Table of Contents

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

FORM 10-K/A
(Amendment No. 1)

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2007.

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to .

Commission file number: 000-21088

VICAL INCORPORATED
(Exact name of registrant as specified in its charter)

Delaware	**93-0948554**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
10390 Pacific Center Court, San Diego, California	**92121-4340**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (858) 646-1100

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

Title of each class	Name of each exchange on which registered
Common Stock, $0.01 par value	The Nasdaq Stock Market

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

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of 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.

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

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

The aggregate market value of the voting stock held by non-affiliates of the registrant, based upon the last sale price of the registrant's common stock reported on the Nasdaq Stock Market on June 30, 2007, was approximately $177,273,000.

The number of shares of common stock outstanding as of February 26, 2008, was 39,220,158.

Documents Incorporated by Reference:

Document	Part of Form 10-K
Proxy Statement for the Annual Meeting of Stockholders held May 22, 2008	Items 10, 12, 13 and 14 of Part III

EXPLANATORY NOTE

Vical Incorporated ("Vical," the "Company," "we," or "our") is filing this Amendment No. 1 on Form 10-K/A (this "Amendment") to amend our Annual Report on Form 10-K for the fiscal year ended December 31, 2007, filed with the Securities and Exchange Commission on March 3, 2008 (the "Original Filing"). This Amendment is being filed solely for the purpose of replacing Item 7 of Part II and Item 11 of Part III, revising the reference on the cover of the Original Filing to exclude Item 11 of Part III from the incorporation by reference of our proxy statement for our 2008 annual meeting of stockholders into Part III of the Original Filing, and amending Item 15(a)(3) of Part IV of the Original Filing to reflect the filing of Exhibits 10.55, 10.56 and 10.57 herewith. This Amendment and Exhibits 10.55, 10.56 and 10.57 hereto are filed in response to a comment letter we received from the staff of the Securities and Exchange Commission in connection with the staff's review of the Original Filing. In addition, as required by Rule 12b-15 of the Securities Exchange Act of 1934, as amended, new certifications by our principal executive officer and principal financial officer are filed as exhibits to this Amendment.

Except as described above, no other changes have been made to the Original Filing, and this Amendment does not amend, update or change the financial statements or disclosures in the Original Filing. This Amendment does not involve a restatement of our financial statements included in the Original Filing. This Amendment does not reflect events occurring after the filing of the Original Filing and unless otherwise stated herein, the information contained in the Amendment is current only as of the time of the Original Filing. Accordingly, the Amendment should be read in conjunction with our filings made with the Securities and Exchange Commission subsequent to the filing of the Original Filing, including any amendments to those filings.

Table of Contents

VICAL INCORPORATED

FORM 10-K/A (Amendment No. 1)

INDEX

PART II

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

Overview

We research and develop biopharmaceutical products based on our patented DNA delivery technologies for the prevention and treatment of serious or life-threatening diseases. We believe the following areas of research offer the greatest potential for our product development efforts:

- Vaccines for use in high-risk populations for infectious disease targets for which there are significant U.S. needs;
- Vaccines for general pediatric, adolescent and adult populations for infectious disease applications; and
- Cancer vaccines or immunotherapies which complement our existing programs and core expertise.

We currently have three active independent development programs in the areas of infectious disease and cancer including:

- A Phase 3 clinical trial using our Allovectin-7® immunotherapeutic in patients with metastatic melanoma which is being funded by AnGes, through cash payments and equity investments, under a research and development agreement;
- A Phase 2 clinical trial using CMV DNA vaccine in hematopoietic cell transplant patients; and
- A Phase 1 clinical trial using our pandemic influenza DNA vaccine formulated with our proprietary Vaxfectin® adjuvant.

We have leveraged our patented technologies through licensing and collaboration arrangements, such as our licensing arrangements with Merck, sanofi-aventis, Aqua Health, Merial, and AnGes, among other research-driven biopharmaceutical companies. These partnerships have resulted in the following two approvals in veterinary applications:

- In 2005, the first product for one of our licensees utilizing our patented DNA delivery technology received approval for use in animals. Our licensee, Aqua Health received approval from the Canadian Food Inspection Agency to sell a DNA vaccine to protect farm-raised salmon against an infectious disease.
- In 2007, our licensee, Merial received notification of conditional approval from the U.S. Department of Agriculture to market a therapeutic DNA vaccine designed to treat melanoma, a serious form of cancer, in dogs. Merial's vaccine is the first ever approved vaccine for therapeutic use.

We believe these approvals are important steps in the validation of our DNA delivery technology. Furthermore, our partner, AnGes, is in the process of preparing an application for Japanese approval of its DNA-based delivery product encoding the hepatocyte growth factor for indications related to peripheral arterial disease. If approved, this would represent the first time our DNA delivery technology is approved for use in humans.

In addition, we have licensed complementary technologies from leading research institutions and pharmaceutical companies, as well as the NIH and the CDC. We also have granted non-exclusive, academic licenses to our DNA delivery technology patent estate to ten leading research institutions including Stanford, Harvard, Yale and the Massachusetts Institute of Technology. The non-exclusive academic licenses allow university researchers to use our technology free of charge for educational and internal, non-commercial research purposes. In exchange, we have the option to exclusively license from the universities potential commercial applications stemming from their use of the technology on terms to be negotiated.

Research, Development and Manufacturing Programs

To date, we have not received revenues from the sale of our independently developed pharmaceutical products and have received minimal amounts of revenue from the sale of commercially marketed products by our licensees. We earn revenue by performing services under research and development contracts, grants, manufacturing contracts, and from licensing access to our proprietary technologies. Since our inception, we estimate that we have received approximately $138.8 million in revenue under these types of agreements. Revenues by source for each of the three years ended December 31, 2007, were as follows (in millions):

Source	2007	2006	2005
NIH contracts	$ 1.9	$10.2	$ 1.1
CMV grants	1.0	1.0	1.3
Influenza grants	0.9	2.1	0.3
Manufacturing process development grant	0.5	—	—
Anthrax grants	—	0.5	1.3
U.S. Navy contract	—	—	0.9
Other contracts and grants	0.3	0.4	1.1
Total contract and grant revenues	4.6	14.2	6.0
Merck license	—	—	4.0
AnGes license	—	—	1.0
Invitrogen royalties	0.6	0.5	1.0
Other royalties and licenses	0.3	—	—
Total royalty and license revenues	0.9	0.5	6.0
Total revenues	$ 5.5	$14.7	$12.0

Research, development, manufacturing and production costs by major program, as well as other expenses for each of the three years ended December 31, 2007, were as follows (in millions):

Program	2007	2006	2005
Allovectin-7®	$10.2	$ 5.7	$ 5.2
Pandemic influenza	8.1	4.5	1.7
CMV	6.1	7.4	8.1
Other research, development, manufacturing and production	12.3	14.5	15.0
Total research, development, manufacturing and production	$36.7	$32.1	$30.0

Since our inception, we estimate that we have spent approximately $313 million on research, development, manufacturing and production. Our current independent development focus is on novel DNA vaccines for our cancer immunotherapeutic Allovectin-7®, influenza and CMV, as well as other preclinical targets.

We have initiated a Phase 3 clinical trial using Allovectin-7® in patients with recurrent metastatic melanoma which is being funded, up to certain limits, by AnGes through cash payments and equity investments under a research and development agreement. We are also in the early stages of clinical development of vaccine candidates for CMV and influenza and these programs will require significant additional costs to advance through development to commercialization. From inception, we have spent approximately $77 million on our Allovectin-7® program, $39 million on our CMV program, and $17 million on our Influenza program.

We have other product candidates in the research stage. It can take many years from the initial decision to screen product candidates, perform preclinical and safety studies, and perform clinical trials leading up to possible approval of a product by the FDA or comparable foreign agencies. The outcome of the research is unknown until each stage of the testing is completed, up through and including the registration clinical trials. Accordingly, we are unable to predict which potential product candidates we may proceed with, the time and cost to complete development, and ultimately whether we will have a product approved by the FDA or comparable foreign agencies.

As a result, we expect to incur substantial operating losses for at least the next several years, due primarily to the advancement of our research and development programs, the cost of preclinical studies and clinical trials, spending for outside services, costs related to maintaining our intellectual property portfolio, costs due to contract manufacturing activities, costs of our facilities, and possible advancement toward commercialization activities.

Critical Accounting Policies and Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States requires that management make a number of assumptions and estimates that affect the reported amounts of assets, liabilities, revenues and expenses in our consolidated financial statements and accompanying notes. Management bases its estimates on historical information and assumptions believed to be reasonable. Although these estimates are based on management's best knowledge of current events and circumstances that may impact us in the future, actual results may differ from these estimates.

Our critical accounting policies are those that affect our financial statements materially and involve a significant level of judgment by management. Our critical accounting policies regarding revenue recognition are in the following areas: license and royalty agreements, manufacturing contracts, and grant revenues. Our critical accounting policies also include recognition of research and development expenses and the valuation of long-lived and intangible assets.

Revenue Recognition

We recognize revenue in accordance with SEC Staff Accounting Bulletin Topic 13, "Revenue Recognition" and Emerging Issues Task Force No. 00-21, or EITF 00-21, "Accounting for Revenue Arrangements with Multiple Deliverables." Revenue is recognized when the four basic criteria of revenue recognition are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured.

Contract Manufacturing Revenue. Our contract manufacturing arrangements typically require the delivery of multiple lots of clinical vaccines. In accordance with EITF 00-21, we analyze our multiple element arrangements to determine whether the elements can be separated and accounted for individually as separate units of accounting. The evaluation is performed at the inception of the arrangement. The delivered item(s) is considered a separate unit of accounting if all of the following criteria are met: (1) the delivered item(s) has value to the customer on a standalone basis; (2) there is objective and reliable evidence of the fair value of the undelivered item(s); and (3) if the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item(s) is considered probable and substantially in our control. If the delivered item does not have standalone value or if we do not have objective or reliable evidence of the fair value of the undelivered component, the amount of revenue allocable to the delivered item is deferred.

License and Royalty Revenue. Our license and royalty revenues are generated through agreements with strategic partners. Nonrefundable, up-front license fees and milestone payments with standalone value that are not dependent on any future performance by us under the arrangements are recognized as revenue upon the earlier of when payments are received or collection is assured, but are deferred if we have continuing performance obligations. If we have continuing involvement through contractual obligations under such agreement, such up-front fees are deferred and recognized over the period for which we continue to have a performance obligation, unless all of the following criteria exist: (1) the delivered item(s) have standalone value to the customer, (2) there is objective and reliable evidence of the fair value of the undelivered item(s), and (3) delivery or performance is probable and within our control for any items that have a right of return.

We recognize royalty revenues from licensed products when earned in accordance with the terms of the license agreements. Net sales figures used for calculating royalties include deductions for costs of returns, cash

discounts, and freight and warehousing, which may vary over the course of the license agreement. Payments received related to milestones are recognized as revenue upon the achievement of the milestones as specified in the underlying agreements, which represent the culmination of the earnings process.

Government Research Grant Revenue. We recognize revenues from federal government research grants during the period in which the related expenditures are incurred.

Research and Development Expenses

Research and development expenses consist of expenses incurred in performing research and development activities including salaries and benefits, facilities and other overhead expenses, clinical trials, contract services and other outside expenses. Research and development expenses are charged to operations as they are incurred.

We assess our obligations to make milestone payments that may become due under licensed or acquired technology to determine whether the payments should be expensed or capitalized. We charge milestone payments to research and development expense when:

- The technology is in the early stage of development and has no alternative uses;
- There is substantial uncertainty of the technology or product being successful;
- There will be difficulty in completing the remaining development; and
- There is substantial cost to complete the work.

Capitalization and Valuation of Long-Lived and Intangible Assets

Intangible assets with finite useful lives consist of capitalized legal costs incurred in connection with patents, patent applications pending and technology license agreements. Payments to acquire a license to use a proprietary technology are capitalized if the technology is expected to have alternative future use in multiple research and development projects. We amortize costs of approved patents, patent applications pending and license agreements over their estimated useful lives, or terms of the agreements, whichever are shorter.

For patents pending, we amortize the costs over the shorter of a period of twenty years from the date of filing the application or, if licensed, the term of the license agreement. We re-assess the useful lives of patents when they are issued, or whenever events or changes in circumstances indicate the useful lives may have changed. For patents and patent applications pending that we abandon, we charge the remaining unamortized accumulated costs to expense.

Intangible assets and long-lived assets are evaluated for impairment whenever events or changes in circumstances indicate that their carrying value may not be recoverable. If the review indicates that intangible assets or long-lived assets are not recoverable, their carrying amount would be reduced to fair value. Factors we consider important that could trigger an impairment review include the following:

- A significant change in the manner of our use of the acquired asset or the strategy for our overall business; and/or
- A significant negative industry or economic trend.

In the event we determine that the carrying value of intangible assets or long-lived assets is not recoverable based upon the existence of one or more of the above indicators of impairment, we may be required to record impairment charges for these assets. As of December 31, 2007, our largest group of intangible assets with finite lives includes patents and patents pending for our DNA delivery technology, consisting of intangible assets with a net carrying value of approximately $3.2 million.

Recent Accounting Pronouncements

For information on the recent accounting pronouncements which may impact our business, see Note 1 of the Notes to Financial Statements included in this Report.

Results of Operations

Year Ended December 31, 2007, Compared to Year Ended December 31, 2006

Total Revenues. Total revenues decreased $9.2 million, or 62.6%, to $5.5 million in 2007 from $14.7 million in 2006. Revenues from our contracts and grants were $4.6 million in 2007 as compared to $14.2 million in 2006. This decrease was primarily the result of a decrease in contract manufacturing revenue which totaled $2.0 million and $10.2 million for the years ended December 31, 2007 and 2006, respectively, and was related to our 2003 subcontract agreement with the VRC which expired in July 2007.

Research and Development Expenses. Research and development expenses increased $4.4 million, or 23.9%, to $22.9 million for 2007 from $18.5 million for 2006. This increase was primarily attributable to increased costs associated with our Allovectin-7® Phase 3 clinical trial, our CMV Phase 2 clinical trial and our pandemic influenza Phase 1 clinical trial.

Manufacturing and Production Expenses. Manufacturing and production expenses increased $0.2 million, or 1.3%, to $13.8 million for 2007 from $13.6 million for 2006. This increase was primarily attributable to the recognition of the remaining estimated costs to be incurred in connection with the remanufacture of the final vaccine component under our 2003 manufacturing subcontract agreement with the VRC, which was partially offset by lower costs for scientific supplies purchased to support manufacturing in the prior year.

General and Administrative Expenses. General and administrative expenses remained unchanged at $9.1 million. The expenses were substantially consistent with the prior period.

Investment Income. Investment income was $4.5 million in 2007 as compared to $3.5 million in 2006. The increase was primarily due to higher average cash and investment balances and higher rates of return in 2007.

Interest Expense. Interest expense was $0.1 million in 2007 as compared to $0.3 million in 2006. The decrease was the result of lower principal amounts outstanding on our equipment financing obligations.

Year Ended December 31, 2006, Compared to Year Ended December 31, 2005

Total Revenues. Total revenues increased $2.7 million, or 22.8%, to $14.7 million in 2006 from $12.0 million in 2005. Revenues from our contracts and grants were $14.2 million in 2006 as compared to $6.0 million in 2005. The increase in contract and grant revenue was due primarily to a $9.1 million increase in manufacturing contract shipments to the VRC under our NIH agreement, which was partially offset by decreases in grant revenue and contract shipments to the U.S. Navy. License and royalty revenues were $0.5 million in 2006 as compared to $6.0 million in 2005. In 2005, we recognized $4.0 million in license and milestone revenues related to Merck's use of our technology for the development of specific cancer targets.

Research and Development Expenses. Research and development expenses increased $0.7 million, or 4.2%, to $18.5 million for 2006 from $17.8 million for 2005. The increase was primarily a result of increased clinical trial expenses as a result of preparations for our Allovectin-7® Phase 3 trial, initiation of our Phase 2 CMV trial and increased stock compensation expense related to the implementation of Statement of Financial Accounting Standards, or SFAS, No. 123R, "Share-Based Payment."

