**As submitted confidentially to the Securities and Exchange Commission on January 5, 2016.**
**This Amendment No. 2 to the draft registration statement has not been publicly filed with the Securities and Exchange Commission and all information herein remains strictly confidential.**

**Registration No. 333-**

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

# FORM S-1

**REGISTRATION STATEMENT**
**UNDER**
**THE SECURITIES ACT OF 1933**

# Oncobiologics, Inc.

(Exact name of registrant as specified in its charter)

| **Delaware** | **2836** | **38-3982704** |
|---|---|---|
| (State or other jurisdiction of incorporation or organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification Number) |

**7 Clarke Drive**
**Cranbury, New Jersey 08512**
**(609) 619-3990**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Pankaj Mohan, Ph.D.**
**President and Chief Executive Officer**
**Oncobiologics, Inc.**
**7 Clarke Drive**
**Cranbury, New Jersey 08512**
**(609) 619-3990**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**Copies to:**

| | |
|---|---|
| **Yvan-Claude Pierre**<br>**Daniel I. Goldberg**<br>**Divakar Gupta**<br>**Cooley LLP**<br>**1114 Avenue of the Americas**<br>**New York, New York 10036**<br>**(212) 479-6000** | **Stuart M. Cable**<br>**Edwin O'Connor**<br>**Goodwin Procter LLP**<br>**Exchange Place**<br>**53 State Street**<br>**Boston, Massachusetts 02109**<br>**(617) 570-1000** |

**Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.**

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

| Large accelerated filer ☐ | Accelerated filer ☐ | Non-accelerated filer ☒ (Do not check if a smaller reporting company) | Smaller reporting company ☐ |
|---|---|---|---|

**CALCULATION OF REGISTRATION FEE**

| **Title of each class of securities to be registered** | **Proposed maximum aggregate offering price[(1)(2)]** | **Amount of registration fee** |
|---|---|---|
| Common stock, $0.01 par value per share | $ | $ |

(1) Estimated solely for the purpose of computing the amount of registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

(2) Includes the offering price of shares that the underwriters have the option to purchase to cover over-allotments, if any.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

**EXPLANATORY NOTE:**

This Amendment No. 2 to this confidential draft submission of the Registrant's Registration Statement is an exhibits-only submission to file certain exhibits incorporated by reference in Item 16 of Part II of the confidential draft submission of the Registration Statement and to restate the exhibit index incorporated by reference in Item 16. Accordingly, this Amendment No. 2 consists only of the facing page, this explanatory note, Part II of the confidential draft submission of the Registration Statement, including the signature page, the exhibit index, and the exhibits filed herewith. The prospectus is unchanged and has therefore been omitted from this filing.

## PART II

## INFORMATION NOT REQUIRED IN PROSPECTUS

### Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth the costs and expenses, other than the underwriting discounts and commissions, payable by the registrant in connection with the sale of our common stock being registered. All amounts are estimates except for the Securities and Exchange Commission, or SEC, registration fee, the Financial Industry Regulatory Authority, or FINRA, filing fee and the NASDAQ Global Market, or NASDAQ, listing fee.

| Item | Amount to be paid |
|---|---|
| SEC registration fee | $ * |
| FINRA filing fee | * |
| NASDAQ listing fee | * |
| Printing and engraving expenses | * |
| Legal fees and expenses | * |
| Accounting fees and expenses | * |
| Blue Sky qualification fees and expenses | * |
| Transfer agent fees and expenses | * |
| Miscellaneous expenses | * |
| Total | $ * |

* To be filed by amendment.

### Item 14. Indemnification of Directors and Officers.

As permitted by Section 102 of the Delaware General Corporation Law, we have adopted provisions in our amended and restated certificate of incorporation and amended and restated bylaws that limit or eliminate the personal liability of our directors for a breach of their fiduciary duty of care as a director. The duty of care generally requires that, when acting on behalf of the corporation, directors exercise an informed business judgment based on all material information reasonably available to them. Consequently, a director will not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any act related to unlawful stock repurchases, redemptions or other distributions or payment of dividends; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not affect the availability of equitable remedies such as injunctive relief or rescission. Our amended and restated certificate of incorporation also authorizes us to indemnify our officers, directors and other agents to the fullest extent permitted under Delaware law.

As permitted by Section 145 of the Delaware General Corporation Law, our amended and restated bylaws provide that:

- we may indemnify our directors, officers and employees to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions;
- we may advance expenses to our directors, officers and employees in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions; and
- the rights provided in our bylaws are not exclusive.

Our certificate of incorporation, attached as Exhibit 3.1, and our bylaws, attached as Exhibit 3.3, provide for the indemnification provisions described above and elsewhere herein. We have entered into separate indemnification agreements with our directors and officers that may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements generally require us, among other things, to indemnify our officers and directors against liabilities that may arise by reason of their status or service as directors or

officers, other than liabilities arising from willful misconduct. These indemnification agreements also generally require us to advance any expenses incurred by the directors or officers as a result of any proceeding against them as to which they could be indemnified. In addition, we have purchased a policy of directors' and officers' liability insurance that insures our directors and officers against the cost of defense, settlement or payment of a judgment in some circumstances. These indemnification provisions and the indemnification agreements may be sufficiently broad to permit indemnification of our officers and directors for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended, or the Securities Act.

We have entered into indemnification agreement with our directors and executive officers, in addition to the indemnification provided for in our amended and restated certificate of incorporation and amended and restated bylaws, and intend to enter into indemnification agreements with any new directors and executive officers in the future.

We have purchased and currently intend to maintain insurance on behalf of each and every person who is or was a director or officer of our company against any loss arising from any claim asserted against him or her and incurred by him or her in any such capacity, subject to certain exclusions.

The form of Underwriting Agreement, attached as Exhibit 1.1 hereto, provides for indemnification by the underwriters of us and our officers who sign this Registration Statement and directors for specified liabilities, including matters arising under the Securities Act.

### Item 15. Recent Sales of Unregistered Securities.

The following list sets forth information as to all securities we have sold since the preceding three years up to the date of this document, which were not registered under the Securities Act.

(a) From December 2012 to December 2013, we issued a total of 2,700 shares of our Series B redeemable preferred stock to two institutional investors and two individual investors for a purchase price of $1,000 per share, or $2,700,000 in the aggregate. Each share of Series B redeemable preferred stock converted into shares of our common stock and Series A preferred stock in October 2015 in connection with our reincorporation in Delaware.

(b) In December 2012, our former subsidiary Parilis Biopharmaceuticals LLC issued a total of 250 of its Series A 10% Cumulative Participating Preferred Units and 250 of its Series A Hybrid 10% Cumulative Participating Preferred Units to an aggregate of three investors for a purchase price of $1,000 per unit or $500,000 in the aggregate. All outstanding Series A and Series A Hybrid units in Parilis were either repurchased in October 2014, or exchanged for shares of our common stock and Series A preferred stock effective upon our reincorporation in Delaware in October 2015 as described in (k) below.

(c) From March 2013 to May 2013, we issued a total of 605 shares of our Series A redeemable preferred stock to five individual investors for a purchase price of $1,000 per share, or $605,000 in the aggregate. Each share of Series A redeemable preferred stock converted into shares of our common stock and Series A preferred stock in October 2015 in connection with our reincorporation in Delaware.

(d) Between July 2013 and November 2013, we issued 550,000 shares of common stock to two individuals for services provided in connection with sales of redeemable preferred stock. All of these shares of common stock converted into shares of our common stock in October 2015 in connection with our reincorporation in Delaware.

(e) In March 2014 we sold an aggregate of 4,000,000 shares of our common stock to an institutional investor at a purchase price of $1.75 per share, or $7,000,000. In June 2014, we sold an additional 2,000,000 shares of our common stock to this investor at a purchase price of $2.00 per share, or $4,000,000. All of these shares of common stock converted into shares of our common stock in October 2015 in connection with our reincorporation in Delaware.

(f) Between June and September 2014, we issued an aggregate of 102,231 shares of common stock to six employees in settlement of an equivalent number of restricted share units held by them.

(g) From June 2014 through November 13, 2015, we issued 2,454,480 performance stock units, or PSUs, in exchange for restricted shares, or RSUs, and stock options granted prior to June 2014, and 196,200 additional PSUs during the years ended September 30, 2014 and 2015, all of which were granted under our 2011 Equity Incentive Plan. Of the RSUs included in the exchange, 333,500 RSUs were granted subsequent to November 2012.

(h) In June, July and September 2015, we sold an aggregate of 6,091,035 shares of our common stock to nine institutional investors for a purchase price of $7.475 per share or approximately $45.5 million in the aggregate. Citigroup Global Markets, Inc. and Jefferies LLC, each a registered broker-dealer and member of Financial Industry Regulation Authority, Inc., served as placement agents in this offering. The placement agents earned an aggregate of $1.4 million in commissions with respect to this offering.

(i) In October 2015, in connection with our reincorporation in Delaware, we issued 7,568,000 shares of our common stock and 10,191 shares of our Series A preferred stock in exchange for all then outstanding shares of common stock, Series A redeemable preferred stock and Series B redeemable preferred stock.

(j) In October 2015, we issued 782,000 shares of our common stock and 1,626 shares of our Series A preferred stock in exchange for all outstanding Series A and Series A Hybrid Units of Parilis.

(k) In December 2015, we sold an aggregate of 2,152,131 shares of our common stock to 14 accredited investors for a purchase price of $8.42 per share or approximately $18.1 million in the aggregate. Jefferies LLC and Alere Financial Partners (a division of Cova Capital Partners, LLC), each a registered broker-dealer and member of Financial Industry Regulation Authority, Inc., served as placement agents in this offering. The placement agents earned an aggregate of approximately $55,000 in commissions with respect to this offering.

We claimed exemption from registration under the Securities Act for the sale and issuance of securities in the transactions described in paragraphs (a)-(e) and (h)-(k) by virtue of Section 3(a)(9), 4(a)(2) and/or Regulation D promulgated thereunder as transactions not involving any public offering. All of the purchasers of unregistered securities for which we relied on Section 4(a)(2) and/or Regulation D represented that they were accredited investors as defined under the Securities Act. We claimed such exemption on the basis that (a) the purchasers in each case represented that they intended to acquire the securities for investment only and not with a view to the distribution thereof and that they either received adequate information about the registrant or had access, through employment or other relationships, to such information and (b) appropriate legends were affixed to the stock certificates issued in such transactions.

We claimed exemption from registration under the Securities Act for the sales and issuances of securities in the transactions described in paragraphs (f)-(g) above under Section 4(a)(2) of the Securities Act in that such sales and issuances did not involve a public offering or under Rule 701 promulgated under the Securities Act, in that they were offered and sold either pursuant to written compensatory plans or pursuant to a written contract relating to compensation, as provided by Rule 701.

### Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits. See the Exhibit Index attached to this Registration Statement, which is incorporated by reference herein.

(b) Financial Statement Schedules. Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

### Item 17. Undertakings.

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this Registration Statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in Cranbury, New Jersey, on , 2016.

**ONCOBIOLOGICS, INC.**

By: _____
Pankaj Mohan, Ph.D.
President and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Pankaj Mohan, Ph.D. and Lawrence A. Kenyon and each of them, individually, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead in any and all capacities, in connection with this registration statement, including to sign in the name and on behalf of the undersigned, this registration statement and any and all amendments thereto, including post-effective amendments and registrations filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto such attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|---|---|
| Pankaj Mohan, Ph.D. | President, Chief Executive Officer and Director *(Principal Executive Officer)* | , 2016 |
| Lawrence A. Kenyon | Chief Financial Officer *(Principal Accounting and Financial Officer)* | , 2016 |
| Todd C. Brady, M.D., Ph.D. | Director | , 2016 |
| Scott Canute | Director | , 2016 |
| Albert D. Dyrness | Director | , 2016 |
| Donald J. Griffith | Director | , 2016 |
| Kurt J. Hilzinger | Director | , 2016 |
| Robin Smith Hoke | Director | , 2016 |

## EXHIBIT INDEX

| Exhibit Number | Description |
|---|---|
| 1.1+ | Form of Underwriting Agreement. |
| 3.1** | Certificate of Incorporation of Oncobiologics, Inc., as presently in effect. |
| 3.2+ | Certificate of Amendment of Certificate of Incorporation, dated , . |
| 3.3** | Bylaws of Oncobiologics, Inc., as presently in effect. |
| 3.4+ | Form of Amended and Restated Certificate of Incorporation of Oncobiologics, Inc., to be in effect upon the closing of this offering. |
| 3.5+ | Form of Amended and Restated Bylaws of Oncobiologics, Inc., to be in effect upon the closing of this offering. |
| 5.1+ | Opinion of Cooley LLP. |
| 10.1** | Investors' Rights Agreement by and among Oncobiologics, Inc. and certain of its stockholders, dated March 10, 2014, as amended. |
| 10.2** | 2011 Stock Incentive Plan. |
| 10.3** | 2015 Equity Incentive Plan. |
| 10.4** | Forms of option agreement and option grant notice for 2015 Equity Incentive Plan. |
| 10.5+ | 2016 Employee Stock Purchase Plan. |
| 10.6** | Employment Agreement between Oncobiologics, Inc. and Pankaj Mohan, Ph.D., dated January 1, 2011. |
| 10.7** | Offer Letter between Oncobiologics, Inc. and Lawrence A. Kenyon, dated September 3, 2015. |
| 10.8** | Offer Letter between Oncobiologics, Inc. and Elizabeth A. Yamashita, dated March 27, 2014. |
| 10.9** | Offer Letter between Oncobiologics, Inc. and Kenneth Bahrt, M.D., dated June 14, 2015. |
| 10.10** | Letter between Oncobiologics, Inc. and Todd Brady, dated September 12, 2014. |
| 10.11** | Letter between Oncobiologics, Inc. and Scott Canute, dated October 10, 2011. |
| 10.12** | Form of Indemnity Agreement, by and between Oncobiologics, Inc. and each of its directors and executive officers. |
| 10.13† | Research License Agreement by and between Oncobiologics, Inc. and Selexis SA, effective as of October 3, 2011, as amended by Amendment No. 1 dated as of October 9, 2014. |
| 10.14† | ONS-3010 Commercial License Agreement by and between Oncobiologics, Inc. and Selexis SA effective as of April 11, 2013, as amended effective as of May 21, 2014. |
| 10.15† | ONS-1045 Commercial License Agreement by and between Oncobiologics, Inc. and Selexis SA effective as of April 11, 2013, as amended effective as of May 21, 2014. |
| 10.16† | ONS-1050 Commercial License Agreement by and between Oncobiologics, Inc. and Selexis SA effective as of April 11, 2013, as amended effective as of May 21, 2014. |
| 10.17+† | Joint Participation Agreement by and between Oncobiologics, Inc. and Zhejiang Huahai Pharmaceutical Co., Ltd., effective as of May 6, 2013, as amended by that Amendment No. 1 and Mutual Termination Agreement re: Joint Participation Agreement, dated December 23, 2014. |
| 10.18** | Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of March 18, 2011. |
| 10.19** | First Amendment to Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of December 2013. |
| 10.20** | Second Amendment to Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of July 18, 2014. |
| 10.21** | Third Amendment to Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of January 16, 2015. |
| 10.22** | Fourth Amendment to Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of February 9, 2015. |
| 10.23** | Fifth Amendment to Lease Agreement by and between Oncobiologics, Inc. and Cedar Brook 7 Corporate Center, LP, dated as of September 26, 2015. |
| 10.24** | Lease Agreement by and between Cedar Brook East Corporate Center, LP and Oncobiologics, Inc., dated as of August 31, 2015. |

| Exhibit Number | Description |
|---|---|
| 23.1+ | Consent of independent registered public accounting firm. |
| 23.2+ | Consent of Cooley LLP (included in Exhibit 5.1). |
| 24.1+ | Power of Attorney (see signature page, on Page II-5). |

† Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment and this exhibit has been filed separately with the SEC.

+ To be filed by amendment.

** Previously filed.

*CONFIDENTIAL*

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

# RESEARCH LICENSE AGREEMENT

ENTERED INTO WITH

## Oncobiologics, Inc.

This Research License Agreement (the "Agreement") is made effective on _____ (the "Effective Date"),

by and between

**Selexis SA,** 18 ch. des Aulx, 1228 Plan-les-Ouates, Geneva, Switzerland SA ("Selexis")

and

**Oncobiologics, Inc. 7 Clarke Drive, Cranbury, NJ 08512 ("COMPANY")**

**BACKGROUND**

Whereas, **COMPANY** is a biopharmaceutical Company engaged in the research, development, manufacturing and sale of biopharmaceutical products; and

Whereas, Selexis is the owner of certain proprietary and confidential information and know-how ("Selexis Know How", as defined further below), and intellectual property ("Selexis Patent Rights", as defined further below); and

Whereas, Selexis is a biotechnology Company engaged in the development and sale of recombinant cell lines based on proprietary technology ("Selexis Technology", as defined further below); and

Whereas, Selexis is willing to grant **COMPANY**, and **COMPANY** is willing to receive from Selexis, Selexis Know-How and Selexis Patent Rights and licenses thereto related to the Selexis Technology, on the terms and conditions set forth herein.

**AGREEMENT**

Now, therefore, the Parties, intending to be legally bound hereby, do hereby agree as follows:

## 1 Definitions

The following capitalized terms, whether used in the singular or the plural, shall have the following meanings as used in this Agreement, unless otherwise specifically indicated:

1.1. "Affiliate" shall mean any Person that, at the date of this Agreement, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Party specified. For the purposes of this definition, "control" shall mean the possession, direct or indirect, of the power to cause the direction of the management and policies of a Person, whether through ownership of fifty percent (50%) or more of the voting securities of such Person, by contract or otherwise. A Person shall only be considered an Affiliate for so long as such control exists.

1.2. "Agreement" shall mean as defined on Page 2, 1st paragraph.

1.3. "Cell Line" shall mean a mammalian cell line that is developed using the Selexis Technology.

1.4. "Confidential Information" shall, subject at all times to Section 9.2, mean: (i) information of one Party communicated to the other Party that, if written, is marked "confidential" by the providing Party or, if oral, is reduced to writing and marked "confidential" by the providing Party, and delivered to the receiving Party, within thirty (30) days of the oral disclosure, under, or as a result of or in connection with, this Agreement, and (ii) information in respect of a Cell Line for any specific recombinant protein generated under, or as a result of or in connection with this Agreement.

1.5. "Contract Manufacturing Organization" shall mean an entity of which at least fifty percent (50%) of the business is directed toward the provision of services or products for non-affiliate third parties.

1.6. "Effective Date" shall have the meaning as given on Page 2, 1st paragraph.

1.7. "Force Majeure" shall mean any occurrence beyond the reasonable control of a Party that prevents or substantially interferes with the performance by the Party of any of its obligations hereunder; including but not limited to acts of war, political unrest, severe weather, flooding, fire, earthquakes or similar event.

1.8. "**COMPANY**" shall mean as defined on Page 2, 1st paragraph.

1.9. "IND" shall mean an Investigational New Drug Application for the Product filed with the FDA pursuant to 21 C.F.R. Part 312, or any comparable filing made with a Regulatory Authority in another country (including the submission to a competent authority of a request for an authorisation concerning a clinical trial, as envisaged in Article 9, paragraph 2, of European Directive 2001/20/EC).

1.10. "Invention" shall mean any invention, idea, innovation, enhancement, improvement or feature,

whether or not patentable or registrable, together with any intellectual property rights relating thereto (including without limitation Patent Rights and rights in confidentiality and proprietary information).

1.11. "Know-How" shall mean information in whatever form, including in any electronic, tangible or intangible medium, and includes information and materials relating to Inventions and other know-how, trade secrets, data (including amongst other things all data from pre-clinical and clinical studies and other studies intended for regulatory submission), results, formulae, DNA and amino acid sequence information and developments.

1.12. "Licensed Field of Use" shall mean preclinical Research including production of an unlimited number of Cell Lines to produce an unlimited number of recombinant proteins, and including the evaluation of the Cell Lines. For the avoidance of doubt, such activities do not include the use of recombinant proteins expressed in clinical trials.

1.13. "Licensed Product" means a recombinant protein produced by a Cell Line developed hereunder.

1.14. "Party" shall mean Selexis or **COMPANY**, as the case may be; and "Parties" shall mean Selexis and **COMPANY**, collectively.

1.15. "Patent Rights" shall mean any and all of the following: (i) patent applications (including provisional patent applications) and patents (including the inventor's certificates); (ii) any substitution, extension (including patent term extensions and supplementary protection certificate), registration, confirmation, reissue, continuation, divisional, continuation-in-part, re-examination, renewal, patent of addition or the like thereof or thereto; (iii) any foreign counterparts of any of the foregoing; and (iv) any utility model applications and utility models (whether or not corresponding to any of the foregoing).

1.16. "Permitted Collaboration" means a co-collaboration with a Third Party to [*] pursuant to a written agreement which includes (i) [*] **COMPANY** and the Third Party and (ii) [*] or [*] for [*] under such agreement. By way of example and not limitation, a relationship in which such Third Party engaged **COMPANY** to [*] in which [*] would not be a "Permitted Collaboration"; whereas a relationship in which such Third Party and **COMPANY** [*] and pursuant to which [*] (even if [*]) would be a Permitted Collaboration.

1.17. "Person" shall mean an individual, a partnership, a joint venture, a corporation, a limited liability **COMPANY**, a trust, an estate, an unincorporated organization, or any other entity, or a government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

1.18. "Product" means any pharmaceutical preparation in any form containing Licensed Product or any variant, homolog, derivative, fragment or fusion thereof.

1.19. "Research" shall mean any activities excluding selling Cell Lines comprising Selexis

Technology, or selling recombinant proteins generated from Cell Lines comprising Selexis Technology, or making any other commercial use thereof or testing such proteins in a human subject, or filing of an IND. Activities that are excluded from Research shall only be undertaken after a Commercial License Agreement of the type described in Section 3 hereof has been entered into by the Parties.

1.20. "Selexis" shall have the meaning as given on Page 2, 1st paragraph.

1.21. "Selexis Know-How" shall mean Selexis' Confidential Information and Know-How relating to the construction and development of recombinant Cell Lines for the manufacture of biopharmaceutical products and existing as of the Effective Date or obtained thereafter during the Term of this Agreement.

1.22. "Selexis Materials" shall mean the materials provided by Selexis to **COMPANY** under this Agreement and all modifications and improvements thereof made by Selexis during the term hereof, but does not include any Cell Line generated under this Agreement

1.23. "Selexis Patent Rights" shall mean Patent Rights that: (i) are owned or controlled by Selexis, (ii) which are necessary or useful for the use of Selexis Materials or the construction and development of Cell Lines, and (iii) are existing as of the Effective Date or obtained thereafter during the Term of this Agreement. Without limiting the definition set forth in this Section 1.19, the Selexis Patent Rights as of the Effective Date are listed in Exhibit 1 hereto.

1.24. "Selexis Technology" shall mean the Selexis Patent Rights, Selexis Know-How and Selexis Materials.

1.25. "Territory" shall mean the entire world.

1.26. "Third Party" shall mean a Person other than Selexis, **COMPANY** or an Affiliate of Selexis or **COMPANY**.

1.27. "Valid Claim" shall mean any issued or granted claim of the Selexis Patent Rights, except those arising through the operation of Section 6.5, that has not expired, lapsed, been revoked or held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, that is unappealable or remains unappealed at the end of the time allowed for appeal, or that has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination, disclaimer or otherwise.

1.28. "VAT" shall mean value added tax and any other similar turnover, sales or purchase, tax or duty levied by any other jurisdiction whether central, regional or local.

## 2 Research License

2.1. Research License. Selexis hereby grants to **COMPANY** a non-exclusive license ("Research License") in the Territory, with the limited right to sublicense as per Section 2.2 hereafter, under the Selexis Technology, to use the Selexis Technology strictly in the Licensed Field of Use for

Research alone or in connection with a Permitted Collaboration, but otherwise without collaboration with any Third Party.

2.2. License to Affiliate; Sublicenses. At the request of **COMPANY**, Selexis shall grant additional Research Licenses to Affiliates of **COMPANY** pursuant to terms and conditions identical to this Agreement. Such additional Research License(s) shall become effective upon the execution of a written agreement identical to this Agreement among Selexis and the respective Affiliate of **COMPANY**. **COMPANY** may grant sublicenses under the Research License only with the prior written consent of Selexis.

2.3. Research License Term. The term of the Research License is one (1) year from the Effective Date (the "Research License Term"). The Research License Term is automatically extended for additional one year periods unless **COMPANY** notifies Selexis in writing to terminate the Research License with effect to the end of a given one year period no later than thirty (30) business days prior to the end of the then-current one year period. The Research License shall in any case terminate on the third anniversary of the Effective Date unless the Parties mutually agree in writing to further extend the term.

2.4. Selexis Materials. Selexis will provide **COMPANY** with [*] and written protocols and explanations describing in sufficient detail the use and application of these [*].

2.5. Replacement of Selexis Materials. Upon written request by **COMPANY** and within twenty (20) days of Selexis's receipt of such request, Selexis, at no cost to **COMPANY**, shall deliver a new shipment of then-current Selexis Materials to **COMPANY**, provided, however, that Selexis is not obliged to deliver Selexis Materials at no cost more than two (2) times in any given year of this Agreement. Any additional delivery of Selexis Material shall be made against payment of [*].

2.6. Training. To facilitate the transfer of Selexis Know-how to **COMPANY**, Selexis agrees to provide to **COMPANY** the following training and services:

- on-site training for one employee of **COMPANY** for up to [*] business days at Selexis' facilities. **COMPANY** shall pay for all travel related expenses including accommodations for its employee participating in the training.

- [*] hours of consulting by telephone.

- [*] on-site training session annually, during the term of the agreement, for one employee of **COMPANY** for up to [*] business days at Selexis' facilities. **COMPANY** shall pay for all travel related expenses including accommodations for its employee participating in the training.

**3 Commercial License Option**

Selexis hereby grants to **COMPANY** a non-transferable option to obtain a perpetual non-exclusive

worldwide license with the right to sublicense through multiple levels of sublicensees, under the Selexis Technology to manufacture or have manufactured a recombinant protein expressed by a Cell Line for clinical testing and for commercial sale to third parties. **COMPANY** may exercise the foregoing option at any time during the Term of this Agreement. If **COMPANY** exercises the option, the Parties shall negotiate in good faith the terms of a mutually acceptable Commercial License Agreement, which will provide, in part, as described in Exhibit 2.

