) may become joint defendants in proceedings to which the information covered by such protections and privileges relates; (c) intend that such privileges and protections remain intact should either Party become subject to any actual or threatened proceeding to which the disclosing Party's Confidential Information covered by such protections and privileges relates; and (d) intend that after the Effective Date both the receiving Party and the disclosing Party will have the right to assert such protections and privileges.

9. REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1. Mutual Representations and Warranties. In addition to the representations and warranties made by a Party elsewhere in this Agreement, each Party hereby represents and warrants to the other Party that:

(a) As of the Effective Date, it is duly organized and validly existing under the Laws of its jurisdiction of incorporation and it has full corporate power and authority and has taken all corporate action necessary to enter into and perform this Agreement;

(b) As of the Effective Date, this Agreement is a legal and valid obligation binding upon such Party and enforceable in accordance with its terms; the execution, delivery

and performance of the Agreement by such Party does not conflict with any agreement, instrument or understanding, oral or written, by which it is bound, nor to its knowledge as of the Effective Date violate any Law; and the person or persons executing this Agreement on such Party's behalf have been duly authorized to do so by all requisite corporate action;

(c) As of the Effective Date, it has sufficient legal right and/or beneficial title or ownership of its respective Intellectual Property to grant the licenses to the other Party as purported to be granted pursuant to this Agreement.

9.2. Capricor Representations, Warranties and Covenants. In addition to the representations and warranties made by Capricor above and elsewhere in this agreement, Capricor hereby represents, warrants, and covenants to JBI that:

(a) As of the Effective Date, it has, or will have during the Term of this Agreement, the full right, power and authority to grant to JBI the licenses hereunder granted in this Agreement.

(b) As of the Effective Date, to the actual knowledge of Capricor or its Affiliates, there is no suit or legal proceeding pending or threatened in writing with respect to Capricor Intellectual Property, and

(c) As of the Effective Date, Capricor has not entered, and during the Term, will not knowingly enter, into any written agreement with a Third Party that conflicts with the rights granted to JBI hereunder or Capricor's ability to fully perform its obligations hereunder.

9.3. JBI Representations, Warranties and Covenants In addition to the representations and warranties made by JBI above and elsewhere in this agreement, JBI hereby represents, warrants, and covenants to Capricor that:

(a) As of the Effective Date, it has, or will have during the Term of this Agreement, the full right, power and authority to grant to Capricor the licenses hereunder granted in this Agreement.

(b) As of the Effective Date, to the actual knowledge of JBI or its Affiliates, there is no suit or legal proceeding pending or threatened in writing with respect to JBI Intellectual Property, and

(c) As of the Effective Date, JBI has not entered, and during the Term, will not knowingly enter, into any written agreement with a Third Party that conflicts with the rights granted to Capricor hereunder or JBI's ability to fully perform its obligations hereunder.

9.4. Disclaimer of Warranties. EXCEPT AS OTHERWISE SET FORTH IN ARTICLE 9 OF THIS AGREEMENT, JBI AND CAPRICOR EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE INTELLECTUAL PROPERTY LICENSED INTHIS AGREEMENT, OR ANY OTHER SUBJECT MATTER

RELATING TO THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, VALIDITY OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

10. Limitations of Liability; Insurance

10.1. Limitations of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, MULTIPLE, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR FOR ANY LOSS OR INJURY TO A PARTY'S PROFITS OR GOODWILL, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE), EVEN IF SUCH PARTY WAS ADVISED OR OTHERWISE AWARE OF THE LIKELIHOOD OF SUCH DAMAGES, EXCEPT WITH RESPECT TO CONSEQUENTIAL DAMAGES (WHICH IN NO EVENT WILL INCLUDE ANY PUNITIVE DAMAGES) AWARDED TO A PARTY THAT THE NON-BREACHING PARTY DEMOSTRATES RESULTED FROM A BREACH OF SECTION 8.1 (CONFIDENTIALITY; EXCEPTIONS), OR SECTION 8.2 (AUTHORIZED DISCLOSURE). NOTHING IN THIS SECTION 10.1 (LIMITATIONS OF LIABILITY) IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF EITHER PARTY UNDER ARTICLE 11 (INDEMNIFICATION) WITH RESPECT TO ANY DAMAGES PAID BY THE OTHER PARTY TO A THIRD PARTY IN CONNECTION WITH A THIRD PARTY CLAIM.

10.2. Insurance. During the Term and for […***…] thereafter, each Party shall obtain and maintain (i) commercial general liability insurance covering its obligations and activities hereunder and (ii) products liability insurance including coverage for CDC Products undergoing clinical trials with financially secure insurance carriers in a form and at levels as customary for a company of its size in the pharmaceutical or biotechnology industry (or reasonable self-insurance sufficient to provide materially the same level and type of protection).

11. Indemnification.

11.1. Indemnification by JBI. JBI will defend, indemnify, and hold harmless Capricor, its Affiliates and their respective directors, officers, employees, and agents (collectively, "*Capricor Indemnitees*"), at JBI's cost and expense, from and against any and all liabilities, losses, costs, damages, fees or expenses (including reasonable legal expenses and attorneys' fees incurred by any Capricor Indemnitees until such time as JBI has acknowledged and assumed its indemnification obligation hereunder with respect to a claim) (collectively, *"Losses"*) arising out of any claim, action, lawsuit, or other proceeding (collectively, *"Claims"*) brought against any Capricor Indemnitee by a Third Party to the extent such Losses result from (i) any negligence or willful misconduct on the part of JBI, its Affiliates, subcontractors, or sublicensees in performing its obligations under this Agreement, and (ii) a material breach by JBI of this Agreement, including the failure of JBI's representations or warranties in Section 9.1 (Mutual Representations and Warranties) to be true in any material

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respect, or (iii) any actual or alleged infringement or misappropriation by JBI or any of its Affiliates, subcontractors or sublicensees of any Patent Rights or other intellectual property rights in performing its obligations under this Agreement; provided, however, that JBI shall not be obligated to indemnify Capricor Indemnitees for any Losses to the extent such Losses arise as a result of (A) the material breach of any representation, warranty or covenant made by Capricor under this Agreement or (B) any negligence or willful misconduct on the part of any Capricor Indemnitee or (C) any action or omission undertaken at the direction or request of any Capricor Indemnitee.

11.2. Indemnification by Capricor. Capricor will defend , indemnify, and hold harmless JBI, its Affiliates and their respective directors, officers, employees, and agents (collectively, "*JBI Indemnitees*"), at JBI's cost and expense, from and against any and all liabilities, losses, costs, damages, fees or expenses (including reasonable legal expenses and attorneys' fees incurred by any JBI Indemnitees until such time as Capricor has acknowledged and assumed its indemnification obligation hereunder with respect to a claim) (collectively, *"Losses"*) arising out of any claim, action, lawsuit, or other proceeding (collectively, *"Claims"*) brought against any JBI Indemnitee by a Third Party to the extent such Losses result from (i) any negligence or willful misconduct on the part of Capricor, its Affiliates, subcontractors, or sublicensees in performing its obligations under this Agreement, and (ii) a material breach by Capricor of this Agreement, including the failure of Capricor's representations or warranties in Section 9.1 (Mutual Representations and Warranties) to be true in any material respect, or (iii) any actual or alleged infringement or misappropriation by Capricor or any of its Affiliates, subcontractors or sublicensees of any Patent Rights or other intellectual property rights in performing its obligations under this Agreement; provided, however, that Capricor shall not be obligated to indemnify JBI Indemnitees for any Losses to the extent such Losses arise as a result of (A) the material breach of any representation, warranty or covenant made by JBI under this Agreement or (B) any negligence or willful misconduct on the part of any JBI Indemnitee or (C) any action or omission undertaken at the direction or request of any JBI Indemnitee.

11.3. Claim for Indemnification. Whenever any Claim or Loss arises for which a JBI Indemnitee or a Capricor Indemnitee (the*"Indemnified Party"*) may seek indemnification under this Article 11 (Indemnification), the Indemnified Party will promptly notify the other Party (the *"Indemnifying Party"*) of the Claim or Loss and, when known, the facts constituting the basis for the Claim or Loss; ***provided, however,*** that the failure by an Indemnified Party to give such notice or to otherwise meet its obligations under this Section 11.3 (Claim for Indemnification) will not relieve the Indemnifying Party of its indemnification obligation under this Agreement except and only to the extent that the Indemnifying Party is actually prejudiced as a result of such failure. The Indemnifying Party will have exclusive control of the defense and settlement of all Claims for which it is responsible for indemnification and will assume the defense thereof at its own expense promptly upon notice of such Claim or Loss. The Indemnified Party will not settle or compromise any Claim by a Third Party for which it is entitled to indemnification without the prior written consent of the Indemnifying Party, unless the Indemnifying Party is in breach of its obligation to defend hereunder. In no event will the Indemnifying Party settle any Claim without the prior written consent of the Indemnified Party if such settlement does not include a complete release from liability on such

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Claim or if such settlement would involve undertaking an obligation other than the payment of money, would bind or impair the Indemnified Party, or includes any admission of wrongdoing or that any intellectual property or proprietary right of the Indemnified Party is invalid or unenforceable. The Indemnified Party will reasonably cooperate with the Indemnifying Party at the Indemnifying Party's expense and will make available to the Indemnifying Party reasonably requested information under the control of the Indemnified Party, which information will be subject to Article 8 (Confidentiality and Publications). The Indemnifying Party will permit the Indemnified Party to participate in (but not to control) the Third Party Claim through counsel of its choosing (to the extent it has the ability to do so). Notwithstanding any other provision of this subsection, if an Indemnified Party withholds his or her consent to a bona fide settlement offer, where but for such action, the Indemnifying Party could have settled such Claim, the Indemnifying Party will be required to indemnify the Indemnified Party only up to a maximum of the bona fide settlement offer for which the Indemnifying Party could have settled such Claim.

12. TERM AND TERMINATION.

12.1. Term. This Agreement shall commence as of the Effective Date and, unless sooner terminated in accordance with the terms hereof or by mutual written consent, shall expire upon the later of (i) the mutual execution of an Exclusive License Agreement pursuant to JBI's exercising its Option or (ii) the expiration of the Option Period without the Exclusive License Agreement being executed (the "*Term*").

12.2. Termination. This Agreement may be terminated as follows:

(a) *Bankruptcy/Insolvency.* Either Party may terminate this Agreement upon written notice or upon the filing or institution of a bankruptcy, reorganization, liquidation or receivership proceedings, or upon than assignment of a substantial portion of the assets for the benefit of creditors by the other party; provided however, that in the case of any involuntary bankruptcy or other proceeding such right to terminate shall only become effective if the party consents to the involuntary bankruptcy or other proceedings or such proceeding is not dismissed within ninety (90) days after the filing thereof.

(b) *Section 365(n) Rights.* All rights and licenses granted under or pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. Each Party agrees that the other Party, as a licensee of intellectual property 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 a rejection of this Agreement by either Party (for purposes of this Section (b) (Section 365(n) Rights), the "licensor") in any bankruptcy proceeding by or against the licensor under the U.S. Bankruptcy Code, (a) the other Party (for purposes of this Section 12.2 (Section 365(n) Rights), the "licensee") will be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, which, if not already in the licensee's possession, will be promptly delivered to it upon the licensee's written request therefor, and (b) the licensor will not interfere with the licensee's

rights to intellectual property and all embodiments of intellectual property, and will assist and not interfere with the licensee in obtaining intellectual property and all embodiments of intellectual property from another entity. The term "embodiments" of intellectual property includes all tangible, intangible, electronic or other embodiments of rights and licenses hereunder, including all compounds and products embodying intellectual property, CDC Products, regulatory filings and related rights, and technology.

12.3. Safety Concern. If Capricor determines that the use of a CDC Product is likely to cause a clinical effect that is detrimental to the safety of patients, Capricor shall immediately notify JBI of such determination. The Parties shall meet and confer as soon as practicable regarding the facts leading to such determination and possible mitigation of such outcome.

12.4. Termination for Uncured Material Breach. In its sole discretion, either Party may terminate the Agreement upon the uncured material breach of the other Party.

12.5. Effect of Termination or Expiration. Upon the effective date of termination or Expiration of the Term, except as otherwise expressly provided herein, all rights and obligations of each Party hereunder shall cease, including all rights, licenses and sublicenses granted by a Party.

(i) No later than ten (10) days after the Termination Date, unless another period is agreed to in writing by the Parties, JBI may provide an invoice in respect of the final FTE/OOPs Payment due and payable for such work performed by JBI. JBI shall provide Capricor with a final invoice for the funded FTEs expended and reimbursable out of pocket and Capricor shall reimburse all such amounts no later than forty-five (45) Calendar Days after receipt of such invoice.

(ii) If this Agreement is Terminated by mutual consent, expires or is terminated for material breach by Capricor, pursuant to this Section 12:

(A) if requested by Capricor, JBI will, at Capricor's cost, transfer CMC Information not already in Capricor's possession to Capricor or a CMO designated by Capricor as necessary or useful for Capricor or such CMO to manufacture CDC Cells and CDC Products; and

(B) JBI shall grant to Capricor an exclusive, worldwide license to JBI's right, title, and interest in and to JBI Know-How to Exploit CDC Cells and CDC Product in the Field.

12.6. Accrued Rights. Expiration or termination of this Agreement (or any provision hereof) for any reason shall be without prejudice to any right that shall have accrued to the benefit of a Party prior to such expiration or termination, including damages arising from any

breach under this Agreement. Expiration or termination of this Agreement shall not relieve a Party from any obligation that is expressly indicated to survive such expiration or termination.

12.7. Survival. The following provisions shall survive termination or expiration of this Agreement: Section 1 (Definitions), Section 4.6, Section 6.2 (Research Funding) Article 7 (Intellectual Property), Article 8 (Confidentiality), Article 11 (Indemnification), Article 13 (Dispute Resolution) and Article 14 and each of their subparts.

13. Dispute Resolution.

(a) Discussion by Senior Executives. If there is an unresolved matter, dispute or issue arising out of or relating to the interpretation, breach, performance or application of this Agreement for which neither Party has the final decision making authority as expressly provided elsewhere in this Agreement, either Party may refer such matter, dispute or issue to the Chief Executive Officer of Capricor and the President of JBI or their designee(s), in writing for further discussion and resolution. These individuals shall as soon as practicable meet and attempt in good faith to resolve the matter, dispute or issue and reach Agreement. These individuals may obtain the advice of other employees or consultants as they deem necessary or advisable in order to make the decision. If these individuals cannot reach Agreement as to the matter, dispute or issue within thirty (30) Calendar Days of the matter, dispute or issue being referred to them, then such matter, dispute or issue (an "*Unresolved Issue*") will be resolved as provided in Section 13(b) (Arbitration) if the issue is material breach, and otherwise the issue will be resolved according to the position of the Party having the right and license under this Agreement or otherwise to act or proceed.

(b) Arbitration.

(i) If the Parties fail to resolve the Unresolved Issue which concerns the breach of an obligation or duty under this Agreement in mediation pursuant to Section 13(b) (Mediation), and a Party desires to pursue resolution of the Unresolved Issue, the Unresolved Issue shall be submitted by either party for resolution in arbitration pursuant to the then current CPR *Non-Administered Arbitration Rules* ("CPR Rules") (www.cpradr.org), except where they conflict with these provisions, in which case these provisions control. The arbitration will be held in New York, New York. All aspects of the arbitration shall be treated as confidential.

(ii) The arbitrators will be chosen from the CPR Panel of Distinguished Neutrals, unless a candidate not on such panel is approved by both parties. Each arbitrator shall be a lawyer with at least 15 years of experience with at least one company in the business of developing and marketing pharmaceutical products to treat, ameliorate, or cure human diseases or conditions whether in a corporate law department or otherwise, where such company has yearly reported sales of at least five hundred million US dollars ($500MM). To the extent that the Unresolved Issue requires special expertise, the parties will so inform CPR prior to the beginning of the selection process.

(iii) The arbitration tribunal shall consist of three (3) arbitrators, of whom each party shall designate one in accordance with the "screened" appointment procedure provided in CPR Rule 5.4. The chair will be chosen in accordance with CPR Rule 6.4. A single arbitrator may be chosen in accordance with the CPR Rules if (a) the Unresolved Issue does not involve a determination of the existence of an uncured material breach, or (b) the aggregate award sought by the Parties is less than five million U.S. dollars ($5,000,000.00 US) and equitable relief is not sought. Candidates for the arbitrator position(s) may be interviewed by representatives of the Parties in advance of their selection, provided that all parties are represented.

(iv) The Parties agree to select the arbitrator(s) within thirty (30) days of initiation of the arbitration. The hearing will be concluded within six (6) months after selection of the arbitrator(s) and the award will be rendered within sixty (60) days of the conclusion of the hearing, or of any post-hearing briefing, which briefing will be completed by both sides within forty-five (45) days after the conclusion of the hearing. In the event the Parties cannot agree upon a schedule, then the arbitrator(s) shall set the schedule following the time limits set forth above as closely as practical.

(v) The hearing will be concluded in ten (10) hearing days or less. Multiple hearing days will be scheduled consecutively to the greatest extent possible. A transcript of the testimony adduced at the hearing shall be made and shall be made available to each party.

(vi) The arbitrator(s) shall be guided, but not bound, by the *CPR Protocol on Disclosure of Documents and Presentation of Witnesses in Commercial Arbitration* (www.cpradr.org) (the "*Protocol*"). The Parties will attempt to agree on modes of document disclosure, electronic discovery, witness presentation, etc. within the parameters of the Protocol. If the Parties cannot agree on discovery and presentation issues, the arbitrator(s) shall decide on presentation modes and provide for discovery within the Protocol, understanding that the Parties contemplate reasonable discovery.

(vii) The arbitrator(s) shall decide the merits of any Unresolved Issue in accordance with the law governing this Agreement, without application of any principle of conflict of laws that would result in reference to a different law. The arbitrator(s) may not apply principles such as "amiable compositeur" or "natural justice and equity."

(viii) The arbitrator(s) are expressly empowered to decide dispositive motions in advance of any hearing and shall endeavor to decide such motions as would a United States District Court Judge sitting in the jurisdiction whose substantive law governs.

(ix) The arbitrator(s) shall render a written opinion stating the reasons upon which the award is based. The Parties consent to the jurisdiction of the United States District Court for the district in which the arbitration is held for the enforcement of these provisions and the entry of judgment on any award rendered hereunder. Should such court for any reason lack jurisdiction, any court with jurisdiction may act in the same fashion.

(x) Each Party has the right to seek from the appropriate court provisional remedies such as attachment, preliminary injunction, replevin, etc. to avoid irreparable harm, maintain the status quo, or preserve the subject matter of the Dispute. Rule 14 of the CPR Rules does not apply to this Agreement.

(xi) EACH PARTY HERETO WAIVES: (1) ITS RIGHT TO TRIAL OF ANY ISSUE BY JURY, (2) WITH THE EXCEPTION OF RELIEF MANDATED BY STATUTE, ANY CLAIM TO PUNITIVE, EXEMPLARY, MULTIPLIED, INDIRECT, CONSEQUENTIAL OR LOST PROFITS/REVENUES DAMAGES, AND (3) ANY CLAIM FOR ATTORNEY FEES COSTS AND PREJUDGMENT INTEREST.

14. Miscellaneous

14.1. Affiliates and Designees. The Parties shall have the right to exercise their respective rights, perform their respective obligations and/or receive performance of the other Party's obligations hereunder through its Affiliates, designees, sublicensees or licensees.

14.2. Assignment. Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred (whether by operation of Law, general succession or otherwise) by either Party without the prior written consent of the other Party, except that (a) either Party, upon prior written notice, may assign this Agreement to an Affiliate of such Party and (b) Capricor or any Affiliate may assign this Agreement in connection with the sale of all or substantially all of its assets or business to which this Agreement relates or pursuant to a Change of Control. Any assignment not in accordance with this Agreement will be void. Subject to the foregoing, the rights and obligations of the Parties under this Agreement will be binding upon and inure to the benefit of the successors and permitted assigns of the Parties. The acquiring entity of Capricor will agree in writing to assume all of Capricor's obligations hereunder.

14.3. Choice of Law. This Agreement will be governed by, and enforced and construed in accordance with, the laws of the State of Delaware without regard to its conflicts of law provisions.

14.4. Construction. The definitions of the terms herein will apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun will include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" will be deemed to be followed by the phrase "without limitation." The word "will" will be construed to have the same meaning and effect as the

word “shall.” The Parties each acknowledge that they have had the advice of counsel with respect to this Agreement, that this Agreement has been jointly drafted, and that no rule of strict construction will be applied in the interpretation hereof. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or therein), (b) any reference to any Laws herein will be construed as referring to such Laws as from time to time enacted, repealed or amended, (c) any reference herein to any person will be construed to include the person’s permitted successors and assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Articles, Sections or Schedules, unless otherwise specifically provided, will be construed to refer to Articles, Sections or Schedules of this Agreement. This Agreement has been executed in English, and the English version of this Agreement will control.

14.5. Counterparts. This Agreement may be executed in counterparts with the same effect as if both Parties had signed the same document. All such counterparts will be deemed an original, will be construed together and will constitute one and the same instrument. Signature pages of this Agreement may be exchanged by facsimile or other electronic means without affecting the validity thereof.

14.6. Entire Agreement. This Agreement, including the attached Schedules constitutes the entire agreement between the Parties as to the subject matter of this Agreement, and supersedes and merges all prior discussions, representations, agreements and understandings regarding the same, except for the Mutual NDA executed by the parties on […***…] as amended on […***…].

14.7. Force Majeure. Neither Party will be liable for delay or failure in the performance of any of its obligations hereunder (other than the payment of money) if such delay or failure is due to causes beyond its reasonable control, including acts of God, fires, floods, earthquakes, labor strikes, acts of war, terrorism or civil unrest (*“Force Majeure”*); ***provided, however,*** that the affected Party notifies the other Party in writing within thirty (30) days of the Force Majeure event (and continues to provide monthly status updates to the other Party for the duration of the effect); ***further provided*** that the affected Party will use its reasonable efforts to avoid or remove such causes of non-performance and to mitigate the effect of such occurrence, and will continue performance with reasonable dispatch whenever such causes are removed.

14.8. Further Assurances. Each Party agrees to do and perform all such further acts and things and will execute and deliver such other agreements, certificates, instruments and documents necessary or that the other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and to evidence, perfect or otherwise confirm its rights hereunder.

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14.9. Headings. Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement.

14.10. Notices. Any notice required or permitted to be given by this Agreement will be in writing, in English, and will be delivered by hand or overnight courier with tracking capabilities addressed as set forth below unless changed by notice so given:

If to Capricor: Capricor, Inc.
8840 Wilshire Blvd., 2nd Floor
Beverly Hills, CA 90211

Attention: […***…]
Telephone: […***…]
Facsimile: […***…]

(with a copy to)
[…***…]
General Counsel
[…***…]

If to Licensee: Janssen Biotech, Inc.
Attention: President
[…***…]

(with a copy to) Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Attention: Chief Intellectual Property Officer
Facsimile: 732-524-5575

Any such notice will be deemed given on the date delivered. A Party may add, delete (so long as at least one person is remaining), or change the person or address to which notices should be sent at any time upon written notice delivered to the other Party in accordance with this Section 14.10 (Notices).

14.11. Relationship of the Parties. Each Party is an independent contractor under this Agreement. Nothing contained herein is intended or is to be construed so as to constitute Licensee and Capricor as partners, agents or joint venturers. Neither Party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement or undertaking with any Third Party.

14.12. Severability. If any one or more of the provisions of this Agreement is held to be invalid or unenforceable, the provision will be considered severed from this Agreement and will not serve to invalidate any remaining provisions hereof. The Parties will negotiate in good faith to replace any invalid or unenforceable provision with a valid and enforceable one

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such that the objectives contemplated by the Parties when entering this Agreement may be realized.

14.13. Third Party Beneficiaries. Except as expressly provided with respect to Capricor Indemnitees or Licensee Indemnitees in Article 11 (Indemnification), there are no third party beneficiaries intended hereunder and no Third Party will have any right or obligation hereunder.

14.14. Waivers and Modifications. The failure of any Party to insist on the performance of any obligation hereunder will not be deemed to be a waiver of such obligation. Waiver of any breach of any provision hereof will not be deemed to be a waiver of any other breach of such provision or any other provision on such occasion or any other occasion. No waiver, modification, release or amendment of any right or obligation under or provision of this Agreement will be valid or effective unless in writing and signed by all Parties hereto.

****

(Signature page follows)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

JANSSEN BIOTECH, INC.

By: /s/ John Haney

Name: John Haney
Title: Vice President - Immunology Marketing

CAPRICOR, INC.

By: /s/ Linda Marbán

Name: Linda Marbán
Title: Chief Executive Officer

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Capricor Third Party License Schedule (Schedule B)

License Agreement between Universita Degli Studi Di Roma “La Sapienza” effective June 21, 2006 (the “Rome License”),

Exclusive License Agreement between The Johns Hopkins University and Capricor, Inc., effective June 22, 2006 (the "Johns Hopkins License”), and

Exclusive License Agreement between Cedars-Sinai Medical Center and Capricor, Inc., effective January 4, 2010 as amended by Amendment to License Agreement dated February 25, 2013 and Second Amendment to License Agreement dated April 19, 2013 (the “Cedars-Sinai License”).

Johnson & Johnson Universal Financial Calendar Schedule

janssen

2014 Universal CALENDAR

	S	M	T	W	T	F	S	Work Wk
JAN 4 WEEKS 19 billing days		30	31	□1	○2	3	4	1
	5	6	7	8	9	10	11	2
	12	13	14	15	○16	17	18	3
	19	20	21	22	23	24	25	4
	△26							
FEB 4 WEEKS 19 billing days		27	28	29	○30	31	1	5
	2	3	4	5	6	7	8	6
	9	10	11	12	○13	14	15	7
	16	□17	18	19	20	21	22	8
	△23							
MAR 5 WEEKS 25 billing days		24	25	26	○27	28	1	9
	2	3	4	5	6	7	8	10
	9	10	11	12	○13	14	15	11
	16	17	18	19	20	21	22	12
	23	24	25	26	○27	28	29	13
	△30							
APR 4 WEEKS 20 billing days		31	1	2	3	4	5	14
	6	7	8	9	○10	11	12	15
	13	14	15	16	17	18	19	16
	20	21	22	23	○24	25	26	17
	△27							
MAY 4 WEEKS 20 billing days		28	29	30	1	2	3	18
	4	5	6	7	○8	9	10	19
	11	12	13	14	15	16	17	20
	18	19	20	21	○22	23	24	21
	△25							
JUN 5 WEEKS 24 billing days		□26	27	28	29	30	31	22
	1	2	3	4	○5	6	7	23
	8	9	10	11	12	13	14	24
	15	16	17	18	○19	20	21	25
	22	23	24	25	26	27	28	26
	△29							

	S	M	T	W	T	F	S	Work Wk
JUL 4 WEEKS 19 billing days		30	1	2	○3	□4	5	27
	6	7	8	9	10	11	12	28
	13	14	15	16	○17	18	19	29
	20	21	22	23	24	25	26	30
	△27							
AUG 4 WEEKS 20 billing days		28	29	30	○31	1	2	31
	3	4	5	6	7	8	9	32
	10	11	12	13	○14	15	16	33
	17	18	19	20	21	22	23	34
	△24							
SEP 5 WEEKS 24 billing days		25	26	27	○28	29	30	35
	31	□1	2	3	4	5	6	36
	7	8	9	10	○11	12	13	37
	14	15	16	17	18	19	20	38
	21	22	23	24	○25	26	27	39
	△28							
OCT 4 WEEKS 20 billing days		29	30	1	2	3	4	40
	5	6	7	8	○9	10	11	41
	12	13	14	15	16	17	18	42
	19	20	21	22	○23	24	25	43
	△29							
NOV 4 WEEKS 20 billing days		27	28	29	30	31	1	44
	2	3	4	5	○6	7	8	45
	9	10	11	12	13	14	15	46
	16	17	18	19	○20	21	22	47
	△23							
DEC 5 WEEKS 21 billing days		24	25	26	27	□28	29	48
	30	1	2	3	○4	5	6	49
	7	8	9	10	11	12	13	50
	14	15	16	17	○18	19	20	51
	21	22	23	24	□25	□26	27	52
	△28							

*NOTE: Payroll work week numbers refer to Monday thru Saturday of the line shown plus the Sunday of the next line. The calendar reflects the accounting closes, paydays and holidays. There are 9 Company Holidays plus three (3) personal choice holidays for each employee in 2014. There are 52 weeks and 251 billing days in 2014.

□ HOLIDAY ○ PAY PERIOD △ MONTHLY ACCOUNTING CLOSE

Exclusive License Agreement Term Sheet Schedule

[…*…]**

***Confidential Treatment Requested**

Press Release Schedule

Final- Execution Version

Capricor Therapeutics and Janssen Biotech, Inc. Enter into Exclusive License Option and Collaboration Agreement

LOS ANGELES, January , 2014 – Capricor Therapeutics, Inc. (OTCBB: CAPR) today announced that it has executed an exclusive license option and collaboration agreement with Janssen Biotech, Inc. (Janssen) for its cell therapy program for cardiovascular applications, including lead product, CAP-1002. CAP-1002 is an allogeneic cardiosphere derived cell (CDC) therapeutic under evaluation in patients who have suffered a large myocardial infarction. Pursuant to the agreement, Capricor and Janssen will collaborate on elements of cell manufacturing development . Capricor will contribute to the costs of the manufacturing collaboration, and will receive an upfront payment of $12.5 million from Janssen.

Under the terms of the agreement, Janssen will have the right to enter into an exclusive license agreement for CAP-1002 following the review of six month data from the ongoing ALLSTAR trial , which is Capricor's Phase I/II trial of CAP -1002. If Janssen exercises its option rights, Capricor will be eligible to receive up to $325 million in additional payments. In addition, a royalty would be paid on commercial sales of CAP-1002.

"This collaboration with Janssen, one of the world's largest and most respected healthcare companies with a strong presence in cardiovascular and metabolism, is a tremendous milestone for Capricor Therapeutics, and an important validation of our lead product, CAP -1002 and the underlying science. . We are proud to be working with them to support the continued development CAP-1002, and for the additional non dilutive capital to further develop our research and development that will add to our pipeline said Capricor CEO, Dr. Linda Marbán.

About Capricor Therapeutics

Capricor Therapeutics, Inc. (CAPR), a publicly traded biotechnology company, is focused on the development of novel therapeutics to prevent and treat heart disease. The Company has two leading product candidates: CAP-1002 and Cenderitide. The Company was formed through the November 2013 merger between Capricor, Inc., a privately held company whose mission is to improve the treatment of heart disease by commercializing cardiac stem cell therapies for patients, and Nile Therapeutics, Inc., a clinical-stage biopharmaceutical company developing innovative products for the treatment of cardiovascular diseases. Capricor Therapeutics' stock will begin trading under the symbol "CAPR" starting December 20, 2013. For additional information visit www.capricor.com.

About CAP-1002

CAP-1002, Capricor's lead product candidate, is a proprietary allogeneic adult stem cell therapy for

the treatment of heart disease. The product is derived from donor heart tissue. The cells are expanded in the laboratory using a specialized process and then introduced directly into a patient's heart via infusion into a coronary artery using standard cardiac catheterization techniques.

CAP-1002 is currently not an approved product and is strictly for investigational purposes.

Cautionary Note Regarding Forward-Looking Statements

Statements in this press release regarding the efficacy, safety, and intended utilization of Capricor's product candidates; the conduct, size, timing and results of discovery efforts and clinical trials; plans regarding regulatory filings, future research and clinical trials; plans regarding current and future collaborative activities and the ownership of commercial rights; future royalty streams, and any other statements about Capricor's management team's future expectations, beliefs, goals, plans or prospects constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Any statements that are not statements of historical fact (including statements containing the words "believes," "plans," "could," "anticipates," "expects," "estimates," "plans," "should," "target," "will," "would" and similar expressions) should also be considered to be forward-looking statements. There are a number of important factors that could cause actual results or events to differ materially from those indicated by such forward-looking statements.

More information about these and other risks that may impact our business are set forth in our Form 10-K for the year ended December 31, 2012, as filed with the Securities and Exchange Commission on June 21, 2013, in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2013, as filed with the Securities and Exchange Commission on November 14, 2013, and in our Definitive Proxy Statement on Schedule 14A, as filed with the Securities and Exchange Commission on October 10, 2013. All forward-looking statements in this press release are based on information available to us as of the date hereof, and we assume no obligation to update these forward-looking statements.

Six Month Top Line Report Schedule

[…***…]

***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

Definitions

[…***…]

***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

[…***…]

***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

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***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

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Exclusive License Agreement Term Sheet

[…***…]

***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

[…***…]

***Confidential Treatment Requested**

Exclusive License Agreement Term Sheet

[…*…]**

***Confidential Treatment Requested**

Exhibit 10.38

*** Text Omitted and Filed Separately
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Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE
LOAN AGREEMENT

This LOAN AGREEMENT (the "**Agreement**") is entered into as of the Effective Date (as defined below), by and between the California Institute for Regenerative Medicine ("**CIRM**") and Capricor, Inc. ("**Loan Recipient**").

RECITALS

A. Whereas, California voters approved Proposition 71, the California Stem Cell Research and Cures Act, in November 2004 to support stem cell research for the development of life-saving regenerative medical treatments and cures;

B. Whereas, one of the purposes of Proposition 71 is to advance the biotech industry in California to world leadership, as an economic engine for California's future;

C. Whereas, CIRM was established pursuant to Proposition 71 to make grants and provide loans for stem cell research, research facilities, and other vital research opportunities;

D. Whereas, CIRM issued Request for Applications 10-05 (CIRM Disease Team Therapy Development Awards) in 2010, and a Supplement to RFA in 2011, to solicit applications for research projects designed to advance preclinical and/or early clinical development of novel therapies, derived from or targeting stem cells or utilizing direct reprogramming, potentially offering unique benefit with well-considered risk, to persons with disease or serious injury;

E. Whereas, CIRM, as part of Request for Applications 10-05, offered Company-Backed Loans and Product-Backed Loans to for-profit entities, and to non-profit entities whose applications included a co-principal investigator from a for-profit entity that was willing to undertake the required loan obligations;

F. Whereas, Loan Recipient is a for-profit company that is seeking funds to support Loan Recipient's research intended to demonstrate both the safety and efficacy of an allogeneic cardiosphere-derived cell product for use in patients who have been treated for a heart attack between thirty (30) days to one year after occurrence by conducting the Phase II arm of a clinical trial (the "**ALLSTAR trial**");

G. Whereas, the ALLSTAR trial is the only clinical trial currently being conducted by Loan Recipient;

H. Whereas, Loan Recipient applied for a Disease Team Therapy Development Award, and on September 6, 2012, CIRM's Governing Board, the Independent Citizens' Oversight Committee, approved the award of a Product-Backed Loan to Loan Recipient in furtherance of the purposes of CIRM; and

I. Whereas, this Agreement sets forth the terms and conditions pursuant to which CIRM will loan funds to Loan Recipient, and Loan Recipient will repay the amounts owing, plus interest, and a multiple payback risk premium, to CIRM.

NOW, THEREFORE, in reliance on the mutual representations, warranties and agreements herein contained, the parties agree as follows:

ARTICLE I
DEFINITIONS

1.1 Certain Definitions. As used in this Agreement, the following terms have the meanings indicated below.

Affiliate. The term "Affiliate" shall mean any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise; provided that, in any event for purposes of this definition, any Person that owns, directly or indirectly, ten percent (10%) or more of the securities having the ordinary voting power for the election of directors or governing body of a corporation or ten percent (10%) or more of the partnership or other ownership interest of any other Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person).

Application. The term "Application" shall mean the research award application, identified as DR2A-05735, that Loan Recipient submitted to CIRM in response to RFA 10-05, and any attachment or appendices thereto.

Authorized Representative. The term "Authorized Representative" shall mean those persons shown on the list of officers provided by Loan Recipient pursuant to Section 4.12(e) hereof or on any update of any such list provided by Loan Recipient to CIRM, or any further or different officers of Loan Recipient so named by an Authorized Representative of Loan Recipient in a written notice to CIRM.