Manufacturing and Production Expenses. Manufacturing and production expenses increased $1.4 million, or 11.3%, to $13.6 million for 2006 from $12.2 million for 2005. This increase was primarily the result of the recognition of contract manufacturing costs associated with the shipment of clinical lots of DNA vaccines to the

VRC during the current period. This increase was offset by a decrease in facility related costs in the current period as a result of the shutdown of one of our facilities in the prior period and a decrease in the use of scientific supplies used in the manufacturing process. The primary focus of manufacturing and production during the year ended December 31, 2006, was the production of plasmids for programs under clinical development and the fulfillment of commitments under manufacturing contracts.

General and Administrative Expenses. General and administrative expenses increased $1.4 million, or 17.9%, to $9.1 million for 2006 from $7.7 million for 2005. The increase was primarily the result of increased stock compensation expense related to the implementation of SFAS No. 123R and increased consulting and legal fees related to general business matters.

Investment Income. Investment income was $3.5 million in 2006 as compared to $1.8 million in 2005. The increase was primarily due to higher average cash and investment balances and higher rates of return in 2006.

Interest Expense. Interest expense was $0.3 million in 2006 as compared to $0.5 million in 2005. The decrease was the result of lower principal amounts outstanding on our equipment financing obligations.

Liquidity and Capital Resources

Since our inception, we have financed our operations primarily through private placements of preferred and common stock, public offerings of common stock, and revenues from collaborative agreements. From our inception through December 31, 2007, we have received approximately $138.8 million in revenues from performing services under research and development contracts, grants, and manufacturing contracts, and from licensing access to our proprietary technologies, and we have raised net proceeds of approximately $296.1 million from the sale of equity securities. As of December 31, 2007, we had working capital of approximately $64.6 million, compared with $97.3 million at December 31, 2006. Cash, cash equivalents and marketable securities, including restricted securities, totaled approximately $71.5 million at December 31, 2007, compared with $100.4 million at December 31, 2006. The decrease in our cash, cash equivalents and marketable securities for the year ended December 31, 2007, was due primarily to the use of cash to fund our operations.

Net cash used in operating activities was $24.2 million and $15.7 million for the years ended December 31, 2007 and 2006, respectively. The increase in net cash used in operating activities for the year ended December 31, 2007, compared with the same period in the prior year, was primarily the result of an increase in our net loss due to advancement of our clinical trials. The increase in net loss was partially offset by increased cash flows from the timing of cash receipts related to receivables and deferred revenue.

Net cash provided by (used in) investing activities was $42.9 million and ($21.5 million) for the years ended December 31, 2007 and 2006, respectively. The increase in cash provided by investing activities for the year ended December 31, 2007, compared with the prior year, was primarily the result of an increase in net maturities of investments.

Net cash (used in) provided by financing activities was ($2.8 million) and $50.8 million for the years ended December 31, 2007 and 2006, respectively. The increase in cash used by financing activities for the year ended December 31, 2007, compared with the prior year, was primarily the result of a decrease in net proceeds from the sale of our common stock.

We expect to incur substantial additional research and development expenses, manufacturing and production expenses, and general and administrative expenses, including continued increases in personnel costs, costs related to preclinical and clinical testing, outside services, facilities, intellectual property and possible commercialization costs. Our future capital requirements will depend on many factors, including continued scientific progress in our research and development programs, the scope and results of preclinical testing and clinical trials, the time and costs involved in obtaining regulatory approvals, the costs involved in filing,

prosecuting, enforcing and defending patent claims, the impact of competing technological and market developments, the cost of manufacturing scale-up, and possible commercialization activities and arrangements. We may seek additional funding through research and development relationships with suitable potential corporate collaborators. We may also seek additional funding through public or private financings. We have on file two effective shelf registration statements that in the aggregate allow us to raise up to an additional $111.6 million from the sale of common or preferred stock. However, additional financing may not be available on favorable terms or at all. If additional funding is not available, we anticipate that our available cash and existing sources of funding will be adequate to satisfy our cash needs through at least December 31, 2009.

Contractual Obligations and Off-Balance Sheet Arrangements

The following table sets forth our contractual obligations, including all off-balance sheet arrangements, as of December 31, 2007 (in thousands):

	Payment Due by Period				
Contractual Obligations[1]	**Total**	**Less than 1 Year**	**1-3 Years**	**4-5 Years**	**After 5 Years**
Operating lease obligations	$33,586	$ 3,533	$6,823	$6,674	$ 16,556
Equipment financing obligations	711	555	156	—	—
Unconditional purchase obligations[2]	379	379	—	—	—
Total contractual obligations	$34,676	$ 4,467	$6,979	$6,674	$ 16,556

1 Certain long-term liabilities reflected on our balance sheet are not presented in this table because they are already reflected in operating lease commitments, or do not require cash settlement in the future.

2 Unconditional purchase obligations represent contractual commitments entered into for goods and services in the normal course of our business. The purchase obligations do not include potential severance payment obligations to our executive officers. For information regarding these severance arrangements, refer to the final paragraph in this Item 7.

In December 2004, we modified an equipment financing agreement which provided for $5.3 million of financing, with interest rates ranging from 3.0% to 3.2%. A portion of the financing was used to repay outstanding debt of approximately $2.2 million under another credit facility. Additional amounts were used to finance equipment purchases. The draw down period for this equipment financing arrangement ended in October 2005. The agreement requires a non-interest-bearing cash security deposit in the amount of 60.0% of the amount of each drawdown which amounts are included in current and long-term other assets. This financing involves restrictive financial covenants, including a requirement that we maintain unrestricted cash and marketable securities of at least $25.0 million or obtain a letter of credit from another lender in the amount of outstanding borrowings.

Under the Merck, sanofi-aventis, AnGes, Merial and Aqua Health agreements, we are required to pay up to 10% of certain initial upfront monetary payments, and a small percentage of some royalty payments, to the WARF. The CytRx, Bioject, University of Michigan, University of Massachusetts, Wistar Institute, and other license agreements require us to make payments if we or our sublicensees advance products through clinical development. For programs developed with the support of U.S. government funding, the U.S. government may have rights to resulting products without payment of royalties.

We may be required to make future payments to our licensors based on the achievement of milestones set forth in various in-licensing agreements. In most cases, these milestone payments are based on the achievement of development or regulatory milestones, including the exercise of options to obtain licenses related to specific disease targets, commencement of various phases of clinical trials, filing of product license applications, approval of product licenses from the FDA or a foreign regulatory agency, and the first commercial sale of a related product. Payment for the achievement of milestones under our in-license agreements is highly speculative and subject to a number of contingencies.

The aggregate amount of additional milestone payments that we could be required to pay under all of our in-license agreements in place at December 31, 2007, is approximately $18.9 million, of which approximately $10.9 million is related to our independent programs and corporate and government collaborations which are currently in clinical trials. These amounts assume that all remaining milestones associated with the milestone payments are met. In the event that product license approval for any of the related products is obtained, we may be required to make royalty payments in addition to these milestone payments. Although we believe that some of the milestones contained in our in-license agreements may be achieved, it is highly unlikely that a significant number of them will be achieved. Because the milestones are highly contingent and we have limited control over whether the development and regulatory milestones will be achieved, we are not in a position to reasonably estimate how much, if any, of the potential milestone payments will ultimately be paid, or when. Additionally, under the in-license agreements, many of the milestone events are related to progress in clinical trials which will take several years to achieve.

In addition, we have undertaken certain commitments under license agreements with collaborators, and under indemnification agreements with our officers and directors. Under the license agreements with our collaborators, we have agreed to continue to maintain and defend the patent rights licensed to the collaborators. Under the indemnification agreements with our officers and directors, we have agreed to indemnify those individuals for any expenses and liabilities in the event of a threatened, pending or actual investigation, lawsuit, or criminal or investigative proceeding.

As of December 31, 2007, we have employment agreements that contain severance arrangements with each of our three executive officers and our five other executives. Under these agreements, we are obligated to pay severance if we terminate such an executive officer's or other executive's employment without "cause," or if such an executive officer or other executive resigns for "good reason," as defined in the agreements, within the periods set forth therein. The severance would consist of continued payments at the current base compensation rate, or current base compensation rate plus the prior year's cash bonus in the case of the CEO, for the period specified in each agreement, which ranges from six to twelve months. These agreements also specify that any earnings from employment or consulting during this period will offset any salary continuation payments due from us. The maximum payments due under these employment agreements would have been $1.6 million if each such executive officer and other executive was terminated at December 31, 2007.

PART III

ITEM 11. EXECUTIVE COMPENSATION

Compensation Committee

The Compensation Committee operates under a written charter adopted by our Board of Directors, which is available on our website at*www.vical.com*. The Compensation Committee oversees our overall compensation strategy and related policies, plans and programs. Among other functions, the Compensation Committee determines and approves the compensation and other terms of employment of our Chief Executive Officer; determines and approves the compensation and other terms of employment of our other executive officers, as appropriate; reviews and recommends to the Board the type and amount of compensation to be paid to Board members; recommends to the Board the adoption, amendment and termination of our Amended and Restated Stock Incentive Plan (the "Stock Incentive Plan") and 1992 Directors' Stock Option Plan (the "Directors' Stock Plan"); administers the Stock Incentive Plan and the Directors' Stock Plan; and reviews and establishes appropriate insurance coverage for our directors and executive officers. The Compensation Committee has the authority to retain special legal, accounting or other advisors or consultants as it deems necessary or appropriate to carry out its duties. The Committee has broad power to form and delegate its authority to subcommittees pursuant to its charter. The Committee has delegated authority to The President's Stock Option Committee, which was established by our Board of Directors, to make initial equity grants within certain parameters, beyond which Compensation Committee approval is required.

The report of the Compensation Committee is included herein on page 20.

Compensation Committee Interlocks and Insider Participation

The Compensation Committee of our Board of Directors consisted of Mr. Campbell, Dr. Douglas and Mr. Lyons during the fiscal year ended December 31, 2007. No member of the Compensation Committee was at any time during or prior to the fiscal year ended December 31, 2007, an officer or employee of Vical. No interlocking relationship existed between Mr. Campbell, Dr. Douglas or Mr. Lyons and any member of any other company's board of directors, board of trustees or compensation committee during that period.

Compensation Discussion and Analysis

The primary objectives of the Compensation Committee of our Board of Directors with respect to executive compensation are to attract, retain, and motivate the best possible executive talent. In doing so, the Committee seeks to tie short and long-term cash and equity incentives to achievement of measurable corporate and individual performance objectives, and to align executives' incentives with stockholder value creation. To achieve these objectives, the Compensation Committee has maintained, and expects to further implement, compensation plans that tie a substantial portion of executives' overall compensation to our research, clinical, regulatory, commercial, and operational performance.

The Compensation Committee in conjunction with management and compensation consultants develop our compensation plans by utilizing publicly available compensation data from a peer group and by utilizing subscription compensation survey data for national and regional companies in the biopharmaceutical industry. The peer group, which is periodically reviewed and updated by the Compensation Committee, consists of representative companies against which the Compensation Committee believes Vical competes for executive talent. The individual companies included in our peer group include Arena Pharmaceuticals, Inc., AVANT Immunotherapeutics, Inc., Cell Genesys, Inc., Dendreon Corporation, Dynavax Technologies, GenVec, Inc, Geron Corporation, Introgen Therapeutics, Inc., IOMAI Corporation, Kosan Biosciences Incorporated, Maxygen, Inc., Novavax Inc. and Sangamo BioSciences, Inc.

We believe that the practices of the peer group of companies provide us with appropriate compensation benchmarks for base salary, cash bonuses and equity based awards, because these companies have similar organizational structures and tend to compete with us for executives. For benchmarking executive compensation, we typically review the compensation data we have collected from the peer group of companies, as well as compensation survey data obtained from subscription services. This data is presented to the Compensation Committee as part of the annual review process.

Based on management's analyses and recommendations, the Compensation Committee has approved a pay-for-performance compensation philosophy, which is intended to bring base salaries and total executive compensation in line with approximately the 50th percentile of the range of salaries for executives in similar positions and with similar responsibilities in the companies represented in the compensation data we review.

We work within the frame work of this pay-for-performance philosophy to determine each component of an executive's initial compensation package based on numerous factors, including:

- the individual's particular employment background and circumstances, including training and prior relevant work experience;
- the individual's role with us and the compensation paid to similar persons in the companies represented in the compensation data that we review;
- the demand for individuals with the individual's specific expertise and experience at the time of hire;
- performance goals and other expectations for the position;
- comparison to other executives within our Company having similar levels of expertise and experience; and
- uniqueness of industry skills.

The Company's Compensation Committee has implemented an annual performance management program, under which annual performance goals are determined and set forth in writing at the beginning of each calendar year for the Company as a whole and for each executive. The Company's corporate goals are organized within the following three departments:

- finance and human resources;
- business development; and
- product development.

Performance against the Company's corporate and the executives' individual goals is used by the Compensation Committee and the Board of Directors in evaluating and determining all facets of the compensation of the Company's executives.

2007 Corporate Goals

Annual corporate goals are proposed by management, reviewed, modified where appropriate and finally approved by the Board of Directors by no later than the first quarter of the applicable calendar year. These corporate goals target the achievement of specific research, clinical, regulatory, operational and administrative milestones within the three corporate departments described above.

For 2007, the Compensation Committee established the following finance and human resources corporate goals:

- the retention of at least 85% of key employees or maintaining an employee turnover rate of 18% or less;

- maintaining an annual cash burn of $30 million or less;
- achieving a 5% or greater increase in the Company's stock price compared to the Company's peer group; and
- receiving a net upgrade in two or more analyst ratings.

The Company's 2007 business development corporate goals included:

- completing at least one new licensing or collaboration transaction involving the Company's technology or programs;
- completing at least one new transaction involving an acquisition or in-license of technology complementary to the Company's technology;
- achieving at least $4 million in licensing and grant revenues; and
- achieving at least $2 million in contract manufacturing revenues.

The Compensation Committee also established product development corporate goals for 2007 which included:

- enrolling a specified number of patients in the Company's Allovectin-7® Phase 3 clinical trial;
- establishing a specified number of clinical sites in the Company's Allovectin-7® Phase 3 clinical trial;
- completing a specified percentage of patient enrollment in the Company's Phase 2 clinical trial for its cytomegalovirus ("CMV") vaccine;
- submitting an investigational new drug ("IND") application and beginning enrollment in a Phase 1 clinical trial regarding the Company's influenza vaccine candidate;
- expanding the Company's vaccine manufacturing capacity to a specified level by a specified time of the year; and
- filing at least two new patent applications related to the Company's technology or products.

When choosing target levels for the Company's corporate goals, the Compensation Committee generally aims to create stretch goals, but achievable goals, set in a manner that will motivate the Company's executives. By way of example regarding the difficulty of achieving the corporate goals set by the Compensation Committee, in 2006 the Company's achievement of corporate goals resulting in 71 out of 100 possible points on the sliding scale system described below under *"Achievement of 2007 Corporate and Individual Goals"*. Corporate goals for finance and human resources as well as business development are set with specific quantitative targets, while corporate goals for product development have both quantitative and qualitative targets. Specifically, with regard to the 2007 corporate goals relating to patient enrollment and the establishment of clinical sites, the Compensation Committee chose targets that it believed were achievable based upon the Company's past experience in completing clinical trials, but would also accelerate the completion of the related clinical trials without undue expense. With regard to the corporate goal related to the Company's vaccine manufacturing capacity, the Compensation Committee chose a target that it believed could be met with a focused effort by management, and would represent a valuable enhancement of the Company's manufacturing capabilities.

2007 Individual Goals

Annual individual goals focus on contributions which facilitate the achievement of the corporate goals and are set during the first quarter of each calendar year. Individual goals are proposed by each executive and approved by the Company's Chief Executive Officer (the ***"CEO"***). The CEO's goals are identical to the corporate goals approved by the Board of Directors.

The 2007 individual goals for the Company's Vice President, Chief Financial Officer and Secretary included:

- enhancing oversight of the Company's finance and human resources departments;
- facilitating the transition to the Company's hiring of a vice president of corporate development;
- developing a strategic business development model and strategy;
- identifying and initiating negotiations for at least one transaction involving a license of or collaboration involving the Company's technology or programs or an acquisition or in-license of technology complementary to the Company's technology;
- maintaining an annual cash burn of $30 million or less;
- achieving annual licensing and grant revenues of $3 to 4 million;
- achieving annual contract manufacturing revenues of $1 to 2 million;
- enhancing the Company's profile in the investment community, including giving at least four presentations to third parties; and
- remaining knowledgeable about the Company's product candidates.