## 4 Consideration

4.1. Payments.

4.1.1 Research License Payment. Upon execution of this Agreement by **COMPANY**, Company shall pay Selexis One Hundred Thousand Swiss Francs (CHF 100,000). [*] will be due Selexis within [*] days of execution and the remaining [*] due within [*] days of execution of this Agreement.

4.1.2 Research License Annual Payment. Upon any extension of the Research License Term as described in Section 2.3, **COMPANY** shall, on the relevant anniversary of the Effective Date, pay to Selexis One Hundred Thousand Swiss Francs (CHF 100,000) to extend the Research License Term for that year.

4.2. Mechanism of Payment. The payments due to Selexis under this Agreement shall be made by wire transfer or electronic fund transfer (at **COMPANY**'s discretion) to the credit and account of Selexis as follows:

Bank Name: [*]

Account: [*]

To: Selexis S.A.
18, ch. Des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

4.3. Payment Terms. Except for the Research License Payment terms described in Section 4.1.1, **COMPANY** shall make payments due to Selexis under this Agreement at the latest [*] days after receipt of Selexis' invoice. All such fees and payments are exclusive of any VAT, other taxes, duties and excises (collectively referred to as "Taxes).

4.4. Taxes.

4.4.1 All Taxes levied on account of any payment made by **COMPANY** to Selexis pursuant to this Agreement ( other than taxes on income, gains or profits levied against Selexis by any competent Swiss tax authority) will be the responsibility of and shall be paid by

**COMPANY** in accordance with this Article 4.

4.4.2 Character of Payments. The Parties agree that, for purposes of determining the applicability of any Taxes, the payments to be made under this Agreement constitute payments for tangible property and licensure of intellectual property. However, in the event that the governing tax authority ("Tax Authority") recharacterizes such payment, any additional taxes that may be applied (including any interest and penalties that may be unpaid) shall [*],

4.4.3 Withholding by **COMPANY**

a) All payments by **COMPANY** hereunder shall be made in full without any deduction or withholding whatsoever and free and clear of and without any deduction or withholding for or on account of any Taxes, except to the extent that any such deduction or withholding is required by law in effect at the time of payment. Any tax required to be withheld on amounts payable under this Agreement shall promptly be paid by **COMPANY** on behalf of Selexis to the appropriate governmental authority, and **COMPANY** shall furnish Selexis with proof of such payment of Taxes.

b) Each Party shall do all such lawful acts and things and execute and deliver such documents, deeds and other papers and take such further actions as may be reasonably required to lawfully enable Selexis and **COMPANY** or their respective Affiliates to mitigate withholding taxes, such as taking advantage of any applicable legal provisions or any double taxation treaties, for the purpose of assigning to Selexis full tax credit for or recovery of amounts deducted or withheld by **COMPANY** pursuant to paragraph (a) of this Article. In the event that Selexis is not able to fully enjoy the tax credit in its jurisdiction for amounts so deducted or withheld, or recover such amounts, because **COMPANY** has failed to comply with this Article, **COMPANY** shall pay the differences between (i) amounts of deduction or withholding made and (ii) the actual amount of tax credit which Selexis obtained in its jurisdiction, grossed-up by such amount which represents withholding tax not recoverable by Selexis in form of a tax credit or any other form.

## 5 Intellectual Property

5.1. Ownership. Subject to the rights being granted to Company hereunder, this Agreement will not affect either Party's right and title in and to its Inventions and Know-How which exists on the Effective Date of this Agreement or which is thereafter developed independently of the performance of this Agreement.

5.2. Each Party represents that it has or will secure valid and sufficient arrangements and agreements with its directors, officers and employees (which term shall include agents, consultants and

subcontractors) to comply with the Sections 5.3 to 5.6.

5.3. Notwithstanding Sections 5.4, 5.5, 5.6 and 5.7, any Invention arising in connection with this Agreement relating to the use of a Cell Line developed hereunder for expressing any specific recombinant protein, or to the specific recombinant protein itself, shall, subject to the terms of the Research License and/or any Commercial License, be exclusive to **COMPANY** and treated as if owned by **COMPANY**. Unless otherwise agreed, **COMPANY** shall have full control over the decision to file an application for a patent in respect of any such Inventions, including paying the costs of obtaining, maintaining or defending any Patent Rights.

5.4. Subject at all times to Section 5.3, any Invention arising in connection with this Agreement developed solely by **COMPANY** shall be **COMPANY**'s sole property and any Invention developed solely by Selexis shall be Selexis' sole property. Selexis shall during the Term pay all renewal fees and do all such acts and things as may be necessary to maintain the Selexis Patent Rights.

5.5. Subject at all times to Section 5.3, any Invention arising in connection with this Agreement developed jointly by the Parties, but which represents either expansion or extension of the Patent Rights or Know-How of Selexis only, shall be owned solely by Selexis and shall form part of the Selexis Patent Rights.

5.6. Subject at all times to Section 5.3, any Invention arising in connection with this Agreement developed jointly by the Parties, but which represents either an expansion or extension of the Patent Rights or Know-How of **COMPANY**, including any Invention relating to a recombinant protein nominated by **COMPANY**, shall be owned solely by **COMPANY**.

5.7. Subject at all times to Section 5.3, any Invention arising in connection with this Agreement developed jointly by the Parties, which is not owned solely by one Party or the other in accordance with this Agreement, shall be owned jointly by **COMPANY** and Selexis and shall be handled as follows:

5.7.1 If both Parties agree to file an application for a patent in respect of any such Invention (a "Joint Patent") then the Parties shall share equally the filing and prosecution costs related to such applications, the maintenance costs and the costs of defending any resulting patent from attack, and the ownership and control of any Joint Patent (or other form of intellectual property protection) issuing thereon shall vest equally with **COMPANY** and Selexis. Each Party shall have the right to use and sublicense the Invention provided that a fair and reasonable share of net revenues, as agreed between the Parties acting in good faith, received by such Party as a result of such use or sublicense shall be payable to the other Party.

5.7.2 If the Parties agree that an application for a patent may be filed but at any time one Party is unwilling to pay for its half of the costs of obtaining, maintaining or defending a Joint Patent, such Party shall assign all its rights in and to such Invention (including its rights in

any Joint Patent, its right to a share in revenues received in relation to such Invention and its rights to use and sublicense the use of the Invention) to the Party willing to pay all of those costs, whereupon it shall cease to be deemed a Joint Patent. The Party declining to share such payment shall, at the reasonable cost of the other Party, render to the other Party such assistance, do such acts and execute such documents as might reasonably be required to give that Party the full benefit of this Section 5.7.

5.7.3 Each Party shall promptly notify the other Party of any infringement of any Joint Patent which comes to its attention and the parties shall consult in good faith with a view to agreeing a joint response to such infringement, including any proceedings against any infringer. In the event that the Parties agree to respond jointly to the infringement, the Parties shall, unless otherwise agreed in writing, share equally all costs associated therewith and any damages or account of profits awarded to the Parties or settlement sum negotiated by the Parties. Where one Party alone (the "Responding Party") wishes to take such proceedings, the other Party shall provide all reasonable co-operation including but not limited to allowing (and doing all things reasonably necessary to allow) the other Party to prosecute those proceedings in their joint names, provided that (i) the Responding Party shall be responsible for the entire cost of any such legal proceedings and shall indemnify the other Party with regard to all costs, expenses, damages or account of profits awarded against the other Party as a result of the other Party's name being used in any proceedings, but the Responding Party shall be entitled to all costs, damages, or account of profits that may be obtained or awarded; (ii) the Responding Party shall not make any admissions, or consent to the making of any order by any court, regarding the scope, validity or enforceability of the Joint Patent without the prior, written consent of the other Party; and (iii) the Responding Party shall keep the other Party informed with regards to any steps taken in response to an infringement and shall consult the other Party over proposed future steps that are likely to have a material effect on the conduct of any legal action.

5.8. Each of the Parties hereto will promptly notify the other of any Invention arising in connection with this Agreement provided that **COMPANY** is only obliged to notify Selexis of such Inventions to the extent they directly relate to the Selexis Technology.

5.9. In the event Selexis possesses, acquires, creates or is licensed any improvements to the Selexis Technology, subject to any bona fide obligations owed by Selexis to third parties (in respect of which Selexis has notified **COMPANY**), such improvements shall automatically be included in the Selexis Patent Rights and/or the Selexis Know-how and thereby disclosed and licensed at no extra cost to **COMPANY** in accordance with this Agreement.

5.10. Third Party Patent Rights. Selexis covenants that if Selexis becomes aware that **COMPANY**'s

exploitation of its rights hereunder would, or would allegedly infringe any Third Party proprietary rights, Selexis shall use its best efforts to resolve such infringement at Selexis' cost to ensure **COMPANY**'s freedom to continue to use the licenses pursuant to this Agreement, including using reasonable endeavours to obtain a license from the Third Party owner of the proprietary rights which entitles Selexis to continue to grant the rights to **COMPANY** as mentioned herein. Should such efforts not be successful, Selexis shall inform **COMPANY** in writing and thereafter either Party may terminate this Agreement with immediate effect, save that Selexis shall not have such right to the extent that **COMPANY** agrees to waive any liability Selexis would otherwise have to **COMPANY** hereunder in respect of the infringement of the Third Party proprietary right in question.

5.11. Enforcement of Selexis Patent Rights. If during the Term, either Party becomes aware of any infringement or potential infringement of the Selexis Technology, it shall promptly notify the other Party in writing and the Parties shall consult with each other to decide the best way to respond to such infringement or misuse. Selexis covenants that if Selexis becomes aware of an infringement of the Selexis Patent Rights by Third Parties in the Licensed Field of Use, Selexis shall use its best efforts to prevent or enjoin such infringement. In the event Selexis is unable or unwilling to sue the alleged infringer within (i) [*] days of the date it becomes aware of such infringement, or (ii) [*] days before the time limit, if any, set forth in the applicable laws or regulations for the filing of such actions, whichever comes first, then **COMPANY** may, but shall not be required to take such action as **COMPANY** may deem appropriate to prevent or enjoin the alleged infringement or threatened infringement of Selexis Patent Rights. In such event, **COMPANY** shall act at its own expense, and Selexis shall cooperate reasonably with **COMPANY** at the expense of **COMPANY**, and Selexis agrees to be named as a nominal Party. In the event of such action by **COMPANY**, the **COMPANY** shall be entitled to all costs, damages, or accounts of profits that may be obtained or awarded.

5.12. **COMPANY** Intellectual Property. Subject to Section 5.7, **COMPANY** shall retain all right, title and interest in (and the unrestricted right to use) any and all information, data, results, Know-How, products and the like, whether patentable or not, arising out of the conduct of the licenses granted hereunder and all intellectual property appurtenant thereto, including without limitation the Licensed Product composition or sequence and any related intellectual property. **COMPANY** shall have the unrestricted right to publish or otherwise disclose the results and data obtained by the practice of the Selexis Technology provided such disclosure does not include the Confidential Information of Selexis. Where appropriate and where reasonable, the name of Selexis shall be given proper recognition in such publication(s) as scientifically appropriate.

5.13. Further assurance. Each Party agrees to execute and do all things at the cost of the other Party (if not specifically agreed otherwise) as the other Party may reasonably require to give that other Party the full benefit of the provisions of this Section 5.

## 6 Representations, Warranties, and Covenants

6.1. Corporate Power. Each Party hereby represents and warrants that such Party is duly organized and validly existing under the laws of the state (or country or other jurisdiction, as the context requires) of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof.

6.2. Due Authorization. Each Party hereby represents and warrants that such Party is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder and the person executing this Agreement on its behalf has been duly authorized to do so by all requisite corporate actions.

6.3. Binding Agreement. Each Party hereby represents and warrants that this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles and public policy.

6.4. No Conflicts. Each Party hereby represents and warrants that the execution, delivery and performance of this Agreement by such Party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it.

6.5. Additional Warranties by Selexis. Selexis hereby warrants, represents and covenants to **COMPANY** that, to the best of its knowledge:

6.5.1 As of the Effective Date, there are no Third Party intellectual property rights that may be asserted against **COMPANY** claiming that the use by **COMPANY** of the Selexis Technology under this Agreement constitutes an infringement thereof;

6.5.2 As of the Effective Date, there is no pending litigation or other legal proceeding which alleges that the use of Selexis Technology has infringed or misappropriated any of the intellectual property rights of any Third Party, and Selexis has not received any claim that the use of Selexis Technology infringes on any intellectual property rights of a Third Party or a request or demand from any Third Party for the licensing of any intellectual property rights of such party in connection with the practice of the Selexis Technology;

6.5.3 Selexis is the owner of or controls the Selexis Technology, and has the right to grant **COMPANY** the rights granted **COMPANY** under this Agreement, and will not, knowingly during the Term, grant any rights to any Third Party that would adversely affect **COMPANY**'s rights granted under this Agreement or prevent Selexis from entering into a Commercial License Agreement with **COMPANY**;

6.5.4 The Selexis Technology is free and clear of any encumbrance, lien, mortgage, charge, restriction or liability of any kind whatsoever, whether equitable or legal, that would conflict with or impair the rights granted to **COMPANY** under this Agreement;

6.5.5 As of the Effective Date, none of the Selexis Patent Rights are involved in any interference or opposition proceeding, and Selexis has not received any request, demand or notice from any Third Party threatening or disclosing such a proceeding with respect to any of the Selexis Patent Rights; and

6.5.6 As of the Effective Date, Selexis has not received any statement or assertion that (i) any claim in any of the Selexis Patent Rights is, or may be or become rendered, invalid or unenforceable, (ii) any Third Party is aware of any basis as to the future potential invalidity or unenforceability of any claim of any of the Selexis Patent Rights, or (iii) the Selexis Patent Rights do not list all required inventors.

6.5.7 Any replacement Selexis Materials shall satisfy the characteristics set forth in the Selexis Report and shall be free of mycoplasma or other pathogenic contamination.

6.6. Notification. Selexis shall notify **COMPANY** promptly during the Term of this Agreement, if:

6.6.1 Selexis Patent Rights become involved in any interference or opposition proceeding, or Selexis receives any request, demand or notice from any Third Party threatening or disclosing such a proceeding with respect to any of the Selexis Patent Rights; or

6.6.2 Selexis receives any statement or assertion that (i) any claim in any of the Selexis Patent Rights is, or may be or become rendered, invalid or unenforceable, (ii) any Third Party is aware of any basis as to the future potential invalidity or unenforceability of any claim of any of the Selexis Patent Rights, or (iii) the Selexis Patent Rights do not list all required inventors.

6.7. Disclaimer of Warranties by Selexis. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELEXIS DOES NOT MAKE ANY REPRESENTATION OR WARRANTY TO **COMPANY** OF ANY NATURE, EXPRESS OR IMPLIED, THAT THE SELEXIS TECHNOLOGY WILL BE USEFUL FOR, OR ACHIEVE ANY PARTICULAR RESULTS AS A RESULT OF ANY USE BY **COMPANY** OF THE SELEXIS TECHNOLOGY PURSUANT TO ANY LICENSE GRANTED TO **COMPANY** UNDER THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELEXIS SPECIFICALLY DISCLAIMS ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

## 7 Indemnification

7.1. Indemnification by Selexis. During the Term and thereafter, Selexis hereby agrees to save, defend and hold **COMPANY**, its Affiliates, and their respective officers, directors, employees, consultants and

agents harmless from and against any and all liability, damage, loss or expense (collectively, "Losses") claimed by **COMPANY** or by a Third Party resulting from the practice of licensed rights by **COMPANY** in accordance with this Agreement or breach of any representation, warranty, or covenants of Selexis contained in this Agreement, except to the extent that such Losses result from the gross negligence or intentional misconduct of **COMPANY**, its Affiliates, and their respective officers, directors, employees, consultants and agents, provided however, that [*]. In the event **COMPANY** seeks indemnification under this Section 7.1, **COMPANY** shall inform Selexis of a claim as soon as reasonably practicable after it receives notice of the claim, shall permit Selexis to assume direction and control of the defence of the claim (including the right to settle the claim solely for monetary consideration), and shall cooperate as requested (at Selexis' expense) in the defence of the claim but provided always that Selexis may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding or make any admission as to liability or fault without the express written permission of **COMPANY**.

7.2. Indemnification by **COMPANY**. During the Term and thereafter, **COMPANY** hereby agrees to save, defend and hold Selexis and its officers, directors, employees, consultants and agents harmless from and against any and all Losses claimed by Selexis or by a Third Party resulting from any breach of any representation, warranty, or covenants of **COMPANY** contained in this Agreement, or from personal injury or damage to property caused by any Products, except to the extent that **COMPANY** is indemnified by Selexis in respect of those Losses pursuant to Section 7.1 or that such Losses result from the gross negligence or intentional misconduct of Selexis, its Affiliates, or their respective officers, directors, employees, consultants or agents. In the event Selexis seeks indemnification under this Section 7.2, Selexis shall inform **COMPANY** of a claim as soon as reasonably practicable after it receives notice of the claim, shall permit **COMPANY** to assume direction and control of the defence of the claim (including the right to settle the claim solely for monetary consideration), and shall cooperate as requested (at **COMPANY**'s expense) in the defence of the claim.

7.3. Insurance. **COMPANY** shall obtain and maintain during the Term of this Agreement and for five (5) years thereafter product liability insurance in respect of any Products with a reputable and solvent insurance provider in a commercially adequate amount. Such liability insurance shall insure against all mandatory liability including liability for personal injury, physical injury and property damage. **COMPANY** shall provide Selexis with written proof of the existence of such insurance upon request.

## 8 Term and Termination

8.1. Term. This Agreement shall enter into effect on the Effective Date. Unless earlier terminated pursuant to Sections 8.2, 8.3 or 8.4 this Agreement shall remain in full force and effect until expiration of the Research License Term (such period, the "Term").

8.2. Termination for Default. In addition to any other remedies which may be available at law or equity,



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

and except as otherwise provided for in Section 10.6 with respect to a Force Majeure event, in the event of any material breach of this Agreement by a Party ("Default"), the Party not in default ("Non-Defaulting Party") shall have the right to give the other Party ("Defaulting Party") written notice thereof ("Notice of Default"), which notice must state the nature of the Default in reasonable detail and request that the Defaulting Party cure such Default within [*]. If such Default is not cured within the period set forth herein after receipt of a Notice of Default by the Defaulting Party or if such Default is not capable of being cured, then the Non-Defaulting Party, at its option, may terminate this Agreement by written notice effective upon receipt.

8.3. Termination for Bankruptcy. In the event that one or other Party shall become insolvent or make any arrangement with its creditors or has a receiver or administrator appointed to the whole or any part of its assets or if an order shall be made or a resolution passed for its winding up unless such order or resolution is part of a scheme for its amalgamation or reconstruction ("Insolvent Party"), the other Party shall have the right to serve immediate notice of termination of this Agreement, effective upon receipt.

8.4. Termination by **COMPANY**. **COMPANY** may terminate this Agreement at any time by giving [*] written notice to Selexis.

8.5. Effects of Expiration or Termination.

8.5.1 Termination of Licenses. In the event of expiration of this Agreement pursuant to Section 2.3 or a termination of this Agreement by **COMPANY** pursuant to Section 8.2 or 8.4 or by Selexis pursuant to Sections 8.2 or 8.3, the rights and licenses granted under this Agreement shall terminate.

8.5.2 Selexis Materials and Selexis Confidential Information. Upon termination of this Agreement under Section 8.1, 8.2 or 8.3 wherein **COMPANY** is the Insolvent Party, **COMPANY** shall dispose of all tangible embodiments, including Selexis Materials, and render inaccessible or useless all electronic embodiments, of Selexis Confidential Information provided to **COMPANY** by Selexis hereunder, except that **COMPANY** may retain one (1) copy thereof for legal archival purposes. **COMPANY** shall confirm and certify in writing that **COMPANY** has fully complied with this Section 8.4.2.

8.5.3 **COMPANY** Confidential Information. Upon any expiration or termination of this Agreement, Selexis shall dispose of all tangible embodiments, and render inaccessible or useless all electronic embodiments, of **COMPANY** Confidential Information provided to Selexis by **COMPANY** hereunder, except that Selexis may retain one (1) copy thereof for legal archival purposes. Selexis shall confirm and certify in writing that **COMPANY** has fully complied with this Section 8.

8.5.4 Accrued Obligations. Expiration or termination of this Agreement shall not relieve the

Parties of any obligation or liability accruing prior to such expiration or termination and all ancillary provisions necessary for the implementation of this Section 8 shall survive termination.

8.5.5 Survival. Sections 5, 7, 8 and 9 shall survive termination or expiration of this Agreement.

**9 Confidentiality**

9.1. Nondisclosure. During the Term, for a period of [*] thereafter or, in the case of subject matter [*], [*], each Party will maintain all Confidential Information of the other Party including the terms and conditions of this Agreement as confidential and will not disclose any Confidential Information to any Third Party except to its employees, agents, consultants and other representatives, who have a need to know such Confidential Information and who are bound by obligations of confidentiality at least as restrictive as set forth herein. Each Party may use such Confidential Information only to the extent required to accomplish the purposes of this Agreement. Each Party will use at least the same standard of care as it uses to protect proprietary or confidential information of its own to ensure that its employees, agents, consultants and other representatives do not disclose or make any unauthorized use of the Confidential Information.

9.2. Exceptions. Confidential Information shall not include any information that the receiving Party can prove by competent evidence is:

9.2.1 now, or hereafter becomes, through no act or failure to act on the part of the receiving Party, generally known or available;

9.2.2 known by the receiving Party at the time of receiving such information, as evidenced by its records;

9.2.3 hereafter furnished to the receiving Party by a Third Party, without breach of any legal obligation and without restriction on disclosure;

9.2.4 independently developed by the receiving Party without the aid, application or use of Confidential Information of the disclosing Party; or

9.2.5 the subject of a written permission to disclose provided by the disclosing Party.

9.3. Authorized Disclosures. Each Party shall be permitted to disclose Confidential Information of the other Party:

9.3.1 to the extent that, such Confidential Information is required to be disclosed to comply with applicable laws or regulations or with a court or administrative order; provided however that, where practicable, such Party shall first have given written notice of such required disclosure to the other Party, shall make reasonable efforts to narrow the scope of Confidential Information of the other Party required to be disclosed, and shall take

reasonable steps to allow the other Party at its own expense to seek a protective order to protect the confidentiality of the Confidential Information required to be disclosed; or

9.3.2 to establish rights or enforce obligations under this Agreement, but only to the extent such disclosure is necessary and provided that such Party seeks confidential treatment of the Confidential Information to be disclosed.

**10 Miscellaneous**

10.1. Assignment. Neither this Agreement nor any interest hereunder shall be assignable by either Party without the prior written consent of the other Party, not to be unreasonably withheld; provided that either Party may assign this Agreement and all of its rights and obligations hereunder, without such consent, to an entity which acquires all or substantially all of the business or assets of such Party (or the business or assets to which this Agreement pertains) whether by merger, consolidation, reorganization, acquisition, sale, license or otherwise and provided that this Agreement is assigned in its entirety without amendment; and **COMPANY** may assign this Agreement and all of its rights and obligations hereunder, without such consent, to an Affiliate if **COMPANY** remains liable and responsible for the performance and observance of all of the Affiliate's duties and obligations hereunder, and provided that such Affiliate is not a Contract Manufacturing Organization. This Agreement shall be binding upon the successors and permitted assigns of the Parties and the name of a Party appearing herein shall be deemed to include the names of such Party's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement. Any assignment not in accordance with this Section 10.1 shall be null and void.

10.2. Compliance with Governmental Obligations. Each Party shall comply, upon reasonable notice from the other Party, with all governmental requests directed to either Party and provide all information and assistance necessary to comply with the governmental requests.

10.3. Counterparts. This Agreement may be executed in any number of counterparts, each of which need not contain the signature of more than one Party but all such counterparts taken together shall constitute one and the same agreement.

10.4. Dispute Resolution. The Parties agree that in the event of a dispute between them arising from, concerning or in any way relating to this Agreement, the Parties shall undertake to resolve any such dispute in good faith. If after [*] of the matter first being raised the Parties are unable to resolve such dispute, either Party may seek any remedy available pursuant Section 10.8

10.5. Entire Agreement. This Agreement (including the Exhibits attached hereto, which are incorporated herein by reference) sets forth all of the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto with respect to the subject matter hereof; constitutes and contains the complete, final, and exclusive understanding and agreement of the Parties with respect to the subject matter hereof; and cancels, supersedes and

terminates all prior agreements and understanding between the Parties with respect to the subject matter hereof. There are no covenants, promises, agreements, warranties, representations conditions or understandings, whether oral or written, between the Parties other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless reduced to writing and signed by the respective authorized officers of the Parties.

10.6. Force Majeure. Neither Party shall be liable to the other for loss or damages for any default or delay attributable to any Force Majeure, if the Party affected shall give prompt notice of any such cause to the other Party. The Party giving such notice shall thereupon be excused from such of its obligations hereunder as it is thereby disabled from performing for so long as it is so disabled, provided, however, that such affected Party commences and continues to take reasonable and diligent actions to cure such cause; and provided further that if any Force Majeure delays or prevents the performance of the obligations of either party for a continuous period in excess of [*] months, the party not so affected shall then be entitled to give notice to the affected party to terminate this Agreement, specifying the date (which shall not be less than [*] days after the date on which the notice is given) on which termination will take effect. Such a termination notice shall be irrevocable, except with the consent of both parties, and upon termination the provisions of Section 10.4 shall apply.

10.7. Further Actions. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of the Agreement.

10.8. Governing Law and Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the substantive laws of [*] In relation to any legal action or proceedings arising out of or in connection with this Agreement (“Proceedings”), each of the Parties irrevocably submits to the exclusive jurisdiction of the [*] and waives any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

10.9. Independent Contractors. The relationship between Selexis and **COMPANY** created by this Agreement is one of independent contractors and neither Party shall have the power or authority to bind or obligate the other Party except as expressly set forth in this Agreement.

10.10. Interpretation of Agreement. Article and other descriptive headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa.

10.11. License Obligations. Nothing in this Agreement imposes any obligation upon a Party to enter into any other license or agreement with the other Party.

10.12. Non-Disclosure. Except as otherwise required by law or regulation, and only after compliance

with this Section 10.12, neither Party shall issue a press release or make any other disclosure of the existence of or the terms of this Agreement, or otherwise use the name or trademarks or products of the other Party or the names of any employee thereof, without the prior written approval of such press release or disclosure by the other Party, which shall not be unreasonably withheld.