Budget. The term "Budget" means (a) the budget of Loan Recipient for the CIRM-Funded Project, on a stand-alone basis, which shall be in such detail as is required by CIRM according to its standard processes, and (b) a budget of Loan Recipient for both the CIRM-Funded Project and the proposed project to be partially funded by CIRM to evaluate the safety and efficacy of an allogeneic cardiosphere-derived cell product for use in patients who have been treated for a heart attack between thirty (30) days to one year after occurrence by conducting a Phase II clinical trial, which shall be in such detail as is required by CIRM according to its standard processes.

Business. The term "Business" shall mean the CIRM-Funded Project and the development and commercialization of products resulting from the CIRM-Funded Project.

Capital Lease. The term "Capital Lease" shall mean any lease of Property which, in accordance with GAAP, is required to be capitalized on the balance sheet of the lessee.

Capitalized Lease Obligation. The term "Capitalized Lease Obligation" shall mean, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

Change of Control. The term "Change of Control" shall mean a sale, merger, transfer, exchange or other disposition (whether of assets, stock or otherwise) of a majority or controlling ownership position of Loan Recipient, excluding any transaction where the shareholders of Loan Recipient immediately prior to such transaction continue to own fifty percent (50%) or more of Loan Recipient or other surviving entity following such transaction, and provided that the surviving entity (if other than the Loan Recipient) expressly assumes all of Loan Recipient's obligations under this Agreement.

CIRM. The term "CIRM" shall mean the California Institute for Regenerative Medicine, including any successor agency or department of the State of California.

CIRM-Funded Project. The term "CIRM-Funded Project" shall mean the Phase II arm of Loan Recipient's ALLSTAR clinical trial to evaluate the safety and efficacy of an allogeneic cardiosphere-derived cell product for use in patients who have been treated for the prevention of heart failure following a heart attack, as described in detail by Loan Recipient in the Application, and in the Notice of Loan Award. The Loan Recipient must obtain prior approval from CIRM for any change in the scope of the CIRM-Funded Project pursuant to CIRM's Grants Administration Policy, article V, section D(1). Upon such approval, the term "CIRM-Funded Project" shall include any such deviation, amendment or change that is so approved by CIRM.

CIRM's Governing Board. The term "CIRM's Governing Board" shall mean the Independent Citizens' Oversight Committee.

CIRM Representatives. The term "CIRM Representatives" shall mean CIRM's officers, employees, agents, attorneys, consultants, accountants and members of CIRM's Governing Board.

Code. The term "Code" shall mean the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

Company-Backed Loan. The term "Company-Backed Loan" shall have the meaning given in the Loan Administration Policy.

Controlled Group. The term "Controlled Group" shall mean all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with Loan Recipient, are treated as a single employer under Section 414 of the Code.

Direct Research Funding Costs. The term "Direct Research Funding Costs" shall mean the sum of Project Costs and Facilities Costs.

Disbursement. The term "Disbursement" shall have the meaning given to it in Section 4.4(a) of this Agreement.

Disbursed Loan Amount. The term "Disbursed Loan Amount" shall mean that amount of the Loan Award that CIRM has distributed in immediately available funds to the Loan Recipient through any one or more Disbursements.

DSMB. The term "DSMB" shall mean the Data Safety Monitoring Board.

Effective Date. The term "Effective Date" shall be as determined under Section 4.11.

ERISA. The term "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

Facilities Costs. The term "Facilities Costs" shall mean the general operating costs of the facilities where the CIRM-Funded Project is managed

Financial Milestones. The term "Financial Milestones" shall mean the requirement that Loan Recipient demonstrate to CIRM (one month prior to each Disbursement Date) that it has funds available, either in the form of cash, cash equivalents or securities listed on an automated quotation system which have no resale restrictions under federal or other applicable securities laws, sufficient to fund all costs and expenses (including overhead and administrative expenses and taxes) anticipated by Loan Recipient to be required for Loan Recipient to continue the CIRM-Funded Project for at least the following twelve (12) month period during the Project Period, less the costs budgeted to be covered by planned Loan Disbursements, demonstrated to CIRM's satisfaction by Loan Recipient's submission of current budget forecasts, and other financial information reasonably requested by CIRM (provided, however, that Loan Recipient may exclude from the foregoing costs and expenses on any date all principal payments to be made on Permitted Indebtedness which matures in the four-year period following such date).

Indebtedness. The term "Indebtedness" shall mean for any Person (without duplication), (a) all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (b) all indebtedness for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business), (c) all indebtedness secured by any Lien upon Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (d) all Capitalized Lease Obligations of such Person, and (e) all obligations of such Person on or with respect to letters of credit, bankers' acceptances and other extensions of credit whether or not representing obligations for borrowed money.

Indirect Costs. The term "Indirect Costs" shall mean the administrative costs (including but not limited to loan origination and administration fees) incurred for common or joint objectives which cannot be readily and specifically identified with a particular project. Indirect costs shall be capped […***…], exclusive of the costs of equipment, tuition and fees, and subcontracts, as group, totaling more than $25,000 per year.

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LIBOR. The term "LIBOR" shall have the meaning given in Section 4.3 of this Agreement.

Lien. The term "Lien" shall mean any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

Loan. The term "Loan" shall mean the product-backed loan specified in Section 4.1 of this Agreement.

Loan Administration Policy. The term "Loan Administration Policy" shall mean the "CIRM Loan Administration Policy," as approved by the Office of Administrative Law, effective August 29, 2012, incorporated by reference into Section 100800 of Title 17 of the California Code of Regulations, and as attached hereto as Exhibit B, including amendments thereto adopted by CIRM and agreed to by CIRM and Loan Recipient.

Loan Award. The term "Loan Award" shall mean the award of nineteen million, seven hundred and eighty-two thousand, one hundred and thirty-six dollars ($19,782,136) to Loan Recipient, which was approved by CIRM's Governing Board on or about September 6, 2012.

Loan Balance. The term "Loan Balance" shall mean the principal amount CIRM distributes to Loan Recipient pursuant to any Disbursement plus accrued interest thereon, less any prepayment(s) made under Section 4.7(a).

Loan Documents. The term "Loan Documents" shall mean this Agreement, the Notice of Loan Award, and all documents incorporated by reference pursuant to Article II.

Loan Period. The term "Loan Period" shall mean the five-year period beginning on the Effective Date of this Agreement, unless the Loan Recipient elects to extend the term of the Loan Period pursuant to Section 4.8, in which case "Loan Period" shall mean the period as so extended pursuant to the terms set forth herein.

Loan Recipient. The term "Loan Recipient" shall mean Capricor, Inc.

Material Adverse Effect. The term "Material Adverse Effect" shall mean any event, condition or change which materially and adversely affects or could reasonably be expected to materially and adversely affect the Business or the financial results of operations, or financial condition of the Loan Recipient.

Net Commercial Revenue. The term "Net Commercial Revenue" shall mean revenue from the sale or transfer of Loan Recipient's Product employing or resulting in whole or in part from a CIRM-Funded Project, excluding the following (as they pertain to the making, using or selling of Products resulting from the CIRM-Funded Project): (1) import, export, excise and sales taxes and customs duties; (2) costs of insurance, packing and transportation from the place of manufacture to the customer's premises; (3) credit for returns, allowances or trades; and (4) any and all payments received prior to commercialization pursuant to a development agreement, licensing arrangement, partnership, achievement of milestones, equity investment and/or joint venture agreement.

No Go Milestones. The term "No Go Milestones" shall mean the milestones specified in the Notice of Loan Award (as may be amended by the Parties from time to time) which CIRM will determine, in its reasonable but sole discretion, whether or not the funding by CIRM of the CIRM-Funded Project will continue, including whether additional Disbursements will be contingent on Loan Recipient's satisfaction of conditions imposed by CIRM. No Go Milestones shall also include (i) any decision or directive by a regulatory authority (state or federal), the issuance of a judicial order by a court of competent jurisdiction, or the enactment of any applicable law, that would necessitate, in either event, an extended hold on or cessation of the CIRM-Funded Project; and/or (ii) Loan Recipient's decision to discontinue the CIRM-Funded Project based on the recommendation of Loan Recipient's DSMB.

Notice of Loan Award or NLA. The terms "Notice of Loan Award" or "NLA" shall mean the Notice of Loan Award executed by CIRM and Loan Recipient in connection with the Application.

Organizational Documents. The term "Organizational Documents" shall mean Loan Recipient's certificate of incorporation and bylaws (or comparable organizational documents), each as amended to date, which have been furnished to CIRM by Loan Recipient.

PBGC. The term "PBGC" shall mean the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

Permitted Indebtedness. The term "Permitted Indebtedness" shall mean:

(a) Loan Recipient's indebtedness to CIRM under this Agreement or any other Loan Document;

(b) Indebtedness existing on the date hereof and described in Schedule 7.8;

(c) Indebtedness secured by a lien described in Section 7.8(d) of this Agreement;

(d) Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness arising from credit facilities, term loans and other debt financings (including, for the avoidance of doubt, any debt financing provided by Loan Recipient's equity investors), established to support the Loan Recipient's working capital and general corporate needs; provided that such Indebtedness shall not be secured by the CIRM-Funded Project and shall not exceed ten million dollars ($10,000,000.00), unless Loan Recipient obtains the prior approval of the President of CIRM;

(f) Indebtedness that is subordinated to the Loan Recipient's Indebtedness to CIRM under this Agreement or any other Loan Document, pursuant to subordination, intercreditor or similar agreements reasonably satisfactory to CIRM; and

(g) Other CIRM Loans which may be awarded to Loan Recipient in connection with other projects.

Permitted Lien(s). The term "Permitted Lien" or "Permitted Liens" shall have the meaning provided in Section 7.8 of this Agreement.

Person. The term "Person" shall mean an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

Plan. The term "Plan" shall mean any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group for employees of a member of the Controlled Group or (b) is maintained pursuant to the collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

Product. The term "Product" shall mean an allogeneic cardiosphere-derived cell product for use in patients who have ischemic heart disease or who have been or are being treated for the prevention of ischemic cardiomyopathy.

Product-Backed Loan. The term "Product-Backed Loan" shall have the meaning given in the Loan Administration Policy.

Product Revenue. The term "Product Revenue" shall mean Net Commercial Revenue (as defined herein) received by the Loan Recipient or by any joint venture or subsidiary created by Loan Recipient, and any upfront licensing fees, development milestone payments received from a product development partner, and royalties on commercial sales, which arise from or are related to development and/or commercial sale of the Product provided, however, that (a) such pre-commercial revenues will trigger a Risk Premium Payment only in the event and at such time that the CIRM-Funded Project results in revenues from commercial sales of Products (as defined herein) and the revenue thresholds described in Section E.2.c of Article VII of the Loan Administration Policy are satisfied.

Progress Milestones. The term "Progress Milestones" shall mean those milestones specified in the Notice of Loan Award by which CIRM will measure Loan Recipient's progress in achieving the aims of the CIRM-Funded Project.

Project Costs. The term "Project Costs" shall mean those CIRM-funded costs identified in the budget included in the Notice of Loan Award, and any other CIRM-funded costs that may be specifically identified with the CIRM-Funded Project and mutually agreed upon by CIRM and Loan Recipient.

Project Period. The term "Project Period" shall mean the amount of time over which CIRM funds the CIRM-Funded Project.

Property. The term "Property" shall mean, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its subsidiaries under GAAP.

Risk Premium Amount. The term "Risk Premium Amount" shall mean the payment or payments that Loan Recipient is required to make to CIRM, in lieu of providing warrants, pursuant to Section E of Article VII of the Loan Administration Policy and as provided under Section 4.5(b).

Request for Applications 10-05 or RFA 10-05. The terms "Request for Applications 10-05" and "RFA 10-05" shall mean the request for applications issued by CIRM in 2010 for Disease Team Therapy Development Awards, and include the "Supplement to RFA 10-05" issued in September 2011.

Subsidiary. The term "Subsidiary" shall mean any corporation or other Person more than fifty percent (50%) of the outstanding ordinary voting shares or other equity interest of which is at the time directly or indirectly owned by Loan Recipient, by one or more of its Subsidiaries, or by Loan Recipient and one or more of its Subsidiaries.

"Third Party" shall mean an entity other than CIRM and its Affiliates and Loan Recipient and its Affiliates.

1.2 Other Terms. The definitions set forth in the CIRM Loan Administration Policy (Cal. Code Regs., tit. 17, § 100800 et seq.), the CIRM Scientific and Medical Accountability Standards (Cal. Code Regs., tit. 17, § 100010 et seq.), the CIRM Intellectual Property and Revenue Sharing Requirements for Non-Profit and For-Profit Grantees (Cal. Code Regs., tit. 17, § 100600 et seq.), and the CIRM Grants Administration Policy for Academic and Non-Profit Institutions (Cal. Code Regs., tit. 17, § 100500 et seq.) shall apply to the terms used in this Agreement unless otherwise specified.

ARTICLE II
INCORPORATION BY REFERENCE

2.1 Notice of Loan Award. The Notice of Loan Award is hereby incorporated into this Agreement by reference.

2.2 Application for CIRM Disease Team Development Award. Loan Recipient's Application for a Disease Team Therapy Development Research Award, including all attachments and supplemental information, submitted to CIRM or its agents in response to RFA 10-05 is hereby incorporated into this Agreement by reference.

ARTICLE III
APPLICATION OF CIRM REGULATIONS

Loan Recipient shall be bound by, and shall comply with, all CIRM regulations applicable to loans to for-profit organizations, including the CIRM Loan Administration Policy (Cal. Code Regs., tit. 17, § 100800 et seq.), the CIRM Scientific and Medical Accountability Standards (Cal. Code Regs., tit. 17, § 100010 et seq.), the CIRM Intellectual Property Provisions Applicable to Loan Recipients (Cal. Code Regs., tit. 17, § 100801; and the CIRM Grants Administration Policy for Academic and Non-Profit Institutions (Cal. Code Regs., tit. 17, § 100500 et seq.), as made applicable to loan recipients pursuant to the Loan Administration Policy. The Loan Administration Policy in effect on the Effective Date of this Agreement shall apply to Loan Recipient, unless Loan Recipient and CIRM mutually agree that an amendment to the Loan Administration Policy shall apply to Loan Recipient.

ARTICLE IV
LOAN AND TERMS OF PAYMENT

4.1 Maximum Loan Amount; Repayment. Subject to and upon the terms and conditions of this Agreement and in reliance on the representations and warranties set forth in this Agreement, CIRM agrees, to provide Loan Recipient a Loan in an aggregate principal amount not to exceed the Loan Award. Loan Recipient agrees to repay the Loan Balance at the end of the Loan Period (or if such day is not a business day, then, without any further penalty or fee, the first business day after such date), unless (a) Loan Recipient elects to extend the Loan Period pursuant to Section 4.8, in which case such repayment will occur at the end of the Loan Period as so extended (or if such day is not a business day, then, without any further penalty or fee, the first business day after such date) subject to the Loan Recipient making payments during such extended Loan Period as provided under Article VII, Section J of the Loan Administration Policy, (b) Loan Recipient's obligation to repay the Loan Balance is accelerated pursuant to Sections 4.9, 8.3 or 8.4, in which case such repayment will occur upon the effective date of such acceleration, (c) this Agreement is terminated before the end of the Loan Period pursuant to Section 8.1(a)-(e), in which case such repayment will occur upon the effective date of such termination, unless CIRM, in its sole discretion, agrees to extend the date of repayment, (d) the Loan Recipient transfers the Loan to a new Loan Recipient pursuant to Article V, Section D of the Loan Administration Policy, or (e) all or part of the Loan is forgiven pursuant to Article VII, Section I of the Loan Administration Policy, Section 4.10 of this Agreement, or CIRM has terminated the loan pursuant to Section 8.1(f) and no Event of Default then exists, in which case Loan Recipient shall have no obligation to repay the Loan Balance.

4.2 Use of Proceeds. The Loan Recipient shall use the proceeds of the Loan solely for the purposes of funding the CIRM-Funded Project.

4.3 Interest. The interest rate for each Disbursement of the Loan shall be a per annum rate equal to the London Inter-Bank Offered Rate ("**LIBOR**") for a one-year deposit in U.S. dollars, as published by the Wall Street Journal (or if the Wall Street Journal is not available, a comparable source) on the date of the applicable Disbursement to Loan Recipient, plus two percent (2%). The interest rate so determined shall apply only to the Disbursed Loan Amount being disbursed on such Disbursement date, and not for the Disbursed Loan Amount outstanding before such Disbursement date. Interest shall be compounded annually on the principal amount disbursed by CIRM from the date of the applicable Disbursement to Loan Recipient. For each additional year of the Loan Period beyond the fifth anniversary of the Effective Date, the interest rate shall increase from the base rate on the fifth year anniversary (LIBOR plus 2%) (the "Base Rate") as follows: one percent (1%) over the Base Rate on the fifth year anniversary in the sixth year; two percent (2%) over the Base Rate on the fifth year anniversary in the seventh year; three percent (3%) over the Base Rate on the fifth year anniversary in the eighth year; four percent (4%) over the Base Rate on the fifth year anniversary in the ninth year; and five percent (5%) over the Base Rate on the fifth year anniversary in the tenth year. If for any reason on a date a Disbursement is required to be made LIBOR is not being published or is not available, any Disbursement required to be made on such date shall bear interest at the previously established LIBOR rate until LIBOR is available or published (on which date such Disbursement shall begin bearing interest as provided in this Section 4.3). Any amount not paid when due hereunder shall thereafter bear interest at the then-applicable per annum interest rate specified hereunder, plus five percent (5%).

4.4 Disbursement Procedures and Limitations.

(a) Subject to and upon the terms and conditions of this Agreement, CIRM agrees, unless otherwise notified in writing by Loan Recipient, to disburse the proceeds of the Loan (each a "**Disbursement**") according to the payment schedule set forth in the NLA, unless such schedule is modified by agreement of the parties or otherwise as set forth herein. The aggregate of all Disbursements made pursuant to this Agreement shall not exceed the Loan Award.

(b) CIRM may suspend or permanently cease Disbursements pursuant to the Loan Administration Policy, including without limitation, Article V, Section J, provided, however, that CIRM shall give Loan Recipient written notice of its intent to suspend or permanently cease Disbursements and the reason therefor (a "Default") and Loan Recipient shall have forty-five (45) days in which to cure such Default (if such Default is curable).

(c) CIRM may suspend or permanently cease Disbursements if CIRM determines, in its reasonable but sole discretion, that a No Go Milestone has occurred, provided, however, that CIRM shall give Loan Recipient written notice of its intent to suspend or permanently cease Disbursements and the reason therefor and Loan Recipient shall have forty-five (45) days in which to correct such No Go Milestone (if such No Go Milestone is correctable).

(d) CIRM may suspend or permanently cease Disbursement if CIRM determines, in its reasonable but sole discretion, that for any Disbursement made after the first anniversary of the Effective Date Loan Recipient has not met the Financial Milestone for such Disbursement Date; provided, however, that CIRM shall give Loan Recipient written notice if Loan Recipient fails to meet a Financial Milestone for a certain Disbursement Date, and Loan Recipient shall have sixty (60) days to cure said failure and demonstrate that Loan Recipient now satisfies said Financial Milestone. At least thirty (30) days prior to any Disbursement Date on which a Financial Milestone needs to be satisfied, Loan Recipient shall submit a report to CIRM, in such detail as CIRM shall reasonably require, showing whether or not Loan Recipient will satisfy the Financial Milestone on such Disbursement Date.

(e) Failure to meet Progress Milestones is governed by paragraph C of the Terms and Conditions of the Award section of the Notice of Loan Award.

4.5 Risk Premium.

(a) In lieu of providing CIRM with warrants, Loan Recipient shall pay CIRM a Risk Premium Amount upon meeting specified Product Revenue thresholds set forth in the Section E.2.c of Article VII of the Loan Administration Policy.

(b) The Loan Recipient shall pay any Risk Premium Amounts owed pursuant to Section E.2.e of Article VII of the Loan Administration Policy.

(c) The Loan Recipient shall have no obligation to pay any Risk Premium Amounts which are due and payable after (i) Loan Recipient transfers the Loan to a new Loan Recipient pursuant to Article V, Section D of the Loan Administration Policy, (ii) Loan Recipient assigns this Agreement and any Disbursement hereunder to a permitted assignee, (iii) the funding is discontinued or suspended by CIRM for any reason other than for termination under Section 8.1(a)-(e), or (iv) all or part of the Loan is forgiven pursuant to Article VII, Section I of the Loan Administration Policy, Section 4.10 of this Agreement, or CIRM has terminated the loan pursuant to Section 8.1(f) and no Event of Default then exists, in which case Loan Recipient shall have no obligation to pay any Risk Premium Amounts; provided, however, that the obligation to pay a Risk Premium Amount(s) will automatically be reinstated pursuant to Article VII, Section I of the Loan Administration Policy, in the event that Loan Recipient obtains revenues arising in whole or in part from the CIRM-Funded Project that meet the specified Product Revenue thresholds set forth in the Section E.2.c of Article VII of the Loan Administration Policy.

4.6 Indirect Costs and Facilities Costs.

(a) The Loan shall cover Indirect Costs incurred by Loan Recipient equal to […***…] awarded by CIRM. The Loan shall also cover Facilities Costs incurred by Loan Recipient […***…].

(b) CIRM shall deduct thirty-six thousand, six hundred and sixty-six dollars and sixty-six cents ($36,666.66) from the Indirect Costs portion of the initial Disbursement for the costs incurred by CIRM in engaging a financial consultant to conduct due diligence of Loan Recipient prior to the award of the Loan and to conduct financial due diligence during the Loan Period. In addition, CIRM shall deduct sixteen thousand, six hundred and sixty-six dollars and sixty-six cents ($16,666.66) from the Indirect Costs portion of the Disbursement made in each of the second and third year of the Loan Period for the costs incurred by CIRM in engaging a financial consultant to conduct financial due diligence of Loan Recipient during the Loan Period.

(c) If Loan Recipient requests to extend the term of the Loan Period beyond ten years pursuant to Section 4.8 and Section F of Article VII of the Loan Administration Policy and the Intellectual Property and Industry Subcommittee agrees, Loan Recipient shall pay CIRM, in addition to interest and principal owed, ten thousand dollars ($10,000) per year, payable on or before March 15 of each year, for each year the Loan is extended to reimburse CIRM for the costs that it incurs in engaging a financial consultant to conduct financial due diligence of Loan Recipient during the extension.

4.7 Repayment at End of Loan Period/Prepayment.

(a) Unless (i) the Loan Recipient has extended the Loan Period pursuant to Section 4.8, (ii) the repayment of the Loan Balance has been accelerated pursuant to Sections 4.9, 8.3 or 8.4, (iii) this Agreement has been terminated pursuant to Section 8.1(a)-(e), (iv) the

***Confidential Treatment Requested**

Loan has been transferred by Loan Recipient pursuant to Article V, Section D of the Loan Administration Policy, or (v) all or part of the Loan is forgiven pursuant to Article VII, Section I of the Loan Administration Policy, Section 4.10 of this Agreement, or CIRM has terminated the loan pursuant to Section 8.1(f) and no Event of Default then exists, the Loan Balance, and all unpaid fees and other amounts due hereunder, is due and payable in full to CIRM on the last day of the Loan Period (unless such day is not a business day, then, without any additional fees or penalties but with additional interest, on the next business day). Loan Recipient may elect to prepay the full amount of the balance of Loan Balance, or to make one or more partial prepayments, each in an amount of not less than $100,000, and in each case with accrued and unpaid interest on the amount prepaid, at any time, without penalty or premium. Any amounts prepaid hereunder may not be re-borrowed by Loan Recipient.

(b) If the Loan Recipient elects to extend the term of the Loan Period pursuant to Section 4.8, the Loan Balance shall bear interest as set forth in Section 4.3 and Loan Recipient shall repay interest as required by Article VII, Section J of the Loan Administration Policy.

4.8 Loan Extension. The Loan Recipient may extend the term of the Loan Period up to a maximum term of ten (10) years from the Effective Date, provided that the Loan Recipient provides notice to CIRM at least ninety (90) days prior to the end of the current Loan Period of its intent to extend the then applicable Loan Period and complies with the conditions specified in Article VII, Section J of the Loan Administration Policy. The Loan Recipient may request to extend the term of the Loan Period beyond ten years, provided that the Loan Recipient provides notice to CIRM at least ninety (90) days prior to the end of the ten-year period of its intent to request to extend the Loan Period. Any extension beyond ten (10) years shall be subject to the approval of the Intellectual Property and Industry Subcommittee based upon the recommendation of the President of CIRM.

4.9 Loan Acceleration. CIRM shall have the right but not the obligation to require the Loan Recipient to accelerate repayment of the Loan Balance if a Change of Control occurs or if this Agreement is terminated pursuant to Section 8.1(a)-(e). A decision to accelerate repayment of the Loan Balance shall be made by the Intellectual Property and Industry Subcommittee of CIRM's Governing Board, based on the recommendation of the President of CIRM. If the proposed Change of Control is not a matter of public knowledge, the Intellectual Property and Industry Subcommittee of CIRM's Governing Board shall consider the matter in closed session to protect the confidentiality of the Change of Control transaction.

4.10 Loan Forgiveness. Forgiveness of the Loan Balance shall be governed by Article VII, Section I of the Loan Administration Policy, including the reinstatement of the obligation to repay the Loan in the event that the Loan Recipient obtains revenues arising in whole or in part from the CIRM-Funded Project, provided that forgiveness shall be available during the Project Period only if no Event of Default then exists and Loan Recipient abandons the CIRM-Funded Project for failure to meet, or the occurrence of, one or more No Go Milestones. After expiration of the Project Period, Loan Recipient shall have the right to abandon the CIRM-Funded Project for whatever reason it deems appropriate and in that event, the Loan Balance shall be forgiven pursuant to Article VII, Section I of the Loan Administration Policy.

4.11 Effective Date. This Agreement shall take effect on the date this Agreement has been executed by the last party to sign the Agreement, Loan Recipient has received CIRM's written agreement (or written waiver by CIRM) that the conditions set forth in Section 4.12 have been met, and the initial Disbursement has been made (the "Effective Date"). This Agreement shall continue in full force and effect for so long as a Loan Balance remains outstanding or CIRM has any obligation to make Disbursements under this Agreement, unless it is earlier terminated pursuant to Section 8.1(a)-(e), the repayment obligation has been accelerated pursuant to Sections 4.9, 8.3 or 8.4, the Loan Balance has been forgiven pursuant to Section 4.10, or the Loan Recipient has transferred the Agreement pursuant to Article V, Section D of the Loan Administration Policy.

4.12 Initial Disbursement. Concurrently with the initial Disbursement:

(a) CIRM shall have received this Agreement duly executed by Loan Recipient and the Budget;

(b) CIRM shall have received copies of Loan Recipient's certificate of incorporation and bylaws, or articles of organization or certificate of formation, as applicable, and operating agreement (or comparable organizational documents) and any amendments thereto, certified in each instance by its Secretary or Assistant Secretary;

(c) CIRM shall have received copies of resolutions of Loan Recipient's Board of Directors (or similar governing body) and (if applicable) stockholders authorizing the execution, delivery and performance of this Agreement and the other Loan Documents, and the consummation of the transactions contemplated hereby and thereby, all certified in each instance by its Secretary or Assistant Secretary;

(d) CIRM shall have received copies of the certificates of good standing for Loan Recipient (dated no earlier than thirty (30) days prior to the date hereof) from the office of the Secretary of State of its incorporation or organization and of each state in which it is qualified to do business as a foreign corporation or organization;

(e) CIRM shall have received a list of the Loan Recipient's Authorized Representatives;

(f) CIRM shall have received certification of the insurance required under Section 7.3 of this Agreement;

(g) CIRM shall have received UCC, tax and judgment lien search results against the Property of Loan Recipient evidencing the absence of Liens on its Property except as permitted by Section 7.8 hereof;

(h) CIRM shall have received the favorable written opinion of Loan Recipient's in-house or outside counsel, in the form attached hereto asExhibit A, regarding the existence and power of Loan Recipient, the due authorization of the Loan Agreement (including the transactions contemplated thereby) and the enforceability of the Loan Agreement against Loan Recipient; and

(i) Loan Recipient shall certify that no Material Adverse Effect has occurred since the date that Loan Recipient submitted its application to CIRM.

4.13 All Disbursements. At the time of each subsequent Disbursement hereunder:

(a) the representations and warranties set forth in Sections 5.1, 5.2, 5.4, 5.5, 5.7, 5.8, 5.9, 5.10, 5.11 5.12, 5.13, 5.14 and 5.15 shall be true and correct as of the date of such Disbursement, unless (i) the same expressly relate to an earlier date; or (ii) changes thereto are disclosed to CIRM in updates to the Schedules hereto provided by Loan Recipient at least three (3) business days prior to such Disbursement; provided that, (A) in the case of (i) and (ii), no Material Adverse Effect exists or no event or circumstance exists which could reasonably be expected to result in a Material Adverse Effect, and (B) clauses (i) and (ii) shall not apply to the first two sentences of Section 5.1 and the first two sentences of Section 5.2; and

(b) no Event of Default or other event permitting termination of this Agreement shall have occurred and be continuing or would occur as a result of such Disbursement.

Acceptance by Loan Recipient of a Disbursement hereunder through deposit of such Disbursement to Loan Recipient's account shall be deemed to be a representation and warranty by Loan Recipient on the date of such Disbursement as to the matters specified in subsections (a) through (b), inclusive, of this Section 4.13; provided, however, that CIRM may continue to make Disbursements in its sole discretion, notwithstanding the failure of Loan Recipient to satisfy one or more of the conditions set forth above and any such Disbursements so made shall not be deemed a waiver of any Event of Default or other condition set forth above that may then exist.

ARTICLE V
LOAN RECIPIENT REPRESENTATIONS AND WARRANTIES

Except as set forth in the Schedules hereto delivered by Loan Recipient and with respect to Disbursements made after the date hereof, as such schedules are updated by Loan Recipient during the term of this Agreement, Loan Recipient represents and warrants to CIRM as follows:

5.1 Due Organization and Qualification. Loan Recipient is duly organized, validly existing and in good standing under the laws of the state of its incorporation and is qualified to do business in each jurisdiction in which such qualification is required, except where the failure to be so qualified would not have either individually or in the aggregate, a Material Adverse Effect on the Loan Recipient or the rights of CIRM under this Agreement, whether individually or taken as a whole. Loan Recipient has all required power and authority to own its property, to carry on its business as presently conducted or contemplated, to enter into this Agreement, and generally to carry out the transactions contemplated hereby. The copies of Loan Recipient's Organizational Documents provided to CIRM are correct and complete as of the date hereof. Loan Recipient is not in violation of any term of its Organizational Documents, as amended, or in violation of any term of any agreement, instrument, judgment, decree, order, statute, rule or government regulation applicable to Loan Recipient or to which Loan Recipient is a party, in any case where any violation, noncompliance or default would result in a Material Adverse Effect.

5.2 Due Authorization; No Conflict. Loan Recipient is duly authorized to enter into this Agreement and the other Loan Documents, and the execution, delivery and performance thereof are valid and binding obligations of Loan Recipient enforceable in accordance with their terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditors' rights generally. The execution, delivery, and performance of the Loan Documents are within Loan Recipient's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision contained in Loan Recipient's Organizational Documents, as amended, nor will they constitute an event of default under any material agreement by which Loan Recipient is bound. The Loan Documents will not conflict with any other material agreement or contract to which Loan Recipient is a party and will not violate any law, regulation or order by which Loan Recipient is bound, nor is Loan Recipient in default under any material agreement by which it is bound, other than where any violation, noncompliance or default would not result in a Material Adverse Effect.

5.2 Due Authorization; No Conflict. Loan Recipient is duly authorized to enter into this Agreement and the other Loan Documents, and the execution, delivery and performance thereof are valid and binding obligations of Loan Recipient enforceable in accordance with their terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditors' rights generally. The execution, delivery, and performance of the Loan Documents are within Loan Recipient's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision contained in Loan Recipient's Organizational Documents, as amended, nor will they constitute an event of default under any material agreement by which Loan Recipient is bound. The Loan Documents will not conflict with any other material agreement or contract to which Loan Recipient is a party and will not violate any law, regulation or order by which Loan Recipient is bound, nor is Loan Recipient in default under any material agreement by which it is bound, other than where any violation, noncompliance or default would not result in a Material Adverse Effect.

5.3 Name; Location of Chief Executive Office. Except as disclosed in Schedule 5.3, Loan Recipient has not done business under any name other than that specified on the signature page hereof, and its exact legal name is as set forth in the first paragraph of this Agreement. The principal chief executive office of Loan Recipient is located at the address indicated on the signature page hereof.

5.4 Compliance with Laws. Loan Recipient is, and to Loan Recipient's knowledge, all premises occupied and used by Loan Recipient are, in compliance in all material respects with all federal, state, municipal and local laws, ordinances and regulations, if any, that may in any way affect Loan Recipient's Business, other than where a failure to comply would not result in a Material Adverse Effect.

5.5 Government Consents. Loan Recipient has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all governmental authorities that are necessary for the continued operation of Loan Recipient's business as currently conducted, other than where failure to do so would not result in a Material Adverse Effect.

5.6 Full Disclosure. Neither the Loan Documents nor any document, certificate, projection, statement, representation or warranty furnished to CIRM in writing by or on behalf of Loan Recipient, including but not limited to documents submitted to CIRM and its agents by Loan Recipient in response to RFA 10-05, contains any untrue statement of a material fact, and none of the Loan Documents or such other documents, certificates, projections, statements, representations or warranties omit to state a material fact necessary in order to make the statements contained herein or therein not misleading. To Loan Recipient's knowledge based on due inquiry, there is no fact relating to the business, operations, affairs or conditions of Loan Recipient that materially and adversely affects the same which has not been set forth in the Loan Documents or otherwise disclosed to CIRM in writing. CIRM recognizes that the estimates, projections and forecasts provided by Loan Recipient in good faith and based upon reasonable assumptions are not to be viewed as facts, and that actual results during the period or periods covered by any such estimates, projections and forecasts may materially differ from the projected or forecasted results.

5.7 Litigation. Except as set forth on Schedule 5.7, there is no action, suit or claim at law or in equity by any third party, or before or by a governmental agency or instrumentality that is currently pending or, to the knowledge of Loan Recipient, threatened against Loan Recipient or affecting any of its properties, assets or, to the knowledge of Loan Recipient, its employees which seeks to prevent the consummation of the transactions contemplated by the Loan Documents or which if adversely decided against the Loan Recipient would have a Material Adverse Effect.

5.8 Bankruptcy. Loan Recipient: (i) does not intend to file a voluntary petition for relief pursuant to 11 U.S.C. § 101 et seq. – Title 11 of the United States Code (the "**Bankruptcy Code**"); (ii) does not have any knowledge of any circumstance that may result in the filing of a voluntary petition for relief pursuant to the Bankruptcy Code; and (iii) does not have any notice of any creditor's intention to file an involuntary petition for relief pursuant to the Bankruptcy Code.

5.9 Sufficient Assets. In the good faith estimate of Loan Recipient, the aggregate value of all of the assets of Loan Recipient, at a fair valuation, is equal to or greater than the total amount of Loan Recipient's currently existing balance sheet liabilities (excluding the Loan). The "fair valuation" of Loan Recipient's assets shall be determined on the basis of that amount which may be realized within a reasonable time, in any manner through realization of the value of, or dispositions of, such assets at fair market value (i.e., the amount which could be obtained for the properties in question within such period by a capable and diligent business person from an interested buyer who is willing to purchase under ordinary selling conditions). Loan Recipient is able to pay its debts as they become due in the ordinary course of business for the next twelve (12) months.

5.10 Title to Properties. Loan Recipient has good and marketable title in fee simple to such of its fixed assets as are real property, and good and merchantable title to all of its other properties and assets used in the conduct of the Business by Loan Recipient, free and clear of mortgages, security interests, pledges, charges, liens, restrictions or encumbrances except for Permitted Liens or as disclosed in writing to CIRM. To Loan Recipient's knowledge, all machinery and equipment included in such properties described in the previous sentence is in good condition and repair, ordinary wear and tear excepted, and all leases of real or personal property used in the conduct of the Business by Loan Recipient to which Loan Recipient is a party are fully effective and afford Loan Recipient peaceful and undisturbed possession of the subject matter of such leases.