The 2007 individual goals for the Company's Senior Vice President, Product Development included:

- providing product development guidance for the Company's Allovectin-7® program (including developing a protocol for and initiating specified studies, ensuring availability of Allovectin-7® product for clinical trials, participating in joint steering committee meetings with the Company's collaboration partner on Allovectin-7®, AnGes MG, reviewing related documents and regulatory filings as needed, supporting the initiation of clinical trials outside of the U.S. and presenting Allovectin-7® data at relevant conferences);
- providing product development guidance for the Company's CMV program (including supporting an evaluation of the Towne strain and related licensing activities, participating in the creation of a formulation manuscript, reviewing the IND annual report to the FDA, evaluating interim data, and presenting CMV vaccine data at relevant conferences);
- participating in meetings with governmental agencies related to specified product candidates;
- overseeing the Company's technology development initiatives (including helping to define such objectives, participating in the design and review of preclinical studies, evaluating a needle-free injection system for potential use with the Company's product candidates, evaluating specified aspects of, completing in vivo testing in, and completing development for patent applications related to certain of the Company's programs and technologies);
- creating project plans and budgets for the Company's various research and development programs, recommending allocations of Company resources between the Company's various research and development programs, and reviewing progress reports related to the Company's various research and development programs;
- serving as the chairman of various internal research and development committees; and
- continuing to monitor the Company's partnered angiogenesis program.

The CEO performs an interim assessment of the individual goals for the Company's other executive officers in the third quarter of each calendar year to determine individual progress against the previously established goals. The individual goals for the Company's executive officers other than the CEO may be modified or expanded at that time to account for significant changes in the Company's operating strategy.

Achievement of 2007 Corporate and Individual Goals

The achievement of corporate goals is measured on a sliding scale based on the Company's actual performance relative to the specified target levels. The Company typically expects the level of achievement of each goal to fall in the mid to upper end of the scale. Each corporate goal has a maximum number of points possible on the scale, which is weighted based on the goal's importance to the Company's overall performance. In 2007, the Company's finance and human resources, business development and product development corporate goals accounted for 20, 20 and 60 points, respectively, of the 100 overall points possible for the achievement of corporate goals. Following each year, the Compensation Committee, based upon the recommendations of the Company's management, determines the extent to which each corporate goal was achieved for the previous year, which results in an overall performance score for the previous year's corporate goals. The Compensation Committee generally considers a score of between 55 and 75 points as meeting expectations for corporate goals as a whole.

For 2007, the Compensation Committee determined that the Company had met or exceeded the target levels for the corporate goals related to the following:

- key employee retention and turnover;
- cash burn;
- a new acquisition or in-licensing transaction involving technology complementary to the Company's technology;
- licensing and grant revenues;
- contract manufacturing revenues;
- establishing clinical sites in the Company's Allovectin-7® clinical trial;
- filing an IND application related to the Company's influenza vaccine program; and
- patent application filings.

The Compensation Committee determined that the Company did not meet the target levels for the corporate goals related to the following:

- the Company's stock price performance relative to its peer group;
- improvement in analyst ratings;
- a new licensing or collaboration transaction involving the Company's programs or technology;
- patient enrollment in the Company's Allovectin-7® and CMV vaccine clinical trials; and
- expanding the Company's vaccine manufacturing capacity.

The Compensation Committee's assessment of each corporate goal on the sliding scale resulted in a total of 64 points out of the 100 points possible for corporate goal achievement in 2007.

Consistent with the Company's compensation philosophy, the evaluation of the achievement of individual goals by each executive (other than the CEO) begins with a written self-assessment, which is submitted to the CEO. The CEO prepares a written evaluation based on the executive's self-assessment, the CEO's own evaluation of the executive's performance, and input from others within the Company. Whether and to what extent an executive's individual goals were met is determined on an aggregate, rather than goal-by-goal, basis. For 2007, it was determined that the Company's Vice President, Chief Financial Officer and Secretary and the Company's Senior Vice President, Product Development both achieved their individual goals on an aggregate basis.

Determination of Executive Compensation

After performing the individual evaluations, the CEO submits recommendations for approval to the Compensation Committee for salary increases, cash bonuses, and stock based awards for the other executives. In the case of the CEO, his individual performance evaluation is conducted by the Compensation Committee, which determines his compensation changes, cash bonus, and stock based awards. Annual base salary increases, annual stock based awards, and annual cash bonuses, to the extent granted, are implemented during the first calendar quarter of the year.

The Company does not directly associate the achievement of any corporate goal, the overall performance score for corporate goals, or an executive's overall performance with respect to his or her individual goals, with any particular compensation outcome. Rather, the overall performance score for corporate goals and each executive's overall performance with respect to his or her individual goals is used as a tool for the Compensation Committee to evaluate appropriate salary increases, cash bonuses and stock based awards. The Compensation Committee retains ultimate discretion as to whether any salary increases, cash bonuses or stock based awards will be awarded for any year, including whether to accept or vary from the CEO's recommendations regarding such salary increases, cash bonuses or stock based awards for other executives.

Based upon the individual assessment of the achievement of goals established for 2006, the Compensation Committee approved certain discretionary cash bonuses and stock based awards for our named executive officers in 2007. Specifically, the Compensation Committee granted each of our named executive officers cash bonuses ranging between 13%-35% of base salary, restricted stock units covering between 6,000 and 30,000 shares, and a stock option covering between 30,000 and 50,000 shares.

Compensation Components

The components of our compensation package are as follows:

Base Salary

Base salaries for our executives are established based on the scope of their responsibilities and their prior relevant background, training, and experience, taking into account competitive market compensation paid by the companies represented in the compensation data we review for similar positions and the overall market demand for such executives at the time of hire. As with total executive compensation, we believe that executive base salaries should generally target the 50th percentile of the range of salaries for executives in similar positions and with similar responsibilities in the companies of similar size to us represented in the compensation data we review. An executive's base salary is also evaluated together with other components of the executive's other compensation to ensure that the executive's total compensation is in line with our overall compensation philosophy.

Base salaries are reviewed annually as part of our performance management program and increased for merit reasons, based on the executive's success in meeting or exceeding individual performance objectives and an assessment of whether significant corporate goals were achieved. If necessary, we also realign base salaries with market levels for the same positions in the companies of similar size to us represented in the compensation data we review, if we identify significant market changes in our data analysis. Additionally, the Compensation Committee adjusts base salaries as warranted throughout the year for promotions or other changes in the scope or breadth of an executive's role or responsibilities.

Annual Bonus

Our compensation program includes eligibility for an annual performance-based cash bonus in the case of all executives and certain non-executive employees. The amount of the cash bonus depends on the level of

achievement of the stated corporate, department, and individual performance goals, with a target bonus generally set as a percentage of base salary. Currently, all executives and certain non-executive employees are eligible for annual performance-based cash bonuses. The bonus amounts for our executives typically range between 10%-50% of their base salary. The payment of any bonus is at the discretion of the Compensation Committee.

Long-Term Incentives

We believe that long-term performance is achieved through an ownership culture that encourages long-term participation by our executives in equity-based awards. Our Stock Incentive Plan allows the grant to executives of stock options, restricted stock, and other equity-based awards. We typically make an initial equity award of stock options to new employees and annual stock based grants as part of our overall compensation program. The cumulative amount of stock options granted as part of our annual performance review is approved by the Compensation Committee. All equity based awards granted to executives are approved by our Compensation Committee or our Board of Directors. Our current practice, as required by our Stock Incentive Plan, is to price equity based awards at the closing price of our common stock on the date the awards are granted.

Initial stock option awards. Executives who join us are awarded initial stock option grants. These grants have an exercise price equal to the fair market value of our common stock on the grant date and a vesting schedule of 25% on the first anniversary of the date of hire and quarterly thereafter for the next three years. The amount of the initial stock option award is determined based on the executive's position with us and analysis of the competitive practices of the companies similar in size to us represented in the compensation data that we review. The amount of the initial stock option award is also reviewed in light of the executive's base salary and other compensation to ensure that the executive's total compensation is in line with our overall compensation philosophy.

Annual stock option awards. Our practice is to make annual stock option awards as part of our overall performance program or upon promotion. The Compensation Committee believes that stock options provide management with a strong link to long-term corporate performance and the creation of stockholder value. We intend that the annual aggregate value of these awards will be set near competitive median levels for companies represented in the compensation data we review. As is the case when the amounts of base salary and initial equity awards are determined, a review of all components of the executive's compensation is conducted, including awards granted in prior periods, when determining annual equity awards to ensure that an executive's total compensation conforms to our overall philosophy and objectives.

Restricted stock unit awards. We have made grants of Restricted Stock Units, or RSUs, to executives and certain non-executive employees to provide additional long-term incentive to build stockholder value. RSU awards are made in anticipation of contributions that will create value in the Company. Because the shares underlying the RSUs have a defined value at the time the RSU grant is made, RSU grants are often perceived as having more immediate value than stock options, which have a less calculable value when granted. However, the RSUs we grant generally cover fewer shares than the stock options we would grant for a similar purpose. RSUs typically vest 25% on the first anniversary of the date of grant and quarterly thereafter for the next three years. Executive and non-executive employees have the option at the time of grant to defer the issuance of the shares underlying the RSUs beyond the date at which the RSU vests. This feature allows the individual to defer the payment of income taxes related to these shares until the shares underlying the RSU are issued. Upon vesting and issuance of the common stock underlying the RSU the Company typically withholds from each holder the number of shares of common stock necessary in order to satisfy our statutory minimum tax withholding obligation. This feature provides the holders with a method to satisfy our statutory minimum tax withholding obligations without immediately selling a portion of the shares issued.

Other Compensation

We maintain broad-based benefits and perquisites that are offered to all employees, including health insurance, life and disability insurance, dental insurance, and a 401(k) plan. In particular circumstances, we also

utilize cash signing bonuses when certain executives join us. Generally, such cash signing bonuses are contractually required to be repaid on a pro-rata basis to the Company if the employee recipient voluntarily terminates employment with us prior to the first anniversary of the date of hire. Whether a signing bonus is paid and the amount thereof is determined on a case-by-case basis under the specific hiring circumstances. For example, we will consider paying signing bonuses to compensate for amounts forfeited by an executive upon terminating prior employment, to assist with relocation expenses, and/or to create additional incentive for an executive to join our Company in a position where there is high market demand. We also reimburse our Chief Executive Officer for certain relocation costs, which in 2007 was capped at $50,000 per year. A majority of the reimbursement is used for temporary housing while he is in San Diego.

Termination Based Compensation

Severance. Upon termination of employment, our executives are entitled to receive severance payments. In determining whether to approve and setting the terms of such severance arrangements, the Compensation Committee recognizes that executives, especially highly ranked executives, often face challenges securing new employment following termination. Severance for termination, without cause, or for resignation for good reason, for executives, other than our Chief Executive Officer, includes the payment of six months of the executive's current base salary. Our Chief Executive Officer's employment agreement provides severance of 12 months of base salary plus an amount equal to any cash bonus paid in the prior year, if his employment is terminated without cause or if he resigns for good reason (as defined in the agreement). Additional details about these severance provisions, including definitions of "cause" and "good reason" can be found under "Potential Payments Upon Termination or Change in Control," below. We believe that our executives severance packages are generally in line with severance packages offered to executives of the companies of similar size to us represented in the compensation data we reviewed.

Acceleration of vesting of equity-based awards. Provisions of our Stock Incentive Plan allow our Board of Directors to grant stock based awards to employees and executives that provide for the acceleration of the vesting in the event of a change of control (as defined by the Plan). Currently, all of the Company's outstanding equity based awards include provisions that accelerate vesting of such awards in the event of a change of control. The Compensation Committee believes that these provisions are properly designed to promote stability during a change of control and enable our executives to focus on corporate objectives during a change of control, even if their employment may be subsequently terminated.

Tax and Accounting Implications

Deductibility of executive compensation. As part of its role, the Compensation Committee reviews and considers the deductibility of executive compensation under Section 162(m) of the Internal Revenue Code, which provides that the Company may not deduct compensation of more than $1,000,000 that is paid to certain individuals. The Company believes that compensation paid under the management incentive plans are generally fully deductible for federal income tax purposes. However, in certain situations, the Committee may approve compensation that will not meet these requirements in order to ensure competitive levels of total compensation for its executives.

Accounting for stock-based compensation. Beginning on January 1, 2006, the Company began accounting for stock-based payments including its Stock Option Program, Long-Term Stock Grant Program, Restricted Stock Program and Stock Award Program in accordance with the requirements of FASB Statement 123(R). The Compensation Committee considers the accounting impact of equity based compensation when developing the Company's compensation strategy.

Compensation Committee Report

The material in this report is not "soliciting material," is not deemed "filed" with the SEC and shall not be incorporated by reference by any general statement incorporating by reference this filing into any other filing of Vical under the Securities Act or the Exchange Act, except to the extent Vical specifically incorporates this report by reference.

The Compensation Committee of the Company has reviewed and discussed the Compensation Discussion and Analysis required by Item 402(b) of Regulation S-K with management and, based on such review and discussions, the Compensation Committee recommended to the Board that the Compensation Discussion and Analysis be included in this Amendment No. 1 to the Company's Annual Report on Form 10-K/A.

Compensation Committee

Robert H. Campbell
R. Gordon Douglas, M.D.
Gary A. Lyons

Summary Compensation Table

The Company has entered into compensation agreements with its executives. The terms of those agreements provide for benefits such as relocation reimbursement, severance payments and vesting acceleration of equity based awards in the event of a change of control. The terms of these benefits are further discussed under the heading "Compensation Components" included herein. The following table provides information regarding the compensation of each of our named executive officers for the fiscal year ended December 31, 2007.

Name and Principal Position	Year	Salary ($)	Bonus ($)[1]	Stock Awards ($)[2]	Option Awards ($)[3]	All Other Compensation ($)	Total ($)
Vijay B. Samant	2007	452,075	160,000	237,916	304,740	57,385[4]	1,212,116
President and	2006	435,000	220,000	141,026	265,579	56,105[5]	1,169,433
Chief Executive Officer							
Jill M. Church	2007	273,075	60,000	60,494	142,703	7,147	543,419
Vice President, Chief	2006	260,000	70,000	22,525	100,408	6,382	472,665
Financial Officer and Secretary							
Alain P. Rolland, Pharm.D., Ph.D.	2007	294,575	40,000	43,040	79,880	5,551	463,046
Senior Vice President,	2006	283,000	50,000	22,189	60,126	6,382	466,172
Product Development							

(1) Annual bonuses are granted at the Compensation Committee's discretion, taking into account each named executive officer's performance against his or her independent, department and corporate goals, as more fully described above.

(2) Amounts shown reflect the amount expensed during 2007 by the Company under the provisions of the Statement of Financial Accounting Standards No. 123R, or FAS 123R, for all RSUs previously granted and held by the named individual, but, in accordance with SEC regulations, without giving effect to estimated forfeitures. Assumptions used in the calculation of these amounts are included in Note 1 of the Notes to Financial Statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, filed with the Securities and Exchange Commission on March 3, 2008.

(3) Amounts shown reflect the amount expensed during the respective year by the Company under the provisions of FAS 123R for all options previously granted and held by the named individual, but, in accordance with SEC regulations, without giving effect to estimated forfeitures. Assumptions used in the calculation of these amounts are included in Note 1 of the Notes to Financial Statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, filed with the Securities and Exchange Commission on March 3, 2008.

(4) Of the amount shown, $50,000 represents relocation costs, including of $30,261 in rent and utility payments for an apartment for Mr. Samant and $17,875 for tax reimbursements.

(5) Of the amount shown, $49,071 represents relocation costs, including of $30,462 in rent and utility payments for an apartment for Mr. Samant and $17,543 for tax reimbursements.

Grants of Plan Based Awards

The following table provides details regarding stock-based awards granted to each of our named executive officers for the fiscal year ended December 31, 2007.