10.13. Notices. All notices and other communications required by this Agreement shall be in writing in the English language and shall be deemed given if delivered personally or by facsimile transmission (receipt verified), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice, provided, however, that notices of a change of address shall be effective only upon receipt thereof):

If to **COMPANY**, addressed to:

Oncobiologics, Inc.
7 Clarke Drive
Cranbury, New Jersey
08512

Attention: Chief Executive Officer
With a copy to: Vice President of Business Development
Fax: +1 (609) 619-3980

If to Selexis, addressed to: Selexis, S.A.

18 Chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

Attention: Accountant
With a copy to: CEO, Igor Fisch, Ph.D.
Facsimile: +41 22 308-9361

or to such addresses or addresses as the Parties hereto may designate for such purposes during the Term. Notices shall be deemed to have been sufficiently given or made: (i) if by facsimile with confirmed transmission, when performed, and (ii) if by air courier upon receipt by the Party.

10.14. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of **COMPANY** and Selexis (and their permitted successors and assigns) and nothing in this Agreement (express or implied) is intended to or shall confer upon any Third Party any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement..

10.15. Severability. If any term, covenant or condition of this Agreement or the application thereof to any Party or circumstance shall, to any extent, be held to be invalid or unenforceable, then the remainder of this Agreement, or the application of such term, covenant or condition to parties or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected

thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

10.16. Use of Name. No right, express or implied, is granted to either Party by this Agreement to use in any manner any trademark or trade name of the other Party including the names “Oncobiologics Inc.” and “Selexis” without the prior written consent of the owning Party.

10.17. Waiver. The failure on the part of a Party to exercise or enforce any rights conferred upon it hereunder shall not be deemed to be a waiver of any such rights nor operate to bar the exercise or enforcement thereof at any time or times hereafter.

The Parties, having read the terms of this Agreement and intending to be legally bound hereby, do hereby execute this Agreement.

SELEXIS

By: /s/ Dr. Igor Fisch

Name: Dr Igor Fisch

Title: CEO

Date:

By: /s/ Regine Brokamp

Name: Regine Brokamp

Title: Duly Authorized COO

Date: 03.10.11

**COMPANY**

By: /s/ Jeremy M. Caudill

Name: Jeremy M. Caudill

Title: VP Business Development

Date: September 30th, 2011

By: _____

Name:

Title:

Date:



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**EXHIBIT 1**

**SELEXIS PATENT RIGHTS**

[*]



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

**EXHIBIT 2**

**Selexis Commercial Licensing Conditions**

**Biosimilar Molecules:**
Milestone Payments:

a) Sixty five thousand Swiss Francs (CHF 65,000) at contract signature
b) [*]
c) [*]

Royalty Payments:
[*]
Option to buyout royalties at commercialization for each Product containing Licensed Product lump sum payment of 1,750,000 CHF
**[*]**


[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**AMENDMENT NO. 1 TO**
**RESEARCH LICENSE AGREEMENT**

THIS AMENDMENT NO. 1 ("**Amendment**") by and between Oncobiologics Inc. ("**Company**") and Selexis SA ("**Selexis**") is dated as of October 9th, 2014 ("**Effective Date**").

Oncobiologics Inc. and Selexis entered into a Research License Agreement effective as of September 30th, 2011 (the "**License Agreement**").

The parties desire to amend the License Agreement to extend the Research License Term as set forth herein.

NOW, THEREFORE, the parties hereto, in consideration of the agreements below and intending to be legally bound hereby, agree as follows:

1. Extension. The parties hereby agree to extend the Research License Term for three (3) additional years and, accordingly, the Research License Term will now expire October 9th, 2017, unless earlier terminated as provided for in the License Agreement. Company shall pay to Selexis a Research License Annual Payment of [*], to be paid in one (1) installment for each yearly extension of the Research License Term.

2. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one and the same agreement. The parties agree that a facsimile signature on the Amendment shall be binding evidence of a party's signature (such facsimile which may also be forwarded by email).

3. Effect of Agreement. Except as amended hereby, all provisions of the Agreement are hereby ratified and shall continue in full force and effect and are incorporated herein by reference. This Amendment shall be governed by and construed consistently with the terms of the Agreement. Any capitalized terms not defined herein will have the same meaning as in the Agreement.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date set forth above.

**Company:**

By: /s/ Stephen J. McAndrew

Name: Stephen J. McAndrew, Ph.D.
Title: Sr. Vice President, Business Strategy & Development

**Selexis SA**

By: /s/ Regine Brokamp

Name: Regine Brokamp
Title: COO

**Selexis SA**

By: /s/ Girod, Pierre-Alain

Name: Girod, Pierre-Alain
Title: CSO

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

**Exhibit 10.14**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.


**AND**

# Oncobiologics, Inc.

## Commercial License Agreement

**April 11, 2013**

This Commercial License Agreement (this "**Agreement**") is made effective on April 11, 2013 (the "**Effective Date**")

by and between

**Selexis SA**, a company incorporated under the laws of Switzerland, with its registered office at 18 chemin des Aulx, 1228 Plan-les-Ouates, Geneva, Switzerland ("**SELEXIS**")

and

**Oncobiologics, Inc.**, a company incorporated under the laws of the United States, with its registered office at 7 Clarke Drive, Cranbury, New Jersey 08512 ("**COMPANY**") (SELEXIS and COMPANY, collectively the "**PARTIES**" and, individually, a "**PARTY**").

**Preamble**

A. WHEREAS, COMPANY is a biopharmaceutical company engaged in the research, development, manufacturing and sale of biopharmaceutical products;

B. WHEREAS, SELEXIS is a biotechnology company engaged in the development and sale of recombinant cell lines based on the SELEXIS Technology;

C. WHEREAS, SELEXIS is the owner of certain Confidential Information, the SELEXIS Know-How and the SELEXIS Patent Rights;

D. WHEREAS, pursuant to a Research License Agreement between the PARTIES dated October 3, 2011 (the "Research License Agreement") COMPANY has developed certain recombinant cell line(s) and/or COMPANY Material using the SELEXIS Technology, SELEXIS Know-How and SELEXIS Patent Rights, and COMPANY has evaluated such cell Line(s); and

E. WHEREAS, SELEXIS is willing to grant COMPANY, and COMPANY is willing to receive from SELEXIS, a commercial license to the SELEXIS Know-How and the SELEXIS Patent Rights with respect to the SELEXIS Technology, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the PARTIES agree as follows:

## 1. Definitions

In addition to the terms defined above, the following terms, whether used in the singular or plural, shall have the following meanings as used in this Agreement, unless otherwise specifically indicated:

1.1. "**Affiliate**" shall mean any Person that, as of the Effective Date, directly or indirectly, controls, is controlled by, or is under common control with the relevant Person. For the purposes of this definition only, "**control**" shall mean the possession, directly or indirectly, of the power to cause the direction of the management and policies of a Person, whether through ownership of voting securities of such Person, by contract or otherwise. A Person shall only be considered an Affiliate for so long as such control exists.

1.2. "**BLA**" shall mean a Biologic License Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.3. "**Calendar Quarter**" shall mean, for each Calendar Year, each of the three month periods ending March 31, June 30, September 30 and December 31, respectively.

1.4. "**Calendar Year**" shall mean the period commencing on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.5. "**Cell Line**" shall mean a mammalian cell line that is developed using the SELEXIS Technology. Cell Line shall include, without limitation, any Company-Specific Cell Line(s) developed by COMPANY under the Research License Agreement which have employed SELEXIS Technology, SELEXIS Know-How and/or SELEXIS Patent Rights.

1.6. "**Clinical Trials**" shall mean human studies designed to measure the safety and/or efficacy of the Product. Clinical Studies include Phase I Clinical Trials, Phase II Clinical Trials, and Phase Ill Clinical Trials.

1.7. "**Collaboration Partner**" shall mean a Third Party with which COMPANY collaborates on the development and/or commercialization of a Licensed Product or to which COMPANY has granted a license for the development and/or commercialization of a Licensed Product, provided that [*] or [*] or [*] for [*].

1.8. "**Combination Product Adjustment**" shall mean the adjustment of: Net Sales for any combination product done by multiplying actual Net Sales of such combination product by the fraction A/(A + B) where A is the weighted (by sales volume) average invoice price of the Product, if sold separately, and B is the weighted (by sales volume) average invoice price of any other active ingredient, device or component in the combination, if sold separately. If, on a country-by-country basis, the other active ingredient, device or component in the combination is not sold separately, Net Sales shall be calculated by multiplying actual Net Sales of the combination product in such country by the fraction A/C where A is the invoice price of the Product, if sold separately, in such country and C is the invoice price of the combination product in such country.

1.9. "**Commercial License**" shall have the meaning set out in Article 2.1.

1.10. "**Commercial License Option**" shall mean the option granted to Company in the Research License Agreement to obtain a non-exclusive commercial license.

1.11. "**Company Protein**" shall mean the recombinant protein listed in Exhibit 2.

1.12. "**Company-Specific Cell Line**" shall mean a Cell Line that has been modified by Company under the Research License Agreement to specifically express the Company Protein.

1.13. "**COMPANY Technology**" shall mean any Technology owned or controlled by COMPANY, including, without limitation, any such Technology related to Licensed or Final Product, but excluding any SELEXIS Technology related thereto.

1.14. "**Confidential Information**" shall mean any technical and business information pertaining to materials and production techniques, products, processes and services, including without limitation physical working models and samples of the products, research, development, patentable and unpatentable inventions, manufacturing, purchasing and product development plans, forecasts, strategies and information, engineering, marketing, merchandising, selling, customer lists, customer prospects, software codes, algorithms, names and expertise of employees and consultants, blueprints, technical information, trade secrets or know-how or other related proprietary business information and data, in any case whether such information is provided in tangible or intangible form, written, oral, graphic, pictorial or recorded form or stored on computer discs, hard drives, magnetic tape or digital or any other electronic medium. Confidential Information disclosed in any tangible format will be labelled "Confidential" or words to similar effect, and all non-tangible disclosures will be declared to be "Confidential" or words to similar effect at the time of disclosure. Confidential Information shall include any and all material and data created by the receiving party based on, containing or otherwise reflecting Confidential Information. Confidential Information shall also include any such information or documents which may be disclosed hereunder which the disclosing party received in confidence from a Third Party.

1.15. "**Contract Manufacturing Organization**" shall mean an entity of which at least fifty percent (50%) of the business is directed toward the provision of biologic manufacturing services or products for non-affiliate third parties.

1.16. "**Contractor**" shall mean a Third Party contractor who: (i) develops the production process for Licensed Products by or on behalf of COMPANY, or (ii) manufactures and supplies Licensed Products by using such production process by or on behalf of COMPANY.

1.17. "**Default**" shall have the meaning set out in Article 9.2.

1.18. "**Defaulting Party**" shall have the meaning set out in Article 9.2.

1.19. "**FDA**" shall mean the United States Food and Drug Administration, or any successor agency.

1.20. "**Final Product**" shall mean any pharmaceutical preparation in final form containing any Licensed Product(s) for sale by prescription, over-the-counter or any other method, in any dosage form, formulation,

presentation, line extension or package configurations, including without limitation such Licensed Product in development where the context so requires in this Agreement.

1.21. "**First Commercial Sale**" shall mean, with respect to any Final Product in any country, the first sale of such Final Product for use or consumption by the general public in such country after Regulatory Approval as well as Pricing and Reimbursement Approval for such Final Product has been obtained in such country. For the avoidance of doubt, sales prior to receipt of all Regulatory Approvals and Pricing and Reimbursement Approvals necessary to commence regular commercial sales, such as so-called "treatment IND sales", "named patient sales" and "compassionate use sales", shall not be construed as a First Commercial Sale.

1.22. "**Force Majeure**" shall mean conditions beyond the control of a PARTY, including without limitation, an act of God, war, civil commotion, terrorist act, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of facilities or materials by fire, earthquake, storm or the like catastrophe, and failure of plant or machinery (provided that such failure could not have been prevented by the exercise of skill, diligence and prudence that would be reasonably and ordinarily expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances).

1.23. "**IND**" shall mean an Investigational New Drug Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.24. "**Insolvent Party**" shall have the meaning set out in Article 9.3.

1.25. "**Invention**" shall mean any invention, idea, innovation, enhancement, improvement or feature, whether or not patentable or registrable, together with any intellectual property rights relating thereto (including without limitation, the Patent Rights and rights to confidentiality and proprietary information).

1.26. "**Know-How**" shall mean information in whatever form, tangible or intangible and on whatever medium, including without limitation, information and materials relating to Inventions and other know-how, trade secrets, data (including without limitation, all data from pre-clinical and clinical studies and other studies intended for regulatory submission), results, formulae, DNA and amino acid sequence information and related developments.

1.27. "**Licensed Field of Use**" shall mean the development, manufacture and sale of Final Products for any field of use.

1.28. "**Licensed Product**" shall mean Company Protein made or derived from any Selexis Materials, including, without limitation, the Company-Specific Cell Lines.

1.29. "**Losses**" shall mean all and any liability, damage, loss or expense.

1.30. "**Net Sales**" shall mean the amount collected by COMPANY, its Affiliates, its Sublicensees and/or any Collaboration Partner with whom the Parties enter into a tri-party agreement pursuant to Section 2.3, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:

(i) sales and excise taxes and duties paid or allowed by the selling PARTY and any other governmental charges imposed upon the production, importation, use or sale of the Final Products;

(ii) customary trade, quantity and cash discounts allowed on Final Products;

(iii) compulsory government rebates;

(iv) allowances or credits to customers on account of rejection or return of Final Product or on account of retroactive price reductions affecting the Final Product;

(v) freight and insurance costs, if they are included in the selling price for the Final Product invoiced to Third Parties, provided always that such deduction shall not be greater than the balance between the selling price actually invoiced to the Third Party and the standard selling price which would have been charged to such Third Party for such Final Product exclusive of freight and insurance in the respective country or in a comparable country; and

(vi) in the event that a Final Product is sold in any country in the form of a combination product containing one or more other therapeutically active ingredients, the Net Sales for any such Final Product shall be computed using the Combination Product Adjustment for such country.

1.31. "**Non-Defaulting Party**" shall have the meaning set out in Article 9.2.

1.32. "**Notice of Default**" shall have the meaning set out in Article 9.2.

1.33. "**Patent Rights**" shall mean any and all of the following: (i) patent applications (including without limitation provisional patent applications) and patents (including without limitation the inventor's certificates); (ii) any substitution, extension (including without limitation patent term extensions and supplementary protection certificates), registration, confirmation, reissue, continuation, divisional, continuation-in-part, re-examination, renewal, patent of addition or the like thereof or thereto; (iii) any foreign counterparts of any of the foregoing; and (iv) any utility model applications and utility models (whether or not corresponding to any of the foregoing).

1.34. "**Person**" shall mean an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an estate, an unincorporated organization, or any other entity, or a government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

1.35. "**Phase I Clinical Trial**" shall mean a Clinical Trial conducted in humans which is principally intended to obtain data on the safety, tolerability, pharmacokinetic or pharmacodynamic properties of a product. Phase I shall be deemed to have commenced when the first patient in the study has been treated. Phase I shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.36. "**Phase II Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a preliminary determination of therapeutic efficiency and/or to find an optimal dose range in patients with

the disease target being studied. Phase II shall be deemed to have commenced when the first patient in the study has been treated. Phase II shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.37. "**Phase III Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a determination of therapeutic efficiency in patients with the disease target being studied. Phase III shall be deemed to have commenced when the first patient in the study has been treated. Phase III shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.38. "**Price and Reimbursement Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary to determine or set the pricing of a Product, and/or its reimbursement level by the relevant health authorities, providers or other funding institutions, at supranational, national, regional, state or local level.

1.39. "**Regulatory Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary for the manufacture, marketing or sale of a Product or conduct of Clinical Trials in a regulatory jurisdiction, excluding Price and Reimbursement Approval.

1.40. "**Regulatory Authority**" shall mean (i) the FDA or (ii) any and all governmental or supranational agencies, ministries, authorities or other bodies with similar regulatory authority with respect to approval or registration of pharmaceutical or biologic products in any other jurisdiction anywhere in the world.

1.41. "**Royalty Term**" shall mean with respect to each Final Product sold in a particular country, the period beginning on the date of the First Commercial Sale in such country and terminating on the expiration of the last-to-expire or lapse of any Valid Claims in such country covering [*].

1.42. "**SELEXIS Know-How**" shall mean SELEXIS' Confidential Information and Know-How owned, controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the Commercial License relating to, without limitation, the construction and development of recombinant cell lines for the manufacture of biopharmaceutical products and existing as of the Effective Date or obtained thereafter during the Term.

1.43. "**SELEXIS Materials**" shall mean the materials provided by SELEXIS to COMPANY under this Agreement and all modifications and improvements thereof made by SELEXIS during the Term.

1.44. "**SELEXIS Patent Rights**" shall mean Patent Rights which: (i) are owned or controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the

Commercial License (ii) are necessary or useful for the use of SELEXIS Materials or the construction, development and use of Cell Lines and (iii) are existing as of the Effective Date or obtained thereafter during the Term. Without limiting the generality this Article, the SELEXIS Patent Rights as of the Effective Date are listed in Exhibit 1 hereto.

1.45. "**SELEXIS Technology**" shall mean the SELEXIS Patent Rights, the SELEXIS Know-How and the SELEXIS Materials.

1.46. "**Tax Authority**" shall mean the relevant governing tax authority as defined in Article 4.2.

1.47. "**Taxes**" shall mean all excises, taxes and duties with the exception of VAT.

1.48. "**Technology**" shall mean all inventions (whether or not patentable or patented) and intellectual property rights therein, including without limitation, patents, patent applications, know-how, trade secrets, copyrights, trademarks, designs, concepts, registered and unregistered design rights, data, work product, results, reports, improvements, business and research plans, analytic methods and results, experimental methods and results, manufacturing processes, developments, technologies, technical information, composites of genes and gene constructs, cell lines, manuals, standard operating procedures, instructions and specifications.

1.49. "**Term**" shall have the meaning set out in Article 9.1.

1.50. "**Territory"** shall mean the entire world.

1.51. "**Third Party**" shall mean a Person other than SELEXIS, COMPANY or an Affiliate of SELEXIS or COMPANY.

1.52. "**Transferee**" shall have the meaning set out in Article 2.3.

1.53. "**Valid Claim**" shall mean any issued or granted claim of the SELEXIS Patent Rights that has not been revoked or held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, that is unappealable or remains unappealed at the end of the time allowed for appeal, or that has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination, disclaimer or otherwise.

1.54. "**VAT**" shall mean value added tax and any other similar turnover, sales or purchase, tax or duty levied by any other jurisdiction whether central, regional or local.

## 2. Commercial Licenses

2.1. Commercial Licenses. Subject to payment by COMPANY of the amounts provided for below and COMPANY's compliance with the other terms and conditions of this Agreement, SELEXIS hereby grants to COMPANY a non-exclusive license under the SELEXIS Patent Rights and SELEXIS Know-How, in the Territory, with the limited right to sublicense in accordance with Article 2.2, to use (and have used only by permitted Sublicensees in accordance with Sections 2.2 and 2.3) Company-Specific Cell Lines and

SELEXIS Materials for the manufacture of Licensed and/or Final Products in the Licensed Field of Use and to make, have made, use, offer for sale, sell, import and otherwise exploit Licensed and/or Final Products, including, without limitation, the use of Licensed and Final Products in Clinical Trials (the "**Commercial License**").

2.2. Sublicenses.

2.2.1. COMPANY may solely, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to (i) a Contractor or a Collaboration Partner for and only with respect to [*] or [*], or (ii) a Collaboration Partner for and only with respect to [*] or [*]. In the event that [*] any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor [*], [*] thereof and the parties [*] sublicenses under this Section 2.2.1 [*].

2.2.2. Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1, including, without limitation, with respect to [*], shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditioned or delayed.

2.2.3. If COMPANY grants any sublicenses permitted or consented to hereunder, it shall notify SELEXIS within thirty (30) days of any such sublicense grant and report the name and address of any such sublicensee (each, a "**Sublicensee**") together with written certification by an officer of COMPANY that the Sublicensee has agreed in writing to adhere to the relevant provisions of this Agreement. Notwithstanding the above, COMPANY is and remains fully liable and responsible for any breach of this Agreement committed or any Losses caused by any Sublicensee, or any other Third Party or Affiliate to whom the Company-Specific Cell Lines, SELEXIS Materials and the SELEXIS Know How or parts thereof are made available under any such sublicense.

2.3. Tri-Party Agreements. In the event that SELEXIS is unable, due to restrictions on its rights to permit COMPANY to grant any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor, to consent to any sublicense pursuant to Section 2.2.1, then the parties agree to use diligent efforts to negotiate a tri-party agreement among SELEXIS, COMPANY and such Collaboration Partner or Contractor (each a "**Tri-Party Agreement**"), pursuant to which: (a) SELEXIS will grant a non-transferable, non-sublicenseable, royalty-free, non-exclusive license to such Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines: (i) solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in the relevant territory; and (ii) in accordance with Applicable Laws; (b) such license shall be subject to obligations and restrictions comparable to those set forth in this Agreement, provided that such Tri-Party Agreement will not include any payment obligations comparable to those set forth in Article 3 or otherwise; and (c) COMPANY will remain responsible for all financial obligations to SELEXIS under this Agreement for the entire Territory, including the territory granted to such Collaboration Partner or Contractor and including, without limitation, payment with respect to any Net Sales therein.

2.4. Transfer of SELEXIS Materials. COMPANY shall not transfer the Cell Lines, SELEXIS Materials or SELEXIS Know-How to any Third Party, except that during and for the Term only, COMPANY may transfer SELEXIS Know-How to Contractors or Collaboration Partners (the "**Transferees**") solely for their use in connection with their development of the production process and/or manufacturing of Licensed Products with, or on behalf of, COMPANY, pursuant either to a sublicense as permitted or consented to under Section 2.2 or a Tri-Party Agreement. If COMPANY makes any such transfer, it shall notify SELEXIS within thirty (30) days of any such transfer and report the name and address of any Transferee together with confirmation that the Transferee has agreed in writing to adhere to the confidentiality obligations and use restrictions set out in this Agreement.

## 3. Consideration

3.1. Payments.

3.1.1. Commercial License Execution Payment. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall pay SELEXIS a one-time fee of CHF 65,000.00 (Sixty-Five Thousand Swiss Francs), due within ten (10) business days of execution of this Agreement.

3.1.2. Commercial License Milestone Payments. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall make the following milestone payments to SELEXIS with respect to the first occurrence of each such milestone event for each Licensed Product:

(i) [*] CHF 65,000.00 (Sixty-Five Thousand Swiss Francs); and

(ii) [*] CHF 300,000 (Three Hundred Thousand Swiss Francs).

3.1.3. Commercial License Royalty Payments: In addition to the milestone payments under Article 3.1.2, during the Royalty Term, COMPANY shall pay SELEXIS on a Product-by-Product and country-by-country basis a royalty of [*] of Net Sales of all Final Products sold worldwide. Where royalties are due for the sale of Final Products directly by COMPANY, such royalties shall be paid for each Calendar Quarter within [*] of the end of that Calendar Quarter. Where royalties are due for the sales of Final Product by a Sublicensee, payment shall be made within [*] of the end of that Calendar Quarter. For the avoidance of doubt, no royalty payments shall be due for a Final Product in a specific country after the Royalty Term has expired for such Final Product in such country. Where royalties are no longer due in accordance with the foregoing, the Commercial License granted to COMPANY under this Agreement shall become perpetual, irrevocable, fully paid up and royalty free with respect to such Final Product in such country.

3.1.4. Royalty Buyout. At any time during the Term, COMPANY shall have the right to terminate its obligation to pay a royalty pursuant to Section 3.1.3 of this Agreement with respect to all Final Product

containing a specific Licensed Product by paying to SELEXIS the sum of CHF 1,750,000 (One Million One Hundred Seventy-Five Thousand Swiss Francs) (a "**Royalty Termination Fee**"). In order to exercise this right, COMPANY shall notify SELEXIS in accordance with Section 11.10 of this Agreement that it is paying the Royalty Termination Fee for all Final Product containing the specified Licensed Product in such notice. Provided that the Royalty Termination Fee is paid to SELEXIS within five (5) business days of such notice in accordance with Section 3.2 of this Agreement, the notice shall be effective as of the first day of the Calendar Quarter in which the notice was delivered, thereby terminating the royalty obligation for all Final Product containing the specified Licensed Product for that Calendar Quarter and thereafter. Payment of a Royalty Termination Fee shall apply only to all Final Product containing a single Licensed Product [*]. For avoidance of doubt, upon COMPANY paying a Royalty Termination Fee under this Agreement, no royalties shall thereafter be due to SELEXIS under this Agreement.

3.2. Mechanism of Payment. The payments due to SELEXIS under this Agreement shall be made either by check or by wire transfer or electronic fund transfer to the credit and account of SELEXIS, as follows:

**Bank Name:** [*]

**Account:** [*]

**To:** Selexis S.A.
18, chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

3.3. Payment Terms. Except with respect to royalties due pursuant to Article 3.1.3, COMPANY shall make payments due to SELEXIS under this Agreement at the latest [*] business days after receipt of invoice. All fees and payments, including without limitation under Article 3.1.3, do not include any applicable VAT or Taxes.

3.4. Records. COMPANY and its Affiliates and Sublicensees shall keep true accounts of Net Sales of Licensed Products and COMPANY shall deliver to SELEXIS at the same time as the payments due under Article 3.1.3, a written account, including quantities of Net Sales of each such Licensed Product, broken down on a country-by-country basis with respect to those payments. SELEXIS is entitled to have such accounts audited by an independent expert of its choice. Such independent expert shall be bound by confidentiality terms at least as restrictive as the terms of Article 8 and shall be authorized to disclose to SELEXIS only the results of its audit. COMPANY shall provide access to all information reasonably requested by such expert. The cost of any audit shall be borne by SELEXIS unless the audit shows that COMPANY underpaid SELEXIS by more than [*] of the amounts due, in which case, the cost of the audit shall be borne by COMPANY.

3.5. Single Royalty and Milestone. For Final Products covered by more than one SELEXIS Patent Rights, COMPANY will make one payment to SELEXIS for royalties on any unit of Final Product sold by COMPANY or Sublicensees, irrespective of how many SELEXIS Patent Rights may cover such Final

Product. Each milestone described in Article 3 shall be payable only once in relation to each Licensed Product, irrespective of the number of Final Products which incorporate that Licensed Product and undergo the events triggering the payment. All fees and payments, including without limitation under Article 3.1, do not include any applicable VAT or Taxes.