5.11 Indebtedness. Loan Recipient has no outstanding Indebtedness, except for Permitted Indebtedness or as previously disclosed to CIRM in writing.

5.12 Tax Matters. Loan Recipient has filed all foreign, federal, state, and local income, excise or franchise tax returns, real estate, and personal property tax returns, sales and use tax returns, and other tax returns required to be filed by it (and such returns are true and correct in all material respects) and has paid all taxes owed by it, except taxes which have not yet accrued or otherwise become due or for which adequate provision has been made in the pertinent financial statements. All taxes and other assessments and levies which Loan Recipient is required to withhold or collect have been withheld and collected and have been paid over to the proper governmental authorities, except where the failure to pay would not have a Material Adverse Effect. With regard to the income tax returns of Loan Recipient, Loan Recipient has not received notice of any audit or of any purported deficiencies from any taxing authority, and no controversy with respect to taxes of any type is pending or, to the knowledge of Loan Recipient, threatened, unless, after the date hereof, such notice or controversy is disclosed to CIRM in writing.

5.13 Contracts and Commitments. Loan Recipient is not in default under any contract, obligation or commitment, where such default would have a Material Adverse Effect. To the knowledge of Loan Recipient, there is no state of facts which upon notice or lapse of time or both would constitute such a default, nor would the execution, issuance and delivery of this Agreement, or the consummation of any transaction contemplated hereby, constitute such a default, where such default would have a Material Adverse Effect.

5.14 Proprietary Rights; Employee Restrictions.

(a) All Intellectual Property Rights created or generated by any employee or officer of Loan Recipient in the course of their performance of the CIRM-Funded Project for Loan Recipient have been or will be assigned or licensed to Loan Recipient. To the best of Loan Recipient's knowledge, Loan Recipient's issued patents necessary to the CIRM-Funded Project are valid and enforceable, in whole or in part, except as would not, individually or in the aggregate, have a Material Adverse Effect. Except as disclosed in Schedule 5.14, Loan Recipient has not received communications from any Third Party alleging that the currently contemplated activities or products related to the Business infringe on any Intellectual Property Rights of any such third Person, nor have any of the Intellectual Property Rights necessary to the conduct of the Business been subject to U.S. Patent Office interference proceedings, a re-examination, or any other proceeding challenging Loan Recipient's patent rights related to the Business. Loan Recipient has taken commercially reasonable measures to protect and preserve the security, confidentiality (except and to the extent where disclosure is required by law or such information is already in the public domain) and value of its Intellectual Property Rights, including its trade secrets and other confidential information. For the purposes of this Agreement, "**Intellectual Property Rights**" shall mean any and all rights in patents, patent applications, copyrights, copyright applications, licenses, databases, computer programs and other computer software user interfaces, know-how, test data and results not disclosed to regulators, financial and cost information and data, trade secrets, trademarks, trademark applications, service marks, service mark applications, trade names, customer lists, proprietary technology, processes and formulae, source code, object code, algorithms, architecture, structure, inventions, trade dress, logos and designs and all documentation and media constituting, describing or relating to the foregoing.

(b) All employees of Loan Recipient have entered into non-disclosure and assignment of invention agreements for the benefit of Loan Recipient.

5.15 Regulatory Compliance. Loan Recipient is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940. Loan Recipient is not engaged as one of its activities in extending credit for margin stock (under Regulations G, T and U of the Federal Reserve Board of Governors). To Loan Recipient's knowledge based on due inquiry, Loan Recipient is in compliance with the Federal Fair Labor Standards Act. Loan Recipient's properties or assets have not been used by Loan Recipient or, to Loan Recipient's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than minimal amounts legally in the ordinary course of Loan Recipient's business. Loan Recipient has delivered to CIRM, and at all times will deliver to CIRM promptly after delivery or receipt, copies of all investigations relating to hazardous substances, and any conclusions thereof.

5.16 Sophistication of Loan Recipient. Loan Recipient, by reason of its business and financial experience, has the capacity to protect its own interests in connection with the transactions contemplated hereby and by the other Loan Documents.

ARTICLE VI
CIRM REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 Due Authorization; No Conflict. CIRM hereby represents and warrants that it is duly authorized to enter into this Agreement and that the execution, delivery and performance thereof will not conflict with any other agreement or contract to which it is a party and will not, to the best of its knowledge, violate any law, regulation or order by which it is bound.

6.2 Enforceability. This Agreement has been duly executed and delivered by CIRM and constitutes a valid and binding obligation of CIRM, enforceable against CIRM in accordance with its terms, subject only to the effect, if any, of (i) laws affecting the rights of creditors generally and (ii) rules of law governing specific performance, injunctive relief and other equitable remedies.

6.3 Sophistication of CIRM. CIRM, by reason of its business and financial experience, has the capacity to protect its own interests in connection with the transactions contemplated hereby and by the other Loan Documents.

6.4 Subordination by CIRM. CIRM agrees from time to time to consider requests by Loan Recipient for CIRM to subordinate the Indebtedness of Loan Recipient hereunder to other Permitted Indebtedness of Loan Recipient, but CIRM's agreement or refusal to any such subordination and any terms thereof shall be in its sole discretion.

ARTICLE VII
COVENANTS

7.1 Information and Access Covenants. During such time as any balance of the Loan Amount or accrued interest is outstanding or so long as any credit is available to Loan Recipient hereunder, except to the extent compliance in any case or cases is waived in writing pursuant to the terms of Section 10.3 hereof, Loan Recipient shall:

(a) deliver to CIRM, as soon as practicable, but in any event by the end of February of each fiscal year (or within 60 days of the end of the fiscal year, if the end of the fiscal year is other than December 31st), an updated budget for the Business for such fiscal year;

(b) deliver to CIRM such other information relating to the financial condition, business or corporate affairs related to the Business of Loan Recipient as CIRM may from time to time reasonably request;

(c) at the reasonable request (including with respect to the number of such requests) of CIRM, provide CIRM Representatives reasonable access, at reasonable and mutually acceptable times during normal business hours to all of the properties, books, contracts, documents, insurance policies, records and personnel (including officers) of or with respect to the Business of Loan Recipient and shall furnish to CIRM Representatives such information related to the Business as they may from time to time reasonably request;

(d) deliver to CIRM reports detailing scientific progress and activities regarding the Business as specified in the Notice of Loan Award.

7.2 Indemnification.

(a) Loan Recipient shall indemnify, defend and hold harmless CIRM, the State of California, and their respective agents, officers and employees ("**CIRM Indemnitees**") against any and all liabilities, losses, damages, claims, penalties, costs or expenses, interest, awards, judgments and penalties brought by or awarded to any Third Party which any of them may sustain, incur or be required to pay (howsoever they may occur), including, without limitation, reasonable attorneys' and consultants' fees ("**Losses**"), resulting from, arising out of, or in connection with: (i) the execution, delivery and performance of Loan Recipient's obligations under the Loan Documents; (ii) the operation of Loan Recipient's business; (iii) any material breach by Loan Recipient of any representation or warranty or covenant under the Loan Documents; (iv) any CIRM-Funded Invention, as defined in Cal. Code Regs., tit. 17, §100601(c); or (v) the performance of the CIRM-Funded Project by Loan Recipient; provided that Loan Recipient shall not be required to indemnify the CIRM Indemnitees to the extent any such Losses are caused by (a) such CIRM Indemnitees' gross negligence or willful misconduct, (b) a breach of CIRM's obligations under this Agreement or any other Loan Document or (c) a breach of any of CIRM's representations and warranties made in this Agreement or any other Loan Document. Loan Recipient's indemnity obligations under this paragraph are in addition to Loan Recipient's indemnity obligations under the Loan Administration Policy. CIRM shall promptly notify Loan Recipient of any claims or suits with respect to which indemnification under this Agreement is or could be sought, but failure to do so shall not relieve Loan Recipient of its obligations hereunder except to the extent that such delay or failure to promptly notify Loan Recipient actually prejudiced the defense of the claim.

(b) Procedure

(i) With respect to any Third Party claim giving rise to indemnification hereunder, the CIRM Indemnitee shall tender the defense thereof to Loan Recipient. Loan Recipient shall have the right to assume sole control of the defense, settlement or disposition thereof, including, without limitation, the selection of defense counsel (as long as such defense counsel is reasonably satisfactory to CIRM). The CIRM Indemnitee will fully cooperate with Loan Recipient in the defense and settlement of all such Third Party claims at Loan Recipient's request and expense. If Loan Recipient assumes any such defense, Loan Recipient shall not be liable for any legal or other expenses subsequently incurred directly by the CIRM Indemnitee in connection with such defense.

(ii) So long as Loan Recipient is diligently conducting the defense of the claim, (1) the CIRM Indemnitee will not consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of Loan Recipient, and (2) Loan Recipient will not consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of the CIRM Indemnitee, which consent will not be unreasonably withheld or delayed; provided, however, that such consent of the CIRM Indemnitee will not be required if the judgment or settlement contains a full release of claims against the CIRM Indemnitee and does not contain any admission of wrongdoing by the CIRM Indemnitee. Notwithstanding any other provision of this subsection, if a CIRM Indemnitee withholds its consent to a bona fide settlement offer, where but for such action Loan Recipient could have settled such claim, Loan Recipient will be required to indemnify the Indemnitee only up to a maximum of the bona fide settlement offer for which Loan Recipient could have settled such claim.

7.3 Required Insurance. During the term of this Agreement, Loan Recipient shall procure and maintain at its expense clinical trial and general liability insurance customary for companies similarly situated with Loan Recipient and protecting Loan Recipient and CIRM (including naming CIRM as an additional insured and loss payee on such policies) against all claims, losses or expenses resulting from alleged, adjudicated or statutory liability for injury to Persons or damage to property arising out of or in connection with any CIRM-Funded Invention, as defined in Cal. Code Regs., tit. 17, §100601(c), and the performance of the CIRM-Funded Project by Loan Recipient.

7.4 Maintenance of Business. For so long as the Loan remains in effect, Loan Recipient shall preserve and maintain its existence, except in the event of a merger, acquisition, assignment or similar transaction. For so long as the Loan remains in effect, Loan Recipient shall make commercially reasonable efforts to preserve and keep in force and effect all licenses, permits, franchises, approvals, patents, trademarks, trade names, trade styles, copyrights and other proprietary rights necessary to the proper conduct of the Business, other than where failure to do so would not result in a Material Adverse Effect.

7.5 Maintenance of Properties. For so long as the Loan remains in effect, Loan Recipient shall make commercially reasonable efforts to maintain, preserve and keep its property, plant and equipment in good repair, working order and condition (ordinary wear and tear excepted), and shall from time to time make all necessary and proper repairs, renewals, replacements, additions and betterments thereto so that at all times the efficiency thereof shall be fully preserved and maintained, other than where failure to do so would not result in a Material Adverse Effect.

7.6 Taxes and Assessments. For so long as the Loan remains in effect, Loan Recipient shall duly pay and discharge all taxes, rates, assessments, fees and governmental charges upon or against it or its Property, in each case before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith and by

appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves are provided therefor.

7.7 No Guaranties. Other than any liabilities or guarantees in connection with credit support provided in connection with (A) Permitted Indebtedness or (B) any investment permitted under subsections (f), (g) and (h) of Section 7.9, for so long as the Loan remains in effect, Loan Recipient shall not become liable as endorser, guarantor, surety or otherwise for any debt, obligation or undertaking of any other Person […***…] or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another.

7.8 Liens. Loan Recipient shall not create, incur or permit to exist any Lien of any kind on any Property owned by Loan Recipient;*provided*, *however*, that the foregoing shall not apply to nor operate to prevent the following "**Permitted Liens**":

(a) Liens arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges (other than Liens arising from ERISA), good faith cash deposits in connection with tenders, contracts or leases to which Loan Recipient is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not for borrowed money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefore;

(b) Mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens arising in the ordinary course of business with respect to obligations which are not due or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest;

(c) Judgment Liens and judicial attachment Liens not constituting an Event of Default under Section 8.2(b) hereof and the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any legal proceeding, provided that the aggregate amount of such judgment liens and attachments and liabilities of Loan Recipient secured by a pledge of assets permitted under this subsection, including interest and penalties thereon, if any, […***…]

(d) Liens on equipment of Loan Recipient created solely for the purpose of securing indebtedness incurred to finance the purchase price of such Property, provided that no such Lien shall extend to or cover other Property of Loan Recipient other than the respective Property so acquired, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;

(e) Liens arising out of Indebtedness (other than the Loan itself) incurred by Loan Recipient solely to fund the cost and expenses of the CIRM-Funded Project;

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(f) Liens disclosed in Schedule 7.8(f), including the amounts thereof;

(g) Liens for taxes, fees, assessments or other governmental charges or levies that either are not delinquent or are being contested in good faith by appropriate proceedings;

(h) Liens securing Permitted Indebtedness;

(i) Liens incurred in the extension, renewal or refinancing of the Indebtedness secured by Liens described in subsections (d), (e), (f) or (h); provided that any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness may not increase;

(j) Leases, subleases, licenses, sublicenses, options, rights of first refusal, rights to negotiate and the like granted to third parties in the ordinary course of Loan Recipient's business, provided that the foregoing do not, individually or in the aggregate, have a Material Adverse Effect; and

(k) Liens arising from the rights of a licensor or grantor under the terms and conditions of a license, option or other right granted to or by Loan Recipient, provided that any such Lien does not hinder the Business.

7.9 Investments, Acquisitions, Loans and Advances. Loan Recipient shall not, directly or indirectly, make, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances to (other than for travel advances and other similar cash advances made to employees in the ordinary course of business), any other Person, or acquire all or any substantial part of the assets or business of any other Person or division thereof; *provided*, *however*, that the foregoing shall not apply to nor operate to prevent:

(a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America; investments in direct obligations of the State of California whose obligations constitute full faith and credit obligations of the State of California;

(b) investments in commercial paper rated at least P-1 by Moody's and at least A-1 by S&P;

(c) investments in certificates of deposit issued by any United States commercial bank having capital and surplus of not less than $100,000,000;

(d) investments in repurchase obligations with a term of not more than seven (7) days for underlying securities of the types described in subsection (a) above entered into with any bank meeting the qualifications specified in (c) above, *provided* all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System;

(e) investments in money market funds that invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding subsections (a), (b), (c) and (d) above;

(f) investments existing on the date of this Agreement in its Subsidiaries and Affiliates;

(g) the purchase of securities or acquisition of assets in connection with strategic transactions involving Loan Recipient and other Persons, including without limitation (i) joint ventures, manufacturing, marketing or distribution arrangements or (ii) technology transfers or development arrangements; or

(h) any acquisition, merger, reverse merger or other corporate transaction by or involving Loan Recipient of the assets or securities of a Person or division thereof for the purpose of acquiring intellectual property or other assets.

7.10 Dividends and Certain Other Restricted Payments. Loan Recipient will not (a) declare or pay any cash dividends or cash distributions, on any stock or other equity interests of Loan Recipient or (b) directly or indirectly, through any Subsidiary or otherwise, purchase, redeem or retire any of its stock or other equity interests or make any other payment or distribution, either directly or indirectly, through any Subsidiary or otherwise, in respect of its stock or other equity interests, other than (i) the repurchase of stock or other equity interests in the ordinary course of business of employees which leave the employ of Loan Recipient, (ii) the repurchase of stock or other equity interests pursuant to agreements which permit Loan Recipient to repurchase such shares at cost (or the lesser of cost or fair market value) upon termination of an employee's, officer's, director's or consultant's services to the Company or (iii) the repurchase by Loan Recipient from one or more former employees, officers, directors or consultants of its equity securities during the Loan Period, provided that the aggregate repurchase price for all repurchases pursuant to this clause (iii) does not exceed one hundred thousand dollars ($100,000) per year.

7.11 ERISA. Loan Recipient shall promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed could reasonably be expected to result in the imposition of a Lien against any of its Property. Loan Recipient shall promptly notify CIRM of: (a) the occurrence of any reportable event (as defined in ERISA) with respect to a Plan, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor, (c) its intention to terminate or withdraw from any Plan, and (d) the occurrence of any event with respect to any Plan which would result in the incurrence by Loan Recipient of any material liability, fine or penalty, or any material increase in the contingent liability of Loan Recipient with respect to any post-retirement Welfare Plan benefit. All terms used in this Section 7.11 and not defined shall have the meaning given to them under ERISA.

7.12 Compliance with Laws. Loan Recipient shall comply in all respects with the requirements of all federal, state and local laws, rules, regulations, ordinances and orders applicable to or pertaining to its Property or business operations, except where any such non-compliance, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property, other than a Permitted Lien.

7.13 Diligent Conduct of Business. Loan Recipient shall conduct the Business in a commercially reasonable and diligent manner and shall not knowingly engage in any other business activity that Loan Recipient reasonably believes would have a Material Adverse Effect on the Business or a material adverse effect on the rights of CIRM under this Agreement or the CIRM-Funded Project.

7.14 Use of Proceeds. The Loan Recipient shall use the credit extended under this Agreement solely for the purposes set forth in, or otherwise permitted by, Section 4.2 hereof.

7.15 Diligence. The Loan Recipient shall use commercially reasonable efforts to perform the CIRM-Funded Project within the time frame specified in the Notice of Loan Award.

7.16 Notification. If Loan Recipient becomes aware of any matters that could reasonably be expected to have a Material Adverse Effect pursuant to any review, examination, proceeding or correspondence, suits or actions related to Loan Recipient's intellectual property necessary to the CIRM-Funded Project, Loan Recipient shall promptly notify CIRM in writing.

ARTICLE VIII
TERMINATION

8.1 Termination.

(a) CIRM may terminate this Agreement pursuant to Article V, Section J of the Grants Administration Policies, or Article V, Section J of the Loan Administration Policy.

(b) CIRM may terminate this Agreement at any time after a material breach of any term of the Loan Documents by Loan Recipient that is not cured within forty-five (45) days of the date that CIRM provides notice of such breach to Loan Recipient.

(c) CIRM may terminate this Agreement if any of the representations and warranties made herein by Loan Recipient were not true and correct in all material respects at the time they were made or deemed to be made under Section 4.13 at the time of each Disbursement when they are reaffirmed.

(d) CIRM may terminate this Agreement if any of the Events of Default in Section 8.2 occur and have not been cured within any applicable cure period.

(e) Subject to the notice and cure provisions contained in Section 4.4 above, CIRM may terminate this Agreement based on CIRM's determination, in its reasonable, but sole discretion, that Loan Recipient has failed to meet a Financial Milestone, provided that Loan Recipient shall have sixty (60) days to cure following CIRM's determination that it has not met a Financial Milestone (after the expiration of the cure period with respect thereto).

(f) Subject to the notice and cure provisions contained in Section 4.4 above, CIRM may terminate this Agreement based on CIRM's determination, in its reasonable, but sole

discretion, that a No Go Milestone has occurred. Failure to meet Progress Milestones is governed by paragraph C of the Terms and Conditions of the Award section of the Notice of Loan Award

8.2 Events of Default. Any one or more of the following shall constitute an "**Event of Default**" hereunder:

(a) Loan Recipient fails to pay within five (5) business days of the day when due all or any part of the principal of or interest on any Loan (whether at the stated maturity thereof or at any other time provided for in this Agreement), any accrued interest or any fee or other obligation payable hereunder or under any other Loan Document;

(b) any judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, entered or filed against Loan Recipient or against any of its Property, […***…] (except to the extent fully covered by insurance pursuant to which the insurer has accepted liability therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of forty-five (45) days;

(c) Loan Recipient, or any member of its Controlled Group, fails to pay when due an amount or amounts […***…] which it shall have become liable to pay to the PBCG or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities […***…] (collectively, a "**Material Plan**") is filed under Title IV of ERISA by Loan Recipient, or any other member of its Controlled Group, any plan administrator or any combination of the foregoing, or the PBGC institutes proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding is instituted by a fiduciary of any Material Plan against Loan Recipient, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within forty-five (45) days thereafter; or a condition exists by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(d) dissolution or termination of the existence of Loan Recipient, unless Loan Recipient has (i) previously transferred the Loan to a new Loan Recipient pursuant to Article V, Section D of the Loan Administration Policy and (ii), the Loan has been forgiven pursuant to Article VII, Section I of the Loan Administration Policy or Section 4.10 of this Agreement;

(e) Loan Recipient (i) has entered involuntarily against it a final order for relief under the United States Bankruptcy Code, as amended, (ii) does not pay, or admits in writing its inability to pay, its debts generally as they become due, (iii) makes an assignment for the benefit of creditors, (iv) applies for, seeks, consents to or acquiesces in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institutes any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fails to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) takes any corporate action in furtherance of any matter described

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in parts (i) through (v) above, or (vii) fails to contest in good faith any appointment or proceeding described in Section 8.2(f) hereof; or

(f) a custodian, receiver, trustee, examiner, liquidator or similar official is appointed for Loan Recipient, or any substantial part of any of its Property, or a proceeding described in Section 8.2(e)(v) shall be instituted against any of Loan Recipient, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 90 days.

(g) Loan Recipient has abandoned the CIRM-Funded Project during the Project Period for any reason other than the failure to meet, or the occurrence of, a No Go Milestone.

8.3 Non-Bankruptcy Termination. When CIRM, at CIRM's election, has terminated this Agreement for any reason (other than an Event of Default described in subsections (e) or (f) of Section 8.2 of this Agreement or pursuant to Section 8.1(f)), (a) the remaining commitments of CIRM to make Disbursements of the Loan and all other obligations of CIRM hereunder on the date stated in such notice (which may be the date thereof) shall terminate, and (b) the principal of and the accrued interest on all outstanding Loans shall be immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind, unless CIRM, in its sole discretion, has agreed to extend the date for repayment. In the event that CIRM terminates the Loan pursuant to Section 8.1(f), the remaining commitments of CIRM to make Disbursements of the Loan and all other obligations of CIRM hereunder on the date stated in such notice (which may be the date thereof) shall cease, but Loan Recipient shall have no obligation to repay the Loan Balance.

8.4 Bankruptcy Termination. When any Event of Default described in subsections (e) or (f) of Section 8.2 of this Agreement has occurred and is continuing, then this Agreement shall automatically, and without the necessity of any further action, terminate and all outstanding Loans and interest thereon shall immediately become due and payable together with all other amounts payable under the Loan Documents, without presentment, demand, protest or notice of any kind, and the obligation of CIRM to make further Disbursements of the Loan or extend further credit pursuant to any of the terms hereof shall immediately terminate.

ARTICLE IX
COMPLIANCE WITH CERTAIN LAWS

9.1 Nondiscrimination. Loan Recipient shall not unlawfully discriminate against any qualified employee or applicant for employment, or deny services to any individual because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation. Loan Recipient agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment.

9.2 Lobbying. Without limiting the provisions of Section 4.2 of this Agreement, no funds disbursed hereunder shall be used for any activities to influence any matter pending before the California Legislature or the U.S. Congress, or for any election campaign.

9.3 Audit. In addition to the provisions of Section 7.1(c) hereof, during the term of this Agreement, CIRM will have the right to audit, during mutually acceptable business hours and a reasonable number of times per year, Loan Recipient's records to confirm the use of the Loan proceeds and the Direct Research Funding Costs. In addition, Loan Recipient shall maintain books, records, and other compilations of data made under this Agreement to the extent and in such detail as shall properly substantiate use of the Loan for the purposes allowed under Section 4.2. Loan Recipient shall maintain all such records for a period of not less than five (5) years, starting on the earlier of (a) first day after final payment under this Agreement or (b) repayment of the entire accrued balance of the Loan. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of such action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. CIRM or the State of California or any of their duly authorized representatives shall have the right, at reasonable times and upon reasonable notice, to examine and copy at reasonable expense, the books, records, and other compilations of data of Loan Recipient which pertain to the provisions and requirements of this Agreement. Such access shall include on-site audits and review and copying of records.

ARTICLE X
GENERAL CLAUSES

10.1 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors (including, for the avoidance of doubt, any agency or department of the State of California which may succeed CIRM or assume CIRM's obligations) and assigns (including, without limitation, by sale or transfer of all or substantially all assets, merger or consolidation), provided, however, that neither this Agreement nor any rights hereunder may be assigned by either party without the other party's prior written consent, which consent shall not be unreasonably withheld. Both parties shall use their commercially reasonable efforts to consider and respond to other's request for consent within ten (10) business days of any such request.

10.2 Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to principles of conflicts of law or choice of law provisions. Jurisdiction shall lie in the State of California. All disputes, controversies, claims, actions and similar proceedings arising with respect to the Loan or any related agreement or transaction shall be brought in the Superior Court of San Francisco County, California and Loan Recipient consents to the exclusive personal jurisdiction of such court.

10.3 Waivers. All conditions, covenants, duties and obligations contained in this Agreement can be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.

10.4 Amendments. All conditions, covenants, duties and obligations contained in this Agreement may be amended only through a written amendment signed by Loan Recipient and CIRM, except as otherwise specified herein.

10.5 Publicity. Loan Recipient shall, unless prohibited by law or regulation, notify CIRM's Senior Vice President of Research and Development and Senior Director of Communications and Patient Advocacy Outreach at least one calendar day before issuing any press release that refers to the CIRM-Funded Project. Any press release or research paper by Loan Recipient in which CIRM is concerned or discussed shall include the following statement:

Phase II of Capricor's ALLSTAR clinical trial is funded in part through the support of the California Institute of Regenerative Medicine.

Loan Recipient may use a statement other than the foregoing only with the express written consent of CIRM. Loan Recipient shall use its reasonable best efforts to recognize CIRM's support in any media interview in which the CIRM-Funded Project is discussed. Loan Recipient will not represent that positions taken or advanced by Loan Recipient represent the opinion or position of CIRM or the State of California.

Loan Recipient agrees to work with CIRM to establish a communications protocol to ensure that accurate information, including, without limitation, any adverse event involving a clinical trial subject, relating to the CIRM-Funded Project is provided to stakeholders in a timely manner.

10.6 Survival. All covenants, representations and warranties contained herein shall survive the execution and delivery of this Agreement and all covenants contained herein shall survive until all of the obligations hereunder are fully and finally discharged or earlier waived or terminated (provided that the provisions of Sections 9.3 and 10.6 shall survive as specifically stated therein and Sections, 10.1, 10.2, 10.3, and 10.4 shall survive indefinitely). The obligations of Loan Recipient to indemnify CIRM with respect to the expenses, damages, losses, costs and liabilities described in Section 7.2 shall survive until all applicable statute of limitations periods with respect to actions that may be brought against CIRM have run. In addition, CIRM's rights of audit and inspection pursuant to Section 9.3 shall survive until the obligations thereunder are fully and finally discharged or earlier waived or terminated

10.7 Notice. All communications to CIRM shall be mailed or delivered to the following address, or sent by facsimile:

California Institute for Regenerative Medicine
Attn: Amy Lewis, Grants Management Officer
210 King Street
San Francisco, CA 94107
FAX: (415) 396-9141
TEL: (415) 396-9110

All communications to Loan Recipient shall be mailed or delivered to the following address, or sent by facsimile to the following number with confirmation of receipt by voice:

CAPRICOR, INC.
8840 Wilshire Blvd., 3rd Floor
Beverly Hills, CA 90211
Attn: Linda Marbán
FAX: (310) 358-3209
TEL: (310) 358-3200

The parties may change the address at which they are to receive notices in writing.

10.8 Additional Funding. Loan Recipient acknowledges that (a) CIRM has not made any oral or written commitment or otherwise agreed to provide funding with respect to the CIRM-Funded Project other than the Loan; (b) in no way is Loan Recipient relying on this Agreement or any other statement, oral or written, to provide any expectation of additional funding by CIRM; and (c) any future agreement between CIRM and Loan Recipient shall be in writing and executed by duly authorized representatives of CIRM and Loan Recipient.

10.9 No Waiver, Cumulative Remedies. No delay or failure on the part of either Party in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the parties are cumulative to, and not exclusive of, any rights or remedies which either party would otherwise have.

10.10 Headings and Captions. Section headings and captions used in this Agreement are for reference only and shall not affect the construction of this Agreement.

10.11 Construction. The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall only apply during such times as the Loan Recipient has one or more Subsidiaries. NOTHING CONTAINED HEREIN SHALL BE DEEMED OR CONSTRUED TO PERMIT ANY ACT OR OMISSION WHICH IS PROHIBITED BY THE TERMS OF ANY LOAN DOCUMENT.

10.12 Counterparts. This Agreement may be executed in two or more counterparts, each of which, when executed and delivered, shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies of the signature pages of this Agreement sent by facsimile or transmitted electronically in Portable Document Format ("**PDF**"), or any similar format, shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment.

10.13 Severability. If one or more provisions of this Agreement or any of the other Loan Documents are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement, and the balance of the Agreement shall be interpreted as if such provision were so excluded, and shall be enforceable in accordance with its terms.

10.14 Confidentiality. As a public entity, CIRM is subject to the California Public Records Act and thus documents and other materials made or received by its employees are subject to public disclosure, unless an exception applies. To the extent permitted by applicable law, for a period of five (5) years after expiration or termination of the Loan Period, CIRM shall maintain in confidence and trust any confidential or proprietary information provided by Loan Recipient to CIRM prior to or during the Loan Period, using the same level of care, but not less than reasonable care, employed by CIRM with respect to its own confidential and proprietary information. If Loan Recipient submits confidential or proprietary information to CIRM, it shall label the material "confidential" and shall include a brief explanation of the reason the information is confidential or proprietary pursuant to Health and Safety Code section 125290.30(g)(2). CIRM shall provide notice to Loan Recipient if it receives a Public Records Act Request for a document or documents that Loan Recipient has labeled "confidential." In the event CIRM is required to disclose confidential information of Loan Recipient by any applicable law, regulation, legal process, judicial order or by any applicable order or requirement of any governmental or regulatory authority, it may do so only to the extent required; provided, however, CIRM shall (a) first (to the extent possible) give prompt notice to Loan Recipient of the required disclosure sufficiently in advance of making the required disclosure to allow Loan Recipient a reasonable opportunity to take steps to object to, prevent, and/or limit its disclosure or obtain a protective or other similar order with respect to the required disclosure (collectively at Loan Recipient's expense "**Protective Measures**"); (b) if requested by Loan Recipient, cooperate with Loan Recipient in seeking such Protective Measures; and (c) restrict disclosure to only that portion of the Confidential Information which is required to be disclosed.

10.15 Integration. This Agreement and the other Loan Documents, including any document incorporated by reference and any exhibits and schedules attached hereto, is the entire agreement between the parties with respect to the Loan and supersedes all prior and contemporaneous negotiations, commitments and writings.

[*signature page follows*]

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

CAPRICOR, Inc.

By: /s/ Linda Marbán
Name: Linda Marbán
Title: CEO

Address: 8840 Wilshire Blvd., 3rd Floor
Beverly Hills, CA 90211

CALIFORNIA INSTITUTE FOR
REGENERATIVE MEDICINE

By: /s/ Ellen Feigal
Name: Ellen Feigal, M.D.
Title: Senior Vice President, Research and Development

EXHIBITS

Exhibit A

Opinion of Counsel

January 31, 2013

California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107

Re: Loan Agreement for CIRM Loan Number DR2A-05735 to Capricor, Inc.

Ladies and Gentlemen:

I am employed as the General Counsel for Capricor, Inc., a Delaware corporation (the "Company"). This letter is in reference to the Loan Agreement dated January ___, 2013, by and between the Company and the California Institute for Regenerative Medicine ("CIRM") that is attached as Appendix B to the Notice of Loan Award for CIRM loan number DRA-05735 (the "Loan Agreement"). I am rendering this opinion as an employee of the Company pursuant to Section 4.12(h) of the Loan Agreement. Capitalized terms used but not defined herein have the meanings given them in the Loan Agreement.

I have examined such matters of fact and questions of law as I have considered appropriate for purposes of this letter. Additionally, I have examined the Loan Agreement. Except as otherwise stated herein, as to factual matters I have, with your consent, relied upon the foregoing, and upon oral and written statements and representations of officers and other representatives of the Company and others, including the representations and warranties of CIRM. I have not independently verified such factual matters.

On the basis of the foregoing, in reliance thereon, and with the qualifications set forth herein, I am of the opinion that:

[…***…]

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[…***…]

My opinions are subject to:

[…***…]

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[…***…]

With your consent, I have assumed (a) that the Loan Agreement has been duly authorized, executed and delivered by CIRM; (b) that the Loan Agreement and all other documents executed in connection with the transactions contemplated thereby constitute the legally valid and binding obligations of CIRM, enforceable again CIRM in accordance with their terms and that no such documents have been amended or terminated orally or in writing except as disclosed to me in writing; (c) the genuineness of all signatures on all documents submitted to me; (d) the authenticity and completeness of all documents, corporate records, certificates and other instruments submitted to me; (e) that photocopy, electronic, certified, conformed, facsimile and other copies submitted to me of original documents, corporate records, certificates and other instruments conform to the original documents, records, certificates and other instruments, and that all such original documents, corporate records, certificates and instruments were authentic and complete; (f) the legal capacity of all individuals executing documents; (g) that the statements contained in the certificates and comparable documents of public officials, officers and representatives of the Company and other persons on which I have relied for the purposes of this opinion are true and correct and that there has not been any change in the good standing status of the Company from that reported in the Good Standing Certificate; (h) that the officers, directors and stockholders of the Company have properly discharged their fiduciary duties; (i) that the Loan Agreement and the transactions contemplated thereby were fair and reasonable to

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the Company, within the meaning of Section 144 of the Delaware General Corporation Law at the time of their authorization by the Company's board of directors; and (j) that the rights and remedies set forth in the Loan Agreement will be exercised reasonably and in good faith and were granted without fraud or duress and for good, valuable and adequate consideration and without intent to hinder, delay or defeat any rights of any creditors or stockholders of the Company.

My opinions set forth above in Sections 1 through 5(a) above are limited to the Delaware General Corporation Law (based solely upon my review of a standard compilation thereof). Please note that I am not admitted to practice in the State of Delaware.

My opinion set forth above is limited to the matters expressly set forth in this letter, and no opinion is implied, or may be inferred, beyond those matters expressly stated. This opinion speaks only as to law and facts in effect or existing as of the date hereof and I undertake no obligation or responsibility to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to my attention or any changes in any law that may hereafter come to my attention in any law that may hereafter occur.

This opinion is intended solely for your benefit and is not to be made available to or be relied upon by any other person, firm or entity without my prior written consent.

Very truly yours,

By: /s/ Karen Krasney
Karen G. Krasney, as an
employee of Capricor, Inc.

SCHEDULES

Schedule 5.3

Prior Names

None.

Schedule 5.7

Existing Litigation

None.

Schedule 5.14

Intellectual Property Proceedings

Trademark opposition in Europe

Schedule 7.8

Existing Indebtedness

None.

Schedule 7.8(f)

Existing Liens

None.

Schedule 7.13

Existing Subsidiaries

None.

Exhibit 10.39

SIGN AND RETURN THIS PAGE TO CIRM DR2A-05735

NOTICE OF LOAN AWARD – CIRM RFA 10-05: Disease Team Therapy Development Research Awards
California Institute for Regenerative Medicine

Issue Date: February 1, 2013

Loan Number:	DR2A-05735	Budget Period:	1/1/2013
Loan Recipient Name:	Capricor, Inc.		
Organization ID:	PR-Y0027A-SF	Project Period Start:	1/1/2013
Principal Investigator:	Rachel Smith	Project Period End:	12/31/2016
Co-Principal Investigator (s):	Michelle Kreke		
Project Title:	Allogeneic Cardiac-Derived Stem Cells for Patients Following a Myocardial Infarction		

Authorized Organizational Official and Address:
Linda Marban, CEO
Capricor, Inc.
8840 Wilshire Blvd, 3rd Floor
Beverly Hills, CA 90211

Official and Address to Receive Payments:
AJ Bergmann
Capricor, Inc.
8840 Wilshire Blvd, 3rd Floor
Beverly Hills, CA 90211

The California Institute for Regenerative Medicine hereby awards a loan in the amount of **$19,782,136** to be disbursed over a total period of 3.5 years to **Capricor, Inc.** (Organization ID PR-Y0027A-SF) in support of the above referenced project. This award is made pursuant to the California Stem Cell Research and Cures Act (Health and Safety Code section 125290.10 *et. seq.*) and is subject to the Terms and Conditions referenced below. (Capitalized terms are defined herein or in the *CIRM Loan Administration Policy*, (LAP) a copy of which may be found on the CIRM website at: http://www.cirm.ca.gov/files/Regulations/NPGAP_11012012.pdf).

