DRAFT W/
CORRECTIONS
#4.

[redacted]

AGREEMENT

BETWEEN

[redacted] CORPORATION AND THE NATIONAL CANCER INSTITUTE

WHEREAS [redacted] Corporation, [redacted] (herein designated as [redacted]) has developed on behalf of the [redacted] certain technology directed to human breast cancer monoclonal antibodies, immunotoxins and processes of using such monoclonal antibodies and immunotoxin (which technology as it presently exists at a cost in excess of two million dollars), and as it shall be developed or acquired by [redacted] independently of this Agreement, shall hereinafter be designated as [redacted] Technology"; and

WHEREAS [redacted] has forwarded, to Dr. [redacted] or persons designated by him, such monoclonal antibodies and immunotoxins listed in Exhibit C of the Agreement, and [redacted] regards such monoclonal antibodies and immunotoxins as [redacted] Technology that is subject to the terms of this Agreement.

WHEREAS [redacted] intends to forward to Dr. [redacted] at NCI several monoclonal antibodies of murine origin with high tissue specificity, limiting affinity and antigen density properties and immunotoxin conjugates thereof (hereinafter collectively designated as [redacted] Materials," such term to include all copies, derivatives, parts and progeny thereof);

WHEREAS Dr. [redacted] and his associates (hereinafter designated as [redacted]) are employees of the National Cancer Institute, a component of the United States Department of Health and Human Services (DHHS), through its Division [redacted] at Bethesda, Maryland 20205 (hereinafter designated as "NCI") engaged in cancer research; and

WHEREAS Dr. [redacted] has expertise in the field of in vitro activity of immunoconjugates, and efficacy of immunoconjugates and antibodies in murine in vivo models and has developed certain immunotoxins (herein designated as "NCI ~~Materials~~ Technology") and has filed U.S. Application Serial No. [redacted] ([redacted]) covering such developments and [redacted] intends to apply for an exclusive license under this application (this application is not a part of this Agreement);

WHEREAS the parties desire to engage in a joint development program for the application of the [redacted] Technology, [redacted] Materials and NCI ~~Materials~~ Technology to various experimental Projects in the area of cancer research;

NOW, THEREFORE, IT IS AGREED BETWEEN CETUS AND NCI AS FOLLOWS:

1. This Agreement, including without limitation each party's rights and responsibilities, is limited to activities specifically defined and identified under a Project Plan approved and adopted under Section 2 of this Agreement.

[redacted]

2. [redacted] and NCI will engage in joint experimentation in the area of cancer research using the [redacted] Technology. Such experiments shall be organized into discrete Projects each of which is directed toward experimentation with and development of a "NEW PRODUCT OR PROCESS." Each Project shall be conducted under the joint direction of an appropriate representative of each of [redacted] and NCI. The scope of each Project and particular allocation of responsibilities between the parties with respect to each Project will be more particularly specified in a written Project Plan to be agreed upon by the parties. The NCI may at its option draft the initial proposal for each such plan after consultation with [redacted] and the final form thereof shall be subject to the approval of both parties. The first Project Plan is attached hereto as Exhibit B, and the signing of the Agreement signifies the parties' approval of that plan. Any changes in the plan shall be by mutual agreement and shall be signed by the appropriate representatives of [redacted] and NCI as an amendment to Exhibit B. Subsequent Project Plans shall

be deemed to have been adopted by the parties upon the written approval thereof by the Vice President, Research and Development, of [redacted] and the Director of the Division [redacted] on behalf of the NCI. The attached initial plan and all plans which are subsequently adopted may be modified upon the written approval of the Vice President, Research and Development, [redacted] and the Associate Director, [redacted], on behalf of NCI.

3. Each Party grants to the other party a nonexclusive, nonassignable, royalty-free license, without the right to sublicense, to practice its ~~their~~ respective Technology (the [redacted] Technology and the NCI Technology) only during the term of this Agreement, solely for the purpose of experimenting with, developing, and using in preclinical and clinical trials a NEW PRODUCT OR PROCESS in accordance with Project Plans approved and adopted under Section 2 of this Agreement. The [redacted] Technology shall at all times remain under control of [redacted] and the NCI Technology shall at all times remain under control of NCI. Each Party warrants that it will use the Technology of the other Party only as authorized by the other Party in this Agreement under a Project Plan or as may be subsequently authorized by the other Party in writing and agrees that use for any such unauthorized purpose shall, without limiting each Party's other rights and remedies therefor, have the effect of terminating this Agreement and all of each Party's rights hereunder.

Nothing is this Agreement shall be deemed to grant to either Party or to any licensee of either Party any rights or interest in any of the other Party's Technology, as defined supra, except as specifically set forth in this Section 3.

[redacted]

4. To the extent permitted by the Freedom of Information Act, 5 U.S.C. 552, NCI agrees to use the [redacted] Technology only in accordance with this Agreement and otherwise to treat the [redacted] Technology, improvements to it arising from this Agreement and all other information having commercial value which pertains to the nature, manufacture, use and market potential of a NEW PRODUCT OR PROCESS, to which [redacted] has, under this Agreement, a first option to title or an exclusive license, as confidential trade secret information of [redacted] for the term of this Agreement plus an additional three (3) years beyond the term of this Agreement or until it becomes public information by virtue of the issuance of a patent, or by lawful disclosure [redacted]