## 4. Taxes

4.1. General. All Taxes levied on account of any payment made by COMPANY to SELEXIS pursuant to this Agreement (other than Taxes on income, gains or profits levied against SELEXIS by any competent Swiss tax authority) will be the responsibility of, and shall be paid by, COMPANY pursuant to Article 4.2.

4.2. Character of Payments. The PARTIES agree that, for purposes of determining the applicability of any Taxes, the payments to be made under this Agreement constitute payments for tangible property and the license of intellectual property. However, in the event that the governing tax authority (the "**Tax Authority**") qualifies such payment differently, any additional taxes that may be applied (including without limitation, any interest and penalties that may be unpaid) shall [*].

4.3. Withholding by COMPANY.

(i) All payments by COMPANY hereunder shall be made in full without any deduction or withholding whatsoever, and free and clear of and without any deduction or withholding for or on account of any Taxes, except to the extent that any such deduction or withholding is required by any law in effect at the time of payment. Subject to paragraph (ii) of this Article, if any Taxes or amounts with respect to Taxes must be deducted or withheld, or any other deductions or withholdings must be made, from any amounts payable or paid by COMPANY, [*] and [*] deduction or withholding.

(ii) [*] pursuant to paragraph (i) of this Article with respect to any deduction or withholding [*] if [*] or [*].

## 5. Intellectual Property

5.1. Ownership. Each PARTY shall retain all right, title and interest in and to its Inventions and Know-How which exist on the Effective Date or which are thereafter developed independently of the performance of this Agreement.

5.2. COMPANY and SELEXIS Inventions. Any Invention developed hereunder by or for either Party, solely or jointly with the other PARTY or any Affiliate or agent thereof, shall belong exclusively (i) to COMPANY, to the extent it relates specifically to any COMPANY Technology, including, without limitation, any improvement or modification thereto ("**COMPANY Invention**"); or (ii) to SELEXIS, to the extent it relates specifically to any SELEXIS Technology, including, without limitation, any improvements or modifications thereto ("**SELEXIS Invention**"). Any SELEXIS Inventions shall be included within the scope of the SELEXIS Technology licensed to COMPANY under this Agreement as provided for within Article 5.5. Notwithstanding the foregoing, such ownership shall not be construed to transfer to either PARTY

ownership of or any license or other rights in or to any of the other PARTY's underlying Technology which may be included or embodied therein, or useful or necessary to use in connection with exploiting such Invention.

5.3. Other Inventions. Except as set forth in Article 5.2, any other Invention developed hereunder solely by COMPANY shall be COMPANY's sole property and any other Invention developed hereunder solely by SELEXIS shall be SELEXIS' sole property. The PARTIES do not anticipate that there will be any jointly developed Inventions hereunder, but if there are any other such jointly developed Inventions which do not relate to either the SELEXIS Technology or the COMPANY Technology, such Inventions shall be owned jointly by COMPANY and SELEXIS ("**Joint Inventions**"). In the event any such Joint Inventions arise, the PARTIES will use commercially reasonable efforts to cooperate to protect and/or exploit such Joint Inventions, including, without limitation, sharing those costs incurred through protection of such Joint Inventions and sharing in revenues generated by the use or sublicense of such Joint Inventions.

5.4. Notification. Each PARTY shall promptly notify the other PARTY of any Invention arising in connection with this Agreement, *provided*, *however*, that COMPANY has no obligation to notify SELEXIS with respect to any COMPANY Inventions developed solely by or on behalf of COMPANY.

5.5. Improvements. In the event SELEXIS possesses, acquires, creates or is licensed (with the right to grant a sublicense consistent with the terms of the Commercial License) any improvements to the SELEXIS Technology which are necessary or useful for COMPANY to use in connection with the development of Cell Lines as licensed hereunder, such improvements shall automatically be included in the SELEXIS Patent Rights and/or the SELEXIS Know-How and thereby disclosed and licensed at no extra cost to COMPANY in accordance with this Agreement; *provided*, *however*, that any rights granted by the foregoing will be subject to COMPANY's compliance with any bona fide obligations owed to Third Parties (with respect to which, SELEXIS has notified COMPANY of such obligations), including, without limitation, [*].

5.6. Third Party Patent Rights. SELEXIS covenants that if SELEXIS becomes aware that COMPANY's use of the SELEXIS Technology in accordance with the terms hereunder would or would likely infringe any Third Party proprietary rights, SELEXIS shall use its reasonable commercial efforts to resolve such potential infringement at SELEXIS' cost to ensure COMPANY's freedom to continue to exercise the licenses granted under this Agreement, including without limitation, by using its reasonable commercial efforts to obtain a license from such Third Party owner of proprietary rights which entitles SELEXIS to continue to grant the rights to COMPANY as provided for herein. Should such efforts not be successful, SELEXIS shall inform COMPANY in writing and thereafter, subject to such notification, either PARTY may terminate this Agreement with immediate effect, save that SELEXIS shall not have such right if COMPANY agrees to waive any liability SELEXIS would otherwise have to COMPANY hereunder with respect to the infringement of such Third Party proprietary rights. The obligations set forth in this Article pertain solely to Third Party rights specifically and solely related to the SELEXIS Technology or SELEXIS Materials licensed hereunder, and do not apply to any other technology or materials used by COMPANY at its discretion in

connection with its exercise of the license rights granted hereunder, and specifically exclude any such Third Party rights which relate to the Licensed Product(s) produced by any Cell Lines hereunder.

5.7. Enforcement of SELEXIS Patent Rights. If, during the Term, either PARTY becomes aware of any infringement or potential infringement of the SELEXIS Technology, it shall promptly notify the other PARTY in writing and the PARTIES shall immediately consult with each other to decide the best way to respond to such infringement or misuse, provided that SELEXIS shall remain free to take any action it deems fit and in its sole discretion.

5.8. COMPANY Publications. COMPANY shall have the unrestricted right to publish or otherwise disclose the results and data obtained by the practice of the SELEXIS Technology in accordance with the terms hereof, *provided*, *however*, that such publication or disclosure does not include any Confidential Information of SELEXIS. The name of SELEXIS shall be given proper recognition in such publication(s) as scientifically appropriate.

5.9. Further Assurance. Each PARTY agrees to execute and effect all necessary steps at the cost of the other PARTY (if not specifically agreed to otherwise) and as the other PARTY may reasonably require to give the other PARTY the full benefit of the provisions of this Article 5.

## 6. Representations, Warranties, and Covenants

6.1. General. Except for the representations, warranties and covenants set forth in this Article 6, the PARTIES do not make any other representations, nor give any other warranties, express or implied, nor undertake to any other covenants. The PARTIES expressly exclude any and all other representations, warranties and covenants.

6.2. Representations and Warranties by the PARTIES. Each PARTY hereby represents and warrants to the other PARTY that:

6.2.1. Corporate Power. It is duly organized and validly existing under the laws of the state (or country or other jurisdiction, as the case may be) of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof.

6.2.2. Due Authorization. It is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder, and the persons executing this Agreement on its behalf have been duly authorized to do so by all requisite corporate actions.

6.2.3. Binding Agreement. This Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles and public policy.

6.2.4. No Conflicts. The execution, delivery and performance of this Agreement by itself does not conflict with any agreement, instrument or understanding, oral or written, to which it is a PARTY or by which it may be bound.

6.2.5. Intellectual Property Rights. Each PARTY represents that it has valid and sufficient arrangements and agreements with its directors, officers and employees (which term shall include agents, consultants and subcontractors) such that ownership of intellectual property rights in and to any Inventions made by its directors, officers and employees vests in such PARTY.

6.3. Additional Representations and Warranties by SELEXIS. SELEXIS hereby represents and warrants that, to the best of its knowledge, as of the Effective Date:

6.3.1. There is no pending litigation asserting that the use of the SELEXIS Technology or the SELEXIS Know-How constitutes an infringement or misappropriation of any intellectual property rights of a Third Party;

6.3.2. SELEXIS has the right in and to the SELEXIS Technology, SELEXIS. Know-How and the SELEXIS Patents to grant COMPANY the rights which are granted to COMPANY under this Agreement; and

6.3.3. SELEXIS has the rights necessary to grant a non-transferable, non-sublicenseable royalty-free, non-exclusive license to a Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in part of the Territory, as contemplated by Section 2.3.

6.4. Additional Warranties by COMPANY. COMPANY hereby represents and warrants to SELEXIS that:

6.4.1. There are no Third Party intellectual property rights or any other rights that may be asserted against SELEXIS claiming that SELEXIS was or is directly infringing or is helping or assisting COMPANY in infringing such Third Party's rights in connection with COMPANY's exercise of the Commercial License granted by SELEXIS hereunder (except to the extent that any such Third Party rights relate solely and specifically to the SELEXIS Technology and/or SELEXIS Materials), including, without limitation, the development, manufacture and commercialization of Licensed Products and/or Final Products as permitted hereunder; and

6.4.2. As of the Effective Date, to the best of its knowledge, there is no litigation pending against COMPANY in connection with the use or ownership of the Company Protein and/or Licensed Product, including, without limitation, the infringement or misappropriation of any intellectual property rights of a Third Party relating to the Company Protein and/or Licensed Product, and COMPANY has not received any written claim that the use thereof infringes on any intellectual property rights of a Third Party or a request or demand from any Third Party for the licensing of any intellectual property rights to such Third Party in connection with the use of the Company Protein and/or Licensed Product.

6.4.3. COMPANY will not knowingly misappropriate or infringe the intellectual property or other rights of any Third Party in connection with its exercise of its licensed rights hereunder, including, without limitation, use of any SELEXIS Technology, Cell Line, or development, manufacture or sale of Licensed and/or Final Product hereunder, and understands and agrees that SELEXIS will have no liability whatsoever for any such misappropriation or infringement to the extent they do not relate solely and specifically to the use of the SELEXIS Technology and/or SELEXIS Materials hereunder.

6.5. Disclaimer of Warranties by SELEXIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND WITHOUT LIMITING THE GENERALITY OF ARTICLE 6.1, SELEXIS DOES NOT MAKE NOR GIVE ANY REPRESENTATION OR WARRANTY TO COMPANY OF ANY NATURE, EXPRESS OR IMPLIED, THAT THE SELEXIS TECHNOLOGY WILL BE USEFUL FOR, OR ACHIEVE ANY PARTICULAR RESULTS AS A RESULT OF ANY USE THEREOF BY SELEXIS OR BY COMPANY PURSUANT TO ANY LICENSE GRANTED TO COMPANY UNDER THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELEXIS SPECIFICALLY DISCLAIMS ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 7. Liability and Indemnification

7.1. Indemnification by SELEXIS. During the Term and thereafter, SELEXIS hereby agrees to save, defend and hold COMPANY, its Affiliates, and their respective officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) any Third Party claim alleging that Customer's use of the SELEXIS Technology and/or the SELEXIS Materials in strict accordance with the terms of this Agreement infringes or misappropriates such Third Party's intellectual property or other property right (except to the extent such claim relates to the use of the SELEXIS Technology and/or SELEXIS Materials in combination with any technologies or materials not supplied by SELEXIS or any modifications made by anyone other than SELEXIS to the SELEXIS Technology or SELEXIS Materials); or (ii) any material breach of SELEXIS' representations, warranties and covenants set forth in Article 6; except in each case to the extent that such Losses were caused by willful misconduct or gross negligence of COMPANY or any of its Affiliates, Collaborators or Sublicensees. In the event COMPANY seeks indemnification under this Article 7.1, COMPANY shall notify SELEXIS of any claim as soon as reasonably practicable after it receives notice of the claim. COMPANY shall then allow SELEXIS to conduct and control the defense against the claim (including without limitation to settle the claim solely for monetary consideration), shall (at SELEXIS' expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration) and shall (at SELEXIS' expense) cooperate as requested by SELEXIS in the defense of the claim, provided always that SELEXIS may not settle any such claim or otherwise consent to an adverse judgment or

order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of COMPANY, which consent will not be unreasonably withheld.

7.2. Indemnification by COMPANY. During the Term and thereafter, COMPANY hereby agrees to save, defend and hold SELEXIS and its officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) Third Party claims in connection with personal injury or damages to property caused by the Company Protein, Licensed Products and/or Final Products, including, without limitation, any product liability claims however stated; (ii) Third Party claims relating to any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials outside the scope of the license granted herein or otherwise not in strict compliance with the terms hereof, or any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials in conjunction with technology or materials not provided by SELEXIS, or any modifications to the SELEXIS Technology and/or SELEXIS Materials (except in each of the foregoing cases, to the extent SELEXIS is obligated to indemnify COMPANY pursuant to Article 8.1 above); or (iii). any material breach of COMPANY's representations, warranties and covenants set forth in Article 6; in each case, except to the extent that such Losses result from the willful misconduct or gross negligence of SELEXIS or its Affiliates. In the event SELEXIS seeks indemnification under this Article, SELEXIS shall notify COMPANY of any claim as soon as reasonably practicable after it receives notice of the claim. SELEXIS shall then allow COMPANY to assume direction and control of the defense of the claim (including without limitation the right to settle the claim solely for monetary consideration), and shall (at COMPANY's expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration). SELEXIS shall (at COMPANY's expense) cooperate as requested by COMPANY in the defense of the claim, provided always that COMPANY may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of SELEXIS, which consent will not be unreasonably withheld.

7.3. No Incidental or Consequential Damages. In no event shall either PARTY be responsible for any incidental or consequential damages, including without limitation, lost profits or opportunities; provided that the foregoing shall in no event limit a PARTY's indemnification obligation under Article 7.1 or Article 7.2 hereinabove.

7.4. Limitation of Liability. Except with respect to its indemnification obligations under Article 7.1, [*] cumulative liability under this Agreement, whether in contract, in tort, or otherwise, shall in no event exceed [*]. With respect to its indemnification obligations under Article 7.1, [*] cumulative liability shall in no event exceed [*].

## 8. Confidentiality

8.1. Non-disclosure. During the Term of this Agreement and for [*] thereafter, each PARTY shall keep Confidential Information of the other PARTY confidential and shall not (i) use the other PARTY's Confidential Information for any purpose not expressly permitted under this Agreement, nor (ii) disclose the other PARTY's Confidential Information to any Person other than those of its agents, employees, and consultants (collectively, "**Representatives**") who need to know such Confidential Information for a use or purpose expressly permitted under this Agreement. Any such Representative who receives Confidential Information pursuant to this Article 8.1 shall be bound by written obligations of confidentiality and non-use with respect to the Confidential Information that are no less stringent than the obligations set forth in this Agreement.

8.2. Exceptions. The confidentiality obligations set forth in Article 8.1 shall not apply to Confidential Information that (i) is, or becomes, public information other than as the result of the violation of this Agreement or other act or omission by the receiving PARTY or its Representatives; (ii) was lawfully known to the receiving PARTY or its Representatives without restriction on use or disclosure at the time of disclosure hereunder; (iii) is hereafter lawfully received by the receiving PARTY or its Representatives from a Third Party authorized to make such disclosure and without restriction on use or disclosure; or (iv) is approved for release by prior written consent from the disclosing Party.

8.3. Authorized Disclosures. Notwithstanding any provision of this Agreement to the contrary:

8.3.1. COMPANY may disclose this Agreement to any potential Contractor or Collaboration Partner in connection with its discussions relating to a possible arrangement with such Contractor or Collaboration Partner, *provided*, *however*, that such potential Contractor or Collaboration Partner is subject to confidentiality obligations with reasonable scope and duration and no less stringent than the obligations set forth in this Agreement; and (ii) such Contractor or Collaboration Partner is contractually restricted from using this Agreement for any purpose other than as reasonably necessary to carry out the discussions with COMPANY.

8.3.2. Each PARTY may disclose Confidential Information of the other PARTY to the extent such disclosure is required by law, *provided*, *however*, that the receiving PARTY gives the disclosing PARTY reasonable prior written notice to enable the disclosing PARTY to take appropriate measures to protect its Confidential Information and fully cooperates, subject to commercially reasonable efforts, with the disclosing PARTY to prevent or limit, to the greatest extent possible, the disclosure of Confidential Information.

8.4. Use of Name. No right, express or implied, is granted to either PARTY by this Agreement to use in any manner any trademark or trade name of the other PARTY, including the names "Oncobiologics" and "SELEXIS" without the prior written consent of the PARTY entitled to use such trademark or trade name.

## 9. Term and Termination

9.1. Term. This Agreement is effective as of the Effective Date. Unless earlier terminated pursuant to Articles 9.2, 9.3 or 9.4, this Agreement shall remain in full force and effect until expiration of the last-to-expire of the SELEXIS Patent Rights (the "**Term**").

9.2. Termination for Default. In addition to any other remedies which may be available at law or equity, in the event of any material breach of this Agreement (the "**Default**") by a PARTY (the "**Defaulting Party**"), the PARTY not in default (the "**Non-Defaulting Party**") shall have the right to give the Defaulting Party a written notice thereof (the "**Notice of Default**"), whereby such notice must state the nature of the Default in reasonable details and request that the Defaulting Party cure such Default within [*]. If such Default is not cured within [*] after receipt of a Notice of Default by the Defaulting Party or if such Default cannot be cured, the Non-Defaulting Party may, at its sole discretion, terminate this Agreement by written notice effective upon receipt

9.3. Termination for Bankruptcy. In the event that a PARTY shall become insolvent or make any arrangement with its creditors or has a receiver or administrator appointed to the whole or any part of its assets, or if an order shall be made or a resolution passed for its winding up unless such order or resolution is part of a scheme for its amalgamation or reconstruction (the "**Insolvent Party**"), the other PARTY shall have the right, at its sole discretion, to serve immediate notice of termination of this Agreement, effective upon receipt.

9.4. Termination by COMPANY. COMPANY may terminate this Agreement for convenience at any time by giving [*] written notice to SELEXIS.

9.5. Consequences of Expiration or Termination.

9.5.1. Termination of Licenses. In the event of a termination of this Agreement by COMPANY pursuant to Article 9.2. 9.3 or 9.4 or by SELEXIS pursuant to Article 9.2 or 9.3, all and any rights and licenses granted under this Agreement shall terminate upon termination of this Agreement, except for the licenses which have become perpetual pursuant to Article 3.1.3.

9.5.2. SELEXIS Technology and Confidential Information. Upon termination of this Agreement under Article 9.2 or Article 9.3 where COMPANY is the Insolvent Party, or Article 9.4, COMPANY shall dispose of all tangible embodiments of the SELEXIS Technology and SELEXIS Confidential Information, including without limitation the SELEXIS Materials and Cell Lines, and render inaccessible or useless all electronic embodiments, of SELEXIS Confidential Information provided to COMPANY by SELEXIS hereunder, except that (a) COMPANY may retain one copy of the SELEXIS Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement and (b) such obligation shall not apply with respect to SELEXIS Technology and SELEXIS Confidential Information necessary or useful with respect to the practice of any licenses that have become perpetual pursuant to Article 3.1.3.

9.5.3. COMPANY Confidential Information. Upon any expiration or termination of this Agreement, SELEXIS shall dispose of all tangible embodiments, and render inaccessible or useless all electronic

embodiments, of COMPANY Confidential Information provided to SELEXIS by COMPANY hereunder, except that SELEXIS may retain one copy of the COMPANY's Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement.

9.5.4. Accrued Obligations. Expiration or termination of this Agreement shall not relieve the PARTIES of any obligation or liability accruing prior to such expiration or termination.

## 10. Miscellaneous

10.1. Assignment. Neither this Agreement nor any interest hereunder shall be assignable by either PARTY without the prior written consent of the other PARTY; *provided*, *however*, that either PARTY may assign this Agreement and all of its rights and obligations hereunder, without such prior written consent, to an entity" which acquires all or substantially all of the business or assets of such PARTY (or the business or assets to which this Agreement pertains) whether by merger, consolidation, reorganization, acquisition, sale or otherwise; and COMPANY may assign this Agreement and all of its rights and obligations hereunder, without such consent, to an Affiliate if COMPANY remains liable and responsible for the performance and observance of all of the Affiliate's duties and obligations hereunder, and provided that such Affiliate is not a Contract Manufacturing Organization. This Agreement shall be binding upon the successors and permitted assigns of the PARTIES and the name of a PARTY appearing herein shall be deemed to include the names of such PARTY's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement. Any assignment not in accordance with this Article 10.1 shall be null and void.

10.2. Compliance with Governmental Obligations. Each PARTY shall comply, upon reasonable notice from the other PARTY, with all governmental requests directed to either PARTY relating to this Agreement and provide all information and assistance necessary to comply with the governmental requests.

10.3. Counterparts. This Agreement may be executed in any number of counterparts, each of which need not contain the signature of more than one PARTY but all such counterparts taken together shall constitute one and the same agreement, and may be executed through the use of electronic .PDF's or facsimiles.

10.4. Dispute Resolution. The PARTIES agree that in the event of a dispute between them arising from, concerning or in any way relating to this Agreement, the PARTIES shall undertake good faith efforts to resolve any such dispute, with the matter being referred at the request of either PARTY to the General Counsel (or chief legal officer) of each PARTY and, if remaining unresolved after [*], then to the Chief Executive Officers of each PARTY (or their designees). If after [*] of the matter first being referred to the General Counsel, the PARTIES are unable to resolve such dispute, either PARTY may, pursuant to Article 10.16, seek any remedy available at law.

10.5. Entire Agreement. This Agreement sets forth all of the covenants, promises, agreements, representations, warranties, conditions and understandings between the PARTIES with respect to the subject matter hereof,

and constitutes and contains the complete, final, and exclusive understanding and agreement of the PARTIES with respect to the subject matter hereof, and cancels, supersedes and terminates all prior agreements and/or understanding between the PARTIES with respect to the subject matter hereof. There are no covenants, promises, agreements, representations, warranties, conditions or understandings, whether oral or written, between the PARTIES other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the PARTIES hereto unless reduced to writing and signed by the respective authorized officers of the PARTIES. For the avoidance of doubt, and to the extent of any inconsistency between this Agreement and the Research License Agreement, the terms of this Agreement shall govern and prevail.

10.6. Force Majeure. Neither PARTY shall be liable to the other for loss, damages, default or delay due to Force Majeure, provided that the PARTY affected by a case of Force Majeure gives prompt notice of such case to the other PARTY. The PARTY giving such notice shall thereupon be excused from its obligations hereunder as it is thereby disabled from performing for so long as it is so disabled, *provided*, *however*, that such affected PARTY commences and continues to take reasonable and diligent actions to cure such cause; and provided further that if any Force Majeure delays or prevents the performance of the obligations of either PARTY for a continuous period in excess of [*] days, the PARTY not affected shall then be entitled to terminate this Agreement, which termination shall be effective upon [*] written notice to the affected PARTY. Such a termination shall be irrevocable, except otherwise provided by the PARTIES and upon termination, the provisions of Article 9.5 shall apply.

10.7. Further Actions. Each PARTY agrees to execute, acknowledge and deliver such further instruments, and to effect all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of the Agreement.

10.8. Independent Contractors. The relationship between SELEXIS and COMPANY created by this Agreement is one of independent contractors and neither PARTY shall have the power or authority to bind or obligate the other PARTY except as expressly set forth in this Agreement.

10.9. Interpretation of Agreement. Articles and other descriptive headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa.

10.10. License Obligations. Nothing in this Agreement imposes any obligation upon a PARTY to enter into any other license or agreement with the other PARTY.

10.11. Notices. All notices and other communications required by this Agreement shall be in writing in the English language and shall be deemed transmitted if delivered personally or by electronic or facsimile transmission (receipt verified), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the PARTIES at the following addresses (or at such other

addresses that a PARTY specifies by like notice, *provided*, *however*, that notices of a change of address shall be effective only upon written receipt thereof):

If to COMPANY, addressed to:

Oncobiologics, Inc.
7 Clarke Drive
Cranbury, NJ 08512
Attention: Stephen J. McAndrew, Ph.D.
VP, Business Development
With a copy to: CEO, Pankaj Mohan, Ph.D., MBA
Facsimile: (609) 619-3980

If to SELEXIS, addressed to:

Selexis S.A.
18 Chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

Attention: Sophie Vock

With a copy to: CEO, Igor Fisch, Ph.D.

Facsimile: +41 22 308-9361

10.12. Binding Effect. This Agreement shall be binding upon and inure solely to the benefit of COMPANY and SELEXIS (and their permitted successors and assigns) and nothing in this Agreement (express or implied) is intended to or shall confer upon any Third Party any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

10.13. Severability. If any term, covenant or condition of this Agreement or the application thereof to any PARTY or circumstance shall, to any extent, be held to be invalid or unenforceable, then the remainder of this Agreement, or the application of such term, covenant or condition to PARTIES or circumstances other than those as to which it is held invalid or unenforceable, shall therefore not be affected and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

10.14. Waiver. The failure on the part of a PARTY to exercise or enforce any rights conferred upon it hereunder shall not be deemed to be a waiver of any such rights nor operate to bar the exercise or enforcement thereof at any time or times hereafter.

10.15. Survival. Articles 1, 3.1.3, 3.4, 4, 5, 6, 7, 8, 9.5 and 10 shall survive any termination or expiration of this Agreement in accordance with their terms.

10.16. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of [*], without regard to principles of conflict of laws. Any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of [*].



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

IN WITNESS WHEREOF, the PARTIES, having read the terms of this Agreement and intending to be legally bound, do hereby execute this Agreement:

**SELEXIS SA**

Signature: /s/ Girod Pierre-Alain

Place, Date: April 16, 2013

Name: GIROD Pierre-Alain

Title: Chief Scientific Officer

Signature: /s/ Regine Brokamp

Place, Date: PLO, April 15th, 2013

Name: Regine Brokamp

Title: COO

**ONCOBIOLOGICS, INC.**

Signature: /s/ Pankaj Mohan

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Pankaj Mohan, Ph.D., MBA

Title: Chief Executive Officer

Signature: /s/ Stephen J. McAndrew

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Stephen J. McAndrew, Ph.D.

Title: Vice President, Business Development



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**EXHIBIT 1**

**[*]**



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**EXHIBIT 2**

**LICENSED PRODUCTS**

1. **ONS-3010, Humira Biosimilar**



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**AMENDMENT NO. 1**
**TO**
**COMMERCIAL LICENSE AGREEMENT**

This Amendment No. 1 to the Commercial License Agreement (the "Amendment"), effective as of May 21, 2014 (the "Amendment Effective Date"), is by and between Selexis SA ("Selexis") and Oncobiologics, Inc. ("Company").