Name	Grant Date	All Other Stock Awards: Number of Shares of Stock or Units (#)[1][2]	All Other Option Awards: Number of Securities Underlying Options (#)[2]	Exercise or Base Price of Option Awards ($/sh)	Grant Date Fair Value of Stock and Option Awards ($)
Vijay B. Samant	1/5/2007	—	100,000	6.71	343,067
	1/5/2007	30,000	—	—	201,000
Jill M. Church	1/5/2007	—	50,000	6.71	171,534
	1/5/2007	10,000	—	—	67,000
Alain P. Rolland, Pharm.D., Ph.D.	1/5/2007	—	30,000	6.71	102,330
	1/5/2007	6,000	—	—	40,200

(1) The amounts shown reflect the number of shares underlying the RSUs granted to each named executive officer. The par value of $0.01 per share of the underlying shares of an RSU grant is paid by the named executive officer on the date of grant.

(2) The right to exercise the above stock options and RSUs generally vests 25% on the first anniversary date of the grant, with the remaining rights vesting quarterly over the remaining three years.

Outstanding Equity Awards at Fiscal Year-End

The following table provides details regarding outstanding stock-based awards for each of our named executive officers for the fiscal year ended December 31, 2007.

	Option Awards				Stock Awards	
Name	Number of Securities Underlying Unexercised Options - Exercisable(#)	Number of Securities Underlying Unexercised Options - Unexercisable[1]	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested	Market Value of Shares or Units of Stock That Have Not Vested ($)[2]
Vijay B. Samant	300,000	—	16.63	11/27/2010	66,250	281,563
	125,000	—	9.40	2/4/2012	—	—
	150,000	—	3.11	1/27/2013	—	—
	93,750	6,250	6.35	2/9/2014	—	—
	51,563	23,437	5.08	2/21/2015	—	—
	26,250	33,750	4.54	1/5/2016	—	—
	—	100,000	6.71	1/4/2017	—	—
Jill M. Church	45,000	15,000	4.80	10/10/2014		
	13,750	6,250	5.08	2/21/2015	17,687	75,170
	8,750	11,250	4.54	1/5/2016	—	—
	—	50,000	6.71	1/4/2017	—	—
Alain P. Rolland, Pharm.D., Ph.D.	60,000	—	6.48	7/31/2012		
	20,000	—	3.11	1/27/2013	12,112	51,476
	14,063	937	6.35	2/8/2014	—	—
	10,313	4,687	5.08	2/21/2015	—	—
	6,563	8,437	4.54	1/5/2016	—	—
	—	30,000	6.71	1/4/2017	—	—

(1) The right to exercise the above stock options vests 25% on the first anniversary of the date of the grant, with the remaining rights vesting quarterly over the remaining three years.

(2) The market value of the RSUs is determined by multiplying the number of shares underlying the RSUs by the closing price for the Company's Common Stock of $4.25 on December 31, 2007.

Option Exercises and Stock Vested

The following table provides details regarding stock options exercised and RSUs vested for each of our named executive officers for the fiscal year ended December 31, 2007.

	Option Awards		Stock Awards	
Name	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise ($)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting ($)[1]
Vijay B. Samant	—	—	28,750[2]	150,525
Jill M. Church	—	—	6,063[3]	32,261
Alain P. Rolland, Pharm.D., Ph.D.	—	—	4,838[4]	25,243

(1) Represents the number of shares vested multiplied by the market value of the underlying shares on the vesting date less the purchase price of $0.01 per share.

(2) Mr. Samant elected to defer receipt of 20,000 of these shares until the earlier of a change in control as defined in the Stock Option Plan or 90 days following the termination of his employment.

(3) Ms. Church elected to defer receipt of 3,000 of these shares until February 23, 2014 and elected to defer receipt of 1,313 of these shares until February 1, 2015. The deferral agreements allow the employee to receive the vested shares prior to the deferral date only in the event of a change in control or upon termination of employment.

(4) Dr. Rolland elected to defer receipt of 788 of these shares until January 8, 2008 and elected to defer receipt of 2,250 of these shares until February 22, 2008. The deferral agreements allow the employee to receive the vested shares prior to the deferral date only in the event of a change in control or upon termination of employment.

Nonqualified Deferred Compensation Table

We grant RSUs to our executives and other employees. The RSUs granted typically vest 25% on the first anniversary date of the grant, with the remaining rights vesting quarterly over the remaining three years and, once vested, allow the participants to acquire shares of common stock at par value. At the time the RSU is granted the employee has the option to defer the release of the common stock underlying the RSU to a future date which is after its vesting date. The election to defer the release of the common stock underlying the RSU also defers the required state and federal income tax withholding requirements until those shares are released. The election to defer the release of the common shares underlying the RSU is irrevocable. The deferral agreements allow the employee to receive the vested shares prior to the deferral date only in the event of a change in control or upon termination of employment. The following table provides details regarding the value of stock awards as of December 31, 2007, for which issuance of the shares underlying those awards has been deferred, the increase in value of deferred shares during the current year and the value of deferred shares which were released during the current year.

Name	Aggregate Earnings in Last FY ($)	Aggregate Withdrawals/ Contributions ($)	Aggregate Balance at Last FY ($)(1)
Vijay B. Samant	—	160,750(2)	286,875
Jill M. Church	—	—	27,893
Alain P. Rolland, Pharm.D., Ph.D	—	11,948(2)	12,912

(1) Amount represents the market value of vested but unreleased shares multiplied by the closing price for the Company's Common Stock of $4.25 on December 31, 2007.

(2) Represents the full fair market value on the release date for shares which vested prior to 2007 and were released in 2007.

Potential Payments Upon Termination or Change of Control

We have entered into employment agreements with our executives which include provisions that entitle those executives to receive severance payments in specified cases upon termination without cause, or resignation for good reason. Severance for executives, other than our Chief Executive Officer, includes the payment of six months of the executive's current base salary. Termination for cause is defined as any one of the following: (i) failure to perform the executive's duties, (ii) gross misconduct, (iii) fraud or (iv) a conviction of, or a plea of "guilty" or "no contest" to a felony. Resignation for good reason is defined as any one of the following: (i) a material reduction in authority or responsibility or (ii) a reduction in base salary of more than 25%. In the event that our executives qualify for severance payments, the payments will be made on a bi-monthly basis and will be reduced dollar for dollar by any other compensation earned by the executives during the severance period as an employee or independent contractor.

We have entered into an employment agreement with our Chief Executive Officer which provides for severance of 12 months of base salary plus an amount equal to any cash bonus paid in the prior year, if his

employment is terminated without cause or if he resigns for good reason. Termination for cause is defined as any one of the following: (i) failure to perform the executive's duties, (ii) gross misconduct, (iii) fraud or (iv) a conviction of, or a plea of "guilty" or "no contest" to a felony. Resignation for good reason is defined as any one of the following: (i) a material reduction in authority or responsibility, (ii) removal of the direct reporting relationship with the Board of Directors, (iii) any reduction in base compensation, or (iv) a material breach of his employment agreement. In the event that our Chief Executive Officer qualifies for severance payments, the payments will be made on a bi-monthly basis and will be reduced dollar for dollar by any other compensation earned by the executive, during the severance period, as an employee or consultant with a company which is primarily involved in research, development or commercialization of a method of delivery of naked DNA into humans or animals.

All of the Company's outstanding equity based awards include provisions that accelerate vesting of such awards in the event of a change of control. A change of control is defined as the occurrence of either of the following events: (i) a change in the composition of the Board of Directors, as a result of which fewer than 50% of the incumbent directors are directors who either: (a) had been directors of the Company 24 months prior to such change; or (b) were elected, or nominated for election, to the Board of Directors with the Company 24 months prior to such change and who were still in office at the time of the election or nomination; or (ii) any person by the acquisition or aggregation of securities of the Company representing 50% or more of the combined voting power of the Company's securities eligible to vote for the election of directors.

The following table provides details of potential payments which could occur upon termination of the named executive officers or in the event of a change of control of the Company assuming a triggering event occurred on December 31, 2007.

Name	Cash Severance Payment ($)	Bonus Payment ($)	Acceleration of Equity Awards (unamortized expense) ($)[1]
Vijay B. Samant			
• Involuntary termination without cause	452,075	220,000	—
• Voluntary resignation for good reason	452,075	220,000	—
• Change in control	—	—	466,238
Jill M. Church			
• Involuntary termination without cause	136,538	—	—
• Voluntary resignation for good reason	136,538	—	—
• Change in control	—	—	172,547
Alain P. Rolland, Pharm.D., Ph.D.			
• Involuntary termination without cause	147,288	—	—
• Voluntary resignation for good reason	147,288	—	—
• Change in control	—	—	103,698

(1) The amounts shown reflect the unamortized compensation expense related to options and awards outstanding at December 31, 2007, to be recognized for financial statement reporting purposes for periods beginning after December 31, 2007, in accordance with SFAS No. 123(R), without giving effect to estimated forfeitures.

Director Compensation

The Company uses a combination of cash and stock-based incentive compensation to attract and retain qualified candidates to serve on the Board. Management develops the Board compensation package by utilizing publicly available data from our peer group. The peer group, which is periodically reviewed and updated by the Compensation Committee, consists of representative companies against which the Compensation Committee

believes Vical competes for directors. The individual companies included in our peer group include Arena Pharmaceuticals, Inc., AVANT Immunotherapeutics, Inc., Cell Genesys, Inc., Dendreon Corporation, Dynavax Technologies, GenVec, Inc, Geron Corporation, Introgen Therapeutics, Inc., IOMAI Corporation, Kosan Biosciences Incorporated, Maxygen, Inc., Novavax Inc. and Sangamo BioSciences, Inc. We believe that the practices of the peer group of companies provide us with appropriate compensation benchmarks, because these companies have similar organizational structures and tend to compete with us for directors.

Director Fees

Each of our non-employee directors receives an annual fee of $20,000 for service on the Board of Directors. Each of our non-employee directors also receives $1,500 for attending each meeting of the Board of Directors. Non-employee directors are also reimbursed for their expenses for each meeting attended. All fees are paid on or about February 15th following the year during which services were rendered, excluding expenses which are reimbursed as incurred.

Director Options

Under the Stock Incentive Plan, each of our new non-employee directors, on the date of his or her election to the Board of Directors, receives an option to purchase 20,000 shares of our common stock at its fair market value on the date of grant. The shares subject to these options generally vest 25% on the first anniversary of the date of grant, with the remaining shares vesting quarterly over the next three years. Each non-employee director who has served on our Board of Directors for at least six months on the date of each regular Annual Meeting of Stockholders also receives an annual grant of an option to purchase 12,500 shares of our common stock which becomes exercisable in full on the date of the regular Annual Meeting of Stockholders following the date of grant. No more than an aggregate of 30% of the shares available under our Stock Incentive Plan are available for grant to non-employee directors. Our Board of Directors may provide discretionary grants under the Stock Incentive Plan to our non-employee directors. Under the Stock Incentive Plan, options to purchase a total of 505,000 shares of our common stock have been granted to our current non-employee directors, with 57,500 shares of this total amount granted during the fiscal year ended December 31, 2007. Under the Directors' Stock Plan, options to purchase a total of 202,500 shares of our common stock have been granted to our current and former non-employee directors to date, none of which remained outstanding as of December 31, 2007. We do not intend to grant any further options under the Directors' Stock Plan.

Fees and Options of the Chairman of the Board of Directors

Dr. Douglas receives an annual fee of $25,000 (in lieu of the $20,000 annual fee which he would otherwise receive as a non-employee director) for serving as Chairman of our Board of Directors. Additionally, he received an option to purchase 10,000 shares of our common stock under the Stock Incentive Plan upon becoming Chairman. The shares subject to this option vested 25% on the first anniversary of the date of grant, with the remaining shares vesting quarterly over the next three years. Our Chairman of the Board of Directors also receives an annual grant of an option to purchase 20,000 shares of our common stock under the Stock Incentive Plan (in lieu of the annual grant of an option to purchase 12,500 shares which he would otherwise receive as a non-employee director) which also becomes exercisable in full on the date of the regular Annual Meeting of Stockholders following the date of grant.

Committee Fees

The Chairman of the Audit Committee of the Board of Directors receives an annual Audit Committee Chairman fee of $10,000. Other Audit Committee members receive an annual Audit Committee Member fee of $5,000. The Chairman of the Compensation Committee and the Chairman of the Nominating/Governance Committee each receive an annual Committee Chairman fee of $5,000. Other members of the Compensation and Nominating/ Governance Committees receive an annual Committee Member fee of $2,500.

Director Compensation Table

The table below summarizes the compensation paid by the Company to non-employee directors for the fiscal year ended December 31, 2007.

Name[1]	Fees Earned or Paid in Cash ($)	Option Awards ($)[2]	Total ($)
R. Gordon Douglas, M.D.	41,000	48,240	89,240
Robert H. Campbell	33,500	34,460	67,960
Gary A. Lyons	37,000	30,150	67,150
Robert C. Merton, Ph.D.	35,000	30,150	65,150

(1) Vijay B. Samant, the Company's President and Chief Executive Officer, is not included in this table as he is an employee of the Company and thus receives no compensation for his service as a director.

(2) The amounts shown reflect the dollar amount recognized for financial statement reporting purposes for the fiscal year ended December 31, 2007, in accordance with SFAS 123(R), of stock options granted pursuant to the Amended and Restated Stock Incentive Plan of Vical Incorporated and thus may include amounts from stock options granted in and prior to 2007. Assumptions used in the calculation of these amounts are included in Note 1 of the Notes to Financial Statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007 filed with the Securities and Exchange Commission on March 3, 2008. As of December 31, 2007, each director has the following number of options outstanding: R. Gordon Douglas, M.D.—210,000; Robert H. Campbell—70,000; Gary A. Lyons —127,500; and Robert C. Merton, Ph.D.—82,500.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a)(3) Exhibits

See the list in paragraph (b) below. Each management contract or compensatory plan or arrangement required to be identified by this item is so designated in such list.

(b) Exhibits

Exhibit Number	Description of Document
3.1(i)(8)	Restated Certificate of Incorporation.
3.1(ii)(8)	Amended and Restated Bylaws of the Company.
3.2(i)(21)	Certificate of Amendment to Restated Certificate of Incorporation.
4.1(8)	Specimen Common Stock Certificate.
10.1(3)[a]	Amended and Restated Stock Incentive Plan of Vical Incorporated.
10.2(4)[a]	1992 Directors' Stock Option Plan of Vical Incorporated.
10.3(13)[a]	Form of Indemnity Agreement between the Company and its directors and officers.
10.8(2)	Lease dated December 4, 1987, between the Company and Nexus/GADCo.-UTC, a California Joint Venture, as amended.
10.9(5)[b]	Research Collaboration and License Agreement dated May 31, 1991, between the Company and Merck & Co., Inc.
10.12(1)[b]	License Agreement dated January 1, 1991, between the Company and Wisconsin Alumni Research Foundation.
10.14(1)[b]	License Agreement dated October 23, 1992, between the Company and the Regents of University of Michigan.
10.16(6)	Research, Option and License Agreement dated September 29, 1994, between the Company and Pasteur Mérieux Sérums & Vaccins (subsequently Sanofi Pasteur).
10.17(7)	Amendment dated April 27, 1994, to Research Collaboration and License Agreement dated May 31, 1991, between the Company and Merck & Co., Inc.
10.19(16)[b]	Amendment dated November 3, 1997, to Research Collaboration and License Agreement dated May 31, 1991, between the Company and Merck & Co., Inc.
10.20(9)	Amendment No. 4 to the Lease dated December 4, 1987, between the Company and Nippon Landic (U.S.A.), Inc., a Delaware Corporation (as successor in interest to Nexus/GADCo.-UTC).
10.23(11)[a]	Employment Agreement dated November 28, 2000, between the Company and Vijay B. Samant.
10.26 (12)[b]	Amendment No. 4 dated December 7, 2001, to Research, Option and License Agreement between the Company and Sanofi Pasteur (formerly Pasteur Mérieux Sérums & Vaccins).
10.27(12)	Lease dated January 30, 2002, between the Company and Kilroy Realty, L.P. a Delaware Limited Partnership.
10.28(12)[a]	Amendment dated February 5, 2002, to Employment Agreement dated November 28, 2000, between the Company and Vijay B. Samant.
10.29(22)[a]	Employment Agreement dated June 17, 2002, between the Company and Alain Rolland.