By accepting this Loan, the Loan Recipient warrants to CIRM that any funds expended under the award will be used for the purposes set forth in the approved application and this Notice of Loan Award (NLA) and agrees to comply with all applicable CIRM regulations and standards.

To accept this Loan, the Principal Investigator and Authorized Organizational Official must sign and return this NLA to CIRM within 45 days of the issue date. Payment will be issued only after the signed NLA is received by CIRM. Grant funds will be sent to the organization's address listed above under *Official and Address to Receive Payments* unless an updated address is provided in the box below. If the applicant cannot accept the award, including the legal obligation to perform in accordance with the provisions of this NLA, it should notify CIRM immediately.

If you have any questions about this award, please contact the CIRM staff referenced on page 5.

Updated Address to Receive Payments:

Capricor, Inc.
8840 Wilshire Blvd., 3rd Floor
Beverly Hills, CA 90211
Attn: AJ Bergmann

/s/ Ellen Feigal
Ellen Feigal, M.D.
Senior Vice President, Research & Development
California Institute for Regenerative Medicine

AWARD ACCEPTANCE: The Principal Investigator and Authorized Organizational Official must sign below and return the entire NLA to CIRM to accept the Grant award on the terms provided herein and in the Appendices which are attached hereto and incorporated herein.

	Principal Investigator	**Authorized Organizational Official**
Name	Rachel Smith	Linda Marban
Signature	/s/ Rachel Smith	/s/ Linda Marbán
Date	2/5/2013	2/4/2013

TERMS AND CONDITIONS OF AWARD

A. This award is based on the application submitted to CIRM, and as approved by the Independent Citizens' Oversight Committee (ICOC) on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

1. The *California Stem Cell Research and Cures Act* (Health and Safety Code Section 125290.10 *et. seq.*) and regulations adopted by the ICOC.

2. The *CIRM Loan Administration Policy* (Cal. Code Regs., tit. 17, § 100800 et seq.), the *CIRM Scientific and Medical Accountability Standards* (Cal. Code Regs., tit. 17, § 100100 et seq.), the *CIRM Intellectual Property and Revenue Sharing Requirements for Non-Profit and For-Profit Grantees* (Cal. Code Regs., tit. 17, § 100600 et seq.).

3. The terms and requirements detailed in RFA 10-05: CIRM Disease Team Therapy Development Research Awards.

4. The Progress Milestones and Go/No Go Milestones set out in Appendix A to this NLA and in the CIRM Loan Agreement executed by CIRM and Loan Recipient, attached hereto as Appendix B. In the event of a conflict between this Notice of Loan Award and the Loan Agreement, the terms of the Loan Agreement will prevail.

5. Budget detail for the Principal Investigator and the Co-Principal Investigator(s) set out below.

B. In applying for CIRM funding, Loan Recipient represented to CIRM that it possesses certain intellectual property relevant to the CIRM-funded project (prior IP). These representations were material to CIRM's funding decision. Accordingly, Loan Recipient shall take all appropriate steps to maintain and preserve its patent rights in such prior IP, and shall not abandon any such rights without prior written approval of CIRM.

C. If CIRM determines, in its sole discretion, that Loan Recipient has not satisfied a Progress Milestone, CIRM may suspend Disbursements until such time as Grantee satisfies the Progress Milestone. Upon suspending Disbursements, CIRM may convene its progress Evaluation Committee and may seek input from Loan Recipient in order to evaluate the circumstances of the delay, including but not limited to, its cause, impact and any mitigating factors; provided, however, that CIRM may permanently cease Disbursements if Loan Recipient does not satisfy the Progress Milestone within four (4) months of the date that the Progress Milestone was scheduled to have been satisfied, or if the delay is not addressed to CIRM's satisfaction, as determined by CIRM in its sole discretion.

D. Subject to the provisions of Section 4.4(c) of the Loan Agreement, CIRM may suspend or permanently cease Disbursements if CIRM determines, in its sole but reasonable discretion, that a No Go Milestone has occurred (as defined in the Loan Agreement) or that Loan Recipient has not satisfied a Go/No Go Milestone.

E. CIRM has the right to attend key Food and Drug Administration (FDA) meetings regarding the funded project, including but not limited to any pre- pre-IND meeting, pre-IND meeting, clinical milestone meeting, or clinical hold meeting (FDA Meetings). CIRM also has the right to review any data package(s) or other information, including confidential and/or proprietary information, provided by Loan Recipient to the FDA in connection with such FDA Meetings, as well as any FDA Meeting minutes, and to share such information with CIRM's confidential advisers. To facilitate CIRM's participation in FDA Meetings, Loan Recipient shall notify CIRM as soon as practicable after it has scheduled an FDA Meeting, and shall, upon request, provide CIRM a copy of any data package or other information it intends to provide or has provided to the FDA, as well as any FDA Meeting minutes.

F. Loan Recipient shall not conduct CIRM-funded clinical trials for which no milestones and/or success criteria have been established by CIRM. Before any such CIRM-funded clinical trial work commences, CIRM shall have the right to establish new milestones, success criteria, or other funding requirements.

G. The timing of the distribution of funds pursuant to this award shall be contingent upon the availability of funds in the California Stem Cell Research and Cures Fund in the State Treasury, as determined by CIRM in its sole discretion.

Please check the CIRM website for updated policy documents: http://www.cirm.ca.gov/cirm-operations/Regulations

AWARD DETAIL (U.S. Dollars):

	Year 1	Year 2	Year 3	Year 4 (6 months)
Total CIRM Project Costs				
CIRM Principal Investigator	$2,789,289	$8,206,629	$4,290,520	$2,030,926
CIRM Co-Principal Investigator (1)	$1,172,444	$1,186,599	$105,729	$0
APPROVED BUDGET TOTAL	$3,961,733	$9,393,228	$4,396,249	$2,030,926

PI: Rachel Ruckdeschel Smith

	Year 1	Year 2	Year 3	Year 4 (6 months)
Personnel Costs	[…***…]	[…***…]	[…***…]	[…***…]
Travel	[…***…]	[…***…]	[…***…]	[…***…]
Supplies	[…***…]	[…***…]	[…***…]	[…***…]
Equipment	[…***…]	[…***…]	[…***…]	[…***…]
Consultants/Subcontractors	[…***…]	[…***…]	[…***…]	[…***…]
Total Direct Project Costs	[…***…]	[…***…]	[…***…]	[…***…]
	[…***…]	[…***…]	[…***…]	[…***…]
Facilities Costs	[…***…]	[…***…]	[…***…]	[…***…]
Indirect Costs	[…***…]	[…***…]	[…***…]	[…***…]
APPROVED BUDGET TOTAL	[…***…]	[…***…]	[…***…]	[…***…]

Co-PI: Michelle Kreke

	Year 1	Year 2	Year 3	Year 4 (6 months)
Personnel Costs	[…***…]	[…***…]	[…***…]	[…***…]
Travel	[…***…]	[…***…]	[…***…]	[…***…]
Supplies	[…***…]	[…***…]	[…***…]	[…***…]
Equipment	[…***…]	[…***…]	[…***…]	[…***…]
Consultants/Subcontractors	[…***…]	[…***…]	[…***…]	[…***…]
Total Direct Project Costs	[…***…]	[…***…]	[…***…]	[…***…]
	[…***…]	[…***…]	[…***…]	[…***…]
Facilities Costs	[…***…]	[…***…]	[…***…]	[…***…]
Indirect Costs	[…***…]	[…***…]	[…***…]	[…***…]
APPROVED BUDGET TOTAL	[…***…]	[…***…]	[…***…]	[…***…]

RESTRICTION ON THE USE OF FUNDS
CIRM has established the following restrictions on the use of the award contingent on defined preconditions shown below. CIRM funds allocated to one sub-project may only be used for that sub-project. Loan Recipient may reallocate funds from one sub-project to another, without advance approval from CIRM, as long as the funds for each sub-project stay within 10% of its original allocation.

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The Phase II work cannot commence until certain milestones are met, so funds for those sub-projects may not be used for costs incurred before those milestones are met. The sub-projects and the preconditions are shown in the following table.

Sub-Project	Project Costs	Precondition to use
Pre-Phase II Work	$893,934	[…***…]
Phase II Work	$18,888,202	[…***…]

SEMI-ANNUAL INSTALLMENTS ON CIRM DISBURSEMENTS
Disbursements will be made in semi-annual installments, issued at the beginning of each 6-month period. These periods will be tied to the project start date and payments will be made based on the figures provided above. The disbursement schedule for Years 2, 3 and 4 assumes that all Go/No-Go and Progress milestones are met. If some milestones are unmet at the end of Year 1, 2, or 3, CIRM may adjust the disbursement schedule for subsequent years, based on the Project Costs associated with the elements of the milestones that are unmet, after consultation with the Loan Recipient.

Disbursement Schedule:

Payment #:	Type	Schedule Date	Amount
1	Pre-Award Financial Due Diligence*	2/4/2013	$36,667
2	Pre Phase 2 Trial Payment	2/4/2013	$857,267
3	Year 1 Phase II Payment	7/1/2013	$3,067,799
4	Year 2 Financial Due Diligence*	1/1/2014	$16,667
5	Year 2 Q1Q2 Payment	1/1/2014	$4,679,947
6	Year 2 Q3Q4 Payment	7/1/2014	$4,696,614
7	Year 3 Financial Due Diligence*	1/1/2015	$16,667
8	Year 3 Q1Q2 Payment	1/1/2015	$2,181,458
9	Year 3 Q3Q4 Payment	7/1/2015	$2,198,124
10	Year 4 Q1Q2 Payment	1/1/2016	$2,030,926

*Amounts specified in section 4.6 (b) of the Loan Agreement will be delivered by CIRM directly to the service provider.

REPORT SCHEDULE

Report Type	Period	Due Date
Quarterly Progress Report	Year 1 Q1	4/1/2013
Quarterly Cash-on-Hand Report	Year 1 Q1	5/1/2013
Financial Milestone Check-in	Year 1 Q2	6/1/2013
6-Month Progress Report	Year 1 Q2	7/1/2013
Quarterly Cash-on-Hand Report	Year 1 Q2	8/1/2013
Quarterly Progress Report	Year 1 Q3	10/1/2013
Quarterly Cash-on-Hand Report	Year 1 Q3	11/1/2013
Financial Milestone Check-in	Year 2	12/1/2013
Annual Progress Report	Year 1	1/1/2014
Annual Financial Report	Year 1	4/1/2014
Quarterly Progress Report	Year 2 Q1	4/1/2014
Quarterly Cash-on-Hand Report	Year 2 Q1	5/1/2014
Financial Milestone Check-in	Year 2 Q2	6/1/2014
6-Month Progress Report	Year 2 Q2	7/1/2014
Quarterly Cash-on-Hand Report	Year 2 Q2	8/1/2014

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Quarterly Progress Report	Year 2 Q3	10/1/2014
Quarterly Cash-on-Hand Report	Year 2 Q3	11/1/2014
Financial Milestone Check-in	Year 3	12/1/2014
Annual Progress Report	Year 2	1/1/2015
Annual Financial Report	Year 2	4/1/2015
Quarterly Progress Report	Year 3 Q1	4/1/2015
Quarterly Cash-on-Hand Report	Year 3 Q1	5/1/2015
Financial Milestone Check-in	Year 3 Q2	6/1/2015
6-Month Progress Report	Year 3 Q2	7/1/2015
Quarterly Cash-on-Hand Report	Year 3 Q2	8/1/2015
Quarterly Progress Report	Year 3 Q3	10/1/2015
Quarterly Cash-on-Hand Report	Year 3 Q3	11/1/2015
Financial Milestone Check-in	Year 4	12/1/2015
Annual Progress Report	Year 3	1/1/2016
Annual Financial Report	Year 3	4/1/2016
Quarterly Progress Report	Year 4 Q1	4/1/2016
Quarterly Cash-on-Hand Report	Year 4 Q1	5/1/2016
6-Month Progress Report	Year 4 Q2	7/1/2016
Quarterly Cash-on-Hand Report	Year 4 Q2	8/1/2016

For an explanation of reporting requirements, please refer to the Loan Administration Policy (Rev May 2012;http://www.cirm.ca.gov/files/transcripts/pdf/2012/09-05-12.pdf) as well as the “Reporting Requirements for Disease Team Research Awards” document provided separately.

CIRM CONTACTS:
Gabriel Thompson, Deputy Grants Management Officer
Phone: 415-608-6835 Email: gthompson@cirm.ca.gov Fax: (415) 396-9141

Ingrid Caras, Science Officer
Phone: 415-396-9114 Email: icaras@cirm.ca.gov Fax: (415) 396-9141

CIRM Mailing Address:
California Institute for Regenerative Medicine
Attn: Grants Management Office
210 King Street
San Francisco, CA 94107

The CIRM home page is at http://www.cirm.ca.gov

APPENDICES

Appendix A	Research Milestones
Appendix B	Loan Agreement

CIRM USE ONLY: 6445-601-6047001/H&S Code 125291.20 Statutes 2004

APPENDIX A – CIRM RFA-10-01: (RFA 10-05) Disease Team Therapy Development Awards

California Institute for Regenerative Medicine

Grant Number:	DR2A-05735	Budget Period:	Annual as of 1/1/2013
Grantee Name:	Capricor, Inc.		
Grantee ID:		Project Period Start:	1/1/2013
Principal Investigator:	Rachel Ruckdeschel Smith	Project Period End:	6/30/2016

Co-Principal Investigator (s):

Project Title: Allogeneic Cardiac-Derived Stem Cells for Patients Following a Myocardial Infarction

Milestone achievement is an important indicator of progress and is a major factor in review of progress reports. Insufficient progress through milestones may result in loss of further funding**.** The milestones summarized below replace the milestones proposed in the original Application. These milestones will be used as a basis for review in the progress reports and progress Evaluation Meetings unless further modified with Prior Approval from CIRM.

RESEARCH MILESTONES

Year 1 Milestones

	Milestone	**Target completion date**	**Progress or Go/No Go**	**Comments, Assumptions, Risks**
CMC	[…***…]	Q2 2013 Q4 2013	Progress Progress	[…***…]
Pharm/tox				
Clinical/ Regulatory	[…***…]	Q3 2013 Q3 2013 Q4 2013	Go /No Go Progress Progress	[…***…]

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Year 2 Milestones

	Milestone	Target completion date	Progress or Go/No Go	Comments, Assumptions, Risks
CMC	[…***…]	Q2 2014 Q3 2014	Progress Progress	[…***…]
Pharm/tox				
Clinical/ Regulatory	[…***…]	Q1 2014 Q2 2014 Q3 2014	Progress Progress Progress	[…***…]

Year 3 Milestones

	Milestone	Target completion date	Progress or Go/No Go	Comments, Assumptions, Risks
CMC	[…***…]	Q1 2015 Q4 2015	Progress Progress	[…***…]

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Pharm/tox				
Clinical/ Regulatory	[…***…]	Q1 2015 Q2 2015 Q4 2015	Progress Progress Progress	

Year 4 Milestones

	Milestone	**Target completion date**	**Progress or Go/No Go**	**Comments, Assumptions, Risks**
CMC				
Pharm/tox				
Clinical/ Regulatory	[…***…]	Q2 2016 Q3 2016 Q4 2016	Progress Progress Progress	[…***…]

All target completion dates are subject to revision due to the occurrence of any of the risks defined above or other unforeseen circumstances. CIRM and Capricor shall endeavor to reach a mutual understanding in resetting any of such milestones if the circumstances so require.

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Release Criteria

MCB Specification

Attribute	Method	Criteria
	[…***…]	

Patient Batch Specification

	[…***…]	

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FACILITIES LEASE

between

CEDARS-SINAI MEDICAL CENTER,
a California nonprofit corporation
and

Capricor Inc.

a Delaware corporation
FACILITIES LEASE

THIS FACILITIES LEASE ("Lease") is made and entered into as of January 1st, 2008 by and between CEDARS-SINAI MEDICAL CENTER, a California nonprofit public benefit corporation ("Landlord"), and CAPRICOR INC., a Delaware corporation ("Tenant"), with reference to the following facts and circumstances:

A. Landlord is the owner of a building ("Building") located at 110 George Burns Road, Los Angeles, California. The land upon which the Building is located is hereinafter referred to as the "Property." A site plan depicting the Building, related improvements and the Property (collectively, the "Project") is attached hereto as **Exhibit A**.

B. Landlord desires to lease certain space within the Building to Tenant and Tenant wishes to lease such space within the Building from Landlord, in accordance with the terms and conditions stated herein.

C. Tenant is leasing certain space within the Building for the purpose of conducting Biomedical Activities.

D. Landlord and Tenant intend that the execution, delivery and performance of this Lease by each party, and the consummation of the transactions contemplated hereunder, shall not at any time threaten Landlord's tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code, or cause Landlord to be in default under any of Landlord's issued and outstanding tax-exempt bonds

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

ARTICLE I
BASIC LEASE PROVISIONS

Wherever referred to in this Lease, and subject to modification or revision by particular terms and conditions of this Lease and Addenda thereto, these certain basic lease provisions are defined as follows:

1.1 Tenant: *Capricor Inc.,* a Delaware corporation.

1.2 Building: 110 George Burns Road.

1.3 Premises Area: 828 total rentable square feet, consisting of:

1.3.1 Suite/Module 1099 ("Premises"), consisting of 652 rentable square feet; and

l.3.2 Tenant's share of the gross square feet contained in the Common Services Space and the Common Areas of the Building, which shall be an additional twenty seven percent (27%) of the total rentable square feet of the "Premises" described in Section 1.3.1 above.

1.4 Commencement Date: January 1, 2008. l.5 Termination Date: December 31, 2009.
1.6 Permitted Uses: Biomedical Activities, as set forth in Section 6.1 and more particularly described in **Exhibit D**.

l.7 Total Monthly Payment: $4,554.00, beginning on the Commencement Date and continuing on the first day of each subsequent calendar month. The Total Monthly Payment includes: (i) the "Basic Monthly Rent" of $2,898.00; and (ii) an "Additional Monthly Rent" of $1,656.00 for Operating Expenses.

l.8 Basic Annual Rent: $34,776.00

1.8 Basic Annual Rent Increase: Effective on each and every anniversary of the Commencement Date, pursuant to Section 4.2.

l.9 Additional Rent: $19,872.00 annually (or $1,656.00 per month) for Operating Expenses, pursuant to Section 4.3.

l.10 Security Deposit: $9,108.00 (2 Total Monthly Payments).

1.11 Parking Allotment: See Section 29.22 hereof

ARTICLE II
DESCRIPTION OF PREMISES

Subject to the terms and conditions stated herein, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord certain premises consisting of the space ("Premises") designated as Suite 1099. The "Premises Area" for such Premises shall mean and consist of 828 total rentable square feet, consisting of: (a) the total rentable square feet within the Premises described in Section 1.3.1 hereof, plus (b) Tenant's share of the space described in, and as determined pursuant to, Section 1.3.2 hereof. A floor plan for the Premises is attached hereto as **Exhibit B**. Tenant acknowledges that it has investigated the Premises prior to the execution hereof and agrees that the rentable square footage of Premises Area for purposes of this Lease is not less than that set forth above and that Tenant shall be irrevocably bound by the designation of rentable square footage of the Premises Area set forth above. For purposes of this Agreement, the "Common Services Space" shall mean those portions of the floor on which the Premises is located which are marked as such on **Exhibit B** attached hereto.

ARTICLE III
TERM; COMMENCEMENT DATE

The term of this Lease ("Original Lease") shall commence on January 1, 2008 ("Commencement Date") and ending on December 31, 2009 "Original Term Expiration Date"). The term of this Lease ("Term") shall be two (2) years commencing withthe Commencement Date, unless sooner terminated pursuant to the provisions hereof.

ARTICLE IV RENT

4.1 Basic Annual Rent. Tenant shall pay to Landlord during the Term hereof basic annual rent in twelve equal monthly installments, each monthly installment equal to the product of (a) the total rentable square footage of the Premises Area, multiplied by (b) Three Dollars and Fifty Cents ($3.50) per square foot per month, as adjusted from time to time pursuant to Section 4.2 hereof. The basic annual rent as adjustedfrom time to time pursuant to Section 4.2 hereof is referred to hereinafter as the "Basic Annual Rent". Concurrently with the execution of this Lease, Tenant shall pay to Landlord the first monthly installment of Basic Annual Rent. Thereafter, each monthly installment of Basic Annual Rent, as adjusted from time to time pursuant to Section 4.2 hereof, shall be due and payable by Tenant to Landlord on the first day of each calendar month during the Term of the Lease.

4.2 Basic Annual Rent Increase.

4.2.1 On each anniversary ("Adjustment Date") of the Commencement Date, commencing with the first anniversary of the Commencement Date, the Basic Annual Rent shall be increased by multiplying such Basic Annual Rent, by a fraction, the numerator of which shall be the CPI (as hereinafter defined) for the calendar month in which the Adjustment Date falls, and the denominator of which shall be (a) the CPI for the calendar month of the Commencement Date in the case of the first adjustment on the first anniversary of the Commencement Date, and (b) in the case of all other adjustments, the CPI for the calendar month one year prior to the Adjustment Date for which the rental adjustment is then being calculated. (Such fraction shall never be less than one.) The sum so calculated or set shall constitute the new Basic Annual Rent hereunder, but, in no event, shall such new Basic Annual Rent be less than the Basic Annual Rent payable for the annual period immediately preceding the Adjustment Date. For purposes hereof, "CPI" shall mean the United States Department of Labor Revised Consumer Price Index, Not Seasonally Adjusted, Los Angeles-Riverside-Orange County, CA metropolitan area for Medical Care (Base Period 1982/84 = 100) established monthly by the Bureau of Labor Statistics.

4.2.2 In the event the compilation and/or publication of the CPI shall be transferred toany other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculations. In the event that Landlord and Tenant cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of such association and the decision of the arbitrators shall be binding upon the parties.

4.2.3 Tenant shall continue to pay the Basic Annual Rent at the rate previously in effect until the increase, if any, is determined. Within five (5) days following the date on which an increase is determined, Tenant shall make such payment to Landlord as will bring the increased rental current, commencing with the effective date of such increase through the date of any rental installments then due, plus accrued interest at the rate of ten percent (10%) per annum from the applicable Adjustment Date. Thereafter, the Basic Annual Rent shall be paid at the increased rate.

4.2.4 At such time as the amount of any change in Basic Annual Rent required by this Lease is known or determined, Landlord and Tenant shall execute a statement setting forth such change, but the enforceability of both this Lease and the increase in Basic Annual Rent shall not be affected should either party fail or refuse to execute such statement.

4.3 Additional Rent

4.3.1 Payment. In addition to the Basic Annual Rent, Tenant shall pay such additional rent and all other amounts or charges as may be required in this Lease. The Basic Annual Rent and said additional rent and other payments are sometimes collectively referred to herein as the "rent." The rent shall be payable to Landlord, without demand, deduction or offset of any kind in lawful money of the United States of America at the address for Landlord set forth in this Lease or to such other person or at such other place as Landlord may from time to time designate in writing. If Tenant shall pay any rent with a check which is not a cashier's check, the check shall be drawn against an account maintained in a bank or other financial institution which has a branch office located in Los Angeles, California.

4.3.2 Taxes and Capital Improvements.

(a) Definitions. For purposes of this Section 4.3.2 and this Lease:

(i) "Operating Expenses" shall mean the total of all actual costs, expenses, and disbursements for or in connection with the operation, management, maintenance, protection, remediation, servicing or repair of the Project (or any portion thereof). Operating Expenses shall include: (1) the cost of providing, managing, operating, maintaining and repairing air-conditioning, electricity, steam, heating, mechanical, ventilation, escalator and elevator systems and all other utilities generally supplied to all Tenants and the cost of supplies and equipment and maintenance and service contracts in connection therewith; (2) the cost of repairs, general maintenance, cleaning, trash removal, telephone service, security service and janitorial service, light bulb and tube replacement and supplies; (3) the cost of fire, extended coverage, boiler, sprinkler, apparatus, public liability, property damage, rent, earthquake and other insurance; (4) wages, salaries and other labor costs including taxes, insurance, retirement, medical and other employee benefits; (5) fees, charges and other costs, including management fees, consulting fees, legal fees and accounting fees, of all independent contractors engaged by Landlord or charged by Landlord if Landlord performs such services in connection with the Project; (6) the fair market rental value of any offices in the Building (or in other buildings on the Landlord's campus) used for management of the Project; (7) the cost of business licenses and similar taxes; (8) fees imposed by any federal, state or local government for fire and police

protection, trash removal or other similar service; (9) any charges which are payable by Landlord pursuant to any type of service agreement or a functional equivalent with the City of Los Angeles or for other services supplied to the Project by the City of Los Angeles under any type
of a special assessment district, and not included as Real Property Taxes; and (10) any other expenses of any kind whatsoever incurred for managing, operating, protecting, remediating, maintaining and repairing the Project. Operating Expenses shall be adjusted to reflect ninety five percent (95%) occupancy of the Project during any period in which the Project is not fully occupied. Operating Expenses which are incurred for the benefit of the Project and other properties owned by Landlord shall be reasonably allocated by Landlord between the Project and such other properties.

(ii) "Real Property Taxes" shall mean all taxes, assessments (special or otherwise) and charges levied upon or with respect to the Project (or any portion thereof fi) and ad valorem taxes on personal property owned or used by Landlord in connection therewith, but excluding taxes on personal property owned or used by Landlord to the extent that such personal property is used by Landlord in its capacity as an occupant of the Building. Real Property Taxes shall include, without limitation, any tax, fee or excise on the act of entering into this Lease, on the occupancy of Tenant, or the rent hereunder which are now or hereafter levied, assessed or imposed against Landlord by the United States of America, the State of California or any political subdivision, public corporation, district or other political subdivision, or public entity, and shall also include any other tax, assessment, fee or excise, however described (whether general or special, ordinary or extraordinary, foreseen or unforeseen), which may be levied, assessed or imposed in lieu of, as a substitute, in whole or in part, for or as an addition to, any other Real Property Taxes. Landlord shall pay any such special assessments in installments when allowed by law, in which case Real Property Taxes shall include any interest charged thereon, or, if Landlord chooses to pay such Real Property Taxes in a lump sum payment, Landlord shall allocate such Real Property Taxes (together with a factor for interest thereon at the rate such interest would have accrued had Landlord elected to pay such special assessments on an installment basis) to Tenant as if Landlord had paid such Real Property Taxes on an installment basis. Real Property Taxes shall not include income, franchise, transfer, gift, inheritance, estate or capital stock taxes, unless, due to a change in the method of taxation, any of such taxes are levied, assessed or imposed against Landlord in lieu of, as substitute, in whole or in part, for any other tax which would otherwise constitute a Real Property Tax, but then only to the extent thereof. Real Property Taxes shall also include legal fees, costs and disbursements incurred in connection with proceedings to contest, determine or reduce Real Property Taxes.

(iii) “Cost Savings Capital Improvements” shall mean any equipment, device or other improvement incorporated into the Building or other portion of the Project, which capital improvement achieves economies in Operating Expenses, taking into account all applicable costs, in the operation, maintenance and repair of the Building or such relevant portion of the Project.

(iv) “Government Mandated Capital Improvements” shall mean any equipment, device, or other improvement acquired and installed in the Building or other portion of the Project, to comply with any government requirement with respect to the Building or other portion of the Project, including without limitation, fire, health, safety, or construction requirements, if the cost thereof

should be capitalized in accordance with generally accepted accounting principles. Government Mandated Capital Improvement (s) and Cost Saving Capital Improvement(s) are sometimes herein referred to as "Capital Improvement(s)."

(v) "Capital Improvement Amortization" shall mean the amount determined by multiplying the actual cost, including financing costs if any, of each Capital Improvement acquired, installed or placed in service by Landlord by the constant annual percentagerequired to fully amortize such cost over the useful life of the Capital Improvement (as reasonably estimated by Landlord at the time of acquisition, installation, or placement in service). The Capital Improvement Amortization shall be allocated and charged to Tenant as an amount per square foot of rentable area consistently applied.

(b) Adjustments to Rent - Operating Expenses and Real Property Taxes. Operating Expenses shall be charged monthly toTenant as additional rent as follows: (i) at an amount ("Premises Operating Expenses") equal to (A)total rentable square footage of the Premises Area, multiplied by (B) two dollars ($2.00) ("Base Operating Expense") per square foot per month (described in **Exhibit C** hereto), as adjusted from time to time as follows: on each anniversary ("Adjustment Date") of the Commencement Date, the Base Operating Expense shall be increased by multiplying such Base Operating Expense, by a fraction, the numerator of which shall be the CPI (as defined in Section 4.2.1 hereof) for the calendar month in which the Adjustment Date falls, and the denominator of which shall be (a) the CPI for the calendar month of the Commencement Date in the case of the first adjustment on the first anniversary of the Commencement Date, and (b) in the case of all other adjustments, the CPI for the calendar month one year prior to the Adjustment Date for which the rental adjustment is then being calculated (such fraction shall never be less than one); the adjusted amount so calculated or set shall constitute the new Base Operating Expense hereunder, but, in no event, shall such new Base Operating Expense be less than the Base Operating Expense payable for the monthly period immediately preceding the Adjustment Date. In any calendar year, the sum of the Premises Operating Expenses, Tenant's Pro Rata Share (as defined below) of all costs and other expenses described in Article XXX for the Project, and Tenant's share of Real Property Taxes and other property taxes as determined in accordance with Section 4.3.2(d) hereof and the other provisions of this Lease, shall equal the combined expenses for all twelve months of such calendar year ("Combined Expenses"). In each calendar year during the Term of this Lease (including the partial year commencing on the Commencement Date of this Lease), the rent payable by Tenant for such calendar year shall be increased over the Basic Annual Rent, as adjusted in accordance with Section 4.2 , by the amount of the Combined Expenses for such calendar year. In addition to the foregoing, any costs or expenses for services or utilities in excess of those required by this Lease to be supplied by Landlord and which are attributable directly to Tenant's use or occupancy of the Premises shall be paid in full by Tenant as additional rent when such costs are incurred , or, if Landlord makes such payments, within fifteen (15) days after being billed therefor by Landlord. As used in this Lease, the terms "square feet," "square foot" and "square footage" shall be based on rentable square feet as determined using the Building Owners and Managers Association's Standard Method For Measuring Floor Area In Office Buildings (ANSI/BOMA 265.1-1996) ("BOMA Standards"), unless otherwise specifically provided herein. For purposes hereof, "Tenant's Pro Rata Share" shall mean a fraction, the numerator of which is the rentable square feet of the Premises Area and the denominator of which is the rentable square feet of space within the Building.

(c) Adjustments to Rent for Capital Improvements. In any Lease Year, or portion thereof, during the Term of this Lease which is included in the useful life of a Capital Improvement, the rent payable by Tenant for such year, or portion thereof, shall be increased over the Basic Annual Rent, as adjusted in accordance with Section 4.2 and Section
4.3 ..2(b), by the amount of the Capital Improvement Amortization per square foot of rentable area of the Building, multiplied by the Premises Area.

(d) Additional Taxes and/or Improvements. Notwithstanding anything contained in this Lease to the contrary, any Real Property Taxes, other property taxes, and/or Government Mandated Capital Improvements which are attributable to Tenant's use or occupancy of the Premises shall be paid in full by Tenant as additional rent. The parties hereto acknowledge that the portion of the Building occupied or used by Landlord has been determined to be tax exempt and that the portion of the Building occupied by Tenant and other tenants or occupants may be found to be subject to Real Property Taxes and other property taxes because Tenant and other tenants and occupants do not constitute tax-exempt organizations under Section
503(c) of the Internal Revenue Code, as amended, or because the premises area used by such
tenants and occupants are found not to be used for tax exempt purposes or for other reasons. Consequently, the parties hereto agree that Real Property Taxes assessed against the Project (or any portion thereof) or Building (or any portion thereof) shall be attributed entirely to the premises area occupied or used by such taxable organizations and by organizations using their premises area for purposes which are not tax exempt. Landlord shall have the right to allocate such Real Property Taxes among Tenant and the other tenants and occupants in a reasonably equitable manner. For these purposes, allocating such Real Property Taxes in the following manner shall be deemed reasonably equitable: multiply the Real Property Taxes by a fraction, the numerator of which is the Premises Area of the Tenant, and the denominator of which is the rentable square feet of premises area used or occupied by tenants and other occupants for purposes which are not tax exempt or which are not tax exempt for any other reason.

(e) Landlord's Statement. Prior to the commencement of each calendar year (including the partial year commencing on the Commencement Date of this Lease), or as soon thereafter as possible, Landlord shall furnish to Tenant a statement ("Landlord's Statement") of Landlord's estimate of the Real Property Taxes and Capital Improvement Amortization expected to be incurred during the calendar year, based on the amount of such Real Property Taxes and Capital Improvement Amortization in the prior calendar year (if any), adjusted for known changes which have or will occur in the Project, the rates charged by suppliers, or other circumstances affecting the amount of such Real Property Taxes or Capital Improvement Amortization during the calendar year in question, and showing the amount, if any, payable by Tenant as additional rent for such calendar year, or portion thereof, pursuant to Sections 4.3.2(b), 4.3.2(c), 4.3.2(d) and any other applicable provisions of this Lease, on the basis of such estimate. Commencing as of January 1st of each calendar year, Tenant shall pay to Landlord one-twelfth (1/12) of the amount of the additional rent estimated for Real Property Taxes and Capital Improvement Amortization, along with the monthly charge for Premises Operating Expenses, on each monthly rent payment date until further adjustment pursuant to this Section 4.3.2. If the Term of the Lease with respect to any space commences or terminates at any time other than the first day of the calendar year, then during such partial calendar year, Tenant shall pay to Landlord, on each of the monthly payment dates during said partial calendar year, the amount of said estimated additional rent with respect to such space, attributable solely

to such partial calendar year divided by the number of months in said partial calendar year. If Landlord's Statement is furnished after January 1st of a calendar year, Tenant shall pay the entire portion of the estimated additional rent attributable to portions of the calendar year prior to Tenant's receipt of Landlord's Statement on the later of fifteen (15) days, or the first monthly rent payment date, after Tenant's receipt of Landlord's Statement. Landlord shall have the right, in Landlord's discretion, to revise Landlord's estimates during the calendar year to reflect the then current Real Property Taxes and Capital Improvement Amortization, and Landlord shall issue a revised Landlord's Statement. Tenant's monthly rent payments shall be further adjusted in accordance with the revised Landlord's Statement commencing on the first monthly rent payment date following Tenant's receipt from Landlord of the revised Landlord's Statement. With reasonable promptness after the expiration of each calendar year, but in any event within one hundred twenty (120) days after the expiration of such calendar year, Landlord shall furnish to Tenant a year-end statement showing: (i) the actual Real Property Taxes and Capital Improvement Amortization during the previous calendar year, which such amounts in each such category and the proper allocation thereof to the Project shall be certified by Landlord and the allocation thereof to Tenant shall be certified by Landlord to be proper and in accordance with this Lease; (ii) the difference, if any, between Landlord's Statement and the actual amounts; and (iii) the aggregate amount of any charge or credit to Tenant necessary to adjust rent previously paid by Tenant to the actual Real Property Taxes and Capital Improvement Amortization. Promptly after the receipt of said statement by Tenant, Tenant shall, in case of any underpayment, pay Landlord in accordance with Section 4.3.1, or in case of an overpayment, Tenant shall receive a credit against rents subsequently payable to Landlord.

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4.3.3 Charges for Use of Specialized Research Cores. In addition to Basic Annual Rent, Tenant shall be charged for any use by Tenant of Specialized Research Cores (as defined in Section 9.2 hereof) or any services rendered from such Specialized Research Cores (or both) at rates established by Landlord, in its sole discretion, from time to time. Tenant understands that the rates charged for such use or services (or both) are subject to change from time to time. Services rendered by or through Landlord from the Specialized Research Cores are more specifically described in Section 28.6 hereof.