WHEREAS, Company and Selexis entered into and executed the Commercial License Agreement dated April 11, 2013 (the "Agreement") relating to Company's Licensed and/or Final Product referred to as ONS-3010; and

WHEREAS, the parties desire to modify the Agreement to revise Company's sublicense rights.

NOW, THEREFORE, in consideration of the mutual obligations and covenants set out herein and for good consideration, the parties agree as follows:

1. Section 2.2.1 of the Agreement is deleted in its entirety and replaced with the following:

2.2.1 COMPANY may, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to a Contractor or to a Collaboration Partner and only with respect to (i) [*], or (ii) [*]. A Collaboration Partner may further grant a sub-sublicense, only with prior written consent from SELEXIS where such consent is not to be unreasonably withheld, conditioned or delayed, under the Commercial License to a Contractor only with respect to [*].

2. Section 2.2.2 of the Agreement is deleted in its entirety and replaced with the following:

2.2.2 Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1 shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditoned or delayed.

3. Section 2.3 is deleted in its entirety.

4. Section 2.4 is renumbered as Section 2.3, and the last clause of the first sentence (beginning with "...pursuant either to...") is deleted and replaced with "pursuant to a sublicense as permitted or consented to under Section 2.2."

5. In Section 1.30, the reference to the tri-party agreement is removed, so that the sentence begins: "...shall mean the amount collected by COMPANY, its Affiliates and its Sublicensees, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:"

6. All capitalized terms used in the Agreement will have the same meaning where used in this Amendment. In the event of a conflict or inconsistency between this Amendment and the Agreement, the applicable terms and conditions of this Amendment shall prevail. All terms and

conditions of the Agreement that are not amended herein shall remain unchanged and in full force and effect.

7. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same document. In addition, this document may be executed by facsimile, and the parties agree that facsimile copies of signatures shall have the same effect as original signatures.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment by their proper officers as of the Effective Date.

| **SELEXIS SA** | **ONCOBIOLOGICS, INC.** |
|---|---|
| By: /s/ Regine Brokamp | By: |
| Name: Regine Brokamp | Name: Stephen J. McAndrew, Ph.D. |
| Title: COO | Title: Vice President, Business Development |
| Date: May 23rd, 2014 | Date: May 21, 2014 |

/s/ Igor Fisch
Igor Fisch
CEO
May 23rd, 2014

**Exhibit 10.15**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.


**AND**

# Oncobiologics, Inc.

## Commercial License Agreement

**April 11, 2013**

This Commercial License Agreement (this "**Agreement**") is made effective on April 11, 2013 (the "**Effective Date**")

by and between

**Selexis SA**, a company incorporated under the laws of Switzerland, with its registered office at 18 chemin des Aulx, 1228 Plan-les-Ouates, Geneva, Switzerland

("**SELEXIS**")

and

**Oncobiologics, Inc.**, a company incorporated under the laws of the United States, with its registered office at 7 Clarke Drive, Cranbury, New Jersey 08512 ("**COMPANY**")

(SELEXIS and COMPANY, collectively the "**PARTIES**" and, individually, a "**PARTY**")

**Preamble**

A. WHEREAS, COMPANY is a biopharmaceutical company engaged in the research, development, manufacturing and sale of biopharmaceutical products;

B. WHEREAS, SELEXIS is a biotechnology company engaged in the development and sale of recombinant cell lines based on the SELEXIS Technology;

C. WHEREAS, SELEXIS is the owner of certain Confidential Information, the SELEXIS Know-How and the SELEXIS Patent Rights;

D. WHEREAS, pursuant to a Research License Agreement between the PARTIES dated October 3, 2011 (the "Research License Agreement") COMPANY has developed certain recombinant cell line(s) and/or COMPANY Material using the SELEXIS Technology, SELEXIS Know-How and SELEXIS Patent Rights, and COMPANY has evaluated such cell Line(s); and

E. WHEREAS, SELEXIS is willing to grant COMPANY, and COMPANY is willing to receive from SELEXIS, a commercial license to the SELEXIS Know-How and the SELEXIS Patent Rights with respect to the SELEXIS Technology, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the PARTIES agree as follows:

## 1. Definitions

In addition to the terms defined above, the following terms, whether used in the singular or plural, shall have the following meanings as used in this Agreement, unless otherwise specifically indicated:

1.1. "**Affiliate**" shall mean any Person that, as of the Effective Date, directly or indirectly, controls, is controlled by, or is under common control with the relevant Person. For the purposes of this definition only, "**control**" shall mean the possession, directly or indirectly, of the power to cause the direction of the management and policies of a Person, whether through ownership of voting securities of such Person, by contract or otherwise. A Person shall only be considered an Affiliate for so long as such control exists.

1.2. "**BLA**" shall mean a Biologic License Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.3. "**Calendar Quarter**" shall mean, for each Calendar Year, each of the three month periods ending March 31, June 30, September 30 and December 31, respectively.

1.4. "**Calendar Year**" shall mean the period commencing on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.5. "**Cell Line**" shall mean a mammalian cell line that is developed using the SELEXIS Technology. Cell Line shall include, without limitation, any Company-Specific Cell Line(s) developed by COMPANY under the Research License Agreement which have employed SELEXIS Technology, SELEXIS Know-How and/or SELEXIS Patent Rights.

1.6. "**Clinical Trials**" shall mean human studies designed to measure the safety and/or efficacy of the Product. Clinical Studies include Phase I Clinical Trials, Phase II Clinical Trials, and Phase Ill Clinical Trials.

1.7. "**Collaboration Partner**" shall mean a Third Party with which COMPANY collaborates on the development and/or commercialization of a Licensed Product or to which COMPANY has granted a license for the development and/or commercialization of a Licensed Product, provided that [*] or [*] or [*] for [*].

1.8. "**Combination Product Adjustment**" shall mean the adjustment of: Net Sales for any combination product done by multiplying actual Net Sales of such combination product by the fraction A/(A + B) where A is the weighted (by sales volume) average invoice price of the Product, if sold separately, and B is the weighted (by sales volume) average invoice price of any other active ingredient, device or component in the combination, if sold separately. If, on a country-by-country basis, the other active ingredient, device or component in the combination is not sold separately, Net Sales shall be calculated by multiplying actual Net Sales of the combination product in such country by the fraction A/C where A is the invoice price of the Product, if sold separately, in such country and C is the invoice price of the combination product in such country.

1.9. "**Commercial License**" shall have the meaning set out in Article 2.1.

1.10. "**Commercial License Option**" shall mean the option granted to Company in the Research License Agreement to obtain a non-exclusive commercial license.

1.11. "**Company Protein**" shall mean the recombinant protein listed in Exhibit 2.

1.12. "**Company-Specific Cell Line**" shall mean a Cell Line that has been modified by Company under the Research License Agreement to specifically express the Company Protein.

1.13. "**COMPANY Technology**" shall mean any Technology owned or controlled by COMPANY, including, without limitation, any such Technology related to Licensed or Final Product, but excluding any SELEXIS Technology related thereto.

1.14. "**Confidential Information**" shall mean any technical and business information pertaining to materials and production techniques, products, processes and services, including without limitation physical working models and samples of the products, research, development, patentable and unpatentable inventions, manufacturing, purchasing and product development plans, forecasts, strategies and information, engineering, marketing, merchandising, selling, customer lists, customer prospects, software codes, algorithms, names and expertise of employees and consultants, blueprints, technical information, trade secrets or know-how or other related proprietary business information and data, in any case whether such information is provided in tangible or intangible form, written, oral, graphic, pictorial or recorded form or stored on computer discs, hard drives, magnetic tape or digital or any other electronic medium. Confidential Information disclosed in any tangible format will be labelled "Confidential" or words to similar effect, and all non-tangible disclosures will be declared to be "Confidential" or words to similar effect at the time of disclosure. Confidential Information shall include any and all material and data created by the receiving party based on, containing or otherwise reflecting Confidential Information. Confidential Information shall also include any such information or documents which may be disclosed hereunder which the disclosing party received in confidence from a Third Party.

1.15. "**Contract Manufacturing Organization**" shall mean an entity of which at least fifty percent (50%) of the business is directed toward the provision of biologic manufacturing services or products for non-affiliate third parties.

1.16. "**Contractor**" shall mean a Third Party contractor who: (i) develops the production process for Licensed Products by or on behalf of COMPANY, or (ii) manufactures and supplies Licensed Products by using such production process by or on behalf of COMPANY.

1.17. "**Default**" shall have the meaning set out in Article 9.2.

1.18. "**Defaulting Party**" shall have the meaning set out in Article 9.2.

1.19. "**FDA**" shall mean the United States Food and Drug Administration, or any successor agency.

1.20. "**Final Product**" shall mean any pharmaceutical preparation in final form containing any Licensed Product(s) for sale by prescription, over-the-counter or any other method, in any dosage form, formulation,

presentation, line extension or package configurations, including without limitation such Licensed Product in development where the context so requires in this Agreement.

1.21. "**First Commercial Sale**" shall mean, with respect to any Final Product in any country, the first sale of such Final Product for use or consumption by the general public in such country after Regulatory Approval as well as Pricing and Reimbursement Approval for such Final Product has been obtained in such country. For the avoidance of doubt, sales prior to receipt of all Regulatory Approvals and Pricing and Reimbursement Approvals necessary to commence regular commercial sales, such as so-called "treatment IND sales", "named patient sales" and "compassionate use sales", shall not be construed as a First Commercial Sale.

1.22. "**Force Majeure**" shall mean conditions beyond the control of a PARTY, including without limitation, an act of God, war, civil commotion, terrorist act, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of facilities or materials by fire, earthquake, storm or the like catastrophe, and failure of plant or machinery (provided that such failure could not have been prevented by the exercise of skill, diligence and prudence that would be reasonably and ordinarily expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances).

1.23. "**IND**" shall mean an Investigational New Drug Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.24. "**Insolvent Party**" shall have the meaning set out in Article 9.3.

1.25. "**Invention**" shall mean any invention, idea, innovation, enhancement, improvement or feature, whether or not patentable or registrable, together with any intellectual property rights relating thereto (including without limitation, the Patent Rights and rights to confidentiality and proprietary information).

1.26. "**Know-How**" shall mean information in whatever form, tangible or intangible and on whatever medium, including without limitation, information and materials relating to Inventions and other know-how, trade secrets, data (including without limitation, all data from pre-clinical and clinical studies and other studies intended for regulatory submission), results, formulae, DNA and amino acid sequence information and related developments.

1.27. "**Licensed Field of Use**" shall mean the development, manufacture and sale of Final Products for any field of use.

1.28. "**Licensed Product**" shall mean Company Protein made or derived from any Selexis Materials, including, without limitation, the Company-Specific Cell Lines.

1.29. "**Losses**" shall mean all and any liability, damage, loss or expense.

1.30. "**Net Sales**" shall mean the amount collected by COMPANY, its Affiliates, its Sublicensees and/or any Collaboration Partner with whom the Parties enter into a tri-party agreement pursuant to Section 2.3, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:

(i) sales and excise taxes and duties paid or allowed by the selling PARTY and any other governmental charges imposed upon the production, importation, use or sale of the Final Products;

(ii) customary trade, quantity and cash discounts allowed on Final Products;

(iii) compulsory government rebates;

(iv) allowances or credits to customers on account of rejection or return of Final Product or on account of retroactive price reductions affecting the Final Product;

(v) freight and insurance costs, if they are included in the selling price for the Final Product invoiced to Third Parties, provided always that such deduction shall not be greater than the balance between the selling price actually invoiced to the Third Party and the standard selling price which would have been charged to such Third Party for such Final Product exclusive of freight and insurance in the respective country or in a comparable country; and

(vi) in the event that a Final Product is sold in any country in the form of a combination product containing one or more other therapeutically active ingredients, the Net Sales for any such Final Product shall be computed using the Combination Product Adjustment for such country.

1.31. "**Non-Defaulting Party**" shall have the meaning set out in Article 9.2.

1.32. "**Notice of Default**" shall have the meaning set out in Article 9.2.

1.33. "**Patent Rights**" shall mean any and all of the following: (i) patent applications (including without limitation provisional patent applications) and patents (including without limitation the inventor's certificates); (ii) any substitution, extension (including without limitation patent term extensions and supplementary protection certificates), registration, confirmation, reissue, continuation, divisional, continuation-in-part, re-examination, renewal, patent of addition or the like thereof or thereto; (iii) any foreign counterparts of any of the foregoing; and (iv) any utility model applications and utility models (whether or not corresponding to any of the foregoing).

1.34. "**Person**" shall mean an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an estate, an unincorporated organization, or any other entity, or a government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

1.35. "**Phase I Clinical Trial**" shall mean a Clinical Trial conducted in humans which is principally intended to obtain data on the safety, tolerability, pharmacokinetic or pharmacodynamic properties of a product. Phase I shall be deemed to have commenced when the first patient in the study has been treated. Phase I shall be deemed to have completed when the last patient has completed his or her treatment being investigated

by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.36. "**Phase II Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a preliminary determination of therapeutic efficiency and/or to find an optimal dose range in patients with the disease target being studied. Phase II shall be deemed to have commenced when the first patient in the study has been treated. Phase II shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.37. "**Phase III Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a determination of therapeutic efficiency in patients with the disease target being studied. Phase III shall be deemed to have commenced when the first patient in the study has been treated. Phase III shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.38. "**Price and Reimbursement Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary to determine or set the pricing of a Product, and/or its reimbursement level by the relevant health authorities, providers or other funding institutions, at supranational, national, regional, state or local level.

1.39. "**Regulatory Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary for the manufacture, marketing or sale of a Product or conduct of Clinical Trials in a regulatory jurisdiction, excluding Price and Reimbursement Approval.

1.40. "**Regulatory Authority**" shall mean (i) the FDA or (ii) any and all governmental or supranational agencies, ministries, authorities or other bodies with similar regulatory authority with respect to approval or registration of pharmaceutical or biologic products in any other jurisdiction anywhere in the world.

1.41. "**Royalty Term**" shall mean with respect to each Final Product sold in a particular country, the period beginning on the date of the First Commercial Sale in such country and terminating on the expiration of the last-to-expire or lapse of any Valid Claims in such country covering [*].

1.42. "**SELEXIS Know-How**" shall mean SELEXIS' Confidential Information and Know-How owned, controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the Commercial License relating to, without limitation, the construction and development of recombinant cell lines for the manufacture of biopharmaceutical products and existing as of the Effective Date or obtained thereafter during the Term.

1.43. "**SELEXIS Materials**" shall mean the materials provided by SELEXIS to COMPANY under this Agreement and all modifications and improvements thereof made by SELEXIS during the Term.

1.44. "**SELEXIS Patent Rights**" shall mean Patent Rights which: (i) are owned or controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the Commercial License (ii) are necessary or useful for the use of SELEXIS Materials or the construction, development and use of Cell Lines and (iii) are existing as of the Effective Date or obtained thereafter during the Term. Without limiting the generality this Article, the SELEXIS Patent Rights as of the Effective Date are listed in Exhibit 1 hereto.

1.45. "**SELEXIS Technology**" shall mean the SELEXIS Patent Rights, the SELEXIS Know-How and the SELEXIS Materials.

1.46. "**Tax Authority**" shall mean the relevant governing tax authority as defined in Article 4.2.

1.47. "**Taxes**" shall mean all excises, taxes and duties with the exception of VAT.

1.48. "**Technology**" shall mean all inventions (whether or not patentable or patented) and intellectual property rights therein, including without limitation, patents, patent applications, know-how, trade secrets, copyrights, trademarks, designs, concepts, registered and unregistered design rights, data, work product, results, reports, improvements, business and research plans, analytic methods and results, experimental methods and results, manufacturing processes, developments, technologies, technical information, composites of genes and gene constructs, cell lines, manuals, standard operating procedures, instructions and specifications.

1.49. "**Term**" shall have the meaning set out in Article 9.1.

1.50. "**Territory''** shall mean the entire world.

1.51. "**Third Party**" shall mean a Person other than SELEXIS, COMPANY or an Affiliate of SELEXIS or COMPANY.

1.52. "**Transferee**" shall have the meaning set out in Article 2.3.

1.53. "**Valid Claim**" shall mean any issued or granted claim of the SELEXIS Patent Rights that has not been revoked or held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, that is unappealable or remains unappealed at the end of the time allowed for appeal, or that has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination, disclaimer or otherwise.

1.54. "**VAT**" shall mean value added tax and any other similar turnover, sales or purchase, tax or duty levied by any other jurisdiction whether central, regional or local.

## 2. Commercial Licenses



2.1. Commercial Licenses. Subject to payment by COMPANY of the amounts provided for below and COMPANY's compliance with the other terms and conditions of this Agreement, SELEXIS hereby grants to COMPANY a non-exclusive license under the SELEXIS Patent Rights and SELEXIS Know-How, in the Territory, with the limited right to sublicense in accordance with Article 2.2, to use (and have used only by permitted Sublicensees in accordance with Sections 2.2 and 2.3) Company-Specific Cell Lines and SELEXIS Materials for the manufacture of Licensed and/or Final Products in the Licensed Field of Use and to make, have made, use, offer for sale, sell, import and otherwise exploit Licensed and/or Final Products, including, without limitation, the use of Licensed and Final Products in Clinical Trials (the "**Commercial License**").

2.2. Sublicenses.

2.2.1. COMPANY may solely, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to (i) a Contractor or a Collaboration Partner for and only with respect to [*] or [*], or (ii) a Collaboration Partner for and only with respect to [*] or [*]. In the event that [*] any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor [*], [*] thereof and the parties [*] sublicenses under this Section 2.2.1 [*].

2.2.2. Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1, including, without limitation, with respect to [*], shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditioned or delayed.

2.2.3. If COMPANY grants any sublicenses permitted or consented to hereunder, it shall notify SELEXIS within thirty (30) days of any such sublicense grant and report the name and address of any such sublicensee (each, a "**Sublicensee**") together with written certification by an officer of COMPANY that the Sublicensee has agreed in writing to adhere to the relevant provisions of this Agreement. Notwithstanding the above, COMPANY is and remains fully liable and responsible for any breach of this Agreement committed or any Losses caused by any Sublicensee, or any other Third Party or Affiliate to whom the Company-Specific Cell Lines, SELEXIS Materials and the SELEXIS Know-How or parts thereof are made available under any such sublicense.

2.3. Tri-Party Agreements. In the event that SELEXIS is unable, due to restrictions on its rights to permit COMPANY to grant any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor, to consent to any sublicense pursuant to Section 2.2.1, then the parties agree to use diligent efforts to negotiate a tri-party agreement among SELEXIS, COMPANY and such Collaboration Partner or Contractor (each a "**Tri-Party Agreement**"), pursuant to which: (a) SELEXIS will grant a non-transferable, non-sublicenseable, royalty-free, non-exclusive license to such Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines: (i) solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in the relevant territory; and (ii) in accordance with Applicable Laws; (b) such license shall be subject to obligations and restrictions

comparable to those set forth in this Agreement, provided that such Tri-Party Agreement will not include any payment obligations comparable to those set forth in Article 3 or otherwise; and (c) COMPANY will remain responsible for all financial obligations to SELEXIS under this Agreement for the entire Territory, including the territory granted to such Collaboration Partner or Contractor and including, without limitation, payment with respect to any Net Sales therein.

2.4. Transfer of SELEXIS Materials. COMPANY shall not transfer the Cell Lines, SELEXIS Materials or SELEXIS Know-How to any Third Party, except that during and for the Term only, COMPANY may transfer SELEXIS Know-How to Contractors or Collaboration Partners (the "**Transferees**") solely for their use in connection with their development of the production process and/or manufacturing of Licensed Products with, or on behalf of, COMPANY, pursuant either to a sublicense as permitted or consented to under Section 2.2 or a Tri-Party Agreement. If COMPANY makes any such transfer, it shall notify SELEXIS within thirty (30) days of any such transfer and report the name and address of any Transferee together with confirmation that the Transferee has agreed in writing to adhere to the confidentiality obligations and use restrictions set out in this Agreement.

## 3. Consideration

3.1. Payments.

3.1.1. Commercial License Execution Payment. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall pay SELEXIS a one-time fee of CHF 65,000.00 (Sixty-Five Thousand Swiss Francs), due within ten (10) business days of execution of this Agreement.

3.1.2. Commercial License Milestone Payments. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall make the following milestone payments to SELEXIS with respect to the first occurrence of each such milestone event for each Licensed Product:

(i) [*] CHF 65,000.00 (Sixty-Five Thousand Swiss Francs); and

(ii) [*] CHF 300,000 (Three Hundred Thousand Swiss Francs).

3.1.3. Commercial License Royalty Payments: In addition to the milestone payments under Article 3.1.2, during the Royalty Term, COMPANY shall pay SELEXIS on a Product-by-Product and country-by-country basis a royalty of [*] of Net Sales of all Final Products sold worldwide. Where royalties are due for the sale of Final Products directly by COMPANY, such royalties shall be paid for each Calendar Quarter within [*] of the end of that Calendar Quarter. Where royalties are due for the sales of Final Product by a Sublicensee, payment shall be made within [*] of the end of that Calendar Quarter. For the avoidance of doubt, no royalty payments shall be due for a Final Product in a specific country after the Royalty Term has expired for such Final Product in such country. Where royalties

are no longer due in accordance with the foregoing, the Commercial License granted to COMPANY under this Agreement shall become perpetual, irrevocable, fully paid up and royalty free with respect to such Final Product in such country.

3.1.4. Royalty Buyout. At any time during the Term, COMPANY shall have the right to terminate its obligation to pay a royalty pursuant to Section 3.1.3 of this Agreement with respect to all Final Product containing a specific Licensed Product by paying to SELEXIS the sum of CHF 1,750,000 (One Million One Hundred Seventy-Five Thousand Swiss Francs) (a "Royalty Termination Fee"). In order to exercise this right, COMPANY shall notify SELEXIS in accordance with Section 11.10 of this Agreement that it is paying the Royalty Termination Fee for all Final Product containing the specified Licensed Product in such notice. Provided that the Royalty Termination Fee is paid to SELEXIS within five (5) business days of such notice in accordance with Section 3.2 of this Agreement, the notice shall be effective as of the first day of the Calendar Quarter in which the notice was delivered, thereby terminating the royalty obligation for all Final Product containing the specified Licensed Product for that Calendar Quarter and thereafter. Payment of a Royalty Termination Fee shall apply only to all Final Product containing a single Licensed Product [*]. For avoidance of doubt, upon COMPANY paying a Royalty Termination Fee under this Agreement, no royalties shall thereafter be due to SELEXIS under this Agreement.

3.2. Mechanism of Payment. The payments due to SELEXIS under this Agreement shall be made either by check or by wire transfer or electronic fund transfer to the credit and account of SELEXIS, as follows:

**Bank Name:** [*]

**Account:** [*]

**To:** Selexis S.A.
18, chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

3.3. Payment Terms. Except with respect to royalties due pursuant to Article 3.1.3, COMPANY shall make payments due to SELEXIS under this Agreement at the latest [*] business days after receipt of invoice. All fees and payments, including without limitation under Article 3.1.3, do not include any applicable VAT or Taxes.

3.4. Records. COMPANY and its Affiliates and Sublicensees shall keep true accounts of Net Sales of Licensed Products and COMPANY shall deliver to SELEXIS at the same time as the payments due under Article 3.1.3, a written account, including quantities of Net Sales of each such Licensed Product, broken down on a country-by-country basis with respect to those payments. SELEXIS is entitled to have such accounts audited by an independent expert of its choice. Such independent expert shall be bound by confidentiality terms at least as restrictive as the terms of Article 8 and shall be authorized to disclose to SELEXIS only the results of its audit. COMPANY shall provide access to all information reasonably

requested by such expert. The cost of any audit shall be borne by SELEXIS unless the audit shows that COMPANY underpaid SELEXIS by more than [*] of the amounts due, in which case, the cost of the audit shall be borne by COMPANY.

3.5. Single Royalty and Milestone. For Final Products covered by more than one SELEXIS Patent Rights, COMPANY will make one payment to SELEXIS for royalties on any unit of Final Product sold by COMPANY or Sublicensees, irrespective of how many SELEXIS Patent Rights may cover such Final Product. Each milestone described in Article 3 shall be payable only once in relation to each Licensed Product, irrespective of the number of Final Products which incorporate that Licensed Product and undergo the events triggering the payment. All fees and payments, including without limitation under Article 3.1, do not include any applicable VAT or Taxes.

## 4. Taxes

4.1. General. All Taxes levied on account of any payment made by COMPANY to SELEXIS pursuant to this Agreement (other than Taxes on income, gains or profits levied against SELEXIS by any competent Swiss tax authority) will be the responsibility of, and shall be paid by, COMPANY pursuant to Article 4.2.

4.2. Character of Payments. The PARTIES agree that, for purposes of determining the applicability of any Taxes, the payments to be made under this Agreement constitute payments for tangible property and the license of intellectual property. However, in the event that the governing tax authority (the "**Tax Authority**") qualifies such payment differently, any additional taxes that may be applied (including without limitation, any interest and penalties that may be unpaid) shall [*].

4.3. Withholding by COMPANY.

(i) All payments by COMPANY hereunder shall be made in full without any deduction or withholding whatsoever, and free and clear of and without any deduction or withholding for or on account of any Taxes, except to the extent that any such deduction or withholding is required by any law in effect at the time of payment. Subject to paragraph (ii) of this Article, if any Taxes or amounts with respect to Taxes must be deducted or withheld, or any other deductions or withholdings must be made, from any amounts payable or paid by COMPANY, [*] and [*] deduction or withholding.

(ii) [*] pursuant to paragraph (i) of this Article with respect to any deduction or withholding [*] if [*] or [*].

## 5. Intellectual Property

5.1. Ownership. Each PARTY shall retain all right, title and interest in and to its Inventions and Know-How which exist on the Effective Date or which are thereafter developed independently of the performance of this Agreement.

5.2. COMPANY and SELEXIS Inventions. Any Invention developed hereunder by or for either Party, solely or jointly with the other PARTY or any Affiliate or agent thereof, shall belong exclusively (i) to COMPANY, to the extent it relates specifically to any COMPANY Technology, including, without limitation, any improvement or modification thereto ("**COMPANY Invention**"); or (ii) to SELEXIS, to the extent it relates specifically to any SELEXIS Technology, including, without limitation, any improvements or modifications thereto ("**SELEXIS Invention**"). Any SELEXIS Inventions shall be included within the scope of the SELEXIS Technology licensed to COMPANY under this Agreement as provided for within Article 5.5. Notwithstanding the foregoing, such ownership shall not be construed to transfer to either PARTY ownership of or any license or other rights in or to any of the other PARTY's underlying Technology which may be included or embodied therein, or useful or necessary to use in connection with exploiting such Invention.