Exhibit Number	Description of Document
10.30(13)[b]	Amendment No. 5 dated September 23, 2002, to Research, Option and License Agreement between the Company and Sanofi Pasteur (formerly Pasteur Mérieux Sérums & Vaccins).
10.31(13)[a]	Amendment dated March 10, 2003, to Employment Agreement dated November 28, 2000, between the Company and Vijay B. Samant.
10.32(14)[b]	Fourth Amendment dated August 20, 2003, to Research Collaboration and License Agreement dated May 31, 1991, between the Company and Merck & Co., Inc.
10.34(15)[a]	Amendment dated March 17, 2004, to Employment Agreement dated November 28, 2000, between the Company and Vijay B. Samant.
10.36(16)[b]	Amendment dated May 20, 2004, to License Agreement dated January 1, 1991, between the Company and the Wisconsin Alumni Research Foundation.
10.37(17)	Letter Agreement dated October 6, 2004 and related documents between the Company and General Electric Capital Corporation.
10.38(17)[a]	Form of Delayed Issuance Stock Purchase Grant Notice, Delayed Issuance Stock Purchase Agreement and Delayed Issuance Stock Purchase Election Agreement under the Amended and Restated Stock Incentive Plan.
10.41(18)[b]	License Agreement dated May 24, 2005, between the Company and AnGes MG, Inc.
10.42(19)[a]	Vical Incorporated Non-Employee Director Compensation Policy.
10.45(20)[a]	Employment offer letter effective October 11, 2004, by and between Vical Incorporated and Jill M. Church.
10.46(20)[b]	Fifth Amendment dated September 8, 2005, to Research Collaboration and License Agreement dated May 31, 1991, by and between Vical Incorporated and Merck & Co., Inc.
10.47(23)[b]	Amendment dated February 20, 2006, to License Agreement dated May 24, 2005, between the Company and AnGes MG, Inc.
10.48(24)[a]	Amendment dated May 19, 2006, to employment offer letter effective October 11, 2004, between the Company and Jill M. Church.
10.50(24)[b]	Research and Development Agreement dated May 25, 2006, between the Company and AnGes MG, Inc.
10.51(24)[b]	Stock Purchase Agreement dated May 25, 2006, between the Company and AnGes MG, Inc.
10.53(25)[a]	Amendment dated May 19, 2006, to Employment Agreement dated June 17, 2002, between the Company and Alain Rolland.
10.54 (10)[b]	First Amendment to Research and Development Agreement and Stock Purchase Agreement dated September 26, 2007, between the Company and AnGes MG, Inc.
10.55[b]	License Agreement dated April 29, 1991, between the Company and Life Technologies Corporation (formerly Invitrogen Corporation (formerly Life Technologies, Inc.)).
10.56(26)[b]	License Agreement dated December 7, 2001, between the Company and CytRx Corporation.
10.57[b]	License Agreement dated February 14, 2006, between the Company and the Regents of the University of Michigan.
23.1[c]	Consent of Independent Registered Public Accounting Firm—Ernst & Young LLP.
23.2[c]	Consent of Independent Registered Public Accounting Firm—Deloitte & Touche LLP.

Exhibit Number	Description of Document
31.1[c]	Certification of Vijay B. Samant, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2[c]	Certification of Jill M. Church, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.3	Certification of Vijay B. Samant, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.4	Certification of Jill M. Broadfoot, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1[c]	Certification of Vijay B. Samant, Chief Executive Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2[c]	Certification of Jill M. Church, Chief Financial Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

(1) Incorporated by reference to the Company's Registration Statement on Form S-1 (No. 33-56830) filed on January 7, 1993.
(2) Incorporated by reference to the exhibit of the same number filed with the Company's Registration Statement on Form S-1 (No. 33-56830) filed on January 7, 1993.
(3) Incorporated by reference to Exhibit 99.1 filed with the Company's Registration Statement on Form S-8 (No. 333-143885) filed on June 19, 2007.
(4) Incorporated by reference to Exhibit 10.1 filed with the Company's Registration Statement on Form S-8 (No. 333-30181) filed on June 27, 1997.
(5) Incorporated by reference to Exhibit 10.9 of the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1994 (No. 0-21088).
(6) Incorporated by reference to Exhibit A of the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1994.
(7) Incorporated by reference to Exhibit A of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1994 (No. 0-21088).
(8) Incorporated by reference to the exhibit of the same number filed with the Company's Registration Statement on Form S-3 (No. 33-95812) filed on August 15, 1995.
(9) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1999.
(10) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2007.
(11) Incorporated by reference to the exhibit of the same number to the Company's Annual Report on Form 10-K for the year ended December 31, 2000.
(12) Incorporated by reference to the exhibit of the same number to the Company's Annual Report on Form 10-K for the year ended December 31, 2001.
(13) Incorporated by reference to the exhibit of the same number to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002.
(14) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003.
(15) Incorporated by reference to the exhibit of the same number to the Company's Current Report on Form 8-K filed on March 24, 2004.
(16) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2004.
(17) Incorporated by reference to the exhibit of the same number to the Company's Annual Report on Form 10-K for the year ended December 31, 2004.

(18) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2005.
(19) Incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K filed on September 23, 2005.
(20) Incorporated by reference to Exhibits 10.3—10.4 to the Company's Current Report on Form 8-K filed on October 12, 2005.
(21) Incorporated by reference to Exhibit 4.2 filed with the Company's Registration Statement on Form S-8 (No. 333-135398) filed on June 28, 2006.
(22) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2002.
(23) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006.
(24) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2006.
(25) Incorporated by reference to the exhibit of the same number to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2006.
(26) Incorporated by reference to Exhibit 99 to CytRx Corporation's Current Report on Form 8-K filed on December 21, 2001.
[a] Indicates management contract or compensatory plan or arrangement.
[b] Confidential treatment of certain portions of this agreement has been requested and/or received and such portions have been omitted and filed separately with the SEC pursuant to Rule 24b-2 under the Securities Exchange Act of 1934.
[c] Previously filed with the Company's Annual Report on form 10-K for the year ended December 31, 2007.

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.

Date: March 3, 2009

VICAL INCORPORATED

By: /s/ VIJAY B. SAMANT

Vijay B. Samant
President and Chief Executive Officer

Exhibit 10.55

*****Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2.**

LICENSE AGREEMENT

THIS AGREEMENT entered into this 29th day of April, 1991 ("Effective Date") between Life Technologies, Inc., a Delaware corporation having its principal place of business at 8400 Helgerman Court, Gaithersburg, Maryland 20877 ("LTI") and Vical Incorporated, a Delaware corporation, having its principal place of business at 9373 Towne Center Drive. Suite 100, San Diego, California 92121 ("Vical").

WHEREAS, LTI is a manufacturer and distributor of a wide range of biological and testing products and is desirous of expanding its product offerings of compounds in the research products market; and

WHEREAS, Vical has developed and has proprietary rights in certain compounds; and

WHEREAS, LTI is desirous of obtaining an exclusive license to make, have made, use, and sell such compounds which Vical has developed or in which it has proprietary rights;

NOW, THEREFORE, in consideration of the mutual covenants herein and for other good and valuable consideration, LTI and Vical agree as follows:

ARTICLE I – DEFINITIONS

As used in this Agreement, the following terms shall have the meaning stated opposite each term:

1.1 "Licensed Patent(s)" shall mean any patent which may issue from Vical's U.S. patent application Serial No. 07/511,219, filed April 19, 1990 and any divisions, continuations, continuations-in-part, or reissues thereof or any foreign patents deriving priority therefrom.

1.2 "Licensed Product(s)" shall mean any compounds, including, but not limited to, DORI and DORI/CHOL 7/3, covered by the Licensed Technology.

1.3 "The Field" shall mean the research products market, including, but not limited to, protein delivery systems, bulk quantities for industrial use, and all research applications

1.4 "Know-how" shall mean any unpatented Vical knowledge or technology related to the Licensed Patent(s) existing as of the Effective date.

1.5 "Improvements" shall mean any inventions, improvements or discoveries, on or related to the Know-how or the Licensed Patents.

a) “Vical Improvements” shall mean those Improvements made solely by Vical during the term of this Agreement.

b) “LTI Improvements” shall mean those Improvements made solely by LTI during the term of this Agreement.

c) “Joint Improvements” shall mean those Improvements jointly made by LTI and Vical during the term of this Agreement.

1.6 “Joint Improvement Product(s)” shall mean any compounds covered by the Joint Improvements.

1.7 “Licensed Technology” shall mean the Licensed Patent(s), Know-how, and Vical Improvements.

1.8 “Therapeutic Product(s)” means products which have received, or are intended to receive approval or clearance by the agency or agencies having authority to grant the right to commercialize (sales and promotion) such products for in vitro or in vivo therapeutic use in the United States.

1.9 “LTI” shall include any corporation or other business entity controlled by, controlling, or under common control with LTI. For this purpose, “control” means direct or indirect beneficial ownership of at least fifty percent (50%) interest in the shares of all classes of its voting stock, or possession of the direct power to direct or cause the direction of management and policies of the corporation or other business entity.

1.10 “Net Sales” shall mean the gross invoiced selling price of the Licensed Product(s) in the form in which they are sold, less the following items but only insofar as they actually pertain to the sale of such Licensed Product(s) by LTI and are included in such gross selling price,

a) to the extent such items (except items (i) and (vi)) are separately billed;

i) Usual trade discounts actually allowed (other than advertising allowances, fees, or commissions to any employee);

ii) Packing costs;

iii) Import, export, excise, sales and value-added taxes, and customs duties;

iv) Costs of insurance and transportation from the place of manufacture to the customer’s premises or point of installation;

v) Costs of installation at the place of use; and

vi) Credit for returns, allowances, or trade discounts; and

b) provided, however, if Licensed Product(s) are sold in combination with other products, Net Sales for computing royalty payments under this Agreement, shall be determined by multiplying the Net Sales of such combination by a fraction, the numerator of which is the selling price of the Licensed Product(s) contained in such combination if the Licensed Product(s) were sold separately and the denominator of which is the selling price of the combination.

1.11 "Sublicense Income" shall mean the gross amount received by LTI, directly or indirectly, from sublicensees for or on account of any of the rights granted hereunder.

ARTICLE II – GRANT

2.1 Vical hereby grants to LTI an exclusive, world-wide right and license to use the Licensed Technology to make, have made, use and sell the Licensed Product(s) in the Field, subject only to Vical's retained right to:

a) [***];

b) [***]; and

c) [***].

2.2. Each of the parties hereto hereby grants to the other a certain [***], to use its individual interest in the Joint Improvements to [***] in accordance with the limitations set forth below:

a) in the case of LTI, [***]; and

b) in the case of Vical, [***].

2.3 LTI shall have the right to sublicense the rights granted hereunder on terms substantially similar to the terms herein. All sublicenses hereunder granted by LTI shall be coterminable with this Agreement, and this fact shall be stated in any such sublicense agreement. LTI shall have responsibility for the royalty reporting activities of a sublicensee as if the activities were those of LTI. LTI shall promptly provide Vical with a copy of any sublicense issued hereunder.

2.4 Concurrently with the execution of this Agreement, Vical shall hereby assign to LTI all of its right, title, interest, and all goodwill represented therein, in its marks, "Superfectin" and "Turbofectin," but only insofar as such right, title, interest, and goodwill pertains to use of the Licensed Product(s) in the Field.

*** Confidential Treatment Requested

ARTICLE III – DISCLOSURE OF KNOW-HOW

3.1 Within thirty (30) days of execution of this Agreement, Vical will provide LTI with a copy of all Know-how related to production methodologies and protocols in its possession and thereafter during the term of this Agreement will:

a) Advise LTI of any Vical Improvements within thirty (30) days of the recognized discovery thereof;

b) Make available its personnel, upon reasonable request, to assist LTI personnel in understanding and utilizing the Licensed Technology;

c) Allow LTI, upon reasonable notice, during business hours, to enter upon Vical's premises and observe Vical's efforts related solely to the Licensed Technology, and, only during business hours for reasonable periods of time, to confer with appropriate Vical research personnel in furtherance of this Agreement; and

d) Provide training to at least [***] of LTI's employees, but no more than [***], designated by LTI as essential, after consultation with and reasonable agreement by Vical, to LTI's efforts to utilize the Licensed Technology.

ARTICLE IV – CONSULTING

Vical shall make available to LTI the consulting services of [***] or a mutually agreed-upon substitute, who shall visit LTI's facilities, no more than four (4) mutually-agreed upon person days per year, upon LTI's reasonable request and expense, during the term of this Agreement.

ARTICLE V – TERM OF LICENSE

5.1 The term of this Agreement shall commence upon the Effective Date and shall terminate on a country-by-country basis upon:

a) The termination of the life of the Licensed Patent(s) in such country, or the expiration of the term of the pendency of an application for a Licensed Patent(s) in such country, but

b) Should no Licensed Patent(s) issue or no application for a Licensed Patent(s) be filed in any country, the term of the Agreement in that country shall be [***] from the date of first commercial sale.

*** Confidential Treatment Requested

ARTICLE VI – PAYMENTS

As consideration for the rights granted by Vical to LTI hereunder:

6.1 LTI shall pay a technology transfer fee of [***] to Vical within thirty (30) days of execution of this Agreement and shall pay Vical an additional fee of [***] on or before [***].

6.2 LTI shall pay earned royalties to Vical based upon LTI's Net Sales, the amount of which royalties shall be determined in the following manner:

a) If Licensed Product(s) are manufactured or sold in a country:

i) where no Licensed Patent(s) exists; or

ii) where no application(s) for a Licensed Patent(s) is pending after [***] from the Effective Date; or

iii) where a Licensed Patent(s) has been declared invalid in such country by a court of competent jurisdiction through no fault of LTI, then LTI shall pay royalties at the rate of [***] of Net Sales in such country until such time as a competitor enters the market in such country utilizing technology falling within the scope of the Licensed Patent(s) making such payments by LTI commercially unfeasible, then LTI shall serve notice to Vical of such event. Should Vical fail to successfully dispute or disprove such event within thirty (30) days, then no royalty shall be payable by LTI.

b) If Licensed Product(s) are manufactured or sold in a country:

i) where a Licensed Patent(s) exists; or

ii) where an application for a Licensed Patent(s) is pending; or

iii) where less than [***] have passed from Effective Date in any event,

then LTI shall pay royalties at the rate of [***] of Net Sales in such country.

6.3 LTI shall pay to Vical royalties equaling [***] of Sublicense Income.

6.4 LTI shall pay Vical minimum annual royalties in the amount of [***] for each of the [***] of this Agreement upon the [***] of the Effective Date. Amounts paid by LTI under Sections 6.2 and 6.3 shall be credited against the relevant minimum annual royalty due, and any excess amount paid shall be credited against succeeding minimum annual royalty obligations.

*** Confidential Treatment Requested

6.5 LTI shall make a bonus payment of [***] to Vical upon the earlier to occur of the following during the term of this Agreement:

a) Vical develops a product which LTI desires to market utilizing the Licensed Technology or technology which is covered by the License Agreement dated and effective as of April 20, 1990 by and between LTI and Vical (the "Prior Agreement Technology"), which product is limited to use in protein delivery systems during the term of this Agreement; or

b) LTI actively promotes the Licensed Product(s) or the Prior Agreement Technology for use in protein delivery systems during the term of this Agreement.

ARTICLE VII – REPORTS

7.1 Within sixty (60) days after the end of each calendar quarter during the term of this Agreement, LTI shall furnish Vical a written report setting forth the Net Sales and royalties payable thereon and the amount of Sublicense Income received, accompanied by payment of such royalties, including royalties payable on Sublicense Income. All royalties shall be paid to Vical in U.S. dollars, and in full. In the event that conversion from foreign currency is required in calculating a royalty payment hereunder, the exchange rate used shall be the rate in effect at the end of the last business day of the month just prior to the date payment is required to be made hereunder as published in the Wall Street Journal.

7.2 LTI shall prepare a final report and payment within sixty (60) days after the date of termination of this Agreement and within sixty (60) days after the final sale of Licensed Product(s) left in its inventory after termination of this Agreement in accordance with Section 12.4 below. Such report shall include a summary of existing inventory and any royalties payable as of the date of termination or after such date in accordance with Section 12.4 below.