4.4 Definitions. As used in this Lease, the following terms shall have the following meanings:

4.4.1 Lease Years: Calendar Years. "Lease Years" shall mean the consecutive twelve (12) month periods commencing with the Commencement Date or, if the Commencement Date falls other than on the first day of a calendar month, then commencing the first day of the first calendar month following the Commencement Date. The fraction of the month (if any) following the Commencement Date and prior to the commencement of the first Lease Year shall be deemed to be part of the first Lease Year. If Landlord employs fiscal years not constituting calendar years, the term "calendar years" shall be deemed, at Landlord's election, to mean the consecutive twelve (12) month periods comprising Landlord s fiscal years.

4.4.2 Lease Rate. "Lease Rate" shall mean an annual interest rate which is the lesser of: (a) the maximum rate permitted by law, if applicable; or (b) the i rate of interest from time to time announced by Union Bank at its corporate headquarters in Los Angeles, California, as its prime rate of interest, plus two (2) percentage points, or, should Union Bank

cease or fail to announce a prime rate, then the rate announced from time to time by Bank of America NT & SA at its corporate headquarters in San Francisco, California, as its reference rate, plus two (2) percentage points. Should both Union Bank and Bank of America NT & SA cease or fail to announce such rates, the rate shall be agreed upon by the parties or, if they cannot agree, the rate shall be determined by arbitration pursuant to the American Arbitration Association in accordance with the then rules of such association and the decision of the arbitrator shall be binding upon the parties.

4.5 Miscellaneous Rent Provisions.

4.5.1 Prorations. If the Term of this Lease commences, or the date of expiration of this Lease occurs, other than on the first day or last day of a calendar month, the Basic Annual Rent for such month shall be prorated on the basis of a thirty (30) day month.

4.5.2 Place and Manner of Payment. Basic Annual Rent shall be payable in advance in twelve (12) equal monthly installments, with the first such monthly payment of Basic Annual Rent due on the Commencement Date (prorated if such date occurs on other than the first day of the month), and all other monthly payments to be due on the first day of each calendar month during the Term hereof. All such payments are to be forwarded by Tenant to the office of the Building, or to such other person or at such other place as directed from time to time by written notice from Landlord, in lawful money of the United States of America, without demand, deduction, offset or abatement, except as may otherwise be specifically provided in this Lease.

4.5.3 Conditional Payment. No payment by Tenant or receipt by Landlord of a lesser amount than the total of all sums due hereunder shall be deemed other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check, or any letter accompanying any check or payment as rent, be deemed an accord or satisfaction, and Landlord may accept such cash and/or negotiate such check or payment without prejudice to Landlord's right to recover the balance of such rent, or Landlord may pursue any of its other remedies provided in this Lease or otherwise, regardless of whether Landlord makes any notation on such instrument of payment or otherwise notifies Tenant that such acceptance, cashing or negotiation is without prejudice to Landlord's rights.

4.6 Security Deposit. Concurrently with the execution and delivery of this Lease, Tenant has deposited with Landlord Five Thousand three hundred Dollars ($5,300.00) as security for the full and faithful performance of every provision of this Lease to be performed by Tenant. If Tenant defaults with respect to any provision of this Lease, including, but not limited to, the provisions relating to the payment of rent set forth in this Lease, Landlord may use, apply or retain all or any part of the Security Deposit for the payment of such rent, fees or any other sum in default, or for the payment of any other amount which Landlord may reasonably spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may reasonably suffer by reason of Tenant's breach of the terms of this Lease, or to pay Landlord for any amount due under any indemnification provision contained in this Lease. If any portion of the Security Deposit is so used or applied, Tenant shall within five (5) days of receipt of notice thereof from Landlord, deposit cash with Landlord in an amount sufficient to restore the Securit/ Deposit to its original amount and Tenant's failure to do

so shall be a material breach of this Lease. Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit.

ARTICLE V
TAXES ON TENANT'S PROPERTY

With respect to all of Tenant's trade fixtures, equipment and personal property (collectively, "Tenant's Property") located within the Premises: (i) Tenant shall pay prior to delinquency all taxes assessed against or levied thereon; and (ii) when reasonably possible, Tenant shall cause such property to be assessed and billed separately from the property of Landlord; but if Tenant's Property shall be assessed and taxed with the property of Landlord, Tenant shall pay to Landlord its share of such taxes within ten (10) days after receipt by Tenant of a statement in writing setting forth the amount of such taxes applicable to Tenant's Property, which statement shall include the basis on which such share of taxes was allocated to Tenant. Tenant shall have the right to contest, in good faith and by appropriate and timely legal proceedings, the legality, assessed valuation or amount of any tax or assessment which Tenant is required to pay pursuant to the Lease. Landlord shall reasonably cooperate with the Tenant in the prosecution of such contest, provided that all expenses incurred by Landlord for or in connection with such cooperation (including, without limitation, all attorney's fees, appeals board, court and other costs) are paid solely by Tenant. If Landlord is required to pay the taxing authority any tax or assessment which Tenant desires to contest, Tenant shall, pending resolution of the contest by the taxing authority and as a condition of its right to contest the tax assessment, pay the tax or assessment under protest, but otherwise as provided in the Lease.

ARTICLE VI
USE OF PREMISES

6.1 Limitation of Use. Tenant shall use and occupy the Premises only for activities ("Company Activities") arising from, or relating to, reasonable corporate activities, including office, administrative, fundraising activities, and research and development, including biomedical or biochemical processes and methods, including research, development and production of biomedical reagents, agents, devices, cell lines, and other chemical, biomedical, or biochemical products or devices ("Permitted Uses"), as more particularly described in **Exhibit D** attached hereto. Tenant shall not use or occupy the Premises or permit the same to be used or occupied for patient care activities, to conduct clinical trials or for any other purposes without the prior written approval of Landlord, which approval shall be in Landlord's sole and absolute discretion. Tenant shall control access to the Premises, and to any Specialized Research Core used by Tenant, by issuing identification badges and access cards to each of Tenant's employees, who shall be required to carry such identification badges and access cards at all times that they are present in the Premises or any other part of the Building. Tenant shall not do or permit anything to be done which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or injure or annoy them, nor use or allow the Premises to be used for any improper, immoral, or unlawful or reasonably objectionable purpose, nor shall Tenant cause or maintain or permit any nuisance in, or about the Premises, nor shall Tenant cause or permit any hazardous or toxic waste, substance or material to be brought to the Premises or used, handled, stored or disposed of in or about the Premises, except as otherwise permitted by law and typically used in the conduct of the Biomedical Activities which are conducted from the Premises in accordance with this Lease and then only in accordance with the provisions of any rules and regulations established by Landlord from time to time concerning such use. Tenant shall provide the Director of Radiation Safety of Landlord (or such other person as Landlord shall direct from time to time) with a list of all Hazardous Materials (as defined in Article XXX hereof) which it is using or which it intends or expects to use in the Premises, an explanation of the purpose for each listed item, and the means and methods for each listed item's disposal in compliance with all applicable laws. Tenant shall promptly revise and supply Landlord with a new list of Hazardous Materials whenever the existing list on file is no longer complete and accurate in all respects. Tenant shall not conduct business or other activity in, on or about the Premises of such a nature as to place an unreasonable and excessive burden upon the public and Common Areas of the Project. Tenant shall not commit or suffer the commission of any waste in, on or about the Premises. In connection with all of the foregoing, Tenant, at its sole cost and expense and subject to compliance with all applicable provisions of this Lease, shall install and maintain: (i) such improvements and equipment as shall be reasonably necessary to prevent the use or operation of equipment located in the Premises or the conduct of Tenant's practice in the Premises from affecting others in the Building or their equipment; and (ii) such additional floor load support as shall be reasonably necessary to accommodate equipment to be located in the Premises. Nothing contained in this Lease shall limit Landlord's right to use, or to lease other portions of, the Project for any purpose or use that Landlord deems appropriate, and nothing contained herein shall be deemed to grant to Tenant any right to prevent Landlord, or to require Landlord to preclude others in the Project, from using space anywhere in the Project for the same or similar uses or purposes for which Tenant uses the Premises.

6.2 Compliance with Governmental and Insurance Regulations. Tenant shall not use or occupy the Premises in violation of the Certificate of Occupancy of the Building or the Premises or of any law, ordinance or regulation or other directive of any governmental authority having or exercising jurisdiction over the Building or Project, whether now in effect or becoming effective subsequent to the date hereof (collectively, "Applicable Laws"). Tenant may, in good faith, contest the validity or application of any law, statute, ordinance, governmental rule or regulation, provided Landlord is not thereby subject to any liability and provided Landlord shall not anticipate suffering adverse consequences or monetary or other damage as a result of such contest or as a result of the outcome of such contest. Upon five (5) days' written notice from Landlord, Tenant shall discontinue any use of the Premises which is declared by any governmental authority having or exercising jurisdiction to be a violation of the Certificate of Occupancy of the Building or the Premises or any Applicable Laws. Tenant shall not do or permit to be done anything which will invalidate or cause termination of or increase the cost of any fire and extended coverage or other insurance policy covering the Building, the Project or the Property. Within five (5) days of its receipt of written notice, Tenant shall reimburse Landlord for any additional premium charges for such policy or policies caused by reason of Tenant's failure to comply with the provisions of this Section. Tenant shall keep the Premises, and every part thereof, in a clean, sanitary and wholesome condition, free from any objectionable noises, odors or nuisances, public or private, and Tenant shall comply, at its own expense, with all health and policy regulations. Tenant shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities pertaining to Tenant's use of the Premises, and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to the use or occupation of the Premises.

6.3 Assumption of Risk of Noncompliance. Tenant hereby warrants that, as of the execution of this Lease, it has investigated whether its proposed use of the Premises and its proposed manner of operation will comply with all Applicable Laws, and Tenant assumes the risk that its proposed use of the Premises and its proposed manner of operation are and will continue to be in compliance with all Applicable Laws, including, without limitation, all zoning laws regulating the use and enjoyment of the Premises. Tenant agrees that under no circumstances will Tenant be released, in whole or in part, from any of its obligations under this Lease as a result of any governmental authority disallowing or limiting Tenant's proposed use of the Premises or its manner of operation. Additionally, subject to Article VII below, Tenant shall install, at its own expense, any improvements, changes or alterations in the Premises authorized in writing by Landlord which are required by any governmental authority as a result of Tenant's specific use of the Premises or its manner of operation thereunder. If Landlord performs such alterations because of Tenant's failure to perform the same, Tenant shall promptly reimburse Landlord for the actual costs of such alterations.

6.4 Safetv Training Program. Prior to participating in any of the Biomedical Activities permitted under this Lease, each of Tenant's employees shall be required to participate in an orientation and safety training program established by Landlord, which program shall address environmental safety issues, including, but not limited to, the proper handling of radioactive, chemical and other Hazardous Materials.

6.5 . Use of Common Services Space. Tenant shall have the right to use the Common Services Space in connection with and ancillary to its use of the Premises, in common with other tenants and occupants of the Building, subject to such rules and regulations as Landlord may impose from time to time. The Common Services Space as of the date of this Lease is graphically depicted on **Exhibit B** hereto.

6.6 Animal Research. If Tenant uses animals for or in connection with research on or about the Premises or the Building, such animals must be acquired or obtained solely through Landlord. Tenant acknowledges that a breach of this Section 6.6 could result in irreparable harm to Landlord and will cause Landlord to incur substantial damages. Therefore, notwithstanding anything contained in this Lease to the contrary, any breach of this Section 6.6 shall be deemed to be an incurable breach which shall automatically entitle the Landlord, in addition to all other remedies to which Landlord is or may be entitled under this Lease, or at law, or in equity, to terminate this Lease.

ARTICLE VII
CONSTRUCTION AND MAINTENANCE OF PREMISES AFTER INITIAL CONSTRUCTION

7.1 Maintenance of Premises. Following the Commencement Date and except as otherwise provided in Section 7.4 below, Tenant shall, at its own cost and expense, keep and maintain, in good, sanitary, and tenantable condition and repair, the Premises and every part thereof, including, without limitation, the floor covering, all interior walls, ceilings, doors, decorations (e.g., carpeting, painting, wall covering and refinishing), fixtures and equipment therein. Landlord may make any reasonable repairs which are not made by Tenant with reasonable diligence after notice from Landlord and charge Tenant for the actual cost thereof. Tenant shall take precautions to prevent, shall prevent, and shall promptly eradicate from the Premises or any other portion of the Building or Project any infestations which arise from Tenant's use of the Premises, including, without limitation, rodents and insects.

7.2 Tenant Construction.

7.2.1 Landlord's Consent. Tenant shall not make any alterations, additions, modifications or improvements (collectively, "Alterations") to the Premises, the Building or any part thereof without Landlord's advance written consent, nor, in any event, Alterations which interfere with or disrupt other tenants or occupants in the Building or with Landlord's work, if any, then being carried out therein. Landlord shall not unreasonably withhold its consent to any alterations, additions or improvements to the Premises or any part thereof which do not involve structural changes to the Building, do not affect the external appearance of the Building, and do not affect or involve modifications to Building systems such as HV AC, electrical systems, floor load capacities, plumbing and other utility systems. Landlord will grant its approval or disapproval of any proposed alteration, addition or improvements within thirty (30) business days after receipt from Tenant of the necessary plans and specifications and other information reasonably necessary to make a decision with respect thereto or reasonably relevant to such Landlord's decision, and failure by Landlord to disapprove such proposed alteration, addition or improvement within such thirty (30) business days shall be deemed approval thereof. To the extent permitted or consented to hereunder, any construction undertaken by Tenant in or to the Premises or the Building shall comply with all the terms and provisions of Sections 7.2.2 and 7.2.3 below.

7.2.2 Licensed Contractors. Tenant shall utilize only bondable licensed contractors for any proposed Alterations. Tenant shall prepare, obtain and promptly provide Landlord with copies of bid solicitations and bids received for all such work.

7.2.3 Construction Requirements. Subject to the other provisions hereof, any Alterations installed by Tenant, its contractor or agents at any time subsequent to the Commencement Date, and including, without limitation, any construction performed by Tenant, shall be done only in compliance with the following:

(a) No such work shall proceed without Landlord's prior written approval of: (i) Tenant's contractor and Tenant' architect or space planner;

(ii) certificates of insurance; (iii) detailed plans and specifications for such work; (iv) performance and labor and materials payment bonds; and (v) all governmental permits.

(b) Any work not acceptable to any governmental authority or agency having or exercising jurisdiction over such work, or not satisfactory to Landlord, shall be promptly replaced at Tenant's expense. Notwithstanding any failure by Landlord to object to any such work, Landlord shall have no responsibility therefor.

(c) All work by Tenant or its contractors shall be scheduled through Landlord.

(d) Tenant shall promptly reimburse Landlord for any extra expense incurred by Landlord by reason of faulty work done by Tenant or its contractors, or by reason of inadequate cleanup.

(e) Tenant or any contractor of Tenant shall not use non-union labor if such use would result in any unreasonable or unusual interference with or disturbance of the operations of Landlord or Landlord's labor relationships. Neither Tenant nor any contractor of Tenant shall use non-union labor if such use would constitute a violation of any applicable master or other labor agreement which is or becomes binding or applicable to Landlord now or in the future. Tenant shall assume the risk of any strikes or labor disturbances arising out of the use of non-union labor, and any delays arising out of such strikes or disturbances shall not excuse or postpone the time for any performance or obligation of Tenant under this Lease or related agreements, notwithstanding the applicability of any force majeure clause or other provision contained in this Lease or related agreements.

(f) If required for Building safety in Landlord's discretionary judgment, all x-ray, laser, other medical equipment, data processing, photocopying, copying, and other special electrical equipment shall have a separate duplex outlet and shall be installed only under the supervision of Landlord or its electrical contractor. Tenant shall pay any additional costs on account of any increased support to the floor load necessary therefor or for any other equipment or improvements which Landlord reasonably deems necessary for the proper and safe installation of any such equipment.

(g) Before the commencement of any construction by Tenant in, on or around the Premises or the Building, Tenant or its contractors shall give advance written notice thereof to Landlord or its agent sufficient for Landlord's preparation, posting and recordation of an appropriate notice of non-responsibility as provided in California Civil Code
§ 3094 or any related, successor or similar provision of law. Within ten (10) days after
completion of any work in, to or about the Premises or the Building, Tenant or its contractor shall file for record in the Office of the Los Angeles County Recorder a notice of completion as permitted by law.

(h) Tenant acknowledges that Landlord's approval of Tenant's plans and specifications for any work to be performed in or to the Premises (including, without limitation, any mechanical, electrical, architectural or structural Alterations) shall not constitute a representation or warranty by Landlord as to the adequacy of such plans and specifications respecting Tenant's intended use of the Premises (including, without limitation, electrical energy conservation) or as to the compliance of such plans and specifications (or the work performed pursuant thereto) with the laws, regulations and ordinances of any governmental authority or agency having or exercising jurisdiction over such work. Landlord expressly disclaims any liability or responsibility for such plans and specifications and the work performed pursuant thereto and Tenant expressly agrees that Landlord shall not be responsible therefor, and Tenant shall indemnify and hold Landlord harmless from any damage or injuries (including, without limitation, reasonable attorneys' fees) resulting from errors or omissions in such plans and specifications.

(i) Upon completion of such work, Tenant shall deliver to Landlord a set of as-built drawings and all CADD work (on disks}. relating to the work.

7.3 Condition of Premises. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Building or the Premises or with respect to the suitability of either for the conduct of Tenant's business. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and the Building were at such time in good and sanitary order, condition and repair.

7.4 Landlord Repairs and Maintenance After Commencement Date. Subject to the provisions of Section 7.1 above and performance of Tenant's obligations under this Lease, including, without limitation, those set forth in Section 4.3 hereof, following the Commencement Date, Landlord shall: (i) keep in good order, condition and repair the foundations, exterior walls, downspouts, gutters and roof of the Building and the plumbing and sewage system outside the Building; (ii) make structural repairs to the Premises necessitated by defective, faulty, or negligent design or construction; (iii) repair and maintain the mechanical systems necessary to provide those utilities and Building services to the Premises which Landlord has specifically agreed to provide pursuant to Article XXVIII below, and maintain the light fixtures and unexposed electrical, plumbing and sewage systems in the Premises and the heating, ventilating and air conditioning systems in the Premises. Notwithstanding the foregoing, Landlord shall not be obligated to repair any damage to the Building or the Premises caused by any act or negligence of Tenant or its employees, agents, invitees, permittees, licensees or contractors. Landlord shall not be obligated to make any such repairs until after the expiration of fifteen (15) days' written notice from Tenant to Landlord, stating the need for such repairs or maintenance. Landlord shall not be called upon or required at any time to make any repairs, maintenance, improvements, alterations, changes, additions, repairs or replacements of any nature whatsoever in or to the Premises or the Building except as specifically provided in this Lease. To the maximum extent permitted by law, Tenant hereby waives the provisions of any statute or law permitting a tenant to make repairs at the expense of a landlord or to terminate a lease by reason of the condition of the Premises, including the provisions of California Civil Code Sections 1941 and 1942 and any similar, successor or related provision of law.

ARTICLE VIII MECHANICS' LIENS

Tenant agrees to pay promptly for all costs and charges for all labor done or materials furnished for any work of repair, maintenance, improvement, alteration or addition, including, without limitation, installation of fixtures, done or caused to be done by Tenant in connection with the Premises, and Tenant hereby indemnifies and agrees to hold Landlord and the Premises free, clear and harmless from and against all liens and claims of liens, and all other liabilities, claims and demands (including, without limitation, reasonable attorneys' fees), that arise by reason of such work. If any such lien shall at any time be filed against the Premises, or any portion of the Building, Tenant shall either cause the same to be discharged of record within twenty (20) days after the date upon which the same is filed or, if Tenant in its discretion and in good faith determines that such lien should be contested, Tenant shall record, in the office of the county recorder in which such claim of lien was recorded, a bond executed by a corporation authorized to issue surety bonds in the State of California, in a penal sum equal to one and one half (1 1/2) times the amount of the claim or one and one-half (1 1/2) times the amount allocated to the Premises (and/or to other portions of the Building, Project, or Property) to prevent any foreclosure proceedings against the Premises (and/or other portions of the Building, Project, or Property) during the pendency of such contest. Such bond shall be conditioned for the payment of any sum which the claimant may recover on the claim together with the claimant's costs of suit in the action, if the claimant recovers therein. Nothing contained herein shall imply any consent or agreement on the part of Landlord to subject Landlord's interest in the real property of which the Premises are a part to liability under any mechanics' or other lien law. Should Tenant receive notice that a claim of lien has been or is about to be filed against the Premises, the Building, Property or Project or that any action affecting the title to such property has commenced or is about to commence, Tenant shall immediately transmit such notice and information to Landlord.

ARTICLE IX
COMMON AREAS AND SPECIALIZED RESEARCH CORES

9.1 Common Areas. The term "Common Areas" as used in this Lease shall mean all areas and facilities around the Premises and within the exterior boundaries of the Property which are provided and designated from time to time by Landlord for the general use and convenience of Tenant and other tenants or occupants of the Building and their respective employees, invitees or other visitors. Common Areas include, without limitation, the Common Services Space, the lobby area, walkways, parking facilities, landscaped areas, sidewalks, service quarters, hallways, restrooms (if not part of the Premises), stairways, elevators, walls, fire stairs, telephone and electric closets, truck docks, plazas, service areas, lobbies, darkroom, pantry, small conference room, glass wash room, equipment corridor, walk-in cold room, and all other common and service areas of the Property and Building or any other area of the Project intended for such use, other than Specialized Research Cores (defined in Section 9.2 hereof). Floors wholly occupied by Tenant shall not have any facilities which would be used in common with other tenants, except for fire stairs, shafts and similar installations. Tenant, its employees and invitees shall have the nonexclusive right to use the Common Areas along with others entitled to use the same, subject to Landlord's rights and duties as hereinafter set forth. Without advance notice to Tenant or consent of Tenant and without any liability to Tenant in any respect, Landlord shall have the right to:

(a) establish and enforce reasonable rules and regulations concerning the maintenance, management, use and operation of the Common Areas;

(b) close off any of the Common Areas to whatever extent required in the reasonable opinion of Landlord and its counsel to prevent a dedication of any of the Common Areas or the accrual of any rights by any person or the public to the Common Areas;

(c) temporarily close any of the Common Areas for maintenance, alteration or improvement purposes;

(d) select, appoint and/or contract with any person for the purpose of operating and maintaining the Common Areas; and

(e) change the size, use, shape or nature of any of the Common Areas. Landlord shall use its reasonable efforts to minimize interference with Tenant's use of and access to the Premises when exercising Landlord's rights with respect to the Common Areas set f011hin this Article IX.

9.2 Specialized Research Cores. The term "Specialized Research Cores" as used in this Lease shall mean all areas and facilities around the Premises and within the exterior boundaries of the Property which are provided and designated from time to time by Landlord for special use by Tenant and other tenants or occupants of the Building and their respective employees. Specialized Research Cores include, without limitation, animal housing facilities, animal surgical core, confocal microscopy facility, sequencing core, and cell sorter core.

ARTICLE X
LANDLORD'S RIGHT OF ACCESS

Landlord reserves for itself and its agents the right to enter the Premises (after advance notice except in emergencies and except to perform janitorial services) for purposes reasonably related to Landlord's operation of the Building, including, without limitation: (i) examining or inspecting the same; (ii) providing janitorial and any other service to be provided by Landlord to Tenant hereunder; (iii) showing the same to prospective tenants, purchasers or lenders (or to others who may have a financial interest in the Building) in a reasonable manner; (iv) emergency entry; (v) making such changes or repairs to the Premises or to any other portion of the Building as Landlord may deem necessary or desirable; and (vi) showing the Premises to prospective tenants, during the last one hundred eighty (180) day period before the expiration of the term or before an earlier termination of this Lease; all without being deemed to constitute or cause any eviction of Tenant and without abatement of rent. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means which Landlord may reasonably deem proper to open said doors in an emergency in order to obtain entry to the Premises, and any entry to the Premises obtained by Landlord by any of said means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises, or an eviction of Tenant from the Premises or any portion thereof. Whenever Landlord exercises its right of entry pursuant to this Article X, Landlord shall use its reasonable efforts to maintain the confidentiality of Tenant's biomedical research records, as required by law. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations, except as otherwise expressly provided herein. Landlord shall have the right to run utility or other services and facilities through the Premises, whether to service the Premises or other portions of the Building. If, during the last month of the Term hereof, Tenant shall have removed substantially all of its property therefrom, Landlord may immediately enter and alter, renovate and redecorate the Premises without eliminating or abating any rent hereunder or incurring any liability to Tenant. Tenant's property remaining within the Premises at the time of such entry by Landlord may be warehoused by Landlord at Tenant's sole cost, expense and risk.

ARTICLE XI
PROPERTY DAMAGE AND PERSONAL INJURY CLAIMS

11.1 Indemnification. Tenant shall indemnify and hold harmless Landlord against and from any and all claims of damage or injury arising from Tenant's use of the Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises or the Building, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation of Tenant hereunder, or arising from any act or omission of Tenant, or any of its agents, employees, invitees or licensees, and against and from all costs, attorneys' fees, consultants' fees, expenses and liabilities incurred in connection with or as a result of any such claim or any action or proceeding brought thereon (including, without limitation, any and all judgments, fines and costs of appeal and costs of settlement), and in case any action or proceeding is brought against Landlord by reason of any such claim, Landlord may require Tenant, upon notice from Landlord, to defend the same at Tenant's expense with counsel selected by Landlord.

11.2 Assumption of Liability and Waiver of Claims. Tenant, as a material part of the consideration to Landlord for this Lease, hereby assumes all risk of damage to property or injury to persons in, upon or about the Project from any cause whatsoever, and Tenant hereby waives all claims in respect thereof against Landlord and acknowledges that this assumption and waiver by Tenant has been reflected as a reduction of the rent which Landlord would otherwise charge. Landlord shall not be liable for interference with light, air or other similar benefits, nor shall Landlord be liable for any latent or patent defect in the Project. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Premises or in the Building or defects therein or in the fixtures or equipment thereof, but Landlord's receipt of such notice shall not impose upon Landlord any duty, liability or obligation which it has not assumed or which it has disclaimed in this Lease. Landlord shall not be liable for any damage to property entrusted to employees of the Building, nor for the loss of, or damage to, any property by theft or otherwise, nor for any injury or damage to persons, property or Tenant's business (or loss of income) resulting from construction, repair or alteration of premises adjoining the Premises, the Premises or any other portion of the Building, or from the pipes, appliances or plumbing works therein, or from the roof, street or subsurface, or from any other place, or resulting from dampness or any other cause whatsoever, nor shall Landlord be liable for any damage caused by acts or omissions of other tenants, occupants or visitors of the Project.

ARTICLE XII INSURANCE

12.1 Tenant's Insurance Obligations. From and after the date of delivery of the Premises from Landlord to Tenant, Tenant shall carry and maintain, at its own expense, the following types, amounts and forms of insurance:

12.1.1 Liability Insurance. Tenant shall carry and maintain a policy of comprehensive general liability insurance with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate in the name of Tenant (with Landlord and, if requested by Landlord, any mortgagee, trust deed holder, ground lessor or secured party with an interest in this Lease, the Building or the Project named as additional insured(s)). Such policy shall specifically include, without limitation, personal injury, broad form property damage and contractual liability coverage, the last of which shall cover the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements in Article XI above. The amount of such insurance required hereunder shall be subject to adjustment from time to time as reasonably requested by Landlord.

12.1.2 Property Insurance. Tenant shall carry and maintain a policy or policies of property insurance in the name of Tenant (with Landlord and, if requested by Landlord, any mortgagee, trust deed holder, ground lessor or secured party with an interest in this Lease, the Building or the Project named as additional insured(s)) covering any tenant improvements in the Premises and Alterations and any property of Tenant at the Premises and providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended peril (all risk) and sprinkler leakage, in an amount equal to at least one hundred percent (100%) of the replacement cost thereof from time to time (including, without limitation, cost of debris removal).

12.1.3 Workers' Compensation Insurance. Tenant shall carry and maintain a policy of workers' compensation insurance in compliance with all applicable laws.

12.1.4 Other Insurance. Tenant shall carry and maintain such other policies of insurance (including, without limitation, business interruption insurance) in connection with the Premises as Landlord may from time to time require.

12.1.5 Policy Provisions. All of the policies required to be obtained by Tenant pursuant to the provisions of this Section 12.1 shall be issued by companies, and shall be, in form and content, reasonably acceptable to Landlord. Without limiting the generality of the foregoing, any deductible amounts under said policies shall be subject to Landlord's approval. Each policy shall designate Landlord as an additional named insured and shall provide full coverage in the amounts set forth herein. Although named as an insured, Landlord shall be entitled to recover under said policies for any loss occasioned to Landlord, its servants, agents and employees, by reason of the negligence of Tenant. Tenant shall, prior to delivery of the Premises by Landlord to Tenant, provide Landlord with copies of and certificates for all insurance policies. All insurance policies shall provide that they may not be altered or canceled until after thirty (30) days written notice to Landlord (by any means described in Article XXII below). Tenant shall, at least thirty (30) days prior to the expiration of any of such policies, furnish Landlord with a renewal or binder therefor. Tenant may carry insurance under a so-called "blanket" policy, provided that such policy provides that the amount of insurance required hereunder shall not be prejudiced by other losses covered thereby. All insurance policies carried by Tenant shall be primary with respect to, and non-contributory with, any other insurance available to Landlord and shall contain cross-liability coverage. If Tenant fails to carry any insurance policy required hereunder or to furnish copies thereof and certificates therefor pursuant hereto, Landlord may obtain such insurance, and Tenant shall reimburse Landlord for the costs thereof with the next monthly rent payments due hereunder.

12.2 Landlord's Insurance Obligations. During the Term of this Lease, Landlord shall keep and maintain fire and extended coverage insurance with vandalism and malicious mischief endorsement for the Building and public liability insurance or an equivalent funded program of self-insurance in such reasonable amounts with such reasonable deductibles as would be carried by a prudent owner of a similar building in Southern California. Landlord may obtain insurance for the Building and the rents from the Building against such other perils as Landlord may reasonably consider appropriate Tenant acknowledges that it will not be a named insured in such policies and that it has no right to receive any proceeds from any such insurance policies carried by Landlord. Landlord shall not be required to carry insurance covering the property described in Section 12.1.2 above.

12.3 Waivers of Subrogation. Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the Building, or against the officers, employees, agents, representatives, patients or visitors of such other party or of such other tenant or occupant of the Building, for loss of or damage to such waiving party or its property or the property of others under its control and arising from any cause insured against under any insurance required to be carried by such waiving party pursuant to this Lease or arising from any cause insured against under any standard form of first insurance policy with all permissible extension endorsements covering additional perils carried by such waiving party or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy.

12.4 Increases. Tenant shall pay any increases in insurance premiums relating to property in the Project other than the Premises to the extent that any such increase is specified by the insurance carrier as being caused by Tenant's acts or omissions or use or occupancy of the Premises.

ARTICLE XIII
DAMAGE OR DESTRUCTION OF BUILDING OR PREMISES

13.1 Repair Termination. If the Premises or the Building is damaged by an insured casualty occurring more than six (6) months prior to the expiration of the Term hereof, Landlord shall forthwith repair the same, or cause the same to be repaired, to the extent that insurance proceeds are made available to Landlord therefor and provided that such repairs can, in Landlord's opinion, be made within ninety (90) days from the date of such damage (without payment of overtime or other premiums) under the laws and regulations of the federal, state and local governmental authorities having jurisdiction thereof. If Landlord is not so required to repair such damage, Landlord shall have the option within sixty (60) days from the date of such damage either to: (i) notify Tenant of Landlord's election to repair such damage, in which event Landlord shall thereafter use its reasonable efforts to repair the same; or (ii) notify Tenant of Landlord's election to immediately terminate this Lease, in which event this Lease shall be so terminated. Notwithstanding any contrary provision herein: (a) Landlord shall not be required to repair any damage to the property of Tenant or to repair or replace any paneling, decorations, railings, floor coverings, alterations, additions, fixtures, equipment or improvements installed in the Premises by or at the expense of Tenant; and (b) any damage caused by the negligent, reckless or intentional act or omission of Tenant or any of its agents, contractors, employees or invitees shall be promptly repaired by Tenant, at its sole cost and expense, to the reasonable satisfaction of Landlord.

13.2 Abatement of Rent. If Landlord repairs damage to the Premises pursuant to the provisions of Section 131 above, Basic Annual Rent payable hereunder shall be abated, until such repairs are completed, in the proportion that the square footage of the portion, if any, of the Premises rendered unusable by Tenant bears to the Premises Area; provided, however, that there shall be no such abatement: (i) except to the extent Landlord receives proceeds covering the amount of such abatement under any rental value insurance policy maintained by Landlord; (ii) to the extent that any business interruption insurance policy required pursuant to Section 12.1.4 above insures payment of Basic Annual Rent; (iii) unless a material portion of the Premises is rendered unusable for more than fifteen (15) consecutive business days; or (iv) if the damage so repaired is caused by the negligent, reckless or intentional act or omission of Tenant or any of its agents, contractors, employees or invitees. Except for abatement of Basic Annual Rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of: (1) any damage to the Premises; (2) such repairs; or (3) any inconvenience, interruption or annoyance caused by such damage or repairs.

13.3 Waiver. In respect of any partial or total damage or destruction which Landlord is obligated or agrees to restore under any of the provisions of this Lease, Tenant hereby waives the provisions of Sections 1932 and 1933 of the California Civil Code and any related, similar or successor provision of law, to the extent applicable hereto, if at all.

ARTICLE XIV EMINENT DOMAIN

If the whole of the Premises or so much thereof as to render the balance unusable by Tenant shall be taken by right of eminent domain or by condemnation, or shall be conveyed in lieu of any such taking, then this Lease, at the option of either Landlord or Tenant exercised by either party giving written notice to the other of such termination within thirty (30) days after such taking or conveyance, shall forthwith cease and terminate and the rent and all other sums payable hereunder shall be duly apportioned as of the date of such taking or conveyance. Tenant thereupon shall surrender to Landlord the Premises and all interest therein under this Lease, and Landlord may reenter and take possession of the Premises and remove Tenant therefrom. If any portion of the Premises or any portion of the Building which shall not render the Premises untenantable shall be taken or conveyed as described above, then this Lease, at the option of Landlord exercised by Landlord giving written notice to Tenant of such termination within thirty (30) days after such taking or conveyance, shall forthwith cease and terminate and the rent and all other sums payable hereunder shall be duly apportioned as of the date of such taking or conveyance. Tenant thereupon shall surrender to Landlord the Premises and all interest therein under this Lease, and Landlord may reenter and take possession of the Premises and remove Tenant therefrom. No award for any partial or entire taking shall be apportioned and Tenant hereby releases any claim to and assigns to Landlord any award which may be made in such taking or condemnation, together with any and all rights of Tenant now or hereafter arising in or to the same or any part thereof, including, but not limited to, any award for the "bonus value" of Tenant's interest under this Lease. In the event of a partial taking, or a sale, transfer or conveyance in lieu thereof, which does not result in a termination of this Lease pursuant to the foregoing, the rent shall be apportioned according to the ratio that the part of the Premises remaining usable by Tenant bears to the total area of the Premises. To the extent it is inconsistent with the above, each party waives the provisions of Section 1265.130 of the California Code of Civil Procedure allowing either party to petition the superior court to terminate this Lease in the event of a partial taking of the Premises.

ARTICLE XV
ASSIGNING - MORTGAGING - SUBLETTING - CHANGE IN OWNERSHIP

15.1 No Unauthorized Transfer. Tenant shall not voluntarily, by operation of law or otherwise, assign, sublet, enter into a license or concession agreement for, hypothecate, encumber, pledge or otherwise transfer this Lease or Tenant's interest in the Premises (or any portion thereof) or permit any third party or parties other than Tenant, its authorized agents, employees, invitees and visitors, to occupy the Premises or any portion thereof without Landlord's advance written consent in each instance, which consent may be withheld in the sole and absolute discretion of Landlord. Tenant acknowledges and agrees that Landlord is entering into this Lease because Landlord has permitted Tenant to be present in the Building on the basis of both tangible and intangible factors, many of which are not susceptible of rational articulation or prioritization, and that the Premises represents scarce space in the Building which is owned and primarily occupied by Landlord. Any attempted assignment, subletting or other transfer without Landlord's advance written consent shall constitute a default hereunder and, at Landlord's election, shall be void so as not to confer any rights upon any third person.