5.3. Other Inventions. Except as set forth in Article 5.2, any other Invention developed hereunder solely by COMPANY shall be COMPANY's sole property and any other Invention developed hereunder solely by SELEXIS shall be SELEXIS' sole property. The PARTIES do not anticipate that there will be any jointly developed Inventions hereunder, but if there are any other such jointly developed Inventions which do not relate to either the SELEXIS Technology or the COMPANY Technology, such Inventions shall be owned jointly by COMPANY and SELEXIS ("**Joint Inventions**"). In the event any such Joint Inventions arise, the PARTIES will use commercially reasonable efforts to cooperate to protect and/or exploit such Joint Inventions, including, without limitation, sharing those costs incurred through protection of such Joint Inventions and sharing in revenues generated by the use or sublicense of such Joint Inventions.

5.4. Notification. Each PARTY shall promptly notify the other PARTY of any Invention arising in connection with this Agreement, *provided*, *however*, that COMPANY has no obligation to notify SELEXIS with respect to any COMPANY Inventions developed solely by or on behalf of COMPANY.

5.5. Improvements. In the event SELEXIS possesses, acquires, creates or is licensed (with the right to grant a sublicense consistent with the terms of the Commercial License) any improvements to the SELEXIS Technology which are necessary or useful for COMPANY to use in connection with the development of Cell Lines as licensed hereunder, such improvements shall automatically be included in the SELEXIS Patent Rights and/or the SELEXIS Know-How and thereby disclosed and licensed at no extra cost to COMPANY in accordance with this Agreement; *provided*, *however*, that any rights granted by the foregoing will be subject to COMPANY's compliance with any bona fide obligations owed to Third Parties (with respect to which, SELEXIS has notified COMPANY of such obligations), including, without limitation, [*].

5.6. Third Party Patent Rights. SELEXIS covenants that if SELEXIS becomes aware that COMPANY's use of the SELEXIS Technology in accordance with the terms hereunder would or would likely infringe any Third Party proprietary rights, SELEXIS shall use its reasonable commercial efforts to resolve such potential infringement at SELEXIS' cost to ensure COMPANY's freedom to continue to exercise the licenses granted under this Agreement, including without limitation, by using its reasonable commercial efforts to obtain a

license from such Third Party owner of proprietary rights which entitles SELEXIS to continue to grant the rights to COMPANY as provided for herein. Should such efforts not be successful, SELEXIS shall inform COMPANY in writing and thereafter, subject to such notification, either PARTY may terminate this Agreement with immediate effect, save that SELEXIS shall not have such right if COMPANY agrees to waive any liability SELEXIS would otherwise have to COMPANY hereunder with respect to the infringement of such Third Party proprietary rights. The obligations set forth in this Article pertain solely to Third Party rights specifically and solely related to the SELEXIS Technology or SELEXIS Materials licensed hereunder, and do not apply to any other technology or materials used by COMPANY at its discretion in connection with its exercise of the license rights granted hereunder, and specifically exclude any such Third Party rights which relate to the Licensed Product(s) produced by any Cell Lines hereunder.

5.7. Enforcement of SELEXIS Patent Rights. If, during the Term, either PARTY becomes aware of any infringement or potential infringement of the SELEXIS Technology, it shall promptly notify the other PARTY in writing and the PARTIES shall immediately consult with each other to decide the best way to respond to such infringement or misuse, provided that SELEXIS shall remain free to take any action it deems fit and in its sole discretion.

5.8. COMPANY Publications. COMPANY shall have the unrestricted right to publish or otherwise disclose the results and data obtained by the practice of the SELEXIS Technology in accordance with the terms hereof, *provided*, *however*, that such publication or disclosure does not include any Confidential Information of SELEXIS. The name of SELEXIS shall be given proper recognition in such publication(s) as scientifically appropriate.

5.9. Further Assurance. Each PARTY agrees to execute and effect all necessary steps at the cost of the other PARTY (if not specifically agreed to otherwise) and as the other PARTY may reasonably require to give the other PARTY the full benefit of the provisions of this Article 5.

## 6. Representations, Warranties, and Covenants

6.1. General. Except for the representations, warranties and covenants set forth in this Article 6, the PARTIES do not make any other representations, nor give any other warranties, express or implied, nor undertake to any other covenants. The PARTIES expressly exclude any and all other representations, warranties and covenants.

6.2. Representations and Warranties by the PARTIES. Each PARTY hereby represents and warrants to the other PARTY that:

6.2.1. Corporate Power. It is duly organized and validly existing under the laws of the state (or country or other jurisdiction, as the case may be) of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof.

6.2.2. Due Authorization. It is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder, and the persons executing this Agreement on its behalf have been duly authorized to do so by all requisite corporate actions.

6.2.3. Binding Agreement. This Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles and public policy.

6.2.4. No Conflicts. The execution, delivery and performance of this Agreement by itself does not conflict with any agreement, instrument or understanding, oral or written, to which it is a PARTY or by which it may be bound.

6.2.5. Intellectual Property Rights. Each PARTY represents that it has valid and sufficient arrangements and agreements with its directors, officers and employees (which term shall include agents, consultants and subcontractors) such that ownership of intellectual property rights in and to any Inventions made by its directors, officers and employees vests in such PARTY.

6.3. Additional Representations and Warranties by SELEXIS. SELEXIS hereby represents and warrants that, to the best of its knowledge, as of the Effective Date:

6.3.1. There is no pending litigation asserting that the use of the SELEXIS Technology or the SELEXIS Know-How constitutes an infringement or misappropriation of any intellectual property rights of a Third Party;

6.3.2. SELEXIS has the right in and to the SELEXIS Technology, SELEXIS. Know-How and the SELEXIS Patents to grant COMPANY the rights which are granted to COMPANY under this Agreement; and

6.3.3. SELEXIS has the rights necessary to grant a non-transferable, non-sublicenseable royalty-free, non-exclusive license to a Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in part of the Territory, as contemplated by Section 2.3.

6.4. Additional Warranties by COMPANY. COMPANY hereby represents and warrants to SELEXIS that:

6.4.1. There are no Third Party intellectual property rights or any other rights that may be asserted against SELEXIS claiming that SELEXIS was or is directly infringing or is helping or assisting COMPANY in infringing such Third Party's rights in connection with COMPANY's exercise of the Commercial License granted by SELEXIS hereunder (except to the extent that any such Third Party rights relate solely and specifically to the SELEXIS Technology and/or SELEXIS Materials), including, without limitation, the development, manufacture and commercialization of Licensed Products and/or Final Products as permitted hereunder; and

6.4.2. As of the Effective Date, to the best of its knowledge, there is no litigation pending against COMPANY in connection with the use or ownership of the Company Protein and/or Licensed Product, including, without limitation, the infringement or misappropriation of any intellectual property rights of a Third Party relating to the Company Protein and/or Licensed Product, and COMPANY has not received any written claim that the use thereof infringes on any intellectual property rights of a Third Party or a request or demand from any Third Party for the licensing of any intellectual property rights to such Third Party in connection with the use of the Company Protein and/or Licensed Product.

6.4.3. COMPANY will not knowingly misappropriate or infringe the intellectual property or other rights of any Third Party in connection with its exercise of its licensed rights hereunder, including, without limitation, use of any SELEXIS Technology, Cell Line, or development, manufacture or sale of Licensed and/or Final Product hereunder, and understands and agrees that SELEXIS will have no liability whatsoever for any such misappropriation or infringement to the extent they do not relate solely and specifically to the use of the SELEXIS Technology and/or SELEXIS Materials hereunder.

6.5. Disclaimer of Warranties by SELEXIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND WITHOUT LIMITING THE GENERALITY OF ARTICLE 6.1, SELEXIS DOES NOT MAKE NOR GIVE ANY REPRESENTATION OR WARRANTY TO COMPANY OF ANY NATURE, EXPRESS OR IMPLIED, THAT THE SELEXIS TECHNOLOGY WILL BE USEFUL FOR, OR ACHIEVE ANY PARTICULAR RESULTS AS A RESULT OF ANY USE THEREOF BY SELEXIS OR BY COMPANY PURSUANT TO ANY LICENSE GRANTED TO COMPANY UNDER THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELEXIS SPECIFICALLY DISCLAIMS ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 7. Liability and Indemnification

7.1. Indemnification by SELEXIS. During the Term and thereafter, SELEXIS hereby agrees to save, defend and hold COMPANY, its Affiliates, and their respective officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) any Third Party claim alleging that Customer's use of the SELEXIS Technology and/or the SELEXIS Materials in strict accordance with the terms of this Agreement infringes or misappropriates such Third Party's intellectual property or other property right (except to the extent such claim relates to the use of the SELEXIS Technology and/or SELEXIS Materials in combination with any technologies or materials not supplied by SELEXIS or any modifications made by anyone other than SELEXIS to the SELEXIS Technology or SELEXIS Materials); or (ii) any material breach of SELEXIS' representations, warranties and covenants set forth in Article 6; except in each case to the extent that such Losses were caused by willful misconduct or gross negligence of COMPANY or any of its Affiliates, Collaborators or Sublicensees. In the event COMPANY seeks indemnification under this Article 7.1, COMPANY shall notify SELEXIS of

any claim as soon as reasonably practicable after it receives notice of the claim. COMPANY shall then allow SELEXIS to conduct and control the defense against the claim (including without limitation to settle the claim solely for monetary consideration), shall (at SELEXIS' expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration) and shall (at SELEXIS' expense) cooperate as requested by SELEXIS in the defense of the claim, provided always that SELEXIS may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of COMPANY, which consent will not be unreasonably withheld.

7.2. Indemnification by COMPANY. During the Term and thereafter, COMPANY hereby agrees to save, defend and hold SELEXIS and its officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) Third Party claims in connection with personal injury or damages to property caused by the Company Protein, Licensed Products and/or Final Products, including, without limitation, any product liability claims however stated; (ii) Third Party claims relating to any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials outside the scope of the license granted herein or otherwise not in strict compliance with the terms hereof, or any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials in conjunction with technology or materials not provided by SELEXIS, or any modifications to the SELEXIS Technology and/or SELEXIS Materials (except in each of the foregoing cases, to the extent SELEXIS is obligated to indemnify COMPANY pursuant to Article 8.1 above); or (iii) any material breach of COMPANY's representations, warranties and covenants set forth in Article 6; in each case, except to the extent that such Losses result from the willful misconduct or gross negligence of SELEXIS or its Affiliates. In the event SELEXIS seeks indemnification under this Article, SELEXIS shall notify COMPANY of any claim as soon as reasonably practicable after it receives notice of the claim. SELEXIS shall then allow COMPANY to assume direction and control of the defense of the claim (including without limitation the right to settle the claim solely for monetary consideration), and shall (at COMPANY's expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration). SELEXIS shall (at COMPANY's expense) cooperate as requested by COMPANY in the defense of the claim, provided always that COMPANY may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of SELEXIS, which consent will not be unreasonably withheld.

7.3. No Incidental or Consequential Damages. In no event shall either PARTY be responsible for any incidental or consequential damages, including without limitation, lost profits or opportunities; provided that the foregoing shall in no event limit a PARTY's indemnification obligation under Article 7.1 or Article 7.2 hereinabove.



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

7.4. Limitation of Liability. Except with respect to its indemnification obligations under Article 7.1, [*] cumulative liability under this Agreement, whether in contract, in tort, or otherwise, shall in no event exceed [*]. With respect to its indemnification obligations under Article 7.1, [*] cumulative liability shall in no event exceed [*].

## 8. Confidentiality

8.1. Non-disclosure. During the Term of this Agreement and for [*] thereafter, each PARTY shall keep Confidential Information of the other PARTY confidential and shall not (i) use the other PARTY's Confidential Information for any purpose not expressly permitted under this Agreement, nor (ii) disclose the other PARTY's Confidential Information to any Person other than those of its agents, employees, and consultants (collectively, "Representatives") who need to know such Confidential Information for a use or purpose expressly permitted under this Agreement. Any such Representative who receives Confidential Information pursuant to this Article 8.1 shall be bound by written obligations of confidentiality and non-use with respect to the Confidential Information that are no less stringent than the obligations set forth in this Agreement.

8.2. Exceptions. The confidentiality obligations set forth in Article 8.1 shall not apply to Confidential Information that (i) is, or becomes, public information other than as the result of the violation of this Agreement or other act or omission by the receiving PARTY or its Representatives; (ii) was lawfully known to the receiving PARTY or its Representatives without restriction on use or disclosure at the time of disclosure hereunder; (iii) is hereafter lawfully received by the receiving PARTY or its Representatives from a Third Party authorized to make such disclosure and without restriction on use or disclosure; or (iv) is approved for release by prior written consent from the disclosing Party.

8.3. Authorized Disclosures. Notwithstanding any provision of this Agreement to the contrary:

8.3.1. COMPANY may disclose this Agreement to any potential Contractor or Collaboration Partner in connection with its discussions relating to a possible arrangement with such Contractor or Collaboration Partner, *provided*, *however*, that such potential Contractor or Collaboration Partner is subject to confidentiality obligations with reasonable scope and duration and no less stringent than the obligations set forth in this Agreement; and (ii) such Contractor or Collaboration Partner is contractually restricted from using this Agreement for any purpose other than as reasonably necessary to carry out the discussions with COMPANY.

8.3.2. Each PARTY may disclose Confidential Information of the other PARTY to the extent such disclosure is required by law, *provided*, *however*, that the receiving PARTY gives the disclosing PARTY reasonable prior written notice to enable the disclosing PARTY to take appropriate measures to protect its Confidential Information and fully cooperates, subject to commercially reasonable efforts, with the disclosing PARTY to prevent or limit, to the greatest extent possible, the disclosure of Confidential Information.

8.4. Use of Name. No right, express or implied, is granted to either PARTY by this Agreement to use in any manner any trademark or trade name of the other PARTY, including the names "Oncobiologics" and "SELEXIS" without the prior written consent of the PARTY entitled to use such trademark or trade name.

## 9. Term and Termination

9.1. Term. This Agreement is effective as of the Effective Date. Unless earlier terminated pursuant to Articles 9.2, 9.3 or 9.4, this Agreement shall remain in full force and effect until expiration of the last-to-expire of the SELEXIS Patent Rights (the "**Term**").

9.2. Termination for Default. In addition to any other remedies which may be available at law or equity, in the event of any material breach of this Agreement (the "**Default**") by a PARTY (the "**Defaulting Party**"), the PARTY not in default (the "**Non-Defaulting Party**") shall have the right to give the Defaulting Party a written notice thereof (the "**Notice of Default**"), whereby such notice must state the nature of the Default in reasonable details and request that the Defaulting Party cure such Default within [*]. If such Default is not cured within [*] after receipt of a Notice of Default by the Defaulting Party or if such Default cannot be cured, the Non-Defaulting Party may, at its sole discretion, terminate this Agreement by written notice effective upon receipt

9.3. Termination for Bankruptcy. In the event that a PARTY shall become insolvent or make any arrangement with its creditors or has a receiver or administrator appointed to the whole or any part of its assets, or if an order shall be made or a resolution passed for its winding up unless such order or resolution is part of a scheme for its amalgamation or reconstruction (the "**Insolvent Party**"), the other PARTY shall have the right, at its sole discretion, to serve immediate notice of termination of this Agreement, effective upon receipt.

9.4. Termination by COMPANY. COMPANY may terminate this Agreement for convenience at any time by giving [*] written notice to SELEXIS.

9.5. Consequences of Expiration or Termination.

9.5.1. Termination of Licenses. In the event of a termination of this Agreement by COMPANY pursuant to Article 9.2. 9.3 or 9.4 or by SELEXIS pursuant to Article 9.2 or 9.3, all and any rights and licenses granted under this Agreement shall terminate upon termination of this Agreement, except for the licenses which have become perpetual pursuant to Article 3.1.3.

9.5.2. SELEXIS Technology and Confidential Information. Upon termination of this Agreement under Article 9.2 or Article 9.3 where COMPANY is the Insolvent Party, or Article 9.4, COMPANY shall dispose of all tangible embodiments of the SELEXIS Technology and SELEXIS Confidential Information, including without limitation the SELEXIS Materials and Cell Lines, and render inaccessible or useless all electronic embodiments, of SELEXIS Confidential Information provided to COMPANY by SELEXIS hereunder, except that (a) COMPANY may retain one copy of the SELEXIS

Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement and (b) such obligation shall not apply with respect to SELEXIS Technology and SELEXIS Confidential Information necessary or useful with respect to the practice of any licenses that have become perpetual pursuant to Article 3.1.3.

9.5.3. COMPANY Confidential Information. Upon any expiration or termination of this Agreement, SELEXIS shall dispose of all tangible embodiments, and render inaccessible or useless all electronic embodiments, of COMPANY Confidential Information provided to SELEXIS by COMPANY hereunder, except that SELEXIS may retain one copy of the COMPANY's Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement.

9.5.4. Accrued Obligations. Expiration or termination of this Agreement shall not relieve the PARTIES of any obligation or liability accruing prior to such expiration or termination.

## 10. Miscellaneous

10.1. Assignment. Neither this Agreement nor any interest hereunder shall be assignable by either PARTY without the prior written consent of the other PARTY; *provided*, *however*, that either PARTY may assign this Agreement and all of its rights and obligations hereunder, without such prior written consent, to an entity" which acquires all or substantially all of the business or assets of such PARTY (or the business or assets to which this Agreement pertains) whether by merger, consolidation, reorganization, acquisition, sale or otherwise; and COMPANY may assign this Agreement and all of its rights and obligations hereunder, without such consent, to an Affiliate if COMPANY remains liable and responsible for the performance and observance of all of the Affiliate's duties and obligations hereunder, and provided that such Affiliate is not a Contract Manufacturing Organization. This Agreement shall be binding upon the successors and permitted assigns of the PARTIES and the name of a PARTY appearing herein shall be deemed to include the names of such PARTY's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement. Any assignment not in accordance with this Article 10.1 shall be null and void.

10.2. Compliance with Governmental Obligations. Each PARTY shall comply, upon reasonable notice from the other PARTY, with all governmental requests directed to either PARTY relating to this Agreement and provide all information and assistance necessary to comply with the governmental requests.

10.3. Counterparts. This Agreement may be executed in any number of counterparts, each of which need not contain the signature of more than one PARTY but all such counterparts taken together shall constitute one and the same agreement, and may be executed through the use of electronic .PDF's or facsimiles.

10.4. Dispute Resolution. The PARTIES agree that in the event of a dispute between them arising from, concerning or in any way relating to this Agreement, the PARTIES shall undertake good faith efforts to resolve any such dispute, with the matter being referred at the request of either PARTY to the General

Counsel (or chief legal officer) of each PARTY and, if remaining unresolved after [*], then to the Chief Executive Officers of each PARTY (or their designees). If after [*] of the matter first being referred to the General Counsel, the PARTIES are unable to resolve such dispute, either PARTY may, pursuant to Article 10.16, seek any remedy available at law.

10.5. Entire Agreement. This Agreement sets forth all of the covenants, promises, agreements, representations, warranties, conditions and understandings between the PARTIES with respect to the subject matter hereof, and constitutes and contains the complete, final, and exclusive understanding and agreement of the PARTIES with respect to the subject matter hereof, and cancels, supersedes and terminates all prior agreements and/or understanding between the PARTIES with respect to the subject matter hereof. There are no covenants, promises, agreements, representations, warranties, conditions or understandings, whether oral or written, between the PARTIES other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the PARTIES hereto unless reduced to writing and signed by the respective authorized officers of the PARTIES. For the avoidance of doubt, and to the extent of any inconsistency between this Agreement and the Research License Agreement, the terms of this Agreement shall govern and prevail.

10.6. Force Majeure. Neither PARTY shall be liable to the other for loss, damages, default or delay due to Force Majeure, provided that the PARTY affected by a case of Force Majeure gives prompt notice of such case to the other PARTY. The PARTY giving such notice shall thereupon be excused from its obligations hereunder as it is thereby disabled from performing for so long as it is so disabled, *provided*, *however*, that such affected PARTY commences and continues to take reasonable and diligent actions to cure such cause; and provided further that if any Force Majeure delays or prevents the performance of the obligations of either PARTY for a continuous period in excess of [*] days, the PARTY not affected shall then be entitled to terminate this Agreement, which termination shall be effective upon [*] written notice to the affected PARTY. Such a termination shall be irrevocable, except otherwise provided by the PARTIES and upon termination, the provisions of Article 9.5 shall apply.

10.7. Further Actions. Each PARTY agrees to execute, acknowledge and deliver such further instruments, and to effect all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of the Agreement.

10.8. Independent Contractors. The relationship between SELEXIS and COMPANY created by this Agreement is one of independent contractors and neither PARTY shall have the power or authority to bind or obligate the other PARTY except as expressly set forth in this Agreement.

10.9. Interpretation of Agreement. Articles and other descriptive headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa.

10.10. License Obligations. Nothing in this Agreement imposes any obligation upon a PARTY to enter into any other license or agreement with the other PARTY.

10.11. Notices. All notices and other communications required by this Agreement shall be in writing in the English language and shall be deemed transmitted if delivered personally or by electronic or facsimile transmission (receipt verified), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the PARTIES at the following addresses (or at such other addresses that a PARTY specifies by like notice, *provided*, *however*, that notices of a change of address shall be effective only upon written receipt thereof):

If to COMPANY, addressed to:
Oncobiologics, Inc.
7 Clarke Drive
Cranbury, NJ 08512
Attention: Stephen J. McAndrew, Ph.D.
VP, Business Development
With a copy to: CEO, Pankaj Mohan, Ph.D., MBA
Facsimile: (609) 619-3980

If to SELEXIS, addressed to:
Selexis S.A.
18 Chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

Attention: Sophie Vock

With a copy to: CEO, Igor Fisch, Ph.D.

Facsimile: +41 22 308-9361

10.12. Binding Effect. This Agreement shall be binding upon and inure solely to the benefit of COMPANY and SELEXIS (and their permitted successors and assigns) and nothing in this Agreement (express or implied) is intended to or shall confer upon any Third Party any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

10.13. Severability. If any term, covenant or condition of this Agreement or the application thereof to any PARTY or circumstance shall, to any extent, be held to be invalid or unenforceable, then the remainder of this Agreement, or the application of such term, covenant or condition to PARTIES or circumstances other than those as to which it is held invalid or unenforceable, shall therefore not be affected and each

term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

10.14. Waiver. The failure on the part of a PARTY to exercise or enforce any rights conferred upon it hereunder shall not be deemed to be a waiver of any such rights nor operate to bar the exercise or enforcement thereof at any time or times hereafter.

10.15. Survival. Articles 1, 3.1.3, 3.4, 4, 5, 6, 7, 8, 9.5 and 10 shall survive any termination or expiration of this Agreement in accordance with their terms.

10.16. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of [*], without regard to principles of conflict of laws. Any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of [*].

IN WITNESS WHEREOF, the PARTIES, having read the terms of this Agreement and intending to be legally bound, do hereby execute this Agreement:

**SELEXIS SA**

Signature: /s/ Girod Pierre-Alain

Place, Date: April 16, 2013

Name: GIROD Pierre-Alain

Title: Chief Scientific Officer

Signature: /s/ Regine Brokamp

Place, Date: PLO, April 15th, 2013

Name: Regine Brokamp

Title: COO

**ONCOBIOLOGICS, INC.**

Signature: /s/ Pankaj Mohan

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Pankaj Mohan, Ph.D., MBA

Title: Chief Executive Officer

Signature: /s/ Stephen J. McAndrew

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Stephen J. McAndrew, Ph.D.

Title: Vice President, Business Development



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**EXHIBIT 1**

**[*]**



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

**EXHIBIT 2**

**LICENSED PRODUCTS**

1. **ONS-1045, Avastin Biosimilar**



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

**AMENDMENT NO. 1**
**TO**
**COMMERCIAL LICENSE AGREEMENT**

This Amendment No. 1 to the Commercial License Agreement (the "Amendment"), effective as of May 21, 2014 (the "Amendment Effective Date"), is by and between Selexis SA ("Selexis") and Oncobiologics, Inc. ("Company").

WHEREAS, Company and Selexis entered into and executed the Commercial License Agreement dated April 11, 2013 (the "Agreement") relating to Company's Licensed and/or Final Product referred to as ONS-1045; and

WHEREAS, the parties desire to modify the Agreement to revise Company's sublicense rights.

NOW, THEREFORE, in consideration of the mutual obligations and covenants set out herein and for good consideration, the parties agree as follows:

1. Section 2.2.1 of the Agreement is deleted in its entirety and replaced with the following:

2.2.1 COMPANY may, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to a Contractor or to a Collaboration Partner and only with respect to (i) [*], or (ii) [*]. A Collaboration Partner may further grant a sub-sublicense, only with prior written consent from SELEXIS where such consent is not to be unreasonably withheld, conditioned or delayed, under the Commercial License to a Contractor only with respect to [*].

2. Section 2.2.2 of the Agreement is deleted in its entirety and replaced with the following:

2.2.2 Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1 shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditoned or delayed.

3. Section 2.3 is deleted in its entirety.

4. Section 2.4 is renumbered as Section 2.3, and the last clause of the first sentence (beginning with "...pursuant either to...") is deleted and replaced with "pursuant to a sublicense as permitted or consented to under Section 2.2."

5. In Section 1.30, the reference to the tri-party agreement is removed, so that the sentence begins: "...shall mean the amount collected by COMPANY, its Affiliates and its Sublicensees, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:"

6. All capitalized terms used in the Agreement will have the same meaning where used in this Amendment. In the event of a conflict or inconsistency between this Amendment and the

Agreement, the applicable terms and conditions of this Amendment shall prevail. All terms and conditions of the Agreement that are not amended herein shall remain unchanged and in full force and effect.

7. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same document. In addition, this document may be executed by facsimile, and the parties agree that facsimile copies of signatures shall have the same effect as original signatures.