ARTICLE VIII – BOOKS AND RECORDS

LTI and its sublicensees shall keep and maintain complete and accurate records and books of account in sufficient detail and form so as to enable verification of royalties payable by LTI hereunder. Such records and books of account shall be maintained for a period of no less than two (2) years following the period to which they pertain. LTI shall permit such records and books of account to be examined by Vical or Vical's duly appointed agent, to the extent necessary for Vical to verify the amount of royalties payable. Such examination shall be at Vical's expense, during normal business hours, and upon ten (10) days' prior written notice to LTI, except in the event that the results of the audit reveals a discrepancy in LTI's favor of [***] or more, then the audit fees shall be paid by LTI.

ARTICLE IX – PATENTS

9.1 Vical shall own the entire right, title, and interest in and to any Vical Improvements. Vical and LTI shall jointly own the entire right, title, and interest in and to any Joint Improvements. LTI shall own the entire right, title, and interest in and to any LTI Improvements; provided, however, that LTI shall advise Vical of any such LTI Improvements within thirty (30) days of the recognized discovery thereof [***].

*** Confidential Treatment Requested

9.2 Vical may, at its option, file and prosecute patent applications, in its own name as owner, on the Licensed Patent(s) and Vical Improvements, and in the names of the parties as joint owners, upon Joint Improvements. Should Vical notify LTI that it desires not to exercise this option with regard to an invention or disclosure or should it fail to file a patent application within [***] of LTI's reasonable written request that it do so, then, in that event, [***].

ARTICLE X – REPRESENTATIONS AND WARRANTIES

10.1 Vical represents and warrants that, to the best of its knowledge and information it is the owner of the Know-how and the Licensed Patent(s), free of any liens, encumbrances, restrictions or other legal or equitable claims. Notwithstanding the preceeding, Vical makes no warranty as to the validity or scope of any of the Licensed Patent(s), and nothing in this Agreement shall be construed as a warranty or representation that any Licensed Product(s) made, used or sold, or otherwise disposed of under any license granted by Vical under this Agreement is or will be free from infringement of patents of third parties. Vical MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE LICENSED TECHNOLOGY COVERED BY THIS AGREEMENT.

10.2 LTI will indemnify and hold Vical harmless against any and all actions, suits, claims, demands, or prosecutions that may be brought against Vical to the extent such actions, suits, claims, demands, or prosecutions arise out of the manufacture, use or sale of Licensed Product(s) by LTI, or any negligence, recklessness, or willful misconduct by LTI or LTI's agents, except insofar as such claims were caused solely by the negligence, recklessness, or willful misconduct of Vical.

ARTICLE XI – INFRINGEMENT

11.1 A party receiving knowledge of infringement of a Licensed Patent(s) shall notify the other party promptly. LTI shall have the right, in its sole discretion, and at its sole expense, with counsel of its selection, to prosecute any patent infringement action or to defend any counterclaim of invalidity or action for declaratory judgment or interference. LTI shall have full control over the conduct of any such proceedings and any recoveries therefore shall inure to its sole benefit. In the event LTI fails to initiate and pursue such legal action within a period of one hundred twenty (120) days after receipt of notice thereof, Vical shall have the right to initiate legal action and shall in that event bear all costs and all recoveries therefore shall inure to its benefit.

11.2 If one party institutes or carries on a legal proceeding to enforce a Licensed Patent(s) against an alleged infringer, or to defend a Licensed Patent(s) in a declaratory judgment action, the other party shall fully cooperate with, and supply all assistance reasonably requested by the party instituting and carrying on or defending such proceeding.

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11.3 In the event LTI is sued by a third party for patent infringement allegedly resulting from LTI's manufacture, use or sale of Licensed Product(s), LTI shall promptly notify Vical. LTI shall, at its option, have full control of selection of counsel and conduct of the suit. Should LTI decide to defend it shall do so with the full cooperation of Vical. From a date not less than six months following the date of institution of the suit LTI may place applicable royalties in an escrow account. Should LTI be deemed not infringing a third party's patent(s) by a court of competent jurisdiction, then all amounts paid into said escrow account shall be paid to Vical. Should LTI decide not to defend it shall provide Vical with timely notice thereof. Should Vical defend LTI's actions under this Agreement then LTI shall cooperate fully with Vical. Should LTI be deemed infringing a third party's patent(s) and enjoined from exercising its rights under this Agreement by a court of competent jurisdiction, then LTI shall have the right to terminate this Agreement with respect to the infringing patent claims and retain any royalties placed in the escrow account.

11.4 In the event a party receiving knowledge of infringement of a Licensed Patent(s) promptly notifies the other party as required by Article 11.1 and thereafter neither party shall prosecute an infringer of a Licensed Patent(s) and the infringer's activities are allowed to continue without challenge for a period of up to six (6) months from the date of first notice, or in the event LTI is permanently enjoined by a court of competent jurisdiction from exercising its rights granted hereunder pursuant to an infringement action brought by a third party, then LTI shall have the right to terminate this Agreement upon thirty (30) days written notice to Vical and in accordance with the terms of Article 12.

ARTICLE XII – TERMINATION

12.1 Vical may terminate this Agreement effective upon thirty (30) day's prior written notice to LTI in the event LTI:

a) Commits a material breach of this Agreement which is not cured within sixty (60) days of receipt of written notice thereof from Vical, or

b) Should become insolvent, or a petition in bankruptcy is filed against LTI and is consented to, acquiesced in, or remains undismissed for ninety (90) days; makes a general assignment for the benefit of creditors, or a receiver is appointed for LTI, and LTI does not return to solvency before the expiration of sixty (60) days.

12.2 LTI may terminate this Agreement effective upon thirty (30) days written notice to Vical,

a) Should Vical commit a material breach of this Agreement; or

b) In accordance with Article 11.4.

12.3 Upon termination of this Agreement and except as otherwise expressly provided herein, all licenses granted to LTI under the terms of this Agreement and, at Vical's option, any sublicenses granted by LTI, shall terminate.

12.4 LTI shall have the right for up to [***] following termination of this Agreement to dispose of all Licensed Product(s) then in its inventory, and shall pay royalties thereon, in accordance with the provisions of Article 6, as though this Agreement had not terminated.

12.5 Termination of this Agreement shall not affect any rights or obligations accrued prior to the effective date of such termination and specifically;

a) LTI's obligation:

i) To pay all royalties then accrued except in the event of termination under the provisions of Article 11.4.

ii) To make a final report and payment under the provisions of Article 7.2; and

b) The provisions of Article 5, 8, 9, 10, 12 and 13.

c) The rights of either party as joint owners with respect to Joint Improvements or Joint Improvement Product(s).

12.6. The rights provided in this Article 12 shall be in addition to and without prejudice to any other rights which the parties may have with respect to any breach or violations of the provisions of this Agreement.

12.7. Waiver by either party of a single default or breach or of a succession of defaults or breaches shall not deprive such party of any right to terminate this Agreement pursuant to the terms hereof upon the occasion of any subsequent default or breach.

ARTICLE XIII – CONFIDENTIALITY

13.1. The parties shall be bound to the confidentiality obligations agreed upon in the Confidential Disclosure Agreement between them dated July 7, 1989 and the parties agree that such obligations shall apply to the Know-how, the Licensed Patent(s), and the Improvements. The five year term of nondisclosure shall begin with respect to Improvement(s) when the Improvement(s) are disclosed.

13.2. Prior to the public disclosure by publication, presentation, or by other means, by either party of the results of activities under this

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Agreement, the prior written approval of the other party shall be obtained, which approval shall not be unreasonably withheld. Publication includes submission of articles to LTI's Focus publication.

ARTICLE XIV – COMMERCIAL APPLICATION

LTI shall use its good faith efforts to proceed with the development, manufacture, and sale of Licensed Product(s) and to diligently develop markets therefor throughout the world and to meet such market demand. The parties acknowledge that LTI's commercial application of the Licensed Product(s) is of the essence of this Agreement.

ARTICLE XV – ASSIGNMENT

This Agreement may not be assigned by either party without the others written consent, except in the event of the sale or transfer of substantially the entire business of either party to which the Licensed Product(s) relate.

ARTICLE XVI – NOTICES

Any notice required by this Agreement shall be sent by Registered or Certified U.S. Mail, or by telex or cable and shall be deemed delivered if sent to the following addresses of the respective parties or such other addresses as is furnished by proper notice to the other party:

FOR VICAL:
Dr. Dannie King
President and COO
VICAL INCORPORATED
9373 Towne Center Drive Suite 100
San Diego, CA 92121

FOR LTI:
Secy. Of Corporate Development
LIFE TECHNOLOGIES, INC.
8717 Grovemont Circle
P.O. Box 6009
Gaithersburg, Maryland 20877

ARTICLE XVII – MISCELLANEOUS

17.1 This Agreement may not be amended except by written agreement signed by both of the parties.

17.2 This Agreement shall be governed by and in accordance with the laws of the State of Maryland except where the federal laws of the United States are applicable and have precedence.

17.3 The provisions of this Agreement shall be deemed separable. If any part of this Agreement is rendered void, invalid, or unenforceable, such shall not affect the validity or enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or unenforceable shall substantially impair the value of the entire Agreement as to either party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate originals by their duly authorized representatives.

VICAL INCORPORATED

By: /s/ Martha J. Demski
Martha J. Demski
Vice President and
Chief Financial Officer

Date: 4/29/91

LIFE TECHNOLOGIES, INC.

By: /s/ John Cogan
John Cogan
Vice-President
Corporate Development

Date: 5/10/91

AMENDMENT I

Life Technologies, Inc., a Delaware corporation having its principal place of business at 8400 Helgerman Court, Gaithersburg, MD 20884 ("LTI") and Vical Incorporated, a Delaware corporation, having its principal place of business at 9373 Towne Center Drive, Suite 100, San Diego, CA 92121 ("Vical") hereby agree to amend the Agreement presently in effect (said Agreement having the Effective Date of 29 April 1991 and relating to technology described in US Patent application Serial No. 07/511,219) in accordance with Paragraph 17.1 of the above Agreement as follows:

I. In Paragraph 1.3 the passage "including *in vivo* experimentation in whole animals, but excluding use in humans," is inserted after "research applications" to complete the sentence.

II. Paragraph 1.5 is hereby replaced in full by the following text:

"Improvements" shall mean any inventions, improvements or discoveries, on or related to the Know-how or the Licensed Patents made by LTI or Vical during the term of this Agreement.

III. In all instances in which the term "Joint Improvements," "Vical Improvements" or "LTI Improvements" appears, the word "Joint," "Vical" or "LTI" respectively, is to be deleted.

IV. In Paragraph 3.1 a) the passage "made by Vical" is inserted after the word "Improvements."

V. Insert the following as a new paragraph in Article III to be designated 3.2:

LTI will during the term of this Agreement advise Vical of any Improvements made by LTI within thirty (30) days of the recognized discovery thereof.

VI. Article IX – "Patents" is hereby replaced in full by the following text:

9.1 Vical shall own the entire right, title, and interest in and to any Improvements made solely by Vical. Vical and LTI shall jointly own the entire right, title, and interest in and to any Improvements when there is inventorship by both LTI and Vical employees. LTI shall own the entire right, title, and interest in and to any Improvements made by LTI.

9.2 In the event a patentable invention is made which represents an Improvement and which is invented by employees of both LTI and Vical then the parties agree to negotiate in good faith an arrangement concerning the prosecution of patent applications pertaining to such inventions.

This Amendment is agreed to have an Effective Date of January 1, 1993.

AGREED TO BY:

Life Technologies Inc.

/s/ George E. Lowke
George E. Lowke
Vice President R&D
4/20/93

Vical Inc.

/s/ Alain B. Schreiber
Alain B. Schreiber
President and CEO
5/4/93

Exhibit 10.57

*****Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2.**

LICENSE AGREEMENT
University of Michigan File 0867p1

This Agreement is effective as of 14th of February, 2006 (the "Effective Date"), between Vical Incorporated ("LICENSEE") having the address in Article 13 below, and the Regents of the University of Michigan, a constitutional corporation of the State of Michigan ("MICHIGAN"). LICENSEE and MICHIGAN agree as follows:

BACKGROUND

MICHIGAN and LICENSEE are assignees of the inventions covered by the PATENT RIGHTS (as defined below).

LICENSEE desires to obtain, and MICHIGAN desires to grant to LICENSEE, a license of the PATENT RIGHTS on the terms and conditions set forth below.

ARTICLE 1 – DEFINITIONS

1.1 "FIELD OF USE" means all fields.

1.2 "FIRST COMMERCIAL SALE" means the first sale, rental, or lease of any LICENSED PRODUCT or first commercial use of any LICENSED PROCESS by LICENSEE or a SUBLICENSEE, other than sale of a LICENSED PRODUCT or use of a LICENSED PROCESS for use in trials, such as field trials or clinical trials, being conducted to obtain FDA or other governmental approvals to market LICENSED PRODUCTS or otherwise commercially use LICENSED PROCESSES.

1.3 "LICENSED PROCESS(ES)" means any process or method that, but for access to rights to practice the PATENT RIGHTS, comprises an infringement (including contributory or inducement) of an issued, unexpired claim or a pending claim contained in the PATENT RIGHTS or uses a LICENSED PRODUCT.

1.4 "LICENSED PRODUCT(S)" means any product the manufacture, use, import, offer for sale or sale of which, but for access to rights to practice the PATENT RIGHTS, comprises an infringement (including contributory or inducement) of an issued, unexpired claim or a pending claim contained in the PATENT RIGHTS in the country in which any such product or product part is made, used, imported, offered for sale or sold.

1.5 "NET SALES" means the amount billed or invoiced, and if any amount is not billed or invoiced, the amounts received, on sales, rental or lease, however characterized, by LICENSEE and/or SUBLICENSEES of LICENSED PRODUCTS and uses of LICENSED PROCESSES, less the following deductions (so long as such deductions are not obtained in view of other consideration received by LICENSEE):

(a) trade, quantity and cash discounts actually granted to customers in such invoices for sales, rental or lease of LICENSED PRODUCTS;- or uses of LICENSED PROCESSES, including without limitation, discounts provided by means of chargebacks, rebates and administrative fees charged by customers or health care organizations determined based upon sales, but only in amounts customary in the trade;

(b) sales, tariff duties and/or use taxes separately stated in such bills or invoices with reference to particular sales and actually paid by LICENSEE or SUBLICENSEE to a governmental unit and shipping, handling and insurance charges actually paid by LICENSEE or SUBLICENSEE;

(c) actual freight expenses between LICENSEE or SUBLICENSEE and customers, to the extent such expenses are not charged to or reimbursed by customers; or

(d) rebates and amounts actually refunded or credited on returns.

Where LICENSEE receives any consideration other than cash for such transactions, fair market cash value for such consideration, to be agreed upon by the parties hereto, shall be included in NET SALES.

1.6 "PATENT RIGHTS" means MICHIGAN'S legal rights under the patent laws of the United States or relevant foreign countries for all of the following:

(a) the following United States and foreign patents and/or patent applications, and divisionals, continuations (except continuations-in-part), and foreign counterparts of the same: US. 5,910,488, "Plasmids suitable for gene therapy" and CA2164088, JP3636187 and EP0702722.

1.7 "ROYALTY PERIOD(S)" means the six-month periods ending on the last days of June and December each year.

1.8 "SUBLICENSEE(S)" means any person or entity sublicensed, or granted an option for a sublicense, under the PATENT RIGHTS under this Agreement.

1.9 "SUBLICENSE INCOME" means any revenue that LICENSEE receives from SUBLICENSEES or assignees in consideration for rights under the PATENT RIGHTS, including, without limitation, license issue fees, maintenance fees and milestone payments, but excluding (a) all royalties and other payments based on NET SALES, (b) all amounts paid to support research and/or development by LICENSEE, (c) all payments for equity or debt securities of LICENSEE (except that, to the extent such payments exceed the fair market value of such securities upon date of receipt, such excess shall be included in SUBLICENSE INCOME), (d) all payments tied to the provision of goods and/or services by LICENSEE, and (e) any bona fide loan except to the extent such loan is forgiven without repayment. For clarification, SUBLICENSE INCOME does not include any revenue that LICENSEE receives from SUBLICENSEES or assignees in consideration for rights to any intellectual property of LICENSEE other than the PATENT RIGHTS.

1.10 "TERRITORY" means worldwide.

ARTICLE 2 – GRANT OF LICENSE

2.1 MICHIGAN hereby grants to LICENSEE an exclusive license with the right to grant sublicenses (with the right to grant further sublicenses), both subject to the terms and conditions of this Agreement, in the FIELD OF USE and the TERRITORY to make, have made, import, use, market, offer for sale and sell LICENSED PRODUCTS and to practice LICENSED PROCESSES.