15.2 Procedures for Requesting Authorization. If Tenant desires at any time to assign or otherwise transfer this Lease or to sublet the Premises or any portion thereof, it must first notify Landlord of its desire to do so and shall submit in writing to Landlord: (i) the name of the proposed subtenant or assignee; (ii) the nature of the proposed subtenant's or assignee's business to be carried on in the Premises; (iii) the terms and provisions of the proposed sublease or assignment; and (iv) such financial, professional and other background information as Landlord may request concerning the proposed subtenant or assignee.

15.3 Landlord's Option. At any time within thirty (30) days after Landlord's receipt of the information specified in Section 15.2 above, Landlord may by written notice to Tenant elect, in the exercise of its sole and absolute discretion, to: (i) consent to the subletting or assignment upon the terms and to the subtenant or assignee proposed; (ii) refuse to give consent; or (iii) sublease the Premises or the portion so proposed to be subleased by Tenant or take an assignment of Tenant's leasehold estate hereunder or such part thereof as shall be specified in said notice upon the same terms (excluding terms relating to the use of Tenant's name or the continuation of Tenant's business) as those offered to the proposed subtenant or assignee, as the case may be. Tenant agrees that Landlord may consent to a proposed subletting or assignment subject to such conditions as Landlord deems appropriate in the exercise of its sole and absolute discretion, including, but not limited to, the conditions specified in Sections 15.4.1, 15.4.2 and 15.4.3 below. Tenant further agrees that no assignment or subletting consented to by Landlord shall impair or diminish any covenant, condition or obligation imposed upon Tenant by this Lease or any right, remedy or benefit afforded Landlord by this Lease. If Landlord consents to such assignment or subletting, Tenant may, within ninety (90) days after the date of Landlord's consent, enter into a valid assignment or sublease of the Premises or portion thereof upon the terms and conditions described in the information required to be furnished by Tenant to Landlord pursuant to Section 15.2 above, or upon other terms not more favorable to Tenant; provided, however, that any material change in such terms shall be subject to Landlord's consent as provided in this Article XV. Failure of Landlord to exercise any option set forth in clauses (i)through (iii) above within such thirty (30) day period shall be deemed refusal of Landlord to consent to the proposed subletting or assignment.

15.4 Conditions to Consent.

15.4.1 Standards of Reasonableness. Landlord may withhold its consent to any assignment or subletting, encumbrance, hypothecation, pledge or other transfer in the exercise of Landlord's sole and absolute discretion. Landlord hereby advises Tenant in advance and Tenant hereby agrees that Landlord will withhold such consent for any of the following reasons, among others, if the proposed assignee, sublessee or transferee: (i) is not satisfactory to Landlord as to credit or character or business or professional reputation; (ii) intends to occupy the Premises for purposes other than specified in this Lease or for purposes which are inconsistent with Landlord's commitments to other tenants in the Building or in other buildings or facilities owned and operated by Landlord, or for purposes which are unlawful or reasonably undesirable; (iii) is unable to fulfill the terms of this Lease; (iv) is not satisfactory to Landlord as to the quality of services provided or research to be conducted; or (v) will be occupying the Premises to supply services which are duplicative of services already available to patients or the professional staff of Cedars-Sinai Medical Center or to occupants in the Building.

15.4.2 Further Transfers. In no event shall Landlord's consent to any assignment, transfer or subletting relieve Tenant from the obligations to obtain Landlord's express written consent to any further assignment, transfer, subletting or sub-subletting or release Tenant from any liability or obligation hereunder (whether or not then accrued) and Tenant shall continue to be fully, jointly and severally liable hereunder notwithstanding Landlord's consent to such assignment, transfer or subletting.

15.4.3 Rent or Other Premiums. As a further condition to Landlord's consent to any subletting, assignment or other transfer referred to in Sections 15.3 and 15*A.l* or any other part of Article XV, Landlord shall be entitled to receive any rent or other premium otherwise payable to Tenant in consideration of the sublease, assignment or other transfer (i.e., if the sublease, assignment or other transfer provides that the sublessee, assignee or other transferee thereunder is to pay any amount in excess of the rent and other charges due under this Lease, whether such premium be in the form of an increased monthly or annual rent, a lump sum payment in consideration of the sublease, assignment or transfer or consideration of the sublease, assignment or transfer or consideration of any other form, such premium over and above the rent and the other sums due hereunder shall, at Landlord's election, inure only to Landlord's benefit), and any such sublease, assignment or transfer and Landlord's consent shall be effected on forms supplied or approved by Landlord and its attorneys. In addition, the Basic Annual Rent, after the transfer, shall not be less than the Basic Annual Rent, as adjusted pursuant to Section 4.2, immediately before the transfer, plus the total compensation paid for the annual period immediately preceding the transfer, pursuant to Section 4.3.2 hereof.

15.4.4 Processing Costs and Fees. Tenant agrees to reimburse Landlord for Landlord's reasonable costs and attorneys' fees incurred in connection with the processing and documentation of any such requested assignment, subletting, transfer, change of ownership, hypothecation, pledge or encumbrance of this Lease or Tenant's interest in and to the Premises.

15.4.5 No Waiver. No subletting, assignment or other transfer, even with the consent of Landlord, shall relieve Tenant of its obligation to pay the rent and to perform all of the other obligations to be performed by Tenant hereunder. Landlord's consent to anyone transfer shall apply only to the specific transaction thereby authorized and such consent shall not be construed as a waiver of the duty of Tenant or any transferee to obtain Landlord's consent to any other or subsequent transfer or as modifying or limiting Landlord's rights hereunder in any way. Landlord's acceptance of rent directly for any subtenant, assignee or any other transferee shall not be construed as Landlord's approval or consent thereto nor Landlord's agreement to accept the attornment of any subtenant in the event of any termination of this Lease. In no event shall Landlord's enforcement of any provision of this Lease against any transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person.

15.4.6 Nature of Tenant. If Tenant is a corporation which, under the then current guidelines published by the Commissioner of Corporations of the State of California, is not deemed a public corporation, or is an unincorporated association or partnership or company, the following shall be deemed an assignment within the meaning of this Article XV: the transfer, assignment, hypothecation, or other disposition, whether in one transaction or a series of transactions, of any stock or interest in such corporation, association or partnership, which results in a transfer, assignment, hypothecation, change, addition, or other disposition of fifty-one percent (51 %) or more of any class of stock in Tenant or in a transfer, assignment, hypothecation, or other disposition of a fifty-one percent (51%) interest or more in Tenant (including, without limitation, an interest in profits, net profits or cash flow). Tenant shall notify Landlord of any transfer of an ownership interest in Tenant to any person not later than thirty (30) days prior to such transfer together with a summary of the material terms of such transaction, whether or not consent of Landlord is required pursuant to this Article XV.

ARTICLE XVI SUBORDINATION; ATTORNMENT

16.1 Subordination. With respect to all ground leases, mortgages, deeds of trust or other recorded evidences of financing obligations ("Superior Interests") now or hereafter covering the Premises and/or all or any other portion of the Project, Building or the Property, and with respect to the ground lessors, mortgagees or beneficiaries thereunder ("Superior Interest Holders"), Tenant agrees as follows:

(a) Unless otherwise requested by any Superior Interest Holder in writing, this Lease is and shall remain subordinate to all Superior Interests existing as of the date of this Lease, and to all renewals, modifications, consolidations, replacements, extensions and amendments thereof.

(b) If requested by any future Superior Interest Holder in writing, this Lease shall automatically become subordinate to any such future Superior Interest and all extensions or amendments thereof.

The above-referenced subordinations shall be automatic and self-executing, but additionally Tenant agrees, within ten (10) days after receipt of written request therefor from Landlord or any Superior Interest Holder, to execute, acknowledge and deliver any and all documents or instruments requested to confirm and assure such subordination under the above-referenced terms.

16.2 Attornment. Tenant shall attorn to any person, firm or corporation purchasing or otherwise acquiring the Premises, Building or Project at any sale or other proceeding, or pursuant to the exercise of any rights, powers or remedies under any Superior Interests, as if such person, finn or corporation had been named as Landlord herein. Tenant shall confirm such attornment in writing if so requested.

16.3 Attornev-in-Fact. If Tenant fails to execute any document required from Tenant under this Article within ten (l0) days after written request therefor, Tenant hereby constitutes and appoints Landlord as its special attorney-in-fact to execute and deliver any such document or documents in the name of Tenant. Such power, being coupled with an interest, is irrevocable.

16.4 Non-Disturbance. With respect to any ground leases, mortgages, deeds of trust, or other liens entered into by Landlord and any such mortgagee or deed of trust beneficiary, and in consideration of Tenant's agreement to be bound by the provisions of this Article XVI, Landlord shall use its reasonable efforts to cause, upon the request of Tenant, any and all future Superior Interest Holders to enter into and deliver to Tenant non-disturbance and attornment agreements which are customarily entered into by such Superior Interest Holders in consideration of the subordination of pre-existing tenant leases such as this Lease.

ARTICLE XVII DEFAULT

17.1 Default by Tenant. The occurrence of any of the following shall constitute a breach of and default under this Lease by Tenant:

(a) Failure by Tenant to pay any amount, including without limitation, monthly installments of Basic Annual Rent and any additional rent, when and as the same becomes payable in accordance with the provisions of this Lease, and the continuation of such failure for a period of ten (10) business days after written notice thereof from Landlord to Tenant.

(b) Failure by Tenant in the due, prompt and complete performance and observance of any express or implied covenant, agreement or obligation of Tenant contained in this Lease, other than the breaches described of Sections 17.1(a), (g), and (h) hereof, and the continuation of such failure for a period of fifteen (15) days after written notice thereof from Landlord to Tenant specifying the nature of such failure; provided, however, that if any such failure involves a hazardous condition or involves interference with, or an adverse effect upon, Landlord's operations in the Building or those of any other tenant or occupant of the Building, Landlord shall have the right, in addition to its other rights under this Lease, to cure such condition or to obtain injunctive relief against Tenant if the condition is not cured within said fifteen (15) day period or such shorter period of time as may be required by applicable laws or as may be required by Landlord.

(c) Tenant's vacating or abandoning of the Premises, as such abandonment is established pursuant to Section 1951.3 of the California Civil Code, as such code section is amended or replaced from time to time.

(d) Any financial statement or any representation given to Landlord by Tenant, or any assignee, sublessee or successor of Tenant or any guarantor of this Lease, proves to be materially false.

(e) The insolvency of Tenant; the making by Tenant of any assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy, insolvency or creditors' rights in general (unless in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of all or a substantial part of Tenant's assets or of Tenant's interest under this Lease, where such seizure is not discharged within thirty (30) days. The occurrence of any of the acts or events referred to in this subparagraph with respect to any guarantor of this Lease, if any, shall also constitute a default hereunder.

(f) The attachment, execution or other judicial seizure of a substantial portion of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

(g) The breach of the provisions of Section 6.6 concerning animal research.

(h) The breach of any obligation of Tenant under this Agreement with respect to the use, disposal, handling, or storage of Hazardous Materials.

The notices referred to in clauses (a) and (b) above shall be in lieu of, and not in addition to, any notice required under Section 1161 et seq. of the California Code of Civil Procedure.

ARTICLE XVIII REMEDIES

18.1 Termination of Lease and Removal of Tenant. In the event of Tenant's breach of or default under this Lease as provided in Article XVII hereof, Landlord, at Landlord's option, and without limiting Landlord in the exercise of any other right or remedy Landlord may have on account of such default, and without any further demand or notice, may terminate this Lease and/or, to the extent permitted by law, remove all persons and property from the Premises, which property shall be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant.

18.2 Damages. If Landlord elects to terminate this Lease as provided III Section 18.1 above, Landlord shall be entitled to recover from Tenant the aggregate of:

(a) The worth at the time of award of the unpaid rent and charges equivalent to rent earned as of the date of the termination hereof;

(b) The worth at the time of award of the amount by which the unpaid rent and charges equivalent to rent which would have been earned after the date of termination hereof until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent and charges equivalent to rent for the balance of the Term hereof after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(d) Any other amount necessary to compensate Landlord for the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom; and

(e) Any other amount which Landlord may hereafter be permitted to recover from Tenant to compensate Landlord for the detriment caused by Tenant's default. For the purposes of this Section, the "time of award" shall mean the date upon which the judgment in any action brought by Landlord against Tenant by reason of such default is entered or such earlier date as the court may determine; the "worth at the time of award" of the amounts referredto in Sections 18.2(a) and 18.2(b) shall be computed by allowing interest at the lesser of the Lease Rate plus three (3) percentage points or the maximum rate permitted by law; and the "worth at the time of award" of the amount referred to in Section 18.2(c) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (l%) per annum. Tenant agrees that such charges shall be recoverable by Landlord under California Code of Civil Procedure Section 1174(b) or any similar, successor or related provision of law. Further, Tenant hereb y waives the provisions of California Code of Civil Procedure Section 1174(c) and California Civil Code Section 1951.7 or any other similar, successor or related provision of law providing for Tenant's right to satisfy any judgment in order to prevent a forfeiture of this Lease or requiring Landlord to deliver written notice to Tenant of any reletting of the Premises. No acts or efforts of Landlord to mitigate damages caused by Tenant's breach or default shall be construed or operate to waive or reduce any damages or other sums recoverable by Landlord hereunder (provided, however, that Landlord shall under no circumstances be obligated to so mitigate any such damages).

18.3 No Effect on Indemnification. Nothing in this Article shall be deemed to affect Landlord's right to indemnification for liability or liabilities arising prior to the termination of this Lease under the indemnification clause or clauses contained in this Lease.

18. 4 No Acceptance of Surrender. Notwithstanding anything to the contrar y set forth herein, Landlord's reentry to perform acts of maintenance or preservation of, or in connection with efforts to relet, the Premises or any portion thereof, or the appointment of a receiver upon Landlord's initiative to protect Landlord's interest under this Lease, shall not terminate Tenant's right to possession of the Premises or any portion thereof and, until Landlord does elect to terminate this Lease, this Lease shall continue in full force and Landlord may pursue all its remedies hereunder, including, without limitation, the right to recover from Tenant as they become due hereunder all rent and other charges required to be paid by Tenant under the terms of this Lease.

18.5 Action for Rent. In the event of any default by Tenant as set forth above, then in addition to any other remedies available to Landlord at law or in equity or under this Lease, Landlord shall have the right to bring an action or actions from time to time against Tenant, in any court of competent jurisdiction, for all rent and other sums due or becoming due under this Lease, including all damages and costs proximately caused thereby, notwithstanding Tenant' s abandonment or vacation of the Premises or other acts of Tenant, as permitted by Section 1951.4 of the California Civil Code or any successor, related or similar provision of law. Such remedy may be exercised by Landlord without prejudice to its right to thereafter terminate this Lease in accordance with the other provisions contained in this Article.

18.6 Definition of Rent. The terms "rent" and "rental", as used in this Article and in any and all other provisions of this Lease, shall mean Basic Annual Rent and any and all other amounts payable by Tenant pursuant to the provisions of this Lease.

18.7 Reletting. In the event of Tenant's abandonment of the Premises or if Landlord shall elect to reenter or shall take possession of the Premises pursuant to any legal proceeding or pursuant to any notice provided by law, and until Landlord elects to terminate this Lease, Landlord may, from time to time, without terminating this Lease, recover all rent as it becomes due under Section 18.5 above and/or relet the Premises or any part thereof for the account of and on behalf of Tenant, on any terms, for any term (whether or not longer than the Term of this Lease) and at any rent as Landlord in its reasonable discretion may deem advisable, and Landlord may make any alterations and repairs to the Premises in connection therewith. Tenant hereby irrevocably constitutes and appoints Landlord as its special attorney-in-fact, irrevocable and coupled with an interest, for purposes of reletting the Premises pursuant to the immediately preceding sentence. In the event that Landlord shall elect to so relet the Premises on behalf of Tenant, then rent received by Landlord from such reletting shall be applied:

(a) First, to reimburse Landlord for the costs and expenses of such reletting (including, without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and, if Landlord shall maintain and operate the Premises, the costs thereof) and necessary or reasonable alterations.

(b) Second, to the payment of any indebtedness of Tenant to Landlord other than Basic Annual Rent and other sums due and unpaid hereunder.

(c) Third, to the payment of rent, Basic Annual Rent and other sums due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of other or future obligations of Tenant to Landlord as the same may become due and payable.

Should the rent received from such reletting, when applied in the manner and order indicated above, at any time be less than the total amount owing from Tenant pursuant to this Lease, then Tenant shall pay such deficiency to Landlord, and if Tenant does not pay such deficiency within five (5) days of its receipt of written notice, Landlord may bring an action against Tenant for recovery of such deficiency or may pursue its other remedies hereunder or under California Civil Code Section 1951.8, California Code of Civil Procedure Section 1161 et seq., or any similar, successor or related provision of law.

18.8 Cumulative Remedies. All rights, powers and remedies of Landlord hereunder and under any other agreement now or hereafter in force between Landlord and Tenant shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Landlord at law or in equity. The exercise of anyone or more of such rights or remedies shall not impair Landlord's right to exercise any other right or remedy, including, without limitation, any and all rights and remedies of Landlord under California Civil Code Section 1951.8, California Code of Civil Procedure Section 1161 et seq., or any similar, successor or related provision of law.

18.9 Assignment of Subrents. As security for Tenant's performance and satisfaction of each and every one of its duties and obligations under this Lease, Tenant does hereby assign and grant to Landlord a security interest under the California Commercial Code in and to Tenant's right, power and authority, during the continuance of this Lease, to receive the rents, issues, profits or other payments received under any sublease or other transfer of part or all of Tenant's interest in the Premises, reserving unto Tenant the right prior to any default hereunder to collect and retain said rents, issues and profits as they become due and payable, except that nothing contained herein shall be construed to alter the provisions of Article XV above. Upon any such default, Landlord shall have the right at any time thereafter, without notice (except as may be provided for herein), either in person, by agent or receiver to be appointed by a court, to enter and take possession of said Premises and collect such rents, issues, profits or other payments, including, without limitation, those past due and unpaid, and apply the same, less costs and expenses of collection, including, without limitation, reasonable attorneys' fees, upon any indebtedness secured hereby and in such order as Landlord may determine.

18.10 Storage of Personal Property. If, after Tenant's abandonment of the Premises, Tenant leaves behind any items of personal property, then Landlord shall store such property at a warehouse or any other location at the risk, expense and for the account of Tenant, and such property shall be released only upon Tenant's payment of such charges, together with all sums due and owing under this Lease. If Tenant does not reclaim such property within the period permitted by law, Landlord may sell such property in accordance with law and apply the proceeds of such sale to any sums due and owing hereunder, or retain said property, granting Tenant credit against sums due and owing hereunder for the reasonable value of such property.

18.11 Waiver. To the maximum extent permitted by law, Tenant hereby waives all provisions of, or protection under, any decisions, statutes, rules, regulations or other laws of the State of California to the extent the same are inconsistent with the terms and provisions hereof, including all rights and remedies of Landlord provided under this Article.

18.12 Landlord's Cure of Tenant's Default. If at any time during the Term hereof Tenant fails, refuses or neglects to do any of the things herein provided to be done by Tenant, Landlord shall have the right, upon five (5) days written notification to Tenant, but not the obligation, to do the same, but at the expense and for the account of Tenant. The amount of any money so expended or obligations so incurred by Landlord, together with interest thereon at the Lease Rate, shall be repaid to Landlord within five (5) days of Tenant's receipt of written notice, and unless so paid shall be added to the next monthly rent payment coming due hereunder.

18.13 Interest and Charges on Past Due Obligations. Any amount due from Tenant to Landlord hereunder which is not paid when due shall bear interest at the Lease Rate from the due date until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any such default by Tenant under this Lease. In addition to such interest, if any monthly installment of Basic Annual Rent is not paid within three (3) business days after the same is due, a late charge equal to six percent (6%) of such monthly installment shall be assessed, which late charge Tenant hereby agrees is a reasonable estimate of the damages Landlord shall suffer as a result of Tenant's late payment, which damages include Landlord's additional administrative and other costs associated with such late payment. The parties agree that it would be impracticable and extremely difficult to fix Landlord's actual damages in such event. Such interest and late payment penalties are separate and cumulative and are in addition to and shall not diminish or represent a substitute for any or all of Landlord's rights or remedies under any other provision of this Lease.

ARTICLE XIX
RULES AND REGULATIONS

Tenant shall observe faithfully and comply strictly with the rules and regulations ("Rules and Regulations") contained in **Exhibit** E attached hereto, as amended or supplemented by Landlord from time to time. Landlord shall not be liable to Tenant for violation by any other tenant in the Building of any of the Rules and Regulations, or for the breach of any covenant or condition in any lease. Landlord has not and is not hereby representing that all tenants in the Building are or shall be bound to any part or all of the Rules and Regulations.

ARTICLE XX
SURRENDER OF PREMISES

20.1 Surrender. Upon the expiration or sooner termination of the Term of this Lease, Tenant shall surrender the Premises in good condition, reasonable wear and tear excepted, broom clean and free of trash and rubbish. If Tenant has not been in default beyond any applicable cure period under any provision of this Lease and is not then in default, upon the expiration or sooner termination of the Term of this Lease, then Tenant may remove the trade fixtures set forth on **Exhibit F** attached hereto and Tenant's Alterations, provided that, in the case of Tenant's Alterations, such alterations shall be removed only to the extent they have not become a part of the Premises. Tenant shall promptly repair any damage to the Premises occasioned by the removal of such fixtures and alterations. In any event, Landlord may require that Tenant remove all or any portion of such fixtures and Tenant's Alterations upon such expiration or termination, in which event Tenant shall cause such removal to occur and all damage arising out of such removal repaired. All other Tenant's Property shall be removed by Tenant upon such expiration or termination. Tenant shall repair, at its own cost, any and all damage to the Premises and the Building resulting from or caused by any removal hereunder.

20.2 No Merger. The voluntary or other surrender of this Lease by Tenant, or termination hereof, shall not constitute a merger, and shall operate, at the option of Landlord, as an assignment to Landlord of any or all subleases or subtenancies affecting the Premises.

ARTICLE XXI
HOLDING OVER

Should Tenant, with or without Landlord's written consent, hold over after the expiration or earlier termination of this Lease, Tenant shall become a tenant from month-to-month only upon each and all of the terms herein provided as may reasonably and logically be construed as applicable to a month-to-month tenancy, and any such holding over shall not constitute an extension of this Lease. During such holding over without Landlord's written consent, Tenant shall pay, in advance, monthly rent at the highest monthly rate provided for herein (including any and all prior adjustments) plus an amount equal to one hundred and fifty percent (150%) thereof. Nothing contained in the foregoing shall relieve Tenant from, and Tenant shall remain liable for, damages incurred by Landlord as a result of any such hold over.

ARTICLE XXII
NOTICES

Any notice, consent or communication to Landlord or Tenant required or permitted to be given under this Lease shall be effectively given only if in writing and: (a) personally served; (b) mailed by United States registered or certified mail, postage prepaid, return receipt requested; or (c) sent by a nationally recognized courier service *(e.g.,* Federal Express) for next day delivery, to be confirmed in writing by such courier, addressed as follows:

If to Tenant as follows:
Capricor Inc.
8700 Beverly Blvd Davis Building Room D-1063
Los Angeles, CA 90048
Attn: Oliver Foellmer

If to Landlord, as follows:

Cedars-Sinai Medical Center
8700 Beverly Boulevard
North Tower - 2009
Los Angeles, CA 90048-1869
Attention: Richard Katzman
Vice President for Academic Affairs

With copy to:

Cedars-Sinai Medical Center
8700 Beverly Boulevard
TBS 290
Los Angeles, CA 90048-1869
Attention: Peter Braveman, Esq.
Senior Vice President of Legal Affairs
and General Counsel

And with a copy to any and all Superior Interest Holders, but only as previously requested in writing by Landlord.

Either party shall have the right to change the address or addresses to which notices shall thereafter be sent by giving notice to the other party as aforesaid. Notices given in the manner aforesaid shall be deemed delivered when actually received or refused by the party to whom sent, unless such notice is mailed as aforesaid, in which event such notice shall be deemed complete on the day of actual delivery as shown by the return receipt or at the expiration of the third (3rd) business day after the date of mailing, whichever first occurs.

ARTICLE XXIII
QUIET ENJOYMENT

So long as Tenant performs and observes all of its obligations and covenants hereunder and is not in default hereunder, Tenant shall have the right to the quiet and peaceful enjoyment and possession of the Premises during the Term of this Lease without hindrance or ejection by anyone lawfully making a claim by, through, or under Landlord, subject to the terms and conditions of this Lease and of any ground leases, underlying leases, mortgages or deeds of trust affecting all or any portion of the Project.

ARTICLE XXIV
ESTOPPEL CERTIFICATE

Tenant shall, at any time and from time to time, within ten (10) days after written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing, in a form provided by Landlord to Tenant, certifying, among other things, that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), the dates to which the rent and other charges, if any, are paid in advance and the amount of Tenant's security deposit, if any, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, and that there are no events or conditions then in existence which, with the passage of time or notice or both, would constitute a default on the part of Landlord hereunder (or specifying such defaults, events or conditions, if any are claimed). It is expressly understood and agreed that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or a portion of the Project. Tenant's failure to deliver such statement shall, at the Landlord's election, be conclusive upon Tenant that this Lease is in full force and effect without modification (except as may be represented by Landlord), that there are no uncured defaults in Landlord's performance, and that no more than one month's rent has been paid in advance. Tenant shall be liable to Landlord for any consequential damages suffered by Landlord and occasioned by Tenant's failure to deliver such certificates in the manner described above.

ARTICLE XXV
LIABILITY OF LANDLORD

In the event of any transfer or transfers of Landlord's interest in the Premises, other than a transfer for security purposes only, Landlord (or Landlord's successor-in-interest as a transferor) shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing hereunder from and after the date of such transfer, including, without limitation, the payment of the leasing commission, if any, due with respect to this Lease. Tenant agrees to look solely to Landlord's interest in the Project (or the proceeds thereof) for the satisfaction of any remedy of Tenant for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease.

ARTICLE XXVI
LANDLORD'S INABILITY TO PERFORM

This Lease and the obligations of Tenant hereunder shall not be affected or impaired because Landlord is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of the inability of Landlord to obtain the necessary building permits and other governmental approvals required to construct any improvements to the Building, the unavailability of materials, strikes or other labor troubles or any other cause beyond the control of Landlord, except as may otherwise be specifically set forth in this Lease. Landlord shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder unless and until Landlord or any beneficiary under any deed of trust or any mortgage, ground lessor or other lienholder with rights in all or any portion of the Project has failed to perform such obligation within thirty (30) days after written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be deemed to be in default if Landlord or any of such other parties shall commence such performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

ARTICLE XXVII
ATTORNEYS' FEES

In the event of any litigation between Tenant and Landlord to enforce any provision of this Lease or otherwise with respect to the subject matter hereof, the unsuccessful party in such litigation shall pay to the successful party all costs and expenses, including reasonable attorneys' fees, incurred therein by the successful party. If either party hereto without fault is made a party to any litigation instituted by or against the other party to this Lease, such other party shall indemnify the party who without fault has been made a party to such litigation and save it harmless from all costs and expenses, including reasonable attorneys' fees, incurred by it in connection therewith.

ARTICLE XXVIII
SERVICES

28.1 Provision of Services. So long as Tenant is not in default hereunder, Landlord agrees to provide to the Premises the following Building services on the same basis as such services are provided from time to time to other occupants of the Building: elevator, electrical, water, heating, ventilating and air conditioning, janitorial and security services. Landlord shall provide to the Premises heating, ventilation, and air conditioning twenty-four (24) hours daily. With respect to security services, Tenant may: (a) subject to the other provisions of this Lease, cause a separate security system to be installed for the Premises, provided that the same shall not limit Landlord's right of access to the Premises; or (b) if practicable, tie into any central Building security system, provided that Tenant shall, upon demand by Landlord, pay to Landlord all incremental costs incurred by Landlord from time to time in connection with such tie-in.

28.2 Interruption of Services. Landlord shall not be liable for any failure to furnish, stoppage of, or interruption in furnishing any of the services or utilities described in this Article XXVIII when such failure is caused by accident, breakage, repairs, strikes, lockouts, labor disputes, labor disturbances, governmental regulation, civil disturbances, acts of war, moratorium or other governmental action, or any other cause beyond Landlord's reasonable control, and, in such event, Tenant shall not be entitled to any damages nor shall any failure or interruption abate or suspend Tenant's obligation to pay rent required under this Lease or constitute or be construed as a constructive or other eviction of Tenant. Further, in the event any governmental authority or public utility promulgates or revises any law, ordinance, rule or regulation, or issues mandatory controls or voluntary controls relating to the use or conservation of energy, water, gas, light or electricity, the reduction of automobile or other emissions, or the provision of any other utility or service, Landlord may take any reasonably appropriate action to comply with such law, ordinance, rule, regulation, mandatory control or voluntary guideline and Tenant's obligations hereunder shall not be affected by any such action of Landlord. The parties acknowledge that safety and security devices, services and programs provided by Landlord, if any, while intended to deter crime and ensure safety, may not in given instances prevent theft or other criminal acts, or ensure safety of persons or property. The risk that any safety or security device, service or program may not be effective, or may malfunction, or be circumvented by a criminal, is assumed by Tenant with respect to Tenant's property and interests, and Tenant shall obtain insurance coverage to the extent Tenant desires protection against such criminal acts and other losses, as further described in this Lease. Tenant agrees to cooperate in any reasonable safety or security program developed by Landlord or required by Law.

28.3 Compliance with Service Related Regulations. Tenant shall comply with all rules and regulations which Landlord may reasonably establish for the proper functioning and protection of the heating, ventilating, air conditioning, plumbing and other mechanical systems, and Tenant shall in no event use the same in any manner vocative of any governmental law or regulation.

28.4 Additional Building Service Demands. Tenant shall not use, without the prior written consent of Landlord, any apparatus or device in the Premises (including, but not limited to, electronic data processing machines and machines using current in excess of **110** volts) which will in any way increase the amount of electricity, water or compressed air (if compressed air is furnished by Landlord) normally furnished or supplied for use of the Premises as space for Biomedical Activities, nor shall Tenant connect with electric current (except through existing electrical outlets in the Premises, or water pipes or air pipes, if there are any) any apparatus or device for the purpose of using electric current or water or air. Tenant shall cause a water meter and an electric current meter to be installed so as to measure the amount of water and electric current consumed for its use of the Premises. The cost of any such meters and of installation, maintenance and repair thereof shall be paid for by Tenant, and, notwithstanding anything contained in this Lease to the contrary, Tenant agrees to pay Landlord, promptly upon demand, for all such water and electric current consumed as shown by said meters at the rates charged for such services by the jurisdiction in which the Building is located or by the local public utility furnishing the same, whichever the case may be, plus any additional expense incurred in keeping account of the water and electric current so consumed.

28.5 Modification of Services. Notwithstanding anything herein above to the contrary, Landlord reserves the right from time to time to make reasonable and nondiscriminatory modifications to the above standards for utilities and services.

28.6 Special Services. At any time during the Term of this Lease, Tenant, at its sole option, may elect to purchase from Landlord any of the special services identified in **Exhibit G** attached hereto. The rates for such special services shall be established by Landlord in its sole discretion from time to time and are subject to change.

ARTICLE XXIX
GENERAL PROVISIONS

29.1 Headings. The section and subsection headings contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof.

29.2 Plurals and Genders. The terms "Landlord" and "Tenant" as used herein shall include the plural as well as the singular, and the neuter shall include the masculine and feminine genders.

29.3 "Persons" Defined. The words "person" or "persons" as used herein shall include individuals, firms, associations and corporations.

29.4 Covenants and Agreements; Time of the Essence. All of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate provision hereof. Each of Tenant's covenants and agreements herein contained are conditions, the time of which is of the essence, and the strict performance of each shall be a condition precedent to Landlord's obligations hereunder and the right of Tenant to remain in possession of the Premises and to have this Lease continue in effect.

29.5 Intellectual Property. Landlord and Tenant hereby acknowledge that, as of the Commencement Date, the parties independently own and/or have rights in and to certain items of intellectual property, and that during the term of this Lease, the parties may independently develop and/or otherwise accumulate rights in and to additional items of intellectual property. The parties agree that neither this Lease nor any Company Activities in the Premises, Specialized Research Cores or Common Areas shall create any rights whatsoever of access, ownership, license or otherwise to the other party's intellectual property, whether such intellectual property or a party's rights therein are in existence prior to the Commencement Date or developed and/or accumulated during the Term of this Lease or thereafter.

29.6 Successors and Assigns. All of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns, subject at all times, however, to all agreements and restrictions contained in Article XV hereof.

29.7 Interpretation. The language in all parts of this Lease shall be in all cases construed simply according to its fair meaning and riot strictly for or against Landlord or Tenant. Any reference to any Article herein shall be deemed to include all subsections thereof unless otherwise specified or reasonably required from the context. Any reference to "days" or "months" herein shall refer to calendar days or months, respectively, unless specifically provided to the contrary. The terms "herein," "hereunder" and "hereof' as used in this Lease shall mean "in this Lease," "under this Lease" and "of this Lease", respectively, except as otherwise specifically set forth in this Lease.

29.8 Waiver and Default. No waiver by Landlord of any provision of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. No delay on the part of Landlord in exercising any of its rights hereunder shall operate as a waiver of such rights or of any other right of Landlord, nor shall any delay, omission or waiver on anyone occasion be deemed a bar to, or a waiver of, the same or any other right on any other occasion. Neither Landlord's failure to bill Tenant for any rent as it becomes due hereunder, nor Landlords error in such billing or failure to provide any other documentation in connection therewith, shall operate as a waiver of Landlord's right to collect any such rent which may have at any time become due hereunder in the full amount to which Landlord is entitled pursuant to the terms hereof, except as otherwise may be specifically set forth in this Lease. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant whether or not similar to the act so consented to or approved. No act or thing done by Landlord or Landlord's agents during the Term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no
agreement to accept such surrender shall be valid, unless in writing and signed by Landlord. No employee of Landlord or Landlord's agents shall have any power to accept the keys to the Premises prior to the termination of this Lease and the delivery of the keys to any such employee shall not operate as a termination of this Lease or a surrender or Landlord's acceptance of the Premises. If Tenant at any time desires to have Landlord sublet or attempt to sublet the Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive said keys for such purposes without releasing Tenant from any of its obligations under this Lease.

29.9 Entire Agreement: Amendments. This Lease and the Exhibits and any Riders attached hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or supplemented except by an agreement in writing signed by the party or parties to be bound thereby. Tenant wan-ants and represents that there have been no representations or statements of fact with respect to the Premises, the Building, the surrounding area or otherwise, whether by Landlord, its agents or representatives, any lease broker or any other person, which representations or statements have in any way induced Tenant to enter this Lease or which have served as the basis in any way for Tenant's decision to execute this Lease, except as contained in this Lease. Tenant agrees and acknowledges that no lease broker, agent or other person has had or does have the authority to bind Landlord to any statement, covenant, warranty or representation except as contained in this Lease, and that no person purporting to hold such authority shall bind Landlord, and that it is not reasonable for Tenant to have assumed that any person had or has such authority. Further, neither Landlord's execution of this Lease nor any other of its acts shall be construed in any way to indicate Landlord's ratification, consent or approval of any act, statement or representation of any third person except as specifically set forth in this Lease.

29.10 Landlord's Consent or Approval. Except as may otherwise be expressly provided herein, Landlord may, in its sole and absolute discretion, withhold any consent or approval required hereunder.

29.11 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute and be construed as one and the same instrument.