**In Witness Whereof**, the Parties have executed this Amendment by their proper officers as of the Effective Date.

**SELEXIS SA**

By: /s/ Regine Brokamp
Name: Regine Brokamp
Title: COO
Date: May 23rd, 2014

/s/ Igor Fisch
Igor Fisch
CEO
May 23rd, 2014

**ONCOBIOLOGICS, INC.**

By: /s/ Stephen J. McAndrew, Ph.D.
Name: Stephen J. McAndrew, Ph.D.
Title: Vice President, Business Development
Date: May 21, 2014

**Exhibit 10.16**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.


**AND**

# Oncobiologics, Inc.

## Commercial License Agreement

**April 11, 2013**

*CONFIDENTIAL*

This Commercial License Agreement (this "**Agreement**") is made effective on April 11, 2013 (the "**Effective Date**")

by and between

**Selexis SA**, a company incorporated under the laws of Switzerland, with its registered office at 18 chemin des Aulx, 1228 Plan-les-Ouates, Geneva, Switzerland ("**SELEXIS**")

and

**Oncobiologics, Inc.**, a company incorporated under the laws of the United States, with its registered office at 7 Clarke Drive, Cranbury, New Jersey 08512 ("**COMPANY**") (SELEXIS and COMPANY, collectively the "**PARTIES**" and, individually, a "**PARTY**").

**Preamble**

A. WHEREAS, COMPANY is a biopharmaceutical company engaged in the research, development, manufacturing and sale of biopharmaceutical products;

B. WHEREAS, SELEXIS is a biotechnology company engaged in the development and sale of recombinant cell lines based on the SELEXIS Technology;

C. WHEREAS, SELEXIS is the owner of certain Confidential Information, the SELEXIS Know-How and the SELEXIS Patent Rights;

D. WHEREAS, pursuant to a Research License Agreement between the PARTIES dated October 3, 2011 (the "Research License Agreement") COMPANY has developed certain recombinant cell line(s) and/or COMPANY Material using the SELEXIS Technology, SELEXIS Know-How and SELEXIS Patent Rights, and COMPANY has evaluated such cell Line(s); and

E. WHEREAS, SELEXIS is willing to grant COMPANY, and COMPANY is willing to receive from SELEXIS, a commercial license to the SELEXIS Know-How and the SELEXIS Patent Rights with respect to the SELEXIS Technology, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the PARTIES agree as follows:

## 1. Definitions

In addition to the terms defined above, the following terms, whether used in the singular or plural, shall have the following meanings as used in this Agreement, unless otherwise specifically indicated:

1.1. "**Affiliate**" shall mean any Person that, as of the Effective Date, directly or indirectly, controls, is controlled by, or is under common control with the relevant Person. For the purposes of this definition only, "**control**" shall mean the possession, directly or indirectly, of the power to cause the direction of the management and policies of a Person, whether through ownership of voting securities of such Person, by contract or otherwise. A Person shall only be considered an Affiliate for so long as such control exists.

1.2. "**BLA**" shall mean a Biologic License Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.3. "**Calendar Quarter**" shall mean, for each Calendar Year, each of the three month periods ending March 31, June 30, September 30 and December 31, respectively.

1.4. "**Calendar Year**" shall mean the period commencing on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.5. "**Cell Line**" shall mean a mammalian cell line that is developed using the SELEXIS Technology. Cell Line shall include, without limitation, any Company-Specific Cell Line(s) developed by COMPANY under the Research License Agreement which have employed SELEXIS Technology, SELEXIS Know-How and/or SELEXIS Patent Rights.

1.6. "**Clinical Trials**" shall mean human studies designed to measure the safety and/or efficacy of the Product. Clinical Studies include Phase I Clinical Trials, Phase II Clinical Trials, and Phase Ill Clinical Trials.

1.7. "**Collaboration Partner**" shall mean a Third Party with which COMPANY collaborates on the development and/or commercialization of a Licensed Product or to which COMPANY has granted a license for the development and/or commercialization of a Licensed Product, provided that [*] or [*] or [*] for [*].

1.8. "**Combination Product Adjustment**" shall mean the adjustment of: Net Sales for any combination product done by multiplying actual Net Sales of such combination product by the fraction A/(A + B) where A is the weighted (by sales volume) average invoice price of the Product, if sold separately, and B is the weighted (by sales volume) average invoice price of any other active ingredient, device or component in the combination, if sold separately. If, on a country-by-country basis, the other active ingredient, device or component in the combination is not sold separately, Net Sales shall be calculated by multiplying actual Net Sales of the combination product in such country by the fraction A/C where A is the invoice price of the Product, if sold separately, in such country and C is the invoice price of the combination product in such country.

1.9. "**Commercial License**" shall have the meaning set out in Article 2.1.

1.10. "**Commercial License Option**" shall mean the option granted to Company in the Research License Agreement to obtain a non-exclusive commercial license.

1.11. "**Company Protein**" shall mean the recombinant protein listed in Exhibit 2.

1.12. "**Company-Specific Cell Line**" shall mean a Cell Line that has been modified by Company under the Research License Agreement to specifically express the Company Protein.

1.13. "**COMPANY Technology**" shall mean any Technology owned or controlled by COMPANY, including, without limitation, any such Technology related to Licensed or Final Product, but excluding any SELEXIS Technology related thereto.

1.14. "**Confidential Information**" shall mean any technical and business information pertaining to materials and production techniques, products, processes and services, including without limitation physical working models and samples of the products, research, development, patentable and unpatentable inventions, manufacturing, purchasing and product development plans, forecasts, strategies and information, engineering, marketing, merchandising, selling, customer lists, customer prospects, software codes, algorithms, names and expertise of employees and consultants, blueprints, technical information, trade secrets or know-how or other related proprietary business information and data, in any case whether such information is provided in tangible or intangible form, written, oral, graphic, pictorial or recorded form or stored on computer discs, hard drives, magnetic tape or digital or any other electronic medium. Confidential Information disclosed in any tangible format will be labelled "Confidential" or words to similar effect, and all non-tangible disclosures will be declared to be "Confidential" or words to similar effect at the time of disclosure. Confidential Information shall include any and all material and data created by the receiving party based on, containing or otherwise reflecting Confidential Information. Confidential Information shall also include any such information or documents which may be disclosed hereunder which the disclosing party received in confidence from a Third Party.

1.15. "**Contract Manufacturing Organization**" shall mean an entity of which at least fifty percent (50%) of the business is directed toward the provision of biologic manufacturing services or products for non-affiliate third parties.

1.16. "**Contractor**" shall mean a Third Party contractor who: (i) develops the production process for Licensed Products by or on behalf of COMPANY, or (ii) manufactures and supplies Licensed Products by using such production process by or on behalf of COMPANY.

1.17. "**Default**" shall have the meaning set out in Article 9.2.

1.18. "**Defaulting Party**" shall have the meaning set out in Article 9.2.

1.19. "**FDA**" shall mean the United States Food and Drug Administration, or any successor agency.

1.20. "**Final Product**" shall mean any pharmaceutical preparation in final form containing any Licensed Product(s) for sale by prescription, over-the-counter or any other method, in any dosage form, formulation,

presentation, line extension or package configurations, including without limitation such Licensed Product in development where the context so requires in this Agreement.

1.21. "**First Commercial Sale**" shall mean, with respect to any Final Product in any country, the first sale of such Final Product for use or consumption by the general public in such country after Regulatory Approval as well as Pricing and Reimbursement Approval for such Final Product has been obtained in such country. For the avoidance of doubt, sales prior to receipt of all Regulatory Approvals and Pricing and Reimbursement Approvals necessary to commence regular commercial sales, such as so-called "treatment IND sales", "named patient sales" and "compassionate use sales", shall not be construed as a First Commercial Sale.

1.22. "**Force Majeure**" shall mean conditions beyond the control of a PARTY, including without limitation, an act of God, war, civil commotion, terrorist act, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of facilities or materials by fire, earthquake, storm or the like catastrophe, and failure of plant or machinery (provided that such failure could not have been prevented by the exercise of skill, diligence and prudence that would be reasonably and ordinarily expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances).

1.23. "**IND**" shall mean an Investigational New Drug Application for the Final Product filed with the FDA or any comparable filing made with a Regulatory Authority in another country.

1.24. "**Insolvent Party**" shall have the meaning set out in Article 9.3.

1.25. "**Invention**" shall mean any invention, idea, innovation, enhancement, improvement or feature, whether or not patentable or registrable, together with any intellectual property rights relating thereto (including without limitation, the Patent Rights and rights to confidentiality and proprietary information).

1.26. "**Know-How**" shall mean information in whatever form, tangible or intangible and on whatever medium, including without limitation, information and materials relating to Inventions and other know-how, trade secrets, data (including without limitation, all data from pre-clinical and clinical studies and other studies intended for regulatory submission), results, formulae, DNA and amino acid sequence information and related developments.

1.27. "**Licensed Field of Use**" shall mean the development, manufacture and sale of Final Products for any field of use.

1.28. "**Licensed Product**" shall mean Company Protein made or derived from any Selexis Materials, including, without limitation, the Company-Specific Cell Lines.

1.29. "**Losses**" shall mean all and any liability, damage, loss or expense.

1.30. "**Net Sales**" shall mean the amount collected by COMPANY, its Affiliates, its Sublicensees and/or any Collaboration Partner with whom the Parties enter into a tri-party agreement pursuant to Section 2.3, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:

(i) sales and excise taxes and duties paid or allowed by the selling PARTY and any other governmental charges imposed upon the production, importation, use or sale of the Final Products;

(ii) customary trade, quantity and cash discounts allowed on Final Products;

(iii) compulsory government rebates;

(iv) allowances or credits to customers on account of rejection or return of Final Product or on account of retroactive price reductions affecting the Final Product;

(v) freight and insurance costs, if they are included in the selling price for the Final Product invoiced to Third Parties, provided always that such deduction shall not be greater than the balance between the selling price actually invoiced to the Third Party and the standard selling price which would have been charged to such Third Party for such Final Product exclusive of freight and insurance in the respective country or in a comparable country; and

(vi) in the event that a Final Product is sold in any country in the form of a combination product containing one or more other therapeutically active ingredients, the Net Sales for any such Final Product shall be computed using the Combination Product Adjustment for such country.

1.31. "**Non-Defaulting Party**" shall have the meaning set out in Article 9.2.

1.32. "**Notice of Default**" shall have the meaning set out in Article 9.2.

1.33. "**Patent Rights**" shall mean any and all of the following: (i) patent applications (including without limitation provisional patent applications) and patents (including without limitation the inventor's certificates); (ii) any substitution, extension (including without limitation patent term extensions and supplementary protection certificates), registration, confirmation, reissue, continuation, divisional, continuation-in-part, re-examination, renewal, patent of addition or the like thereof or thereto; (iii) any foreign counterparts of any of the foregoing; and (iv) any utility model applications and utility models (whether or not corresponding to any of the foregoing).

1.34. "**Person**" shall mean an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an estate, an unincorporated organization, or any other entity, or a government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

1.35. "**Phase I Clinical Trial**" shall mean a Clinical Trial conducted in humans which is principally intended to obtain data on the safety, tolerability, pharmacokinetic or pharmacodynamic properties of a product. Phase I shall be deemed to have commenced when the first patient in the study has been treated. Phase I shall be deemed to have completed when the last patient has completed his or her treatment being investigated

by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.36. "**Phase II Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a preliminary determination of therapeutic efficiency and/or to find an optimal dose range in patients with the disease target being studied. Phase II shall be deemed to have commenced when the first patient in the study has been treated. Phase II shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.37. "**Phase III Clinical Trial**" shall mean a Clinical Trial conducted in humans in which the primary objective is a determination of therapeutic efficiency in patients with the disease target being studied. Phase III shall be deemed to have commenced when the first patient in the study has been treated. Phase III shall be deemed to have completed when the last patient has completed his or her treatment being investigated by that Clinical Trial as described in its protocol, the database is locked, and data from all patients, according to protocol, has been analyzed for the primary endpoint.

1.38. "**Price and Reimbursement Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary to determine or set the pricing of a Product, and/or its reimbursement level by the relevant health authorities, providers or other funding institutions, at supranational, national, regional, state or local level.

1.39. "**Regulatory Approval**" shall mean any approvals, licenses, registrations or authorizations of any supranational, national, regional, state or local Regulatory Authority or other regulatory agency, department, bureau or governmental entity, necessary for the manufacture, marketing or sale of a Product or conduct of Clinical Trials in a regulatory jurisdiction, excluding Price and Reimbursement Approval.

1.40. "**Regulatory Authority**" shall mean (i) the FDA or (ii) any and all governmental or supranational agencies, ministries, authorities or other bodies with similar regulatory authority with respect to approval or registration of pharmaceutical or biologic products in any other jurisdiction anywhere in the world.

1.41. "**Royalty Term**" shall mean with respect to each Final Product sold in a particular country, the period beginning on the date of the First Commercial Sale in such country and terminating on the expiration of the last-to-expire or lapse of any Valid Claims in such country covering [*].

1.42. "**SELEXIS Know-How**" shall mean SELEXIS' Confidential Information and Know-How owned, controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the Commercial License relating to, without limitation, the construction and development of recombinant cell lines for the manufacture of biopharmaceutical products and existing as of the Effective Date or obtained thereafter during the Term.

1.43. "**SELEXIS Materials**" shall mean the materials provided by SELEXIS to COMPANY under this Agreement and all modifications and improvements thereof made by SELEXIS during the Term.

1.44. "**SELEXIS Patent Rights**" shall mean Patent Rights which: (i) are owned or controlled by SELEXIS, or to which SELEXIS has received a license which includes a right to grant sublicenses consistent with the Commercial License (ii) are necessary or useful for the use of SELEXIS Materials or the construction, development and use of Cell Lines and (iii) are existing as of the Effective Date or obtained thereafter during the Term. Without limiting the generality this Article, the SELEXIS Patent Rights as of the Effective Date are listed in Exhibit 1 hereto.

1.45. "**SELEXIS Technology**" shall mean the SELEXIS Patent Rights, the SELEXIS Know-How and the SELEXIS Materials.

1.46. "**Tax Authority**" shall mean the relevant governing tax authority as defined in Article 4.2.

1.47. "**Taxes**" shall mean all excises, taxes and duties with the exception of VAT.

1.48. "**Technology**" shall mean all inventions (whether or not patentable or patented) and intellectual property rights therein, including without limitation, patents, patent applications, know-how, trade secrets, copyrights, trademarks, designs, concepts, registered and unregistered design rights, data, work product, results, reports, improvements, business and research plans, analytic methods and results, experimental methods and results, manufacturing processes, developments, technologies, technical information, composites of genes and gene constructs, cell lines, manuals, standard operating procedures, instructions and specifications.

1.49. "**Term**" shall have the meaning set out in Article 9.1.

1.50. "**Territory"** shall mean the entire world.

1.51. "**Third Party**" shall mean a Person other than SELEXIS, COMPANY or an Affiliate of SELEXIS or COMPANY.

1.52. "**Transferee**" shall have the meaning set out in Article 2.3.

1.53. "**Valid Claim**" shall mean any issued or granted claim of the SELEXIS Patent Rights that has not been revoked or held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, that is unappealable or remains unappealed at the end of the time allowed for appeal, or that has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination, disclaimer or otherwise.

1.54. "**VAT**" shall mean value added tax and any other similar turnover, sales or purchase, tax or duty levied by any other jurisdiction whether central, regional or local.

## 2. Commercial Licenses

2.1. Commercial Licenses. Subject to payment by COMPANY of the amounts provided for below and COMPANY's compliance with the other terms and conditions of this Agreement, SELEXIS hereby grants to COMPANY a non-exclusive license under the SELEXIS Patent Rights and SELEXIS Know-How, in the Territory, with the limited right to sublicense in accordance with Article 2.2, to use (and have used only by permitted Sublicensees in accordance with Sections 2.2 and 2.3) Company-Specific Cell Lines and SELEXIS Materials for the manufacture of Licensed and/or Final Products in the Licensed Field of Use and to make, have made, use, offer for sale, sell, import and otherwise exploit Licensed and/or Final Products, including, without limitation, the use of Licensed and Final Products in Clinical Trials (the "**Commercial License**").

2.2. Sublicenses.

2.2.1. COMPANY may solely, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to (i) a Contractor or a Collaboration Partner for and only with respect to [*] or [*], or (ii) a Collaboration Partner for and only with respect to [*] or [*]. In the event that [*] any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor [*], [*] thereof and the parties [*] sublicenses under this Section 2.2.1 [*].

2.2.2. Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1, including, without limitation, with respect to [*], shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditioned or delayed.

2.2.3. If COMPANY grants any sublicenses permitted or consented to hereunder, it shall notify SELEXIS within thirty (30) days of any such sublicense grant and report the name and address of any such sublicensee (each, a "**Sublicensee**") together with written certification by an officer of COMPANY that the Sublicensee has agreed in writing to adhere to the relevant provisions of this Agreement. Notwithstanding the above, COMPANY is and remains fully liable and responsible for any breach of this Agreement committed or any Losses caused by any Sublicensee, or any other Third Party or Affiliate to whom the Company-Specific Cell Lines, SELEXIS Materials and the SELEXIS Know How or parts thereof are made available under any such sublicense.

2.3. Tri-Party Agreements. In the event that SELEXIS is unable, due to restrictions on its rights to permit COMPANY to grant any sublicense of any rights granted under the Commercial License to a Collaboration Partner or a Contractor, to consent to any sublicense pursuant to Section 2.2.1, then the parties agree to use diligent efforts to negotiate a tri-party agreement among SELEXIS, COMPANY and such Collaboration Partner or Contractor (each a "**Tri-Party Agreement**"), pursuant to which: (a) SELEXIS will grant a non-transferable, non-sublicenseable, royalty-free, non-exclusive license to such Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines: (i) solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in the relevant territory; and (ii) in accordance with Applicable Laws; (b) such license shall be subject to obligations and restrictions

comparable to those set forth in this Agreement, provided that such Tri-Party Agreement will not include any payment obligations comparable to those set forth in Article 3 or otherwise; and (c) COMPANY will remain responsible for all financial obligations to SELEXIS under this Agreement for the entire Territory, including the territory granted to such Collaboration Partner or Contractor and including, without limitation, payment with respect to any Net Sales therein.

2.4. Transfer of SELEXIS Materials. COMPANY shall not transfer the Cell Lines, SELEXIS Materials or SELEXIS Know-How to any Third Party, except that during and for the Term only, COMPANY may transfer SELEXIS Know-How to Contractors or Collaboration Partners (the "**Transferees**") solely for their use in connection with their development of the production process and/or manufacturing of Licensed Products with, or on behalf of, COMPANY, pursuant either to a sublicense as permitted or consented to under Section 2.2 or a Tri-Party Agreement. If COMPANY makes any such transfer, it shall notify SELEXIS within thirty (30) days of any such transfer and report the name and address of any Transferee together with confirmation that the Transferee has agreed in writing to adhere to the confidentiality obligations and use restrictions set out in this Agreement.

## 3. Consideration

3.1. Payments.

3.1.1. Commercial License Execution Payment. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall pay SELEXIS a one-time fee of CHF 65,000.00 (Sixty-Five Thousand Swiss Francs), due within ten (10) business days of execution of this Agreement.

3.1.2. Commercial License Milestone Payments. As partial consideration for the rights and licenses granted by SELEXIS to COMPANY under this Agreement, COMPANY shall make the following milestone payments to SELEXIS with respect to the first occurrence of each such milestone event for each Licensed Product:

(i) [*] CHF 65,000.00 (Sixty-Five Thousand Swiss Francs); and

(ii) [*] CHF 300,000 (Three Hundred Thousand Swiss Francs).

3.1.3. Commercial License Royalty Payments: In addition to the milestone payments under Article 3.1.2, during the Royalty Term, COMPANY shall pay SELEXIS on a Product-by-Product and country-by-country basis a royalty of [*] of Net Sales of all Final Products sold worldwide. Where royalties are due for the sale of Final Products directly by COMPANY, such royalties shall be paid for each Calendar Quarter within [*] of the end of that Calendar Quarter. Where royalties are due for the sales of Final Product by a Sublicensee, payment shall be made within [*] of the end of that Calendar Quarter. For the avoidance of doubt, no royalty payments shall be due for a Final Product in a specific country after the Royalty Term has expired for such Final Product in such country. Where royalties

are no longer due in accordance with the foregoing, the Commercial License granted to COMPANY under this Agreement shall become perpetual, irrevocable, fully paid up and royalty free with respect to such Final Product in such country.

3.1.4. Royalty Buyout. At any time during the Term, COMPANY shall have the right to terminate its obligation to pay a royalty pursuant to Section 3.1.3 of this Agreement with respect to all Final Product containing a specific Licensed Product by paying to SELEXIS the sum of CHF 1,750,000 (One Million One Hundred Seventy-Five Thousand Swiss Francs) (a "**Royalty Termination Fee**"). In order to exercise this right, COMPANY shall notify SELEXIS in accordance with Section 11.10 of this Agreement that it is paying the Royalty Termination Fee for all Final Product containing the specified Licensed Product in such notice. Provided that the Royalty Termination Fee is paid to SELEXIS within five (5) business days of such notice in accordance with Section 3.2 of this Agreement, the notice shall be effective as of the first day of the Calendar Quarter in which the notice was delivered, thereby terminating the royalty obligation for all Final Product containing the specified Licensed Product for that Calendar Quarter and thereafter. Payment of a Royalty Termination Fee shall apply only to all Final Product containing a single Licensed Product [*]. For avoidance of doubt, upon COMPANY paying a Royalty Termination Fee under this Agreement, no royalties shall thereafter be due to SELEXIS under this Agreement.

3.2. Mechanism of Payment. The payments due to SELEXIS under this Agreement shall be made either by check or by wire transfer or electronic fund transfer to the credit and account of SELEXIS, as follows:

**Bank Name:** [*]

**Account:** [*]

**To:** Selexis S.A.
18, chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

3.3. Payment Terms. Except with respect to royalties due pursuant to Article 3.1.3, COMPANY shall make payments due to SELEXIS under this Agreement at the latest [*] business days after receipt of invoice. All fees and payments, including without limitation under Article 3.1.3, do not include any applicable VAT or Taxes.

3.4. Records. COMPANY and its Affiliates and Sublicensees shall keep true accounts of Net Sales of Licensed Products and COMPANY shall deliver to SELEXIS at the same time as the payments due under Article 3.1.3, a written account, including quantities of Net Sales of each such Licensed Product, broken down on a country-by-country basis with respect to those payments. SELEXIS is entitled to have such accounts audited by an independent expert of its choice. Such independent expert shall be bound by confidentiality terms at least as restrictive as the terms of Article 8 and shall be authorized to disclose to SELEXIS only the results of its audit. COMPANY shall provide access to all information reasonably

requested by such expert. The cost of any audit shall be borne by SELEXIS unless the audit shows that COMPANY underpaid SELEXIS by more than [*] of the amounts due, in which case, the cost of the audit shall be borne by COMPANY.

3.5. Single Royalty and Milestone. For Final Products covered by more than one SELEXIS Patent Rights, COMPANY will make one payment to SELEXIS for royalties on any unit of Final Product sold by COMPANY or Sublicensees, irrespective of how many SELEXIS Patent Rights may cover such Final Product. Each milestone described in Article 3 shall be payable only once in relation to each Licensed Product, irrespective of the number of Final Products which incorporate that Licensed Product and undergo the events triggering the payment. All fees and payments, including without limitation under Article 3.1, do not include any applicable VAT or Taxes.

## 4. Taxes

4.1. General. All Taxes levied on account of any payment made by COMPANY to SELEXIS pursuant to this Agreement (other than Taxes on income, gains or profits levied against SELEXIS by any competent Swiss tax authority) will be the responsibility of, and shall be paid by, COMPANY pursuant to Article 4.2.

4.2. Character of Payments. The PARTIES agree that, for purposes of determining the applicability of any Taxes, the payments to be made under this Agreement constitute payments for tangible property and the license of intellectual property. However, in the event that the governing tax authority (the "**Tax Authority**") qualifies such payment differently, any additional taxes that may be applied (including without limitation, any interest and penalties that may be unpaid) shall [*].

4.3. Withholding by COMPANY.

(i) All payments by COMPANY hereunder shall be made in full without any deduction or withholding whatsoever, and free and clear of and without any deduction or withholding for or on account of any Taxes, except to the extent that any such deduction or withholding is required by any law in effect at the time of payment. Subject to paragraph (ii) of this Article, if any Taxes or amounts with respect to Taxes must be deducted or withheld, or any other deductions or withholdings must be made, from any amounts payable or paid by COMPANY, [*] and [*] deduction or withholding.

(ii) [*] pursuant to paragraph (i) of this Article with respect to any deduction or withholding [*] if [*] or [*].

## 5. Intellectual Property

5.1. Ownership. Each PARTY shall retain all right, title and interest in and to its Inventions and Know-How which exist on the Effective Date or which are thereafter developed independently of the performance of this Agreement.

5.2. COMPANY and SELEXIS Inventions. Any Invention developed hereunder by or for either Party, solely or jointly with the other PARTY or any Affiliate or agent thereof, shall belong exclusively (i) to COMPANY, to the extent it relates specifically to any COMPANY Technology, including, without limitation, any improvement or modification thereto ("**COMPANY Invention**"); or (ii) to SELEXIS, to the extent it relates specifically to any SELEXIS Technology, including, without limitation, any improvements or modifications thereto ("**SELEXIS Invention**"). Any SELEXIS Inventions shall be included within the scope of the SELEXIS Technology licensed to COMPANY under this Agreement as provided for within Article 5.5. Notwithstanding the foregoing, such ownership shall not be construed to transfer to either PARTY ownership of or any license or other rights in or to any of the other PARTY's underlying Technology which may be included or embodied therein, or useful or necessary to use in connection with exploiting such Invention.

5.3. Other Inventions. Except as set forth in Article 5.2, any other Invention developed hereunder solely by COMPANY shall be COMPANY's sole property and any other Invention developed hereunder solely by SELEXIS shall be SELEXIS' sole property. The PARTIES do not anticipate that there will be any jointly developed Inventions hereunder, but if there are any other such jointly developed Inventions which do not relate to either the SELEXIS Technology or the COMPANY Technology, such Inventions shall be owned jointly by COMPANY and SELEXIS ("**Joint Inventions**"). In the event any such Joint Inventions arise, the PARTIES will use commercially reasonable efforts to cooperate to protect and/or exploit such Joint Inventions, including, without limitation, sharing those costs incurred through protection of such Joint Inventions and sharing in revenues generated by the use or sublicense of such Joint Inventions.

5.4. Notification. Each PARTY shall promptly notify the other PARTY of any Invention arising in connection with this Agreement, *provided*, *however*, that COMPANY has no obligation to notify SELEXIS with respect to any COMPANY Inventions developed solely by or on behalf of COMPANY.