2.2 MICHIGAN reserves the right to practice the PATENT RIGHTS for research and/or educational purposes, and the right to grant the same limited rights to other non-profit research institutions (with no right of such non-profit research institution to grant further rights).

2.3 This Agreement shall extend until expiration of the last to expire of the licensed PATENT RIGHTS, unless sooner terminated as provided in another specific article of this Agreement.

2.4 LICENSEE agrees that LICENSED PRODUCTS used, leased or sold in the United States shall be manufactured substantially in the United States to the extent required by law.

2.5 LICENSEE acknowledges that it has been informed that the licensed PATENT RIGHTS were developed, at least in part, by employees of the Howard Hughes Medical Institute ("HHMI") and that HHMI has a paid-up, non-exclusive, irrevocable license to use the licensed PATENT RIGHTS for HHMI's research purposes, but with no right to assign or sublicense (the "HHMI License"). This license is explicitly made subject to the HHMI License.

2.6 To the extent that the following grant may be required by research funding agreements between MICHIGAN and the United States Government, MICHIGAN reserves the right to grant to the United States Government nonexclusive, nontransferable, irrevocable, paid-up licenses to practice or have practiced for or on behalf of the United States PATENT RIGHTS throughout the world.

ARTICLE 3 - CONSIDERATION

3.1 LICENSEE shall pay to MICHIGAN the following:

(a) A license issue fee of [***]. Such license issue fee shall be nonrefundable and is due fourteen days (14) from the complete execution of this Agreement.

(b) Running royalties according to the following schedule from the FIRST COMMERCIAL SALE until the expiration date of the last to expire of the PATENT RIGHTS or until this Agreement is terminated:

(i) [***] of annual NET SALES up to and including [***]

(ii) [***] of annual NET SALES over [***] and up to and including [***]

(iii) [***] of annual NET SALES over [***]

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If LICENSEE makes any NET SALES to any party controlled by, controlling, or under common control with LICENSEE (where "control" means the direct or indirect ownership of more than 30% of the voting stock or other ownership interests of that entity, or the power, directly or indirectly to cause the direction of the management and policies of such entity) at a price less than the price charged to-independent third parties, the running royalties payable to MICHIGAN shall be computed on the basis of the price charged to independent third parties in an arm's length transaction.

(c) [***] of SUBLICENSE INCOME.

(d) Until the [***], an annual license maintenance fee ("Annual Fee") of [***]. This Annual Fee is accrued on June 30 beginning [***] and is payable with the semi-annual report for the ROYALTY PERIOD in which the Annual Fee accrues.

3.2 LICENSEE shall be responsible for the payment of all taxes, duties, levies, and other charges imposed by any taxing authority with respect to the royalties payable to MICHIGAN under this agreement. Should LICENSEE be required under any law or regulation of any government entity or authority to withhold or deduct any portion of the payments on royalties due to MICHIGAN, then the sum payable to MICHIGAN shall be increased by the amount necessary to yield to MICHIGAN an amount equal to the sum it would have received had no withholdings or deductions been made. MICHIGAN shall cooperate reasonably with LICENSEE in the event LICENSEE elects to assert, at its own expense, MICHIGAN's exemption from any such tax or deduction.

3.3 LICENSEE is not obligated to pay multiple royalties if any LICENSED PRODUCT or LICENSED PROCESS is covered by more than one claim of PATENT RIGHTS or the same LICENSED PRODUCT is covered by claims in two or more countries.

3.4 Royalty payments shall be paid to the "Regents of the University of Michigan" in United States dollars in Ann Arbor, Michigan, sent as provided in Article 13. In computing royalties, LICENSEE shall convert any revenues it receives in foreign currency into its equivalent in United States dollars at the most recent exchange rate published in the Wall Street Journal on the last business day of the ROYALTY PERIOD during which such payments are received by LICENSEE, or at such other exchange rate as the parties may agree to in writing.

3.5 Royalty payments shall be made on a semi-annual basis with submission of the reports required by Article 4. All amounts due under this Agreement shall, if overdue, be subject to a charge of interest compounded monthly until payment, at a per annum rate of five percent (5%) above the prime rate in effect at the JP Morgan Chase & Co. or its successor bank on the due date (or at the highest allowed rate if a lower rate is required by law) or $250, whichever is greater. The payment of such interest shall not foreclose MICHIGAN from exercising any other rights it may have resulting from any late payment. LICENSEE shall reimburse MICHIGAN for the costs, including reasonable attorney fees, for expenses paid in order to collect any amounts overdue more than 120 days unless there is a good faith dispute regarding whether such payment is due.

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ARTICLE 4 - REPORTS

4.1 Until the FIRST COMMERCIAL SALE, LICENSEE shall provide to MICHIGAN a written annual report on or before July 30 of each year. The annual report shall include: reports of progress on research and development, regulatory approvals, manufacturing and sublicensing with respect to LICENSED PRODUCTS and LICENSED PROCESSES during the preceding twelve (12) months, and plans for the coming year. LICENSEE also shall report to MICHIGAN the date of FIRST COMMERCIAL SALE in each country within thirty (30) days of occurrence.

4.2 After the FIRST COMMERCIAL SALE, LICENSEE shall provide semi-annual reports to MICHIGAN. By each July 30 and January 31 (i.e., within one month after each ROYALTY PERIOD closes, including the close of the ROYALTY PERIOD immediately following any termination of this Agreement), LICENSEE shall report to MICHIGAN for that ROYALTY PERIOD:

(a) number of LICENSED PRODUCTS sold, leased or distributed by LICENSEE and each SUBLICENSEE.

(b) NET SALES, excluding the deductions provided therefor, of LICENSED PRODUCTS sold by LICENSEE and all SUBLICENSEES.

(c) accounting for all LICENSED PROCESSES used or sold by LICENSEE and all SUBLICENSEES, including NET SALES, excluding the deductions therefor.

(d) deductions applicable as provided in the definition for NET SALES above.

(e) royalties due on INCOME under Paragraph 3.1(c) above, including supporting figures.

(f) foreign currency conversion rate and calculations (if applicable) pursuant to Paragraph 3.4 and total royalties due under Paragraph 3.1(b).

(g) names and addresses of all SUBLICENSEES granted a sublicense or option therefor under the PATENT RIGHTS any time during the particular ROYALTY PERIOD.

(h) for each sublicense or amendment thereto completed in the particular ROYALTY PERIOD, the date of each agreement and amendment, the territory of the sublicense, the scope of the sublicense, and the nature, timing and amounts of all fees and royalties to be paid thereunder.

LICENSEE shall include the amount of all payments due, and the various calculations used to arrive at those amounts, including the quantity, description (nomenclature and type designation as described in Paragraph 4.3 below), country of manufacture and country of sale of LICENSED PRODUCTS and LICENSED PROCESSES. LICENSEE shall direct its authorized representative to certify that all information regarding payments due to MICHIGAN contained in reports required hereunder is correct to the best of LICENSEE’s knowledge and information and all other information contained in

reports required hereunder is correct in all material respects to the best of LICENSEE's knowledge and information. Failure to provide reports as required under this Article 4 shall be a material breach of this Agreement.

If no payment is due, LICENSEE shall so report to MICHIGAN that no payment is due.

4.3 LICENSEE shall promptly establish and consistently employ a system of specific nomenclature and type designations for LICENSED PRODUCTS and LICENSED PROCESSES to permit identification and segregation of various types where necessary. LICENSEE shall consistently employ, and shall require SUBLICENSEES to consistently employ, the system when rendering invoices thereon and shall inform MICHIGAN, or its auditors, when requested, as to the details concerning such nomenclature system, all additions thereto and changes therein.

4.4 LICENSEE shall keep, and shall require SUBLICENSEES to keep, true and accurate records containing data reasonably required for the computation and verification of payments due under this Agreement. LICENSEE shall, and it shall require all SUBLICENSEES to: (a) open such records for inspection upon reasonable notice during business hours by either MICHIGAN auditor(s) or an independent certified accountant selected by MICHIGAN, for the purpose of verifying the amount of payments due; and (b) retain such records for six (6) years from date of origination.

The terms of this Article shall survive any termination of this Agreement. MICHIGAN is responsible for all expenses of such inspection, except that if any inspection reveals an underpayment greater than [***] of royalties due MICHIGAN, then LICENSEE shall pay all expenses of that inspection and the amount of the underpayment and interest to MICHIGAN within twenty-one (21) days of written notice thereof. LICENSEE shall also reimburse MICHIGAN for reasonable expenses required to collect the amount underpaid.

4.5 All of the payment terms in this Agreement and all information contained in reports provided hereunder may be designated confidential under the terms of the Non-Disclosure Agreement of even date herewith.

ARTICLE 5 - DILIGENCE

5.1 LICENSEE (itself or through its SUBLICENSEES) shall use commercially reasonable efforts to bring LICENSED PRODUCTS to market or one or more LICENSED PROCESSES to commercial use and to continue active, diligent marketing efforts for one or more LICENSED PRODUCTS or LICENSED PROCESSES throughout the life of this Agreement. LICENSEE (itself or through its SUBLICENSEES) has the responsibility to do all that is necessary to obtain and retain any governmental approvals to manufacture and/or sell LICENSED PRODUCTS and/or use LICENSED PROCESSES for all relevant activities of LICENSEE and SUBLICENSEES.

ARTICLE 6 - SUBLICENSING

6.1 LICENSEE shall notify MICHIGAN in writing of every sublicense agreement and each amendment thereto within thirty (30) days after their execution, and indicate the name of the

SUBLICENSEE, the territory of the sublicense, the scope of the sublicense, and the nature, timing and amounts of all fees and royalties to be paid thereunder. Upon request, LICENSEE shall provide MICHIGAN with a copy of sublicense agreements (provided that confidential information in any such sublicense agreement that is not required to be provided to MICHIGAN hereunder may be redacted).

6.2 Each sublicense granted by LICENSEE under this Agreement shall provide for its termination upon termination of this Agreement provided, however, that a sublicense granted to any SUBLICENSEE may permit such SUBLICENSEE, by written notice to MICHIGAN within sixty (60) days of the SUBLICENSEE's receipt of written notice of such termination, to elect to continue the sublicense of rights under this Agreement granted to such SUBLICENSEE on the condition that the sublicense conforms to the requirements of Paragraph 6.3 and the SUBLICENSEE agrees in writing at the time of election to be subject to the obligations contained in this Agreement to be performed or becoming due and payable by LICENSEE from and after the time of election as if SUBLICENSEE were LICENSEE hereunder, subject to any limitations on the grant of rights (such as field limitations) to such SUBLICENSEE contained in the sublicense agreement to which such SUBLICENSEE is a party.

6.3 LICENSEE shall require that all sublicenses of PATENT RIGHTS:

(1) be consistent with the terms and conditions of this Agreement;

(2) contain the SUBLICENSEE'S acknowledgment of the disclaimer of warranty and limitation on MICHIGAN's liability, as provided by Article 9 below; and

(3) contain provisions under which the SUBLICENSEE accepts duties at least equivalent to those accepted by the LICENSEE in the following Paragraphs: 2.5 (HHMI's research use license); 4.4 (duty to keep records); 9.4 (duty to avoid improper representations or responsibilities); 10.1 and 10.2 (duty to defend, hold harmless, and indemnify MICHIGAN and HHMI); 10.3 (duty to maintain insurance); 14.5 (duty to properly mark LICENSED PRODUCTS with patent notices); 14.7 (duty to restrict the use of MICHIGAN's name); 14.8 (duty to control exports); 14.12 (HHMI's third party beneficiary status).

ARTICLE 7 – PATENT APPLICATIONS AND MAINTENANCE

7.1 LICENSEE has the right to control all aspects of filing, prosecuting, and maintaining all of the patents and patent applications that fowl the basis for the PATENT RIGHTS, interferences, and disputes (including litigation) regarding inventorship. MICHIGAN shall fully cooperate in such activities.

7.2 LICENSEE shall notify MICHIGAN of all information received by LICENSEE relating to the filing, prosecution and maintenance of the patents and patent applications which form the basis of the PATENT RIGHTS, and shall make reasonable efforts to allow MICHIGAN to review, comment, and advise upon such information. MICHIGAN agrees to hold such information confidential and to use the information provided by LICENSEE only for the purpose of advancing LICENSEE's PATENT RIGHTS.

7.3 [***] shall pay [***] relating to the activities described in this Article.

ARTICLE 8 - ENFORCEMENT

8.1 Each party shall promptly advise the other in writing of any known acts of potential infringement of the PATENT RIGHTS by another party. LICENSEE has the first option to police the PATENT RIGHTS against infringement by other parties within the TERRITORY and the FIELD OF USE, but LICENSEE shall notify MICHIGAN in writing thirty (30) days before filing any suit. LICENSEE shall not file any suit without a diligent investigation of the merits of such suit by counsel, including with respect to PATENT RIGHTS. This right to police includes defending any action for declaratory judgment of noninfringement or invalidity; and prosecuting, defending or settling all infringement and declaratory judgment actions at its expense and through counsel of its selection, except that LICENSEE shall make any such settlement only with the advice and consent of MICHIGAN, which shall not be unreasonably withheld. If LICENSEE has a reasonable basis for policing the patents, MICHIGAN shall provide reasonable assistance to LICENSEE with respect to such actions, but only if LICENSEE reimburses MICHIGAN for out-of-pocket expenses incurred in connection with any such assistance rendered at LICENSEE'S request or reasonably required by MICHIGAN and if LICENSEE notifies MICHIGAN in writing thirty (30) days before filing any suit. MICHIGAN retains the right to participate, with counsel of its own choosing and at its own expense, in any action brought by LICENSEE under this Paragraph. LICENSEE shall defend, indemnify and hold harmless MICHIGAN with respect to any counterclaims asserted by an alleged infringer in any action brought by LICENSEE, which counterclaims are reasonably related to the enforcement of the PATENT RIGHTS by LICENSEE under this Paragraph, including but not limited to antitrust counterclaims and claims for recovery of attorney fees. LICENSEE shall not be obligated to defend, indemnify and hold harmless MICHIGAN under this Paragraph after any unappealed or unappealable order of a court of competent jurisdiction holds that the claim was legally caused solely by the gross negligence or willful misconduct of MICHIGAN; The applicability of the prior sentence shall not be affected for any time period prior to any such order referred to.

If a declaratory judgment action alleging invalidity or unenforceability of any of the PATENT RIGHTS is brought against LICENSEE or MICHIGAN, then LICENSEE has the first option, tat its own expense, to intervene and assume control over the defense of such action, and MICHIGAN shall provide reasonable cooperation at its own expense in the defense of such action.

8.2 If LICENSEE demonstrates to MICHIGAN that it has a reasonable basis to believe that a third party infringes the PATENT RIGHTS and undertakes to enforce and/or defend the PATENT RIGHTS by litigation, LICENSEE may temporarily withhold up to [***] of the payments otherwise thereafter due during the course of such litigation to MICHIGAN under Article 3 under the following terms. LICENSEE may apply the amounts withheld to pay up to half of LICENSEE's out-of-pocket litigation expenses, including reasonable attorneys' fees, but not including salaries of LICENSEE's employees. If LICENSEE recovers damages in patent litigation or settlement thereof, the award shall be applied first to satisfy LICENSEE'S unreimbursed expenses and legal fees for the litigation, next to reimburse MICHIGAN for any payments under Article 3 which are past due or were withheld pursuant to this Article 8, and then to reimburse MICHIGAN for any other reasonable unreimbursed expenses and legal fees for the litigation. The remaining balance shall be divided according to the following ratio: LICENSEE [***]: MICHIGAN [***].