29.12 Applicable Law and Venue. This Lease shall be governed by and construed in accordance with the laws of the State of California. Except for the matters required to be arbitrated pursuant to specific provisions of this Lease, any action to declare or enforce any rights or obligations under this Lease may be commenced by any party in the Superior Court or other Court of competent jurisdiction of the County in which the Building is located. Tenant and Landlord hereby consent to the jurisdiction of such Court for such purposes and agree that any notice, complaint or other legal process delivered to Tenant or Landlord in accordance with the provisions of Article XXII of this Lease shall constitute adequate notice and service of process for all purposes and shall subject Tenant and Landlord to the jurisdiction of such Court for purposes of adjudicating any matter related to this Lease. The provisions of this Section shall also apply to all guarantors of this Lease.

29.13 Incorporation of Exhibits. All Exhibits or Riders referenced in this Lease, if any, are incorporated herein by reference as though fully set forth herein.

29.14 Reserved Area. Tenant hereby acknowledges and agrees that the exterior walls of the Building and the area between the finished ceilings of the Premises and the slab of the floor of the Building there above have not been demised hereby, and that the use thereof, together with the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through, under or above the Premises, is hereby excepted and reserved unto Landlord.

29.15 Brokers. Tenant and Landlord each warrant and represent that no person is, or may be, entitled to a commission, finder's fee or other like payment in connection herewith. Landlord and Tenant hereby indemnify and hold each other harmless from and against any and all loss, liability, cost and expense, including, without limitation, reasonable attorneys' fees, that the other party may incur as a result of the incorrectness of such warranty and representation.

29.16 No Option. The submission of this Lease by Landlord or its agent or representative for examination or execution by Tenant does not constitute an option or offer to lease the Premises upon the terms and conditions contained herein or a reservation of the Premises in favor of Tenant; it being intended hereby that this Lease shall become effective only upon the execution hereof by Landlord and delivery of a fully executed counterpart hereof to Tenant.

29.17 Authority. In the event Tenant is a corporation, the parties executing this Lease on behalf of Tenant hereby covenant, represent and warrant that: (i) they are duly authorized to execute and deliver this Lease on behalf of Tenant; (ii) Tenant is a duly organized corporation in good standing, with full right, power and authority to enter into this Lease and to perform its obligations hereunder; (iii) all necessary steps have been taken prior to the date hereof to qualify Tenant to do business in California; (iv) all franchise and corporate taxes have been paid as of the date hereof; and (v) all future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due. In the event Tenant is a partnership, the parties executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) they are duly authorized to execute and deliver this Lease on behalf of Tenant; and (ii) Tenant is a duly organized partnership with full right, power and authority to enter into this Lease and to perform its obligations hereunder. Tenant shall deliver to Landlord such evidence of the foregoing as Landlord may request.

29.18 Recordation of Lease. At the request of any Superior Interest Holder, or in its own discretion, Landlord shall record a memorandum of this Lease. Tenant shall not record, or cause to be recorded, this Lease or a memorandum of this Lease without Landlord's prior written consent.

29.19 Multiple Parties. If there is more than one person, firm, corporation, partnership or other entity comprising Tenant, then: (i) the term "Tenant" as used herein shall include all of the undersigned; (ii) each and every provision in this Lease shall be binding on each and everyone of the undersigned; (iii) each of the undersigned shall be jointly and severally liable hereunder; (iv) Landlord shall have the right to join one or all of the undersigned in any proceeding or to proceed against them in any order; (v) Landlord shall have the right to release anyone or more of the undersigned without in any way prejudicing its right to proceed against the others; and (vi) the act of or notice from, or notice or refund to, or the signature of, anyone or more of them, with respect to the tenancy of this Lease, including, but not limited to, any renewal, extension, expiration or modification of this Lease, shall be binding upon each and all of the persons executing this Lease as Tenant with the same force and effect as if each and all of them had so acted or so given or received such notice or refund or so signed.

29.20 No Violation of Other Agreements. Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant agrees to indemnify Landlord against any loss, cost, damage or liability, including, without limitation, reasonable attorneys' fees, arising out of Tenant's breach of this warranty and representation.

29.21 Adjacent Land. If an excavation shall be made upon land adjacent to the Building, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation license to enter upon the Premises at reasonable times, for the purpose of doing such work as said person shall deem necessary to preserve the wall of the Building of which the Premises form a part from injury or damage, and to support the same by proper foundations without any claim for damages or indemnity against Landlord or diminution or abatement of rent.

29.22 Building Directory.

(a) Tenant may not place any sign inside or outside the Building without the consent of Landlord, except an entrance door sign in a size and style approved by Landlord and subject to all applicable laws and covenants, conditions or restrictions affecting the Project.

(b) Landlord shall provide a directory (which, at Landlord's option, may be computerized) in the main lobby of the Building listing the name of Tenant.

29.23 Parking. Landlord shall use its good faith efforts to assist Tenant so that, concurrently with the execution of this Lease, Tenant may obtain parking rights for unreserved parking spaces at the Cedars-Sinai Medical Office Building (located at the corner of Alden Drive and George Burns Road) at current prevailing parking rates available to employees of Landlord for unreserved parking spaces. Tenant acknowledges that Landlord does not own or operate the Cedars-Sinai Medical Office Building and further acknowledges that Landlord is not agreeing to supply parking to Tenant pursuant to this Lease and that the issuance of parking rights is not a condition to Tenant's obligations under this Lease.

29.24 Subdivision; Mutual Cooperation. Landlord shall have the right to subdivide the Property and/or the Building at any time for any purpose whatsoever, including, without limitation: (a) the purpose of creating condominium ownership of the Property and the Building; and (b) the purpose of constructing, or financing the construction of, other buildings or improvements on the Property. Tenant agrees to cooperate with Landlord in completing such subdivision and in obtaining any governmental authorization or permits necessary to facilitate the construction of any such additional improvements on the Property, and to execute all such documents and amendments to the Lease reasonably necessary to effectuate the same. Tenant agrees that upon subdivision of the Property and/or the Building, Landlord may sell, transfer or convey one or more portions of the Building and/or the Property, and that title to such portions may be held in other than the name of Landlord.

29.25 Name of Building. Neither Tenant nor any shareholders of Tenant nor any of their employees may use the name "Cedars-Sinai Medical Center" for any purpose, including, without limitation, any advertising or the naming of any medical group or professional corporation.

29.26 Rental Abatement. Any and all references herein to abatement of Basic Annual Rent shall apply to only those amounts which would otherwise thereafter accrue. **If** any dispute relating to such abatement occurs, Tenant shall pay the rent demanded by Landlord pending the final resolution of such dispute.

29.27 Guarantees. If any guarantee of this Lease is required by Landlord, such guarantee shall be in a form provided by Landlord to Tenant and Landlord may terminate this Lease at any time until it receives such guarantee fully executed by the required guarantors.

29.28 Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

29.29 Waiver of Rights of Redemption. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event that Tenant is evicted or dispossessed for any cause or in the event that Landlord obtains possession of the Premises by reason of the violation by Tenant of any of the covenants and conditions of this Lease or otherwise. The rights given to Landlord herein are in addition to any rights that may be given to Landlord by any statute or otherwise.

29.30 Light and Air. Any diminution or shutting off of light, air or view by any structure that may be erected on lands adjacent to the Building or any other portion of the Project shall in no manner affect this Lease or impose liability upon Landlord.

29.31 No Joint Venture. The Parties hereto acknowledge and agree that nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture between Landlord and Tenant or between Landlord and any other party or causing Landlord to be responsible in any way for the debts or obligations of Tenant or any other party,

ARTICLE XXX
HAZARDOUS MATERIALS

30.1 Compliance Costs. Tenant acknowledges that Landlord may incur, as Operating Expenses, costs for complying with laws, codes, regulations or ordinances relating to Hazardous Materials (as defined in Section 30.2) on or about the Project, including, without limitation, the following: (i) Hazardous Materials present in the soil or ground water on the Project; (ii) a change in laws, codes, regulations or ordinances which relate to Hazardous Materials and which makes any substance or material which is present on, in, under or about the Project as of the date hereof, a violation of such changed laws, codes, regulations or ordinances; (iii) Hazardous Materials that migrate, flow, percolate, diffuse or in any way move onto or under the Project; (iv) Hazardous Materials present on or under the Project as a result of any discharge, dumping or spilling (whether accidental or otherwise) on the Project by other tenants of the Project or their agents, employees, contractors or invitees, or by others. Each item of cost incurred by Landlord for complying with laws, codes, regulations or ordinances relating to Hazardous Materials with respect to the Project (or any portion thereof) and which exceeds Fifty Thousand Dollars ($50,000) shall be amortized over a five (5) year period from the date of installation as "Capital Improvement Amortization" as provided in Section 4.3.2 herein and treated as a "Capital Improvement". To the extent any such cost relating to Hazardous Materials is subsequently recovered or reimbursed through insurance, or recovery from responsible third patties, or other action, Tenant shall be entitled to proportionate reimbursement to the extent it has paid its share of such cost to which such recovery or reimbursement relates (regardless of whether such costs were paid as Operating Expenses or as a Capital Improvement). Nothing contained herein shall be construed to modify Tenant's obligation to make full payment for Hazardous Materials or compliance with laws pertaining to Hazardous Materials if the cost of compliance or other responsibility for such Hazardous Materials is made the responsibility of Tenant pursuant to any other provision of this Lease or applicable law.

30.2 Definition. As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States government. The term "Hazardous Materials" includes, without limitation, any material or substance which is: (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, or 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); or (ii) defined as a "hazardous substance," under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley- Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 30; (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1317; (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (42 U.S.C. 6903); or (x) defined as "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 et seq. (42 U.S.C. 9601).

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first written above.

LANDLORD	TENANT
CEDARS-SINAI MEDICAL CENTER	CAPRICOR INC.
By: /s/ Schlomo Melmed	By: /s/ Oliver Foellmer
Name: Melmed, Shlomo, MD	Name: Oliver Foellmer
Its: Senior Vice President, Academic Affairs	Its: President & Chief Executive Officer
By: /s/ Richard Katzman	
Name: Richard S. Katzman	
Its: Vice President, Academic Affairs	

EXHIBITS

Exhibit	A	Building Site Plan Floor Plan
Exhibit	B	Floor Plan
Exhibit	C	Monthly Rent Calculation
Exhibit	D	Permitted Uses
Exhibit	E	Rules and Regulations
Exhibit	F	Trade Fixtures
Exhibit	G	Special Services

EXHIBIT C

Capricor, Inc

TYPE OF SPACE	ROOM #	SQ. FT.
Laboratory	1099	477
Work Area	1099A	85
Office	1100	90

Total		652
Shared/Common	Space (27%)	176
Total Rentable Sq. Ft.		828

Total Rentable Sq. Ft.		
MONTHLY PAYMENT COMPUTATION:		
Basic rent @ $3.50/sq.ft.	$	2898.00
Operating overhead @ $2.00/sq.ft.		
Equipment Rent *		
Attorney Fees	$	1656.00
RI Clean		
Total Monthly Payment	$	4554.00

* NOTE: See Equipment Lease, which is hereby attached and made a part of this agreement. Note that the Equipment Lease does not include telephone equipment and usage charges which will be billed separately by the Telecommunications Department (see attached billing authorization form).

Exhibit 10.41

*** Text Omitted and Filed Separately
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

THIS LEASE IS NOT TO BE CONSTRUED AS AN OFFER AND IS NOT BINDING ON THE BUBBLE REAL ESTATE COMPANY, LLC. UNTIL IT IS SIGNED BY AN OFFICER OF THE BUBBLE REAL ESTATE COMPANY, LLC.

LEASE AGREEMENT

THIS LEASE ("Lease") is made on March 29, 2012 between The Bubble Real Estate Company, LLC. a California limited liability company, (hereinafter referred to as "Lessor") and Capricor, Inc., a Delaware Incorporation located at 8700 Beverly Blvd, Davis Building Rm. # 1099 Los Angeles, CA 90048 (hereinafter referred to as "Lessee").

1. LEASED PREMISES.

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the office suite consisting of approximately […***…] rentable square feet located at 8840 Wilshire Boulevard, Beverly Hills, California 90211 as described below and on the floor plan attached hereto as **Exhibit A** (the "Premises") along with such furniture and furnishings located within the Premises which are more particularly identified on **Exhibit B**, attached hereto (the "Furnishings"). In addition to the exclusive use of the Premises and the Furnishings, Lessee shall have the non-exclusive right in common with Lessor's other lessees to use all common areas and facilities available on the third floor of Lessor's property. Except as otherwise agreed to in writing, Lessee takes the Premises and the Furnishings in an "as is" condition.

Office #332 and admin bay Office#333 and admin bay Office #334 and admin bay Office#335

2. TERM.

2.1 Term: Except as it may be modified by the applicable provisions of this Lease, the term of this Lease shall commence on April 13, 2012 (the "Commencement Date") and shall continue for twelve months.

2.2 Option to Extend Lease Term: Lessee is hereby granted and shall, if not then in default under this Lease, have an option to extend the term of this Lease for an additional twelve (12) months (the "Extended Term") on the same terms, covenants, and conditions contained in this Lease, except that the rent to be paid by Lessee to Lessor shall be as identified in paragraph 3.2.

***Confidential Treatment Requested**

(a) This option shall be exercised only by Lessee delivering to Lessor no less than ninety (90) days before expiration of the Term of this Lease written notice of Lessee's election to exercise the option to extend the Term of this Lease as provided in this section. This written notice shall be deemed effective on personal delivery to Lessor.

3. RENT.

3.1 During Term: Commencing on the Commencement Date, Lessee agrees to pay Lessor as rent for the Premises and the Furnishings (as identified in paragraph 1 of the Lease and on the attached Exhibit A and Exhibit B, the sum of $8,980 per month payable at the beginning of each month ("Monthly Rent"). Lessee's first payment shall include one month's full rent plus the security deposit. Should the Commencement Date occur on a day other than the first day of a calendar month, Lessee shall be liable for the payment of the Monthly Rent and any additional charges due for said partial month on a prorated basis based upon a thirty (30) day month.

3.2 During Extended Term: If Lessee exercises the option to extend the term of this Lease, Lessee agrees to pay Lessor as Monthly Rent for the Premises, the sum of $9,340 commencing at the commencement of the extended Term.

In addition, Lessee shall pay a monthly sum for parking (Reserved, Random Parking or Tandem) at Lessor's then current rates (which may change during the Term). Lessor's parking rates as of the Commencement Date of this Lease are $180.00 per Reserved Parking Space (located on level one (PI) or, $160.00 per Random Parking Space located on level two (P2) or three (P3) of Lessor's parking structure) or $90.00 per space for each Tandem space payable at the beginning of each month and subject to availability.

The terms and conditions of this Lease are confidential, and Lessee agrees, unless it has received the consent of Lessor, not to reveal said terms and conditions to any third parties other than Lessee's officers, directors, employees, consultants and professional advisors on a need to know basis. Lessee's disclosure of the terms and conditions of the Lease shall constitute a "material default" for cause at Lessor's sole discretion and grounds for Lessor to immediately terminate this Lease. Such termination shall be Lessor's sole remedy for such default.

Any and all sums Lessee is obligated to pay under the terms of this Lease shall be construed as rent obligations in addition to the Monthly Rent set forth herein. Such additional rent shall include a service charge of twenty-five dollars ($25.00) for each of Lessee's dishonored checks returned by the institution on which said checks are drawn. If at any time during the term of this Lease, Lessee has tendered payment by check, and Lessee's bank returns more than one such payment for any reason including insufficient funds, Lessor may, at its option, require all future payments be made by cashier's check.
A two hundred dollar ($200.00) handling charge for each Three Day Notice or Notice of Termination of Services which Lessor is required to serve upon Lessee due to Lessee's failure to make timely rent-payments or breach of any other term or condition of this Lease shall be assessed against Lessee to be paid with the Monthly Rent in the event more than one of either notice is served during the term of the Lease. Should Lessee not tender payment of the Monthly Rent by the fifth (5th) day of each month, a late charge shall be assessed in an amount of five percent (5%) of the sum so overdue for the purpose of defraying the expense incident to handling such delinquent payment. Unpaid Monthly Rent will be considered delinquent on the 51 day of each month. In addition, Lessor may discontinue any and all services provided Lessee, including, but not limited to, use of all common areas. Lessee hereby releases Lessor, its employees, agents, principals and contractors from any liability for damages which Lessee may suffer as a result of Lessor's suspension of services for the reasons stated herein.

A. Operating Expenses:

The Monthly Rent specified in Section 3 of this Lease for each calendar year subsequent to the calendar year in which this Lease is made shall be increased by Lessee's proportionate share ("Lessee's Share") of any increase in Operating Expenses incurred by Lessor for that year over the Operating Expenses incurred by Lessor for the calendar year in which this Lease is made. For the purposes of this paragraph:

(i) The term "Operating Expenses" shall mean all expenses incurred by Lessor each calendar year for the administration, operation, and maintenance of the Building, including, but not limited to:

(1) Personal property taxes and real property taxes and assessments (including general and special assessments) levied on the Building, except for a reassessment due to a transfer of the Building;

(2) The costs of all utilities required, by leases or otherwise, to be furnished by Lessor to the Building;

(3) Insurance premiums on insurance policies insuring the Building;

(4) The costs of janitorial services for the Building;

(5) Labor and costs incurred in managing the Building and maintaining its elevators, hallways, exterior walls, roof, and other parts, facilities, and appurtenances; and

(6) Capital improvements to the Building required by governmental authority.

The term "Operating Expenses" shall exclude Lessor's cost of leasing and advertising costs for the Building and penalties of any type whatsoever assessed against Lessor.

(ii) Lessee's Share of any increase in Operating Expenses incurred by Lessor for any calendar year shall be determined by dividing the amount of floor space in the Leased Space by the total amount of rentable floor space in the Building and multiplying the total increase in Operating Expenses for the year by the resulting percentage figure The total amount of rentable floor space in the Building shall be determined by excluding from the total interior floor space of the Building the area required for the Building's heating and air conditioning equipment; the area required for storage of maintenance and janitorial supplies; and the basement of the Building but including the area occupied by Lessor's offices in the Building.

(iii) Manner of Payment: Lessor shall deliver to Lessee a statement showing Lessor's reasonable estimate of the Operating Expenses for each calendar year and the amount of Lessee's Share of any increase of the operating Expenses based on such estimate. Lessee shall pay to Lessor, at the times and in the manner provided herein for the payment of Monthly Rent, one-twelfth (1112) of Lessee's Share of any increases as shown by Lessor's statement. If Lessor's statement is furnished after January I of the calendar year, then on or before the first day of the first calendar month following Lessee's receipt of Lessor's statement, in addition to the monthly installment of Lessee's Share of any increases due on that date, Lessee shall pay the amount of Lessee's Share of any increases for each calendar month or fraction thereof that has already elapsed in such calendar year.

(iv) Final Statement: After the end of each calendar year (including the calendar year in which the Lease terminates), Lessor shall deliver to Lessee a final statement of the actual Operating Expenses for such calendar year. Within ten (10) days of delivery of each final statement, Lessee shall pay Lessor the amount due for Lessee's Share of any increases in the Operating Expenses. Lessee shall have thirty (30) days after delivery of Lessor's final statement to object in writing to the accuracy of the statement. If Lessee does not object within such thirty (30) day period, Lessor's final statement shall be conclusive and binding on Lessee. Any credit due Lessee for overpayment of Lessee's Share of any increases in Operating Expenses shall be credited against the installments of Monthly Rent next coming due. However, overpayments for the calendar year in which the Lease Term terminates shall be retained by Lessor to increase the Security Deposit, and shall be refunded, used, applied or retained as set forth in Article 6 below.

4. HOLDING OVER.

Lessee shall not hold over in the Premises after the expiration or sooner termination of the Lease Term without the express prior written consent of Lessor. If Lessee holds over without Lessor's written consent, Lessee shall indemnify Lessor for, and hold Lessor harmless from and against, any and all Liabilities arising out of or in connection with any delay by Lessee in surrendering and vacating the Premises, including, without limitation, any claims made by any succeeding tenant based on any delay and any Liabilities arising out of or in connection with these claims. If possession of the Premises is not surrendered to Lessor on the expiration or sooner termination of the Lease Term, in addition to any other rights and remedies of Lessor hereunder or at law or in equity, Lessee shall pay to Lessor for each month or portion thereof during which Lessee holds over in the Premises a sum equal to one hundred fifty percent (150%) of the then-current Monthly Rent in addition to all other rent payable under this Lease. If any tenancy is created by Lessee's holding over in the Premises, the tenancy shall be on all of the terms and conditions of this Lease, except that the Monthly Rent shall be increased as set forth herein and the tenancy shall be a month-to-month tenancy. Nothing in this Article 4 shall be deemed to permit Lessee to retain possession of the Premises after the expiration or sooner termination of the Lease Term.

5. SECURITY DEPOSIT.

Upon execution of this Lease by Lessee, Lessee will pay a security deposit in an amount of $8,980 as security for the performance by Lessee of its obligations under this Lease. The security deposit will not be interest bearing to Lessee. Lessor will retain the security deposit during Lessee's tenancy. Lessee shall not apply the security deposit as rent. If Lessee remains in the Premises after the expiration date of this Lease, the security deposit will be retained by Lessor until Lessee moves out of the Premises. Lessor may claim and retain such amount of Lessee's security deposit as is reasonably necessary to remedy any defaults of the Lessee in the payment of rent or services, to repair damages to the
Premises caused by the Lessee (normal wear and tear excepted), replacement of keys and any other outstanding obligations to Lessor, and Lessor may, at its option and at any time during the term of this Lease, treat the security deposit as a partial payment applied toward Lessee's obligations for the Premises during Lessee's last month of occupancy of the same. The parties expressly agree that the security deposit is made for all of the aforesaid specific purposes Lessor will return the security deposit thirty (30) after the end of the Lease.

6. TELEPHONES, FACSIMILE, REPROGRAPHIC AND INTERNET SERVICES Lessor will provide Lessee with telephones. Each phone line will be charged a per month flat service fee based on the then current fee charged in Lessor's Building. The current per month service fee is $15 per month. In addition, actual telephone line usage will be billed monthly and payment made within five (5) working days of receipt of the current statement. Telephones will be maintained at the cost of the Lessor. Lessor will provide Lessee with access to repro graphic equipment. Reprographic and scanning usage will be charged at Lessor's then current rates (which may change from time to time) which at the present time are $0.07 per black and white copy and $0.30 per color page for
reprographics and $.25 per page (for the first 50 scanned pages scaling down to $.12 per page depending on the total scanned pages). Reprographics and scanning will be billed monthly and payment made within five (5) working days of receipt of the current statement. Reprographic equipment will be maintained at the cost of the Lessor. Lessor will provide Lessee with access to Lessor's fiber based internet connection to be charged at a monthly rate of $30 per IP address.

7. USE.

Lessee shall use the Premises solely for general business use Lessee shall not do or permit anything to be done in or about the Building or the Premises which will in any way obstruct or interfere with the right of other Lessees or occupants of the Building, or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Lessee cause, maintain or permit any nuisance in, on or about the Premises Lessee agrees that Lessee will not offer or use Premises to provide others, services provided by Lessor to Lessor's other lessees (i.e. Telephones, Fax Machines, Copiers, etc.).

8. DEFAULTS AND REMEDIES/TERMINATION.

8.1 Any of the following occurrences shall constitute a "material" default byLessee

(i) if Lessee fails to make any payment of rent, additional security deposit or any other payment required to be made by Lessee hereunder, as and when due; (ii) if Lessee withholds rent, deducts or offsets from rent or services due hereunder any amount for any reason, except as permitted by law; (iii) if Lessee occupies, uses or stores any personal property in any unrented office in the Building or stores any personal property in any common area; or (iv) if Lessee fails to observe or perform any of the provisions of this Lease where such failure shall continue for a period of ten (10) days after receipt of written notice thereof from Lessor to Lessee.

8.2 If Lessee materially defaults under this Lease, (i) Lessor may terminate this Lease, (ii) Lessor may recover, in addition to any rent and other charges already due and payable, all rent for the entire unexpired balance of the Lease Term (paragraphs 3 and 6) and/or Lessor may recover damages from Lessee, in each case, in accordance with applicable law. All rights and remedies of Lessor under this Lease shall be cumulative and in addition to any other rights or remedies available at law or in equity. No failure by Lessor to exercise any right or remedy or to insist on performance following a default by Lessee shall constitute a waiver of such default by Lessor.

8.3 Provided Lessee provides Lessor written notice of no less than thirty (30) days, any termination notice shall be effective the last day of the month. If Lessee occupies any portion of the terminated space beyond the last calendar day of the month, Lessee will be liable for rent for the full calendar month. If Lessee fails to vacate the premises for any reason after the termination date or purports to rescind the termination notice after Lessor has already leased Lessee's terminated space, Lessee will pay the rent the new lessee had agreed to pay, plus any and all resulting damages and losses incurred by Lessor because the new lessee cannot move into the space previously terminated by Lessee.

9. HIRING LESSOR'S EMPLOYEES.

Lessee agrees not to offer or accept for hire any of Lessor's employees at any time during the term or any extension or renewal of this Lease. "Lessor's employees" include its employees and employees from affiliated entities during the period of their employment with Lessor and for a period of ninety (90) days thereafter.

10. INSURANCE/INDEMNIFICATION.

10.1 Lessor's Insurance. Lessor has blanket liability insurance coverage for the common areas in the Building and Lessor shall, at all times, keep and maintain in full force and effect all risk policy(s) of insurance, including coverage for fire and sprinkler damage. Lessor's insurance does not cover Lessee's property in the Building or the
Premises. Lessor shall not be liable to Lessee, or to any other person, for any damages on
account of loss, damage, fire or theft of any personal or business property, including, but not limited to, property left with the floor receptionist or telephone operators, door lettering or other property purchased by, or belonging to, Lessee.

10.2 Lessee's Insurance. Lessee shall at all times and at Lessee's expense carry liability and personal property insurance with respect to Lessee's tenancy in an amount not less than $1,000,000 combined single limit per occurrence and naming Lessor as an additional insured thereunder, except that Lessor shall not have any claim to any insurance proceeds paid with respect to Lessee's personal property.

10.3 Waiver of Subrogation. Notwithstanding anything to the contrary contained elsewhere in this Lease, neither Lessor nor Lessee (nor the agents or employees of either such party) shall be liable to the other party or to any insurance company insuring the other party or to the agents or employees of the other party by way of subrogated rights or otherwise, for any loss or damage caused by fire or any other hazard or peril covered by fire and extended coverage or all-risk or special form insurance, to the extent such loss or damage is covered by insurance (or where insurance was required by this Lease) to any building structure or other tangible property, or any resulting loss of income, even though such loss or damage may have been occasioned by the negligence of such party, its agents or employees. For purposes of the foregoing waiver, any deductibles, self-insurance or co-insurance maintained by Lessee will be treated as "covered by insurance" to the same extent as though such amounts were paid to Lessee by a third-party insurer.

10.4 Indemnification. Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done, permitted or suffered by Lessee in the Premises and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance under the terms of this Lease, or arising from any negligence of the Lessee or Lessee's agents, contractors, visitors, or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, and in case any action or proceeding be brought against Lessor by reason of any such claim, unless caused by Lessor's agents. Lessee upon
notice from Lessor shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons in the Premises and Lessee hereby waives all claims in respect thereof against Lessor.

10.5 Procedure. As a condition of the indemnification provided for in this Lease, any person seeking indemnification ("Indemnitee") from Lessee will promptly notify Lessee in writing of any claim giving rise to indemnification hereunder. Lessor shall have the right to select defense counsel, but such selection shall be subject to the reasonable approval of Lessee. Lessee shall have the right to participate in the defense with or without separate co-counsel, at its sole cost and expense. The Indemnitee will not consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of Lessee, which consent will not be unreasonably withheld or delayed, Notwithstanding any other provision contained in this Section 10.5, if an Indemnitee withholds its consent to a bona fide settlement offer that includes a release of all claims against the Indemnitee, where but for such action counsel could have settled such claim, Lessee will be required to indemnify the Indemnitee only up to the maximum amount of the bona fide settlement offer for which Lessee could have settled such claim.

11. COMMON AREAS.

All areas not designated for exclusive use of Lessees or available for lease to prospective Lessees constitute the Building's common areas. Lessee shall have the non-exclusive right of access and use of the common areas and facilities contained therein. Conference room(s) may be used on a reservation basis only subject to Lessor's rules and regulations governing use of the same.

12. DAMAGE OR DESTRUCTION.

12.1 Partial Damage. If the Premises shall be partially damaged by fire or other casualty but are not thereby rendered unsuitable for the Lessee's purposes contemplated herein, Lessor shall cause the Premises to be repaired, and the Monthly Rent and Additional Charges shall be abated proportionately as to the portion of the Premises rendered unsuitable for the purposes contemplated herein from the date of such occurrence until the date on which Lessor's restoration work has been substantially completed.

12.2 Total Destruction. If the Premises are totally destroyed or damaged during the term of this Lease, Lessor or Lessee may, at their option, cancel and terminate this Lease as of the date of the cause of such damage by giving thirty (30) days written notice to the other party of the election to do so .

13. SUBLETTING.

Lessee shall not sublet or assign the Premises or any part thereof for any period of time without the prior written consent of Lessor, except that Lessee may, without further consent, sublet to, or otherwise allow a portion of the Premises to be used by, Dr. Frank Litvack for his personal business activities. Any subletting or assignment of this Lease which is not in compliance with the provisions of this paragraph shall be void and shall, at the option of Lessor, terminate this Lease. In such event, Lessee shall be liable for any expenses Lessor may incur in regaining possession of the Premises or so much of the Premises as Lessee may have subleased or assigned without Lessor's consent. The consent by Lessor to a subletting or assignment shall be not construed as releasing Lessee from any liability or obligation hereunder.

14. NOTICES.

Any notice to be given under this Lease from one party to the other, including, without limitation, any notice regarding an extension or breach of this Lease or termination hereof shall be in writing and sent by certified or registered mail, postage prepaid, by nationally recognized courier, by fax or electronic transmission or by personal delivery to The Bubble Real Estate Company, LLC, attention: Property Manager, 8840 Wilshire Blvd. Beverly Hills, CA 90211 (in the case of Lessor), or to Lessee c/o the address of the Premises with a copy to Karen G. Krasney, Esq., 135 S. Thurston Avenue, Los Angeles, CA 90049 (in the case of Lessee). If such notice be served by registered or certified mail, by fax or electronic transmission, or by courier service or personal delivery, service shall be conclusively deemed given the first business day delivery is attempted or upon receipt, whichever is sooner. Personal delivery to the security staff, receptionist or telephone operator does not constitute notice to either Lessor or Lessee. Either party may provide for a different address by notifying the other party of said change as provided for herein.

15. RULES AND REGULATIONS.

Lessee shall observe at all times Lessor's Lessee Guide (aka Tenant Guide), a copy of which shall be provided to Lessee upon move-in.

16. SUCCESSORS AND ASSIGNS.

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto, except as expressly provided to the contrary elsewhere herein. In the event of Lessee's death or disability, Lessee's legal representative may terminate this Lease upon thirty (30) days' written notice to Lessor (without penalty) and the security deposit will be refunded in full, subject to the provisions of this Lease.

17. REPAIRS.

The Lessor shall maintain the structural integrity of the Building shell and make all necessary repairs to the roof, exterior walls, exterior doors, windows, corridors and common areas in clean and neat condition, and use reasonable efforts to keep all equipment used in common with other Lessees, such as elevator, plumbing, heating, air conditioning and similar equipment, in good condition and repair. Lessor is not liable to Lessee by reason of any defect, inadequacy or insufficiency in same, except where law permits. Lessee may not deduct or offset any amount from rent due herein because of any problem regarding construction, repairs or lack thereof, except where law permits. Lessee is responsible for, and shall indemnify and hold Lessor harmless from and against, any damage to persons or property caused by Lessee, or Lessee's employees, agents, clients, guests or invitees. Lessee is not responsible for repairing wall holes from normal sized nails used to hang pictures.

18. RIGHT OF ENTRY.

If Lessee has given notice to terminate or Lessee is in default of rental payments,
Lessor's employees may show the Premises to prospective Lessees between 9:00a.m. and
6:00p.m., Monday through Friday. If during the last month of the Term, Lessee shall
have removed all or substantially all of Lessee's property, Lessor may immediately allow anyone else to occupy the premises without relieving Lessee of liability for rent for that period of time unless Lessor receives rental income from Lessee's space, in which event
such payment shall be credited against Lessee's rent obligation for the period of time the space is occupied by someone else.

19. TENANT IMPROVEMENTS:

Before commencement of the Lease term provided for in this Lease, Lessor shall make the following improvements to the Premises: *New carpet and painting of all walls.* If Lessor fails to complete such improvements under this paragraph before commencement of the Lease Term, Lessee's obligation to pay rent shall not commence until such work is completed, but Lessee shall have no right to cancel or otherwise terminate this Lease, so long as such improvements are completed within a reasonable period of time.

20. UTILITIES, SERVICES, MAINTENANCE AND CONSTRUCTION.

Lessor provides utilities, services (janitorial, heat and air conditioning) and maintenance. Janitorial services include carpet vacuuming, but not cleaning. Janitorial, heat and air conditioning is provided during generally recognized business days and hours. Lessee is allowed access to the Premises twenty-four (24) hours a day, seven (7) days a week, subject to the Buildings' rules requiring proper identification after normal business hours. Lessor is not liable to Lessee by reason of any failure to provide or the inadequacy of utilities, janitorial. heating or air conditioning services or maintenance providing Lessor is using good faith reasonable efforts to mitigate such failure or inadequacy or such failure or inadequacy is as a result of an event of force majeure. Lessee may not deduct or offset any amount from rent due herein because of any problem regarding utilities, heat, air conditioning, janitorial services, maintenance services or defective construction of Premises, except where permitted by law.

Lessor is responsible for maintaining the common areas within the Building; however, Lessor is not responsible for maintaining, repairing or cleaning the floor covering wall covering or drapes/window blinds within the Premises, other than the normal janitorial service provided. Any non-recurring operating and capital improvements requested by Lessee may be passed on to the Lessee.

21. ATTORNEY'S FEES.

In the event legal proceedings to regain possession of the Premises or to collect moneys owed are instituted because of Lessee's failure to pay rent, security deposit, cost or repair of the Premises or to cure any breach of the Lease by Lessee, the prevailing party shall be entitled to recover as an element of his cost of suit, and not as damages, reasonable attorney's fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover his costs of suit, whether or not the suit proceeds to final judgment.
The party not entitled to recover his costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover his cost of attorney's fees.

22. DISPUTE MEDIATION:

Lessor and Lessee agree to mediate any dispute or claim arising between them out of this Lease, before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties. If either party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, that party shall not be able to recover attorney fees, even if such fees would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.

23. ARBITRATION OF DISPUTES:

23.1 Lessor and Lessee agree that any dispute or claim in law or equity arising between them in connection with this Lease, which is not settled through mediation shall be decided by a neutral, binding arbitration. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of commercial real estate experience associated with and in accordance with the rules and procedures of the American Arbitration Association ("AAA"), unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law Judgment upon the award of the arbitrator may be enteredin any court having jurisdiction. The parties shall be permitted to engage in discovery as allowedby the rules and procedures of the AAA.

23.2 EXCLUSIONS FROM MEDIATION AND ARBITRATION: The following matters are excluded from mediation and arbitration hereunder: (a) an unlawful detainer action; (b) an action for bodily injury or wrongful death; (c) a dispute or claim involving an amount of damages equal or less than the applicable maximum amount permitted in small claims court.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR BY JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION NEUTRAL ARBITRATION.

____/s/___INITIALED BY LESSOR: **__/s/_ INITIALED BY LESSEE:**

24. ENTIRE AGREEMENT, MERGER AND WAIVER.

This Lease Agreement supersedes and cancels any and all previous negotiations, arrangements, offers, brochures, agreements or understandings, if any, between the parties hereto. This Lease expresses and contains the entire agreement of the parties hereto and there are no expressed or implied representations, warranties or agreement between them, except as herein contained. This Lease may not be modified, amended or supplemented except in writing signed by both Lessor and Lessee. Consent given or waiver made by Lessor of any breach by Lessee of any provision of this Lease
Agreement shall not operate or be construed in any manner as a waiver of any subsequent
breach of the same or of any other provision.