5.5. Improvements. In the event SELEXIS possesses, acquires, creates or is licensed (with the right to grant a sublicense consistent with the terms of the Commercial License) any improvements to the SELEXIS Technology which are necessary or useful for COMPANY to use in connection with the development of Cell Lines as licensed hereunder, such improvements shall automatically be included in the SELEXIS Patent Rights and/or the SELEXIS Know-How and thereby disclosed and licensed at no extra cost to COMPANY in accordance with this Agreement; *provided*, *however*, that any rights granted by the foregoing will be subject to COMPANY's compliance with any bona fide obligations owed to Third Parties (with respect to which, SELEXIS has notified COMPANY of such obligations), including, without limitation, [*].

5.6. Third Party Patent Rights. SELEXIS covenants that if SELEXIS becomes aware that COMPANY's use of the SELEXIS Technology in accordance with the terms hereunder would or would likely infringe any Third Party proprietary rights, SELEXIS shall use its reasonable commercial efforts to resolve such potential infringement at SELEXIS' cost to ensure COMPANY's freedom to continue to exercise the licenses granted under this Agreement, including without limitation, by using its reasonable commercial efforts to obtain a



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

license from such Third Party owner of proprietary rights which entitles SELEXIS to continue to grant the rights to COMPANY as provided for herein. Should such efforts not be successful, SELEXIS shall inform COMPANY in writing and thereafter, subject to such notification, either PARTY may terminate this Agreement with immediate effect, save that SELEXIS shall not have such right if COMPANY agrees to waive any liability SELEXIS would otherwise have to COMPANY hereunder with respect to the infringement of such Third Party proprietary rights. The obligations set forth in this Article pertain solely to Third Party rights specifically and solely related to the SELEXIS Technology or SELEXIS Materials licensed hereunder, and do not apply to any other technology or materials used by COMPANY at its discretion in connection with its exercise of the license rights granted hereunder, and specifically exclude any such Third Party rights which relate to the Licensed Product(s) produced by any Cell Lines hereunder.

5.7. Enforcement of SELEXIS Patent Rights. If, during the Term, either PARTY becomes aware of any infringement or potential infringement of the SELEXIS Technology, it shall promptly notify the other PARTY in writing and the PARTIES shall immediately consult with each other to decide the best way to respond to such infringement or misuse, provided that SELEXIS shall remain free to take any action it deems fit and in its sole discretion.

5.8. COMPANY Publications. COMPANY shall have the unrestricted right to publish or otherwise disclose the results and data obtained by the practice of the SELEXIS Technology in accordance with the terms hereof, *provided*, *however*, that such publication or disclosure does not include any Confidential Information of SELEXIS. The name of SELEXIS shall be given proper recognition in such publication(s) as scientifically appropriate.

5.9. Further Assurance. Each PARTY agrees to execute and effect all necessary steps at the cost of the other PARTY (if not specifically agreed to otherwise) and as the other PARTY may reasonably require to give the other PARTY the full benefit of the provisions of this Article 5.

## 6. Representations, Warranties, and Covenants

6.1. General. Except for the representations, warranties and covenants set forth in this Article 6, the PARTIES do not make any other representations, nor give any other warranties, express or implied, nor undertake to any other covenants. The PARTIES expressly exclude any and all other representations, warranties and covenants.

6.2. Representations and Warranties by the PARTIES. Each PARTY hereby represents and warrants to the other PARTY that:

6.2.1. Corporate Power. It is duly organized and validly existing under the laws of the state (or country or other jurisdiction, as the case may be) of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof.

6.2.2. Due Authorization. It is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder, and the persons executing this Agreement on its behalf have been duly authorized to do so by all requisite corporate actions.

6.2.3. Binding Agreement. This Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles and public policy.

6.2.4. No Conflicts. The execution, delivery and performance of this Agreement by itself does not conflict with any agreement, instrument or understanding, oral or written, to which it is a PARTY or by which it may be bound.

6.2.5. Intellectual Property Rights. Each PARTY represents that it has valid and sufficient arrangements and agreements with its directors, officers and employees (which term shall include agents, consultants and subcontractors) such that ownership of intellectual property rights in and to any Inventions made by its directors, officers and employees vests in such PARTY.

6.3. Additional Representations and Warranties by SELEXIS. SELEXIS hereby represents and warrants that, to the best of its knowledge, as of the Effective Date:

6.3.1. There is no pending litigation asserting that the use of the SELEXIS Technology or the SELEXIS Know-How constitutes an infringement or misappropriation of any intellectual property rights of a Third Party;

6.3.2. SELEXIS has the right in and to the SELEXIS Technology, SELEXIS. Know-How and the SELEXIS Patents to grant COMPANY the rights which are granted to COMPANY under this Agreement; and

6.3.3. SELEXIS has the rights necessary to grant a non-transferable, non-sublicenseable royalty-free, non-exclusive license to a Collaboration Partner or Contractor, under the SELEXIS Know-How and the SELEXIS Patent Rights, to use the Company-Specific Cell Lines solely for uses that are reasonably related to the development, manufacture, use, commercialization and/or sale of the Licensed or Final Products in part of the Territory, as contemplated by Section 2.3.

6.4. Additional Warranties by COMPANY. COMPANY hereby represents and warrants to SELEXIS that:

6.4.1. There are no Third Party intellectual property rights or any other rights that may be asserted against SELEXIS claiming that SELEXIS was or is directly infringing or is helping or assisting COMPANY in infringing such Third Party's rights in connection with COMPANY's exercise of the Commercial License granted by SELEXIS hereunder (except to the extent that any such Third Party rights relate solely and specifically to the SELEXIS Technology and/or SELEXIS Materials), including, without limitation, the development, manufacture and commercialization of Licensed Products and/or Final Products as permitted hereunder; and

6.4.2. As of the Effective Date, to the best of its knowledge, there is no litigation pending against COMPANY in connection with the use or ownership of the Company Protein and/or Licensed Product, including, without limitation, the infringement or misappropriation of any intellectual property rights of a Third Party relating to the Company Protein and/or Licensed Product, and COMPANY has not received any written claim that the use thereof infringes on any intellectual property rights of a Third Party or a request or demand from any Third Party for the licensing of any intellectual property rights to such Third Party in connection with the use of the Company Protein and/or Licensed Product.

6.4.3. COMPANY will not knowingly misappropriate or infringe the intellectual property or other rights of any Third Party in connection with its exercise of its licensed rights hereunder, including, without limitation, use of any SELEXIS Technology, Cell Line, or development, manufacture or sale of Licensed and/or Final Product hereunder, and understands and agrees that SELEXIS will have no liability whatsoever for any such misappropriation or infringement to the extent they do not relate solely and specifically to the use of the SELEXIS Technology and/or SELEXIS Materials hereunder.

6.5. Disclaimer of Warranties by SELEXIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND WITHOUT LIMITING THE GENERALITY OF ARTICLE 6.1, SELEXIS DOES NOT MAKE NOR GIVE ANY REPRESENTATION OR WARRANTY TO COMPANY OF ANY NATURE, EXPRESS OR IMPLIED, THAT THE SELEXIS TECHNOLOGY WILL BE USEFUL FOR, OR ACHIEVE ANY PARTICULAR RESULTS AS A RESULT OF ANY USE THEREOF BY SELEXIS OR BY COMPANY PURSUANT TO ANY LICENSE GRANTED TO COMPANY UNDER THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELEXIS SPECIFICALLY DISCLAIMS ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 7. Liability and Indemnification

7.1. Indemnification by SELEXIS. During the Term and thereafter, SELEXIS hereby agrees to save, defend and hold COMPANY, its Affiliates, and their respective officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) any Third Party claim alleging that Customer's use of the SELEXIS Technology and/or the SELEXIS Materials in strict accordance with the terms of this Agreement infringes or misappropriates such Third Party's intellectual property or other property right (except to the extent such claim relates to the use of the SELEXIS Technology and/or SELEXIS Materials in combination with any technologies or materials not supplied by SELEXIS or any modifications made by anyone other than SELEXIS to the SELEXIS Technology or SELEXIS Materials); or (ii) any material breach of SELEXIS' representations, warranties and covenants set forth in Article 6; except in each case to the extent that such Losses were caused by willful misconduct or gross negligence of COMPANY or any of its Affiliates, Collaborators or Sublicensees. In the event COMPANY seeks indemnification under this Article 7.1, COMPANY shall notify SELEXIS of

any claim as soon as reasonably practicable after it receives notice of the claim. COMPANY shall then allow SELEXIS to conduct and control the defense against the claim (including without limitation to settle the claim solely for monetary consideration), shall (at SELEXIS' expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration) and shall (at SELEXIS' expense) cooperate as requested by SELEXIS in the defense of the claim, provided always that SELEXIS may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of COMPANY, which consent will not be unreasonably withheld.

7.2. Indemnification by COMPANY. During the Term and thereafter, COMPANY hereby agrees to save, defend and hold SELEXIS and its officers, directors, employees, consultants and agents harmless from and against any and all Losses resulting directly from (i) Third Party claims in connection with personal injury or damages to property caused by the Company Protein, Licensed Products and/or Final Products, including, without limitation, any product liability claims however stated; (ii) Third Party claims relating to any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials outside the scope of the license granted herein or otherwise not in strict compliance with the terms hereof, or any use of the Cell Lines, SELEXIS Technology and/or SELEXIS Materials in conjunction with technology or materials not provided by SELEXIS, or any modifications to the SELEXIS Technology and/or SELEXIS Materials (except in each of the foregoing cases, to the extent SELEXIS is obligated to indemnify COMPANY pursuant to Article 8.1 above); or (iii) any material breach of COMPANY's representations, warranties and covenants set forth in Article 6; in each case, except to the extent that such Losses result from the willful misconduct or gross negligence of SELEXIS or its Affiliates. In the event SELEXIS seeks indemnification under this Article, SELEXIS shall notify COMPANY of any claim as soon as reasonably practicable after it receives notice of the claim. SELEXIS shall then allow COMPANY to assume direction and control of the defense of the claim (including without limitation the right to settle the claim solely for monetary consideration), and shall (at COMPANY's expense) execute and deliver such documents and other papers and take such further actions as may be reasonably required to defend against the claim (including without limitation to settle the claim solely for monetary consideration). SELEXIS shall (at COMPANY's expense) cooperate as requested by COMPANY in the defense of the claim, provided always that COMPANY may not settle any such claim or otherwise consent to an adverse judgment or order in any relevant action or other proceeding which includes any admission as to liability or fault without the prior express written consent of SELEXIS, which consent will not be unreasonably withheld.

7.3. No Incidental or Consequential Damages. In no event shall either PARTY be responsible for any incidental or consequential damages, including without limitation, lost profits or opportunities; provided that the foregoing shall in no event limit a PARTY's indemnification obligation under Article 7.1 or Article 7.2 hereinabove.



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7.4. Limitation of Liability. Except with respect to its indemnification obligations under Article 7.1, [*] cumulative liability under this Agreement, whether in contract, in tort, or otherwise, shall in no event exceed [*]. With respect to its indemnification obligations under Article 7.1, [*] cumulative liability shall in no event exceed [*].

## 8. Confidentiality

8.1. Non-disclosure. During the Term of this Agreement and for [*] thereafter, each PARTY shall keep Confidential Information of the other PARTY confidential and shall not (i) use the other PARTY's Confidential Information for any purpose not expressly permitted under this Agreement, nor (ii) disclose the other PARTY's Confidential Information to any Person other than those of its agents, employees, and consultants (collectively, "**Representatives**") who need to know such Confidential Information for a use or purpose expressly permitted under this Agreement. Any such Representative who receives Confidential Information pursuant to this Article 8.1 shall be bound by written obligations of confidentiality and non-use with respect to the Confidential Information that are no less stringent than the obligations set forth in this Agreement.

8.2. Exceptions. The confidentiality obligations set forth in Article 8.1 shall not apply to Confidential Information that (i) is, or becomes, public information other than as the result of the violation of this Agreement or other act or omission by the receiving PARTY or its Representatives; (ii) was lawfully known to the receiving PARTY or its Representatives without restriction on use or disclosure at the time of disclosure hereunder; (iii) is hereafter lawfully received by the receiving PARTY or its Representatives from a Third Party authorized to make such disclosure and without restriction on use or disclosure; or (iv) is approved for release by prior written consent from the disclosing Party.

8.3. Authorized Disclosures. Notwithstanding any provision of this Agreement to the contrary:

8.3.1. COMPANY may disclose this Agreement to any potential Contractor or Collaboration Partner in connection with its discussions relating to a possible arrangement with such Contractor or Collaboration Partner, *provided*, *however*, that such potential Contractor or Collaboration Partner is subject to confidentiality obligations with reasonable scope and duration and no less stringent than the obligations set forth in this Agreement; and (ii) such Contractor or Collaboration Partner is contractually restricted from using this Agreement for any purpose other than as reasonably necessary to carry out the discussions with COMPANY.

8.3.2. Each PARTY may disclose Confidential Information of the other PARTY to the extent such disclosure is required by law, *provided*, *however*, that the receiving PARTY gives the disclosing PARTY reasonable prior written notice to enable the disclosing PARTY to take appropriate measures to protect its Confidential Information and fully cooperates, subject to commercially reasonable efforts, with the disclosing PARTY to prevent or limit, to the greatest extent possible, the disclosure of Confidential Information.

8.4. Use of Name. No right, express or implied, is granted to either PARTY by this Agreement to use in any manner any trademark or trade name of the other PARTY, including the names “Oncobiologics” and “SELEXIS” without the prior written consent of the PARTY entitled to use such trademark or trade name.

## 9. Term and Termination

9.1. Term. This Agreement is effective as of the Effective Date. Unless earlier terminated pursuant to Articles 9.2, 9.3 or 9.4, this Agreement shall remain in full force and effect until expiration of the last-to-expire of the SELEXIS Patent Rights (the “**Term**”).

9.2. Termination for Default. In addition to any other remedies which may be available at law or equity, in the event of any material breach of this Agreement (the “**Default**”) by a PARTY (the “**Defaulting Party**”), the PARTY not in default (the “**Non-Defaulting Party**”) shall have the right to give the Defaulting Party a written notice thereof (the “**Notice of Default**”), whereby such notice must state the nature of the Default in reasonable details and request that the Defaulting Party cure such Default within [*]. If such Default is not cured within [*] after receipt of a Notice of Default by the Defaulting Party or if such Default cannot be cured, the Non-Defaulting Party may, at its sole discretion, terminate this Agreement by written notice effective upon receipt

9.3. Termination for Bankruptcy. In the event that a PARTY shall become insolvent or make any arrangement with its creditors or has a receiver or administrator appointed to the whole or any part of its assets, or if an order shall be made or a resolution passed for its winding up unless such order or resolution is part of a scheme for its amalgamation or reconstruction (the “**Insolvent Party**”), the other PARTY shall have the right, at its sole discretion, to serve immediate notice of termination of this Agreement, effective upon receipt.

9.4. Termination by COMPANY. COMPANY may terminate this Agreement for convenience at any time by giving [*] written notice to SELEXIS.

9.5. Consequences of Expiration or Termination.

9.5.1. Termination of Licenses. In the event of a termination of this Agreement by COMPANY pursuant to Article 9.2. 9.3 or 9.4 or by SELEXIS pursuant to Article 9.2 or 9.3, all and any rights and licenses granted under this Agreement shall terminate upon termination of this Agreement, except for the licenses which have become perpetual pursuant to Article 3.1.3.

9.5.2. SELEXIS Technology and Confidential Information. Upon termination of this Agreement under Article 9.2 or Article 9.3 where COMPANY is the Insolvent Party, or Article 9.4, COMPANY shall dispose of all tangible embodiments of the SELEXIS Technology and SELEXIS Confidential Information, including without limitation the SELEXIS Materials and Cell Lines, and render inaccessible or useless all electronic embodiments, of SELEXIS Confidential Information provided to COMPANY by SELEXIS hereunder, except that (a) COMPANY may retain one copy of the SELEXIS

Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement and (b) such obligation shall not apply with respect to SELEXIS Technology and SELEXIS Confidential Information necessary or useful with respect to the practice of any licenses that have become perpetual pursuant to Article 3.1.3.

9.5.3. COMPANY Confidential Information. Upon any expiration or termination of this Agreement, SELEXIS shall dispose of all tangible embodiments, and render inaccessible or useless all electronic embodiments, of COMPANY Confidential Information provided to SELEXIS by COMPANY hereunder, except that SELEXIS may retain one copy of the COMPANY's Confidential Information delivered hereunder in its secured legal files only for ensuring compliance with the terms of this Agreement.

9.5.4. Accrued Obligations. Expiration or termination of this Agreement shall not relieve the PARTIES of any obligation or liability accruing prior to such expiration or termination.

## 10. Miscellaneous

10.1. Assignment. Neither this Agreement nor any interest hereunder shall be assignable by either PARTY without the prior written consent of the other PARTY; *provided*, *however*, that either PARTY may assign this Agreement and all of its rights and obligations hereunder, without such prior written consent, to an entity" which acquires all or substantially all of the business or assets of such PARTY (or the business or assets to which this Agreement pertains) whether by merger, consolidation, reorganization, acquisition, sale or otherwise; and COMPANY may assign this Agreement and all of its rights and obligations hereunder, without such consent, to an Affiliate if COMPANY remains liable and responsible for the performance and observance of all of the Affiliate's duties and obligations hereunder, and provided that such Affiliate is not a Contract Manufacturing Organization. This Agreement shall be binding upon the successors and permitted assigns of the PARTIES and the name of a PARTY appearing herein shall be deemed to include the names of such PARTY's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement. Any assignment not in accordance with this Article 10.1 shall be null and void.

10.2. Compliance with Governmental Obligations. Each PARTY shall comply, upon reasonable notice from the other PARTY, with all governmental requests directed to either PARTY relating to this Agreement and provide all information and assistance necessary to comply with the governmental requests.

10.3. Counterparts. This Agreement may be executed in any number of counterparts, each of which need not contain the signature of more than one PARTY but all such counterparts taken together shall constitute one and the same agreement, and may be executed through the use of electronic .PDF's or facsimiles.

10.4. Dispute Resolution. The PARTIES agree that in the event of a dispute between them arising from, concerning or in any way relating to this Agreement, the PARTIES shall undertake good faith efforts to resolve any such dispute, with the matter being referred at the request of either PARTY to the General

Counsel (or chief legal officer) of each PARTY and, if remaining unresolved after [*], then to the Chief Executive Officers of each PARTY (or their designees). If after [*] of the matter first being referred to the General Counsel, the PARTIES are unable to resolve such dispute, either PARTY may, pursuant to Article 10.16, seek any remedy available at law.

10.5. Entire Agreement. This Agreement sets forth all of the covenants, promises, agreements, representations, warranties, conditions and understandings between the PARTIES with respect to the subject matter hereof, and constitutes and contains the complete, final, and exclusive understanding and agreement of the PARTIES with respect to the subject matter hereof, and cancels, supersedes and terminates all prior agreements and/or understanding between the PARTIES with respect to the subject matter hereof. There are no covenants, promises, agreements, representations, warranties, conditions or understandings, whether oral or written, between the PARTIES other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the PARTIES hereto unless reduced to writing and signed by the respective authorized officers of the PARTIES. For the avoidance of doubt, and to the extent of any inconsistency between this Agreement and the Research License Agreement, the terms of this Agreement shall govern and prevail.

10.6. Force Majeure. Neither PARTY shall be liable to the other for loss, damages, default or delay due to Force Majeure, provided that the PARTY affected by a case of Force Majeure gives prompt notice of such case to the other PARTY. The PARTY giving such notice shall thereupon be excused from its obligations hereunder as it is thereby disabled from performing for so long as it is so disabled, *provided*, *however*, that such affected PARTY commences and continues to take reasonable and diligent actions to cure such cause; and provided further that if any Force Majeure delays or prevents the performance of the obligations of either PARTY for a continuous period in excess of [*] days, the PARTY not affected shall then be entitled to terminate this Agreement, which termination shall be effective upon [*] written notice to the affected PARTY. Such a termination shall be irrevocable, except otherwise provided by the PARTIES and upon termination, the provisions of Article 9.5 shall apply.

10.7. Further Actions. Each PARTY agrees to execute, acknowledge and deliver such further instruments, and to effect all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of the Agreement.

10.8. Independent Contractors. The relationship between SELEXIS and COMPANY created by this Agreement is one of independent contractors and neither PARTY shall have the power or authority to bind or obligate the other PARTY except as expressly set forth in this Agreement.

10.9. Interpretation of Agreement. Articles and other descriptive headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa.

10.10. License Obligations. Nothing in this Agreement imposes any obligation upon a PARTY to enter into any other license or agreement with the other PARTY.

10.11. Notices. All notices and other communications required by this Agreement shall be in writing in the English language and shall be deemed transmitted if delivered personally or by electronic or facsimile transmission (receipt verified), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the PARTIES at the following addresses (or at such other addresses that a PARTY specifies by like notice, *provided*, *however*, that notices of a change of address shall be effective only upon written receipt thereof):

If to COMPANY, addressed to:
Oncobiologics, Inc.
7 Clarke Drive
Cranbury, NJ 08512
Attention: Stephen J. McAndrew, Ph.D.
VP, Business Development
With a copy to: CEO, Pankaj Mohan, Ph.D., MBA
Facsimile: (609) 619-3980

If to SELEXIS, addressed to:
Selexis S.A.
18 Chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

Attention: Sophie Vock

With a copy to: CEO, Igor Fisch, Ph.D.

Facsimile: +41 22 308-9361

10.12. Binding Effect. This Agreement shall be binding upon and inure solely to the benefit of COMPANY and SELEXIS (and their permitted successors and assigns) and nothing in this Agreement (express or implied) is intended to or shall confer upon any Third Party any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

10.13. Severability. If any term, covenant or condition of this Agreement or the application thereof to any PARTY or circumstance shall, to any extent, be held to be invalid or unenforceable, then the remainder of this Agreement, or the application of such term, covenant or condition to PARTIES or circumstances other than those as to which it is held invalid or unenforceable, shall therefore not be affected and each

term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

10.14. Waiver. The failure on the part of a PARTY to exercise or enforce any rights conferred upon it hereunder shall not be deemed to be a waiver of any such rights nor operate to bar the exercise or enforcement thereof at any time or times hereafter.

10.15. Survival. Articles 1, 3.1.3, 3.4, 4, 5, 6, 7, 8, 9.5 and 10 shall survive any termination or expiration of this Agreement in accordance with their terms.

10.16. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of [*], without regard to principles of conflict of laws. Any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of [*].

IN WITNESS WHEREOF, the PARTIES, having read the terms of this Agreement and intending to be legally bound, do hereby execute this Agreement:

**SELEXIS SA**

Signature: /s/ Girod Pierre-Alain

Place, Date: April 16, 2013

Name: GIROD Pierre-Alain

Title: Chief Scientific Officer

Signature: /s/ Regine Brokamp

Place, Date: PLO, April 15th, 2013

Name: Regine Brokamp

Title: COO

**ONCOBIOLOGICS, INC.**

Signature: /s/ Pankaj Mohan

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Pankaj Mohan, Ph.D., MBA

Title: Chief Executive Officer

Signature: /s/ Stephen J. McAndrew

Place, Date: 7 Clarke Drive, Cranbury, NJ 08512
April 11, 2013

Name: Stephen J. McAndrew, Ph.D.

Title: Vice President, Business Development



[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

*CONFIDENTIAL*

**EXHIBIT 1**

**[*]**



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**EXHIBIT 2**

**LICENSED PRODUCTS**

1. **ONS-1050, Herceptin Biosimilar**



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**AMENDMENT NO. 1**
**TO**
**COMMERCIAL LICENSE AGREEMENT**

This Amendment No. 1 to the Commercial License Agreement (the "Amendment"), effective as of May 21, 2014 (the "Amendment Effective Date"), is by and between Selexis SA ("Selexis") and Oncobiologics, Inc. ("Company").

WHEREAS, Company and Selexis entered into and executed the Commercial License Agreement dated April 11, 2013 (the "Agreement") relating to Company's Licensed and/or Final Product referred to as ONS-1050; and

WHEREAS, the parties desire to modify the Agreement to revise Company's sublicense rights.

NOW, THEREFORE, in consideration of the mutual obligations and covenants set out herein and for good consideration, the parties agree as follows:

1. Section 2.2.1 of the Agreement is deleted in its entirety and replaced with the following:

2.2.1 COMPANY may, without prior written consent from SELEXIS, grant sublicenses under the Commercial License to a Contractor or to a Collaboration Partner and only with respect to (i) [*], or (ii) [*]. A Collaboration Partner may further grant a sub-sublicense, only with prior written consent from SELEXIS where such consent is not to be unreasonably withheld, conditioned or delayed, under the Commercial License to a Contractor only with respect to [*].

2. Section 2.2.2 of the Agreement is deleted in its entirety and replaced with the following:

2.2.2 Any sublicenses other than those expressly permitted without consent pursuant to Section 2.2.1 shall require the prior written consent of SELEXIS, which consent will not be unreasonably withheld, conditoned or delayed.

3. Section 2.3 is deleted in its entirety.

4. Section 2.4 is renumbered as Section 2.3, and the last clause of the first sentence (beginning with "...pursuant either to...") is deleted and replaced with "pursuant to a sublicense as permitted or consented to under Section 2.2."

5. In Section 1.30, the reference to the tri-party agreement is removed, so that the sentence begins: "...shall mean the amount collected by COMPANY, its Affiliates and its Sublicensees, on account of sales of Final Product to Third Parties in the Territory, less the following deductions:"

6. All capitalized terms used in the Agreement will have the same meaning where used in this Amendment. In the event of a conflict or inconsistency between this Amendment and the

Agreement, the applicable terms and conditions of this Amendment shall prevail. All terms and conditions of the Agreement that are not amended herein shall remain unchanged and in full force and effect.

7. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same document. In addition, this document may be executed by facsimile, and the parties agree that facsimile copies of signatures shall have the same effect as original signatures.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment by their proper officers as of the Effective Date.

**SELEXIS SA**

By: /s/ Regine Brokamp
Name: Regine Brokamp
Title: COO
Date: May 23rd, 2014

/s/ Igor Fisch
Igor Fisch
CEO
May 23rd, 2014

**ONCOBIOLOGICS, INC.**

By:
Name: Stephen J. McAndrew, Ph.D.
Title: Vice President, Business Development
Date: May 21, 2014