*** Confidential Treatment Requested

8.3 If LICENSEE fails to take action to abate any alleged infringement of patents which form the basis for the PATENT RIGHTS (or to defend a declaratory judgment action alleging invalidity or unenforceability of any of the PATENT RIGHTS) within sixty (60) days of a request by MICHIGAN to do so (or within a shorter period if required to preserve the legal rights of MICHIGAN under any applicable laws) then MICHIGAN has the right to take such action (including prosecution of a suit) at its expense and LICENSEE shall use reasonable efforts to cooperate in such action, at LICENSEE's expense. MICHIGAN has full authority to settle on such terms as MICHIGAN determines, except that MICHIGAN shall not reach any settlement whereby it provides a license for future activities to a third party under the PATENT RIGHTS in the TERRITORY and the FIELD OF USE without the consent of LICENSEE. If MICHIGAN recovers damages in patent litigation or settlement thereof, the award shall be applied first to satisfy MICHIGAN'S unreimbursed expenses and legal fees for the litigation, next to reimburse MICHIGAN for any payments overdue under this Agreement, and then to reimburse LICENSEE for any reasonable unreimbursed expenses and legal fees for the litigation (such payment not to exceed the recovery or settlement amounts MICHIGAN actually receives). The remaining balance shall be divided according to the following ratio: MICHIGAN [***]: LICENSEE [***]. This provision shall control the division of revenues where a license is granted as part of a settlement of such litigation.

ARTICLE 9 - NO WARRANTIES; LIMITATION ON LIABILITY

9.1 Neither MICHIGAN, including its Regents, fellows, officers, employees and agents, nor LICENSEE, including its directors, officers, employees and agents, makes any representations or warranties that PATENT RIGHTS are or will be held valid, or that the manufacture, importation, use, offer for sale, sale or other distribution of any LICENSED PRODUCTS or use of LICENSED PROCESSES will not infringe upon any patent or other rights.

9.2 **MICHIGAN,** INCLUDING ITS REGENTS, FELLOWS, OFFICERS, EMPLOYEES AND AGENTS, MAKES NO REPRESENTATIONS, EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ASSUMES NO RESPONSIBILITIES WHATEVER WITH RESPECT TO DESIGN, DEVELOPMENT, MANUFACTURE, USE, SALE OR OTHER DISPOSITION BY **LICENSEE** OR **SUBLICENSEES** OF **LICENSED PRODUCTS OR LICENSED PROCESSES.**

9.3 LICENSEE AND **SUBLICENSEES** ASSUME THE ENTIRE RISK AS TO PERFORMANCE OF **LICENSED PRODUCTS** AND **LICENSED PROCESSES.** In no event shall MICHIGAN, including its Regents, fellows, officers, employees and agents, be responsible or liable for any direct, indirect, special, incidental, or consequential damages or lost profits or other economic loss or damage with respect to LICENSED PRODUCTS or LICENSED PROCESSES, to LICENSEE, SUBLICENSEES or any other individual or entity regardless of legal or equitable theory. The above limitations on liability apply even though MICHIGAN, its Regents, fellows, officers, employees or agents may have been advised of the possibility of such damage.

*** Confidential Treatment Requested

9.4 LICENSEE shall not, and shall require that its SUBLICENSEES do not, make any statements, representations or warranties whatsoever to any person or entity, or accept any liabilities or responsibilities whatsoever from any person or entity that are inconsistent with any disclaimer or limitation included in this Article 9.

ARTICLE 10 - INDEMNITY; INSURANCE

10.1 LICENSEE shall defend, indemnify and hold harmless and shall require SUBLICENSEES to defend, indemnify and hold harmless MICHIGAN, including its Regents, fellows, officers, employees, students, and agents, for and against any and all claims, demands, damages, losses, and expenses of any nature (including attorneys' fees and other litigation expenses), resulting from, but not limited to, death, personal injury, illness, property damage, economic loss or products liability arising from or in connection with, any of the following: (1) Any manufacture, use, sale or other disposition by LICENSEE, SUBLICENSEES or transferees of LICENSED PRODUCTS or LICENSED PROCESSES; (2) The direct or indirect use by any person of LICENSED PRODUCTS made, used, sold or otherwise distributed by LICENSEE or SUBLICENSEES; and (3) The use or practice by LICENSEE or SUBLICENSEES of any invention within the PATENT RIGHTS. The indemnification obligation under this Paragraph 10.1 will not apply after any unappealed or unappealable order of a court of competent jurisdiction holds that the claim was legally caused solely by the gross negligence or willful misconduct of MICHIGAN. The applicability of Paragraph 10.1 shall not be affected for any time period prior to any such order referred to in the prior sentence.

10.2 HHMI and its trustees, officers, employees, and agents (collectively, "HHMI Inderrmitees"), will be indemnified, defended by counsel acceptable to HHMI, and held harmless by the LICENSEE and SUBLICENSEES from and against any claim, liability, cost, expense, damage, deficiency, loss, or obligation, of any kind or nature (including, without limitation, reasonable attorneys' fees and other costs and expenses of defense) (collectively, "Claims"), based upon, arising out of, or otherwise relating to this Agreement, including without limitation any cause of action relating to product liability. The previous sentence will not apply to any Claim that is determined with finality by a court of competent jurisdiction to result solely from the gross negligence or willful misconduct of an HHMI Indemnitee.

10.3 MICHIGAN is entitled to participate at its option and expense through counsel of its own selection, and may join in any legal actions related to any such claims, demands, damages, losses and expenses under Paragraph 10.1 above. LICENSEE shall not settle any such legal action with an admission of liability of MICHIGAN without MICHIGAN's written approval.

10.4 Prior to any distribution or commercial use of any LICENSED PRODUCT or use of any LICENSED PROCESS by LICENSEE, LICENSEE shall purchase and maintain in effect commercial general liability insurance, including product liability insurance and errors and omissions insurance which shall protect LICENSEE, MICHIGAN and HHMI with respect the events covered by Paragraph 10.1 and 10.2. Prior to any distribution or use of any LICENSED PRODUCT or use of any LICENSED PROCESS by a SUBLICENSEE, LICENSEE shall require that the SUBLICENSEE purchase and maintain in effect commercial general liability insurance,

including product liability insurance and errors and omissions insurance which shall protect LICENSEE, SUBLICENSEE, MICHIGAN and HHMI with respect to the events covered by Paragraph 10.1 and 10.2. Each such insurance policy must provide reasonable coverage for all claims with respect to any LICENSED PROCESS used and any LICENSED PRODUCTS manufactured, used, sold, licensed or otherwise distributed by LICENSEE — or, in the case of a SUBLICENSEE's policy, by said SUBLICENSEE — and must specify MICHIGAN, including its Regents, fellows, officers and employees, and HHMI Indemnitees as an additional insured. LICENSEE shall furnish certificate(s) of such insurance to MICHIGAN, upon request.

10.5 In no event shall either party hereunder be liable to the other for any special, indirect, or consequential damages of any kind whatsoever resulting from any breach or default of this Agreement.

ARTICLE 11 - TERM AND TERMINATION

11.1 If LICENSEE ceases to operate, this Agreement shall terminate upon written notice by MICHIGAN attempted to be delivered to LICENSEE to the address for notices provided in Article 13 (or any updated address of which LICENSEE notifies MICHIGAN).

11.2 If LICENSEE fails to make any payment due to MICHIGAN, upon written notice by MICHIGAN, if LICENSEE does not make such payment within ten (10) days after receipt of such written notice by MICHIGAN, this Agreement shall automatically terminate unless MICHIGAN specifically extends such date in writing or LICENSEE has notified MICHIGAN in writing no later than the date that is ten (10) days after receipt of such written notice by MICHIGAN that LICENSEE in good faith disputes that such payment is due, in which case termination shall not take effect until such dispute is resolved. Such termination shall not foreclose MICHIGAN from collection any amounts remaining unpaid or seeking other legal relief.

11.3 Upon any material breach or default of this Agreement by LICENSEE other than those occurrences listed in Paragraphs 11.1 and 11.2 (the terms of which shall take precedence over the handling of any other material breach or default under this Paragraph 11.3), MICHIGAN has the right to terminate this Agreement effective on sixty (60) days' prior written notice to LICENSEE. Such termination shall become automatically effective upon expiration of the sixty (60) day period following such notice from MICHIGAN unless LICENSEE cures the material breach or default before the period expires; provided that, if LICENSEE has notified MICHIGAN in writing no later than the date that is sixty (60) days after receipt of such written notice by MICHIGAN that LICENSEE in good faith disputes that a material breach or default has occurred, termination shall not take effect until such dispute is resolved.

11.4 LICENSEE has the right to terminate this Agreement at any time on ninety (90) days' written notice to-MICHIGAN if LICENSEE:

(a) pays all amounts due MICHIGAN through the effective date of the tell ination; and

(b) submits a final report of the type described in Paragraph 4.2.

Upon notice of intent to terminates by LICENSEE under Paragraph 11.4, MICHIGAN may elect to immediately terminate this Agreement upon written notice.

11.5 Upon any termination of this Agreement, and except as provided herein to the contrary, all rights and obligations of the parties hereunder shall cease, except any previously accrued rights and obligations (including confidentiality obligations) and further as follows:

(1) obligations to pay royalties and other sums.- accruing hereunder up to the day of such termination, whether or not this Agreement provides for a number of days before which actual payment is due and such date is after the day of termination;

(2) MICHIGAN's rights to inspect books and records as described in Article 4, and LICENSEE's obligations to keep such records for the required time;

(3) any cause of action or claim of LICENSEE or MICHIGAN accrued or to accrue because of any breach or default by the other party hereunder;

(4) the provisions of Articles 1, 9, 10, and 14 and this Paragraph 11.5; and

(5) all other terms, provisions, representations, rights and obligations contained in this Agreement that by their sense and context are intended to survive until performance thereof by either or both parties.

ARTICLE 12 - REGISTRATION AND RECORDATION

12.1 If the terms of this Agreement, or any assignment or license under this Agreement are or become such as to require that the Agreement or license or any part thereof be registered with or reported to a national or supranational agency, LICENSEE will, at its expense, undertake such registration or report. Prompt notice and appropriate verification of the act of registration or report or any agency ruling resulting from it will be supplied by LICENSEE to MICHIGAN upon request.

12.2 LICENSEE shall also carry out, at its expense, any formal recordation of this Agreement or any license herein granted that the law of any country requires as a prerequisite to enforceability of the Agreement or license in the courts of any such country or for other reasons, and shall promptly furnish to MICHIGAN appropriately verified proof of recordation.

ARTICLE 13 - NOTICES

13.1 Any notice, request, report or payment required or permitted to be given or made under this Agreement by either party is effective when mailed if sent by recognized overnight carrier or certified mail, electronic mail followed by confirmation by regular U.S. mail, or registered mail (return receipt requested) to the address set forth below or such other address as such party specifies by written notice given in conformity herewith. Any notice, request, report or payment not so given is not effective until actually received by the other party.

To MICHIGAN:
The University of Michigan
Office of Technology Transfer
Wolverine Tower, Room 2071
3003 S. State Street
Ann Arbor, MI 48109-1280
Attn: File No. 0867p1

To LICENSEE:
Vical Incorporated
10390 Pacific Center Court
San Diego, California 92121-4340

Attn: President

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 This Agreement shall be construed, governed, interpreted and applied according to United States and State of Michigan law, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent was granted.

14.2 The parties hereby consent to the jurisdiction of the courts in the State of Michigan over any dispute concerning this Agreement or the relationship between the parties. Should LICENSEE bring any claim, demand or other action against MICHIGAN, its Regents, fellows, officers, employees or agents, arising out of this Agreement or the relationship between the parties, LICENSEE agrees to bring said action only in the Michigan Court of Claims.

14.3 MICHIGAN and LICENSEE agree that this Agreement sets forth their entire understanding concerning the subject matter of this Agreement. The parties may amend this Agreement from time to time, but no modification will be effective unless both MICHIGAN and LICENSEE agree to it in writing.

14.4 If a court of competent jurisdiction finds any term of this Agreement invalid, illegal or unenforceable, that term will be curtailed, limited or deleted, but only to the extent necessary to remove the invalidity, illegality or unenforceability, and without in any way affecting or impairing the remaining terms.

14.5 LICENSEE agrees to mark the LICENSED PRODUCTS sold in the United States with all applicable United States patent numbers. All LICENSED PRODUCTS shipped to or sold in other countries shall be marked to comply with the patent laws and practices of the countries of manufacture, use and sale.

14.6 No waiver by either party of any breach of this Agreement, no matter how long continuing or how often repeated, is a waiver of any subsequent breach thereof, nor is any delay or omission on the part of either party to exercise or insist on any right, power, or privilege hereunder a waiver of such right, power or privilege.

14.7 LICENSEE agrees to refrain from using and to require SUBLICENSEES to refrain from using the name of MICHIGAN or HHMI or their insignia in publicity or advertising without the prior written approval of MICHIGAN or HHMI whichever the case may be. Reports in scientific

literature or required to be filed under any law, rule or regulation and presentations of joint research and development work are not publicity. Notwithstanding this provision, without prior written approval of MICHIGAN, LICENSEE and SUBLICENSEES may state publicly that LICENSED PRODUCTS and PROCESSES were developed by LICENSEE based upon an invention(s) developed jointly by LICENSEE and the University of Michigan and/or that MICHIGAN's interest in the PATENT RIGHTS were licensed from the University of Michigan.

14.8 LICENSEE agrees to comply with all applicable laws and regulations with regard to its activities under this Agreement. In particular, LICENSEE understands and acknowledges that the transfer of certain commodities and technical data is subject to United States laws and regulations controlling the export of such commodities and technical data, including all Export Administration Regulations of the United States Department of Commerce. These laws and regulations prohibit or require a license for the export of certain types of technical data to certain specified countries. LICENSEE agrees to comply with all United States laws and regulations controlling the export of commodities and technical data, to be solely responsible for any violation of such laws and regulations by LICENSEE or its SUBLICENSEES, and to defend, indemnify and hold harmless MICHIGAN and its Regents, fellows, officers, employees and agents if any legal action of any nature results from the violation by LICENSEE or its SUBLICENSEES as a result of activities under this Agreement.

14.9 The relationship between the parties is that of independent contractor and contractee. Neither party is an agent of the other in connection with the exercise of any rights hereunder, and neither has any right or authority to assume or create any obligation or responsibility on behalf of the other.

14.10 LICENSEE may not assign this Agreement without the prior written consent of MICHIGAN and shall not pledge any of the license rights granted in this Agreement as security for any creditor. Any attempted pledge of any of the rights under this Agreement or assignment of this Agreement without the prior consent of MICHIGAN will be void from the beginning. No assignment by LICENSEE will be effective until the intended assignee agrees in writing to accept all of the terms and conditions of this Agreement, and such writing is provided to MICHIGAN. Notwithstanding, LICENSEE may, without MICHIGAN's consent, assign its rights under this Agreement to a purchaser of all or substantially all of LICENSEE's business relating to the subject matter of this Agreement, whether through merger, sale of assets, sale of equity or otherwise, so long as such assignee provides a statement in writing to MICHIGAN that it agrees that LICENSEE, or the purchaser if it is an assignee of this Agreement, will remain subject to all the terms and conditions of this Agreement applicable to LICENSEE.

14.11 If during the term of this Agreement, LICENSEE makes or attempts to make an assignment for the benefit of creditors, or if proceedings in voluntary or involuntary bankruptcy or insolvency are instituted on behalf of or against LICENSEE, or if a receiver or trustee is appointed for the property of LICENSEE, this Agreement shall automatically terminate. LICENSEE shall notify MICHIGAN of any such event mentioned in this Paragraph as soon as reasonably practicable, and in any event within five (5) days after any such event.

14.12 HHMI is not a party to this Agreement and has no liability to any licensee, sublicensee or user of anything covered by this Agreement, but HHMI is an intended third-party beneficiary of this Agreement and certain of its provisions are for the benefit of HHMI and are enforceable by HHMI in its own name.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals by their duly authorized officers or representatives.

FOR LICENSEE		FOR THE REGENTS OF THE UNIVERSITY OF MICHIGAN	
By:	/s/ Vijay B. Samant (authorized representative)	By:	/s/ Kenneth J. Nisbet Executive Director, UM Technology Transfer
Typed Name:	Vijay B. Samant		
Title:	President and CEO		
Date:	2/13/06	Date:	2/14/06

Exhibit 31.3

CERTIFICATION

I, Vijay B. Samant, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K/A of Vical Incorporated; and

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.

Date: March 3, 2009

By: /S/ VIJAY B. SAMANT

Vijay B. Samant
Chief Executive Officer

Exhibit 31.4

CERTIFICATION

I, Jill M. Broadfoot, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K/A of Vical Incorporated; and

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.

Date: March 3, 2009

By: /S/ JILL M. BROADFOOT
Jill M. Broadfoot
Chief Financial Officer