26. RELATIONSHIP OF THE PARTIES.

Nothing herein shall be construed to create a partnership, joint venture. franchise or agency relationship between the parties or their affiliates. Lessee further acknowledges that no representations, inducements, promises. or agreements, orally Of otherwise, have been (or will be) made by Lessee to any third party, affiliate, partner, employee, joint venturer, sub-Lessee, independent contractor or party in any business relationship with Lessee or any of its affiliates which in any way could be construed as indicating such proscribed relationship as is embodied herein. Neither Party has authority to enter into any agreements on behalf of the other without the express prior written consent of the party to be charged.

LESSOR	LESSEE
The Bubble Real Estate Company, LLC	Capricor, Inc.
By: /s/ Bill Sheinberg	By: /s/ Linda Marban
Bill Sheinberg Member Print Name and Title	Linda Marban, CEO Print Name and Title

EXHIBIT A

FLOOR PLAN

EXHIBIT B

OFFICE FURNITURE INVENTORY FOR OFFICES 332-335 AND ADMIN BAYS

Office	Desk	Desk Chair	Side Chair	Book Case	Love Seat	Coffee Table
332	1w/ return & credenza	1	2	1	1	1
333	1 desk w/back counter & files	1	3	0	0	0
334	1w/ return & credenza	1	2	1 w/tv console	1	1
335	1w/ return & credenza 1 pine desk	2	2	1	0	0
3-Admin Bays	Built into bays	3				
TOTAL	**5**	**8**	**9**	**3**	**2**	**2**

3/26/2012

GUARANTY

This Guaranty of Lease (the "Guaranty") is attached to and made part of that certain Office Lease (the "Lease") dated March 29, 2012, between The Bubble Real Estate Company, LLC, a California limited liability company, (hereinafter referred to as "Lessor") and Capricor, Inc. (hereinafter together referred to as "Lessee"), covering a portion, known as the Premises of the Building located at 8840 Wilshire Boulevard, Beverly Hills, California. The terms used in this Guaranty shall have the same definitions as set forth in the Lease. In order to induce Lessor to enter into the Lease with Lessee, Linda Marban (the" Guarantor") has agreed to execute and deliver this Guaranty to Lessor. Guarantor acknowledges that Lessor would not enter into the Lease if Guarantor did not execute and deliver this Guaranty to Lessor.

1. **Guaranty**. In consideration of the execution of the Lease by Lessor and as a material inducement to Lessor to execute the Lease, Guarantor hereby irrevocably, unconditionally. jointly and severally guarantees the full, timely and complete (a) payment of all rent and other sums payable by Lessee to Lessor under the Lease, and any amendments or modifications thereto by agreement, and (b) performance of all covenants, representations and warranties made by Lessee and all obligations to be performed by Lessee pursuant to the Lease, and any amendments or modifications thereto by agreement.. The payment of those amounts and performance of those obligations shall be conducted in accordance with all terms, covenants and conditions set forth in the Lease, without deduction, offset or excuse of any nature and without regard to the enforceability or validity of the Lease, or any part thereof, or any disability of Lessee.

2. Lessee's Default. This Guaranty is a guaranty of payment and performance, and not of collection. Upon any breach or default by Lessee under the Lease, Lessor may proceed immediately against Lessee and/or Guarantor to enforce any of Lessor's rights or remedies against Lessee or Guarantor pursuant to this Guaranty, the Lease, or at law or in equity without notice to or demand upon either Lessee or Guarantor. This Guaranty shall not be released, modified or affected by any failure or delay by Lessor to enforce any of its rights or remedies under the Lease or this Guaranty, or at law or in equity.

3. **Separate and Distinct Obligations**. Guarantor acknowledges and agrees that Guarantor's obligations to Lessor under this Guaranty are separate and distinct from Lessee's obligations to Lessor under the Lease. The occurrence of any of the following events shall not have any effect whatsoever on Guarantor's obligations to Lessor hereunder, each of which obligations shall continue in full force or effect as though such event had not occurred: (a) the commencement by Lessee of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended or replaced, or any other applicable federal or state bankruptcy, insolvency or other similar law (collectively, the "Bankruptcy Laws"), (b) the consent by Lessee to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or similar official of Lessee or for any substantial part of its property, (c) any assignment by Lessee for the benefit of creditors, (d) the failure of Lessee generally to pay its debts as such debts become due, (e) the taking of corporate action by Lessee in the furtherance of any of the foregoing, or (f) the entry of a decree or order for relief by a court having jurisdiction in respect of Lessee in any involuntary case under the Bankruptcy Laws, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Lessee or for any substantial part of its property, or ordering the winding-up or liquidation of any of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days. The liability of Guarantor under this Guaranty is not and shall not be affected or impaired by any payment made to Lessor under or related to the Lease for which Lessor is required to reimburse Lessee pursuant to any court order 01' in settlement of any dispute, controversy or litigation in any bankruptcy, reorganization, arrangement, moratorium or other federal or state debtor relief proceeding. If, during any such proceeding, the Lease is assumed by Lessee or any trustee, or thereafter assigned by Lessee or any trustee to a third party, this Guaranty shall remain in full force and effect with respect to the full performance of Lessee, any such trustee or any such third party's obligations under the Lease. If the Lease is terminated or rejected during any such proceeding, or if any of the events described in Subparagraphs (a) through (f) of this Paragraph 5 occur, as between Lessor and Guarantor, Lessor shall have the right to accelerate all of Lessee's obligations under the Lease and Guarantor's obligations under this Guaranty. In such event, all such obligations shall become immediately due and payable by Guarantor to Lessor, subject to the terms of this Guaranty. Guarantor waives any defense arising by reason of any disability or other defense of Lessee or by reason of the cessation from any cause whatsoever of the liability of Lessee.

4. **Subordination**. All existing and future advances by Guarantor to Lessee, and all existing and future debts of Lessee to Guarantor, shall be subordinated to all obligations owed to Lessor under the Lease and this Guaranty.

5. **Successors and Assigns**. This Guaranty binds Guarantor's personal representatives, successors and assigns.

6. **Lessor's Reliance**. Lessor shall not be required to inquire into the powers of Lessee or the officers, employees, partners or agents acting or purporting to act on its behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Guaranty.

7. **Acknowledgement of Lease**. Guarantor hereby represents and warrants to Lessor that Guarantor has received a copy of the Lease, has read or had the opportunity to read the Lease, and understands the terms of the Lease.

8. **Attorneys' Fees**. In any action or proceeding involving or relating in any way to this Guaranty, the court or other person or entity having jurisdiction in such action or proceeding shall award to the prevailing party its actual attorneys' fees and costs incurred.

9. **Choice of Laws.** This Guaranty shall be governed by, and construed in accordance with. the laws of the State of California.

"Guarantorr"

Linda Marban

/s/ Linda Marban

Executed at 10:11 am on this 1st day of April, 2012

815 N. Roxbury Dr. Beverly Hills, CA 90210
Personal Address

Exhibit 10.42

***** Text Omitted and Filed Separately**
Confidential Treatment Requested
Under 17 C.F.R. §§ 200.80(b)(4)
and 240.24b-2

FIRST AMENDMENT TO LEASE

This First Amendment to Lease (this "Amendment") is dated as of June 13, 2013, and is made by and between The Bubble Real Estate Company, LLC, a California limited liability company ("Lessor") and Capricor, Inc., a Delaware corporation ("Lessee"), with reference to the following facts and circumstances:

A. Lessor and Lessee executed that certain Lease Agreement dated March 29, 2012 (the "Lease"), for the premises located at 8840 Wilshire Boulevard, 3rd Floor, Beverly Hills, California 90211 (the "Original Premises") as described on **Exhibit A** thereto.

B. Lessor and Lessee have agreed to extend the term of the Lease, redefine the Leased Premises, and make additional modifications as provided in this Amendment.

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

1. LEASED PREMISES. Article 1 of the Lease is hereby replaced with the following:

a. Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the office suite consisting of approximately […***…] rentable square feet located at 8840 Wilshire Boulevard, 2nd Floor, Beverly Hills, California 90211 as described below and on the floor plan attached hereto as **Exhibit C.** All references in the Lease and this Amendment to the "Premises" shall refer to the Premises described on said **Exhibit C**. Included in the Lease shall be such furniture and furnishings located within the Premises which are more particularly identified on **Exhibit D**, attached hereto (the "Furnishings"). All references in the Lease and this Amendment to the "Furnishings" shall refer to the Furnishings described on said **Exhibit D**. In addition to the exclusive use of the Premises and the Furnishings, Lessee shall have the non-exclusive right in common with Lessor's other lessees to use all common areas and facilities available on the second floor of the building in which the Premises are located, all common areas servicing the building and the conference room located on the 3rd Floor of the building. Except as otherwise set forth herein or agreed to in writing, Lessee takes the Premises and the Furnishings in an "as is" condition.

i. Office #254
ii. Office #255
iii. Office #256
iv. Office #257
v. Office #258
vi. Office #259
vii. Office #260
viii. Office #261
ix. Office #263

***Confidential Treatment Requested**

x. Office #264
xi. Office #265
xii. Office #266
xiii. Office #267
xiv. Office #269

2. TERM: Article 2 of the Lease is hereby replaced with the following:

a. 2.1 Term: Except as it may be modified by the applicable provisions of this Lease, the term of this Lease shall commence on July 1, 2013 (the "Commencement Date") and shall continue for twenty-four (24) months.

b. 2.2 Option to Extend Lease Term:

(a) Lessee is hereby granted and shall, if not then in default under this Lease, have an option to extend the term of this Lease for an additional twelve (12) months (the "Extended Term") on the same terms, covenants, and conditions contained in this Lease, except that the rent to be paid by Lessee to Lessor shall be as identified in paragraph 3.2.

(b) This option shall be exercised only by Lessee delivering to Lessor no less than ninety (90) days before the expiration of the Term of this Lease written notice of Lessee's election to exercise the option to extend the Term of this Lease as provided in this section. This written notice shall be deemed effective on personal delivery to Lessor.

3. Rent. Article 3.1 and Article 3.2 of the Lease is hereby replaced with the following:

a. 3.1 During Term: Commencing on the Commencement Date, Lessee agrees to pay Lessor as rent for the Premises and the Furnishings (as identified in paragraph 1 of the Lease and on the attached **Exhibit C** and **Exhibit D**, respectively, the sum of $16,620 per month, for months 1-12 of the Term and $17,285 for months 13-24 payable at the beginning of each month ("Monthly Rent"). Lessee's first payment shall include one month's full rent plus $7,640, which amount shall increase Lessee's existing security deposit so as to equal $16,620. Should the Commencement Date occur on a day other than the first day of a calendar month, Lessee shall be liable for the payment of the Monthly Rent and any additional charges due for said partial month on a prorated basis based upon a thirty (30) day month.

b. 3.2 During Extended Term: If Lessee exercises the option to extend the term of this Lease, Lessee agrees to pay Lessor as Monthly Rent for the Premises, the sum of $17,976 commencing at the commencement of the extended Term

4. Parking: Lessee shall be entitled to a single reserved parking space at no additional charge.

5. Improvements: Lessor shall provide the following improvements prior to the Commencement Date:
   - replace all carpet within the Leased Premises and the common areas within the Premises;
   - paint the Premises and all areas in the suite in which the Premises are located, as necessary;
   - construct a half-wall separating offices 269 and 267 from offices 268 and 270;
   - replace the window treatments in office 254 with window treatments reasonably acceptable to tenant;
   - repair the wood on the desks and tops surrounding the desk areas (or install new desktops) as may be agreed to by the parties.

6. Reaffirmation. As modified hereby, the Lease is reaffirmed and ratified by the parties in its entirety.

LESSOR	LESSEE
The Bubble Real Estate Company, LLC, a California limited liability company	Capricor, Inc., a Delaware corporation
By __/s/ Bill Sheinberg_____	By __/s/ Linda Marban_____
Name: __Bill Sheinberg	Name: __Linda Marban
Title:__Member	Title:___CEO

SUBLEASE

This Sublease ("**Sublease**") is made and shall be effective as of the 1st day of May, 2012, by and between CAPRICOR, INC., a Delaware corporation whose principal office is located at 8840 Wilshire Blvd., 3rd Floor, Beverly Hills, California 90211 ("**Sublessor**"), and FRANK LITVACK**,** an individual whose address is 8550 Wilshire Blvd., Ste. 840, Los Angeles, California 90010 ("**Sublessee**").

RECITALS

A. The Bubble Real Estate Company, LLC, a California limited liability company (**"Landlord**"), as Landlord, and Sublessor, as Tenant, executed that certain lease dated March 29, 2012 (the "**Master Lease**") for approximately 2,245 square feet of office space located in the Building at 8840 Wilshire Blvd., 3d Floor, Beverly Hills, California 90211 (the "**Premises**"), a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference**.**

B. By the terms of the Master Lease, the Premises were leased to Sublessor for an initial 12-month term ending on April 12, 2013, subject to earlier termination as provided in the Master Lease.

C. Sublessor desires to sublease to Sublessee a portion of the Premises leased to Sublessor under the terms of the Master Lease, and Sublessee desires to sublet such space from Sublessor on the terms and conditions set forth herein.

NOW, THEREFORE, the parties mutually agree as follows:

1. Demise and Description of the Subleased Premises. Subject to the terms, conditions and covenants set forth in this Sublease, Sublessor hereby subleases, demises and lets to Sublessee, and Sublessee hereby hires and takes from Sublessor, one office and one administrative bay located in the Premises, as more particularly described on **Exhibit B**, attached hereto and incorporated herein (the "**Subleased Premises**"). If the Premises are moved to a different location within the Building, Sublessor and Sublessee shall agree upon which spaces in the new area shall subject to this Sublease and shall indicate such change on an amended **Exhibit B.** In addition to the foregoing, Sublessee shall have the right, in conjunction with other tenants of the Building in which the Premises are located and subject to the terms of the Master Lease, to use on a non-exclusive basis, the common area facilities as specified in the Lease.

2. Term; Termination. This Sublease shall commence on May 1, 2012 (the "**Commencement Date**") and shall continue on a month to month basis until terminated by either party upon thirty (30) days' written notice to the other party. Notwithstanding the foregoing, if the Master Lease is terminated, this Sublease shall terminate simultaneously and Sublessor and Sublessee shall thereafter be released from all obligations under this Sublease, and Sublessor shall refund to Sublessee any unearned rent paid in advance, if any.

3. Rent. Sublessee shall pay to Sublessor as rent for the Subleased Premises a monthly rent of Two Thousand Five Hundred Dollars ($ 2,500.00). Such rent shall include any charges for common area maintenance, operating expenses, parking, utilities and any other miscellaneous services or charges that may be billed to Sublessor. All rental payments for any portion of a calendar month shall be a pro rata portion of the installment payable for a full calendar month. For purposes hereof, the base rent, common area maintenance, operating expenses, utilities parking and other charges shall collectively be referred to as "Rent".

4. Use of Subleased Premises. The Subleased Premises shall be used by Sublessee for office and general business use only. Sublessee shall not be use or occupy the Subleased Premises or permit the same to be used or occupied for any other purpose without the prior written consent of Sublessor, which consent may be given or withheld in Sublessor's sole and absolute discretion. Sublessee shall not do or permit to be done anything which would invalidate or increase the cost of any fire and extended coverage insurance policy covering the Subleased Premises. Sublessee shall promptly upon demand reimburse Sublessor for any additional premium charges for any such insurance policy assessed or increased by reason of Sublessee's failure to comply with the provisions of this Paragraph 4. Sublessee agrees that it will use the Subleased Premises in such a manner so as not to interfere with or infringe upon the rights of Sublessor. Sublessee shall, upon five (5) days' written notice from Sublessor, discontinue any use of the Subleased Premises which is in violation of any provision of the Master Lease.

5. Parking. During the term of this Sublease, Sublessee shall have the use of one reserved parking space in the parking area designated in the Master Lease.

6. **Applicability of the Master Lease**. This Sublease is subject and subordinate to the terms and conditions of this Master Lease, except as such terms and conditions are modified by the terms and conditions contained in this Sublease. Unless otherwise set forth in this Sublease, Sublessee expressly agrees to comply with all the obligations required to be kept or performed by the Sublessor as Tenant under the provisions of the Master Lease, to the extent that they are applicable to the Subleased Premises; provided, however, that the obligation and covenant to pay Rent and other charges to the Landlord under the Master Lease shall be considered performed by Sublessee to the extent and in the amount the Rent and such other charges are paid to Sublessor in accordance with Paragraph 3 of this Sublease.

7. Obligations of Sublessor. Sublessor agrees to maintain the Master Lease during the term of this Sublease, subject, however, to any earlier termination of the Master Lease without the fault of Sublessor and to comply with all obligations of Sublessor under the Master Lease which have not been assumed by Sublessee hereunder. Sublessor does not assume the obligations required to be kept or performed by Landlord under the Master Lease.

8. Improvements to the Subleased Premises. Sublessee hereby agrees to accept the Subleased Premises in its "AS-IS" condition. Sublessee hereby acknowledges that Sublessor shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Subleased Premises. Sublessee also acknowledges that Sublessor has made no representation or warranty regarding the condition of the Subleased Premises. Sublessee hereby agrees that the Subleased Premises shall be taken "AS-IS", "with all faults" of every kind and nature, which may now or hereafter exist, whether latent or patent, without any representations or warranties, and Sublessee hereby agrees and warrants that it has investigated and inspected the condition of the Subleased Premises and the suitability of same for Sublessee's purposes.

9. **Holding Over**. If Sublessee fails to surrender the Subleased Premises upon the expiration or termination of this Sublease, Sublessee agrees to indemnify, defend and hold Sublessor harmless from all costs, loss, expense or liability, including without limitation, claims made by Landlord and any succeeding Sublessee.

10. Personal Property Taxes. Sublessee shall pay, prior to delinquency, all taxes assessed against or levied upon Sublessee's trade fixtures, furnishings, equipment and all other personal property owned by Sublessee which is located in the Subleased Premises. In the event any or all of Sublessee's trade fixtures, furnishings, equipment and other personal property shall be assessed and taxed with property of Sublessor, Sublessee shall pay to Sublessor the full amount of such taxes within ten (10) days after delivery to Sublessee by Sublessor of a statement in writing setting forth the amount of such taxes applicable to Sublessee's property. Sublessee shall pay directly to the party or entity entitled thereto all business license fees, gross receipts taxes and similar taxes and impositions which may from time to time be assessed against or levied upon Sublessee, as and when the same become due and before delinquency.

11. Indemnity. Sublessee shall indemnify, defend and hold Sublessor harmless from any and all claims arising from Sublessee's use of the Subleased Premises or from the conduct of its business or from any activity, work or thing which may be permitted or suffered by Sublessee in or about the Subleased Premises and shall further indemnify, defend and hold Sublessor harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Sublessee's part to be performed under this Sublease or arising from any negligence or willful misconduct of Sublessee or any of its agents, contractors, employees or invitees, patrons, customers or members in or about the Subleased Premises and from any and all costs, attorneys' fees and costs, expenses and liabilities incurred in the defense of any claim or any action or proceeding brought thereon, including negotiations in connection therewith. Sublessee hereby assumes all risk of damage to property or injury to persons in or about the Subleased Premises from any cause, and Sublessee hereby waives all claims in respect thereof against Sublessor, excepting where the damage is caused solely by the gross negligence or willful misconduct of Sublessor.

12. Insurance. All insurance required to be carried by Sublessor as Tenant under the Master Lease shall include the Subleased Premises and Sublessee shall not be required to procure any additional insurance therefor. Sublessee shall determine in his sole discretion if he will carry any additional insurance covering Sublessee's personal property and Sublessee's business operations.

13. Assignment and Subletting. Sublessee shall have no power to, either voluntarily, involuntarily, by operation of law or otherwise, sell, assign, transfer or hypothecate this Sublease, or sublet the Subleased Premises or any part thereof, or permit the Subleased Premises or any part thereof to be used or occupied by anyone other than Sublessee or Sublessee's employees without the prior written consent of Sublessor.

14. Surrender of Possession. Upon the expiration of the term of this Sublease, or upon any earlier termination of this Sublease, Sublessee shall quit and surrender possession of the Subleased Premises to Sublessor in as good order and condition as the same are now and hereafter may be improved by Sublessor or Sublessee, reasonable wear and tear excepted, and shall, without expense to Sublessor, remove or cause to be removed from the Subleased Premises all debris and rubbish, all personal furniture, equipment, business and trade fixtures, free-standing cabinet work, and other articles of personal property owned by Sublessee or installed or placed by Sublessee at his own expense in the Subleased Premises, and all similar articles of any other persons claiming under Sublessee. Sublessee shall repair all damage to the Subleased Premises resulting from the installation and removal of any such items.

15. Miscellaneous Provisions.

15.1 Waiver. No waiver by Sublessor or Sublessee of any provision of this Sublease shall be deemed to be a waiver of any other provision hereof by such party or of any subsequent breach by the other party of the same or any other provision. No provision of this Sublease may be waived by either party, except by an instrument in writing executed by such party.

15.2 Severability; Entire Agreement. Any provision of this Sublease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect. This Sublease and the Exhibits attached hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Sublease may be amended or supplemented except by an agreement in writing signed by the parties hereto.

15.3 Attorneys' Fees. In any action to enforce the terms of this Sublease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in such suit in addition to such other relief as may be granted.

15.4 Headings. Paragraph headings and captions contained in this Sublease are for convenience only and do not in any way limit or amplify any term or provision hereof.

15.5 Successors and Assigns. Subject to the provisions of Article 13 hereof, all of the covenants, conditions and provisions of this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

15.6 Notices. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal service evidenced by a signed receipt, electronic transmission evidenced by a printed confirmation of receipt, by registered or certified mail, return receipt requested, or via overnight courier, and shall be effective upon proof of delivery, or if sent by mail, two (2) days after deposit in the United States mail, addressed to Sublessor at the Premises with a copy to be sent to the address of Sublessor noted above or to Sublessee at the address noted above. Either party may by notice to the other specify a different address for notice purposes except that, upon Sublessee's taking possession of the Subleased Premises, the Subleased Premises shall constitute Sublessee's address for notice purposes.

15.7 Governing Law. This Sublease shall be governed by and construed in accordance with the laws of the State of California. No conflicts of law rules of any state (including, without limitation, California) shall be applied to result in the application of any substantive or procedural laws of any state other than California. All controversies, claims, actions or causes of action arising between the parties hereto and/or their respective successors and assigns, shall be brought, heard and adjudicated by the courts of the State of California, with venue in the County of Los Angeles.

IN WITNESS WHEREOF, the parties have executed this Sublease to be effective as of the date first above written.

Sublessor:	**Sublessee:**
CAPRICOR, INC.	
By: /s/ Linda Marban Linda Marban, Chief Executive Officer	/s/ Frank Litvack Frank Litvack

EXHIBIT A

THE MASTER LEASE

EXHIBIT B

THE SUBLEASED PREMISES

SUBLEASE

This Sublease ("**Sublease**") is made and shall be effective as of the 1st day of April, 2013, by and between CAPRICOR, INC., a Delaware corporation whose principal office is located at 8840 Wilshire Blvd., 3rd Floor, Beverly Hills, California 90211 ("**Sublessor**"), and REPRISE TECHNOLOGIES, LLC**,** a limited liability company organized under the laws of the State of California whose address is 8550 Wilshire Blvd., Ste. 840, Los Angeles, California 90010 ("**Sublessee**").

RECITALS

A. The Bubble Real Estate Company, LLC, a California limited liability company (**"Landlord**"), as Landlord, and Sublessor, as Tenant, executed that certain lease dated March 29, 2012 (the "**Master Lease**") for approximately 2,245 square feet of office space located in the Building at 8840 Wilshire Blvd., 3d Floor, Beverly Hills, California 90211 (the "**Premises**"), a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference**.**

B. By the terms of the Master Lease, the Premises were leased to Sublessor for an initial 12-month term ending on April 12, 2013, subject to earlier termination as provided in the Master Lease and thereafter, shall be leased to Sublessor on a month to month basis unless otherwise renewed.

C. Sublessor previously entered into a month to month sublease for the Subleased Premises with Frank Litvack ("**Litvack**"), managing member of Sublessee (the "**Litvack Sublease**"). Sublessor and Litvack have now agreed to terminate the Litvack Sublease effective March 31, 2013 and enter into a new sublease with Subleasee on the terms and conditions set forth herein.

NOW, THEREFORE, the parties mutually agree as follows:

1. Demise and Description of the Subleased Premises. Subject to the terms, conditions and covenants set forth in this Sublease, Sublessor hereby subleases, demises and lets to Sublessee, and Sublessee hereby hires and takes from Sublessor, one office and one administrative bay located in the Premises, as more particularly described on **Exhibit B**, attached hereto and incorporated herein (the '**Subleased Premises**"). If the Premises are moved to a different location within the Building, Sublessor and Sublessee shall agree upon which spaces in the new area shall subject to this Sublease and shall indicate such change on an amended **Exhibit B.** In addition to the foregoing, Sublessee shall have the right, in conjunction with other tenants of the Building in which the Premises are located and subject to the terms of the Master Lease, to use on a non-exclusive basis, the common area facilities as specified in the Lease.

2. Term; Termination. This Sublease shall commence on April 1, 2013 (the "**Commencement Date**") and shall continue on a month to month basis until terminated by either party upon thirty (30) days' written notice to the other party. Notwithstanding the foregoing, if the Master Lease is terminated, this Sublease shall terminate simultaneously and Sublessor and Sublessee shall thereafter be released from all obligations under this Sublease, and Sublessor shall refund to Sublessee any unearned rent paid in advance, if any.

3. Rent. Sublessee shall pay to Sublessor as rent for the Subleased Premises a monthly rent of Two Thousand Five Hundred Dollars ($ 2,500.00). Such rent shall include any charges for common area maintenance, operating expenses, parking, utilities and any other miscellaneous services or charges that may be billed to Sublessor. All rental payments for any portion of a calendar month shall be a pro rata portion of the installment payable for a full calendar month. For purposes hereof, the base rent, common area maintenance, operating expenses, utilities parking and other charges shall collectively be referred to as "Rent".

4. Use of Subleased Premises. The Subleased Premises shall be used by Sublessee for office and general business use only. Sublessee shall not be use or occupy the Subleased Premises or permit the same to be used or occupied for any other purpose without the prior written consent of Sublessor, which consent may be given or withheld in Sublessor's sole and absolute discretion. Sublessee shall not do or permit to be done anything which would invalidate or increase the cost of any fire and extended coverage insurance policy covering the Subleased Premises. Sublessee shall promptly upon demand reimburse Sublessor for any additional premium charges for any such insurance policy assessed or increased by reason of Sublessee's failure to comply with the provisions of this Paragraph 4. Sublessee agrees that it will use the Subleased Premises in such a manner so as not to interfere with or infringe upon the rights of Sublessor. Sublessee shall, upon five (5) days' written notice from Sublessor, discontinue any use of the Subleased Premises which is in violation of any provision of the Master Lease.

5. Parking. During the term of this Sublease, Sublessee shall have the use of one reserved parking space in the parking area designated in the Master Lease.

6. **Applicability of the Master Lease**. This Sublease is subject and subordinate to the terms and conditions of this Master Lease, except as such terms and conditions are modified by the terms and conditions contained in this Sublease. Unless otherwise set forth in this Sublease, Sublessee expressly agrees to comply with all the obligations required to be kept or performed by the Sublessor as Tenant under the provisions of the Master Lease, to the extent that they are applicable to the Subleased Premises; provided, however, that the obligation and covenant to pay Rent and other charges to the Landlord under the Master Lease shall be considered performed by Sublessee to the extent and in the amount the Rent and such other charges are paid to Sublessor in accordance with Paragraph 3 of this Sublease.

7. Obligations of Sublessor. Sublessor agrees to maintain the Master Lease during the term of this Sublease, subject, however, to any earlier termination of the Master Lease without the fault of Sublessor and to comply with all obligations of Sublessor under the Master Lease which have not been assumed by Sublessee hereunder. Sublessor does not assume the obligations required to be kept or performed by Landlord under the Master Lease.

8. Improvements to the Subleased Premises. Sublessee hereby agrees to accept the Subleased Premises in its "AS-IS" condition. Sublessee hereby acknowledges that Sublessor shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Subleased Premises. Sublessee also acknowledges that Sublessor has made no representation or warranty regarding the condition of the Subleased Premises. Sublessee hereby agrees that the Subleased Premises shall be taken "AS-IS", "with all faults" of every kind and nature, which may now or hereafter exist, whether latent or patent, without any representations or warranties, and Sublessee hereby agrees and warrants that it has investigated and inspected the condition of the Subleased Premises and the suitability of same for Sublessee's purposes.

9. **Holding Over**. If Sublessee fails to surrender the Subleased Premises upon the expiration or termination of this Sublease, Sublessee agrees to indemnify, defend and hold Sublessor harmless from all costs, loss, expense or liability, including without limitation, claims made by Landlord and any succeeding Sublessee.

10. Personal Property Taxes. Sublessee shall pay, prior to delinquency, all taxes assessed against or levied upon Sublessee's trade fixtures, furnishings, equipment and all other personal property owned by Sublessee which is located in the Subleased Premises. In the event any or all of Sublessee's trade fixtures, furnishings, equipment and other personal property shall be assessed and taxed with property of Sublessor, Sublessee shall pay to Sublessor the full amount of such taxes within ten (10) days after delivery to Sublessee by Sublessor of a statement in writing setting forth the amount of such taxes applicable to Sublessee's property. Sublessee shall pay directly to the party or entity entitled thereto all business license fees, gross receipts taxes and similar taxes and impositions which may from time to time be assessed against or levied upon Sublessee, as and when the same become due and before delinquency.

11. Indemnity. Sublessee shall indemnify, defend and hold Sublessor harmless from any and all claims arising from Sublessee's use of the Subleased Premises or from the conduct of its business or from any activity, work or thing which may be permitted or suffered by Sublessee in or about the Subleased Premises and shall further indemnify, defend and hold Sublessor harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Sublessee's part to be performed under this Sublease or arising from any negligence or willful misconduct of Sublessee or any of its agents, contractors, employees or invitees, patrons, customers or members in or about the Subleased Premises and from any and all costs, attorneys' fees and costs, expenses and liabilities incurred in the defense of any claim or any action or proceeding brought thereon, including negotiations in connection therewith. Sublessee hereby assumes all risk of damage to property or injury to persons in or about the Subleased Premises from any cause, and Sublessee hereby waives all claims in respect thereof against Sublessor, excepting where the damage is caused solely by the gross negligence or willful misconduct of Sublessor.

12. Insurance. All insurance required to be carried by Sublessor as Tenant under the Master Lease shall include the Subleased Premises and Sublessee shall not be required to procure any additional insurance therefor. Sublessee shall determine in his sole discretion if he will carry any additional insurance covering Sublessee's personal property and Sublessee's business operations.

13. Assignment and Subletting. Sublessee shall have no power to, either voluntarily, involuntarily, by operation of law or otherwise, sell, assign, transfer or hypothecate this Sublease, or sublet the Subleased Premises or any part thereof, or permit the Subleased Premises or any part thereof to be used or occupied by anyone other than Sublessee or Sublessee's employees without the prior written consent of Sublessor.

14. Surrender of Possession. Upon the expiration of the term of this Sublease, or upon any earlier termination of this Sublease, Sublessee shall quit and surrender possession of the Subleased Premises to Sublessor in as good order and condition as the same are now and hereafter may be improved by Sublessor or Sublessee, reasonable wear and tear excepted, and shall, without expense to Sublessor, remove or cause to be removed from the Subleased Premises all debris and rubbish, all personal furniture, equipment, business and trade fixtures, free-standing cabinet work, and other articles of personal property owned by Sublessee or installed or placed by Sublessee at his own expense in the Subleased Premises, and all similar articles of any other persons claiming under Sublessee. Sublessee shall repair all damage to the Subleased Premises resulting from the installation and removal of any such items.

15. Miscellaneous Provisions.

15.1 Waiver. No waiver by Sublessor or Sublessee of any provision of this Sublease shall be deemed to be a waiver of any other provision hereof by such party or of any subsequent breach by the other party of the same or any other provision. No provision of this Sublease may be waived by either party, except by an instrument in writing executed by such party.

15.2 Severability; Entire Agreement. Any provision of this Sublease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect. This Sublease and the Exhibits attached hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Sublease may be amended or supplemented except by an agreement in writing signed by the parties hereto.

15.3 Attorneys' Fees. In any action to enforce the terms of this Sublease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in such suit in addition to such other relief as may be granted.

15.4 Headings. Paragraph headings and captions contained in this Sublease are for convenience only and do not in any way limit or amplify any term or provision hereof.

15.5 Successors and Assigns. Subject to the provisions of Article 13 hereof, all of the covenants, conditions and provisions of this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

15.6 Notices. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal service evidenced by a signed receipt, electronic transmission evidenced by a printed confirmation of receipt, by registered or certified mail, return receipt requested, or via overnight courier, and shall be effective upon proof of delivery, or if sent by mail, two (2) days after deposit in the United States mail, addressed to Sublessor at the Premises with a copy to be sent to the address of Sublessor noted above or to Sublessee at the address noted above. Either party may by notice to the other specify a different address for notice purposes except that, upon Sublessee's taking possession of the Subleased Premises, the Subleased Premises shall constitute Sublessee's address for notice purposes.

15.7 Governing Law. This Sublease shall be governed by and construed in accordance with the laws of the State of California. No conflicts of law rules of any state (including, without limitation, California) shall be applied to result in the application of any substantive or procedural laws of any state other than California. All controversies, claims, actions or causes of action arising between the parties hereto and/or their respective successors and assigns, shall be brought, heard and adjudicated by the courts of the State of California, with venue in the County of Los Angeles.

IN WITNESS WHEREOF, the parties have executed this Sublease to be effective as of the date first above written.

Sublessor:	**Sublessee:**
CAPRICOR, INC.	REPRISE TECHNOLOGIES, LLC
By: /s/ Linda Marban Linda Marban, Chief Executive Officer	By: /s/ Frank Litvack Frank Litvack Managing Member

EXHIBIT A

THE MASTER LEASE

EXHIBIT B

THE SUBLEASED PREMISES

Exhibit 21.1

SUBSIDIARIES OF THE REGISTRANT

Legal Name	**Jurisdiction of Organization**
Capricor, Inc.	Delaware

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Capricor Therapeutics, Inc.
Los Angeles, California

We consent to the incorporation by reference in the Registration Statements of Capricor Therapeutics, Inc. on Form S-8 (File Nos. 333-152283, 333-175727 and 333-194317) of our report dated March 31, 2014, relating to the consolidated financial statements, appearing in this Annual Report on Form 10-K.

/s/ Rose, Snyder & Jacobs LLP
Rose, Snyder & Jacobs LLP
Encino, California

March 31, 2014

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Linda Marbán, Ph.D., certify that:

1. I have reviewed this Annual Report on Form 10-K of Capricor Therapeutics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2014

/s/ Linda Marbán, Ph.D.
Linda Marbán, Ph.D.
Title: Chief Executive Officer and Principal Executive Officer

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Anthony Bergmann, certify that:

1. I have reviewed this Annual Report on Form 10-K of Capricor Therapeutics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2014

/s/ Anthony Bergmann
Name: Anthony Bergmann
Title: Principal Financial Officer and Vice President of Finance

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Linda Marbán, Ph.D., the Principal Executive Officer of Capricor Therapeutics, Inc. (the "**Company**"), hereby certifies, to her knowledge, that:

(1) the Annual Report on Form 10-K of the Company for the year ended December 31, 2013 (the **Report**") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the period covered by the Report.

Date: March 31, 2014

/s/ Linda Marbán, Ph.D.
Linda Marbán, Ph.D.
Title: Chief Executive Officer

Exhibit 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Anthony Bergmann, the Principal Financial Officer of Capricor Therapeutics, Inc. (the "**Company**"), hereby certifies, to his knowledge, that:

(1) the Annual Report on Form 10-K of the Company for the year ended December 31, 2013 (the **Report**") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the period covered by the Report.

Date: March 31, 2014

/s/ Anthony Bergmann
Name: Anthony Bergmann
Title: Principal Financial Officer and Vice President of Finance