

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported) January 30, 2007

CytoDyn, Inc.

-----  
(Exact name of registrant as specified in its charter)

Colorado

000-49908

75-3056237

-----  
(State or other jurisdiction  
of incorporation)

(Commission File Number)

(IRS Employer  
Identification No.)

227 E. Palace Avenue, Suite M, Santa Fe, NM 87501

-----  
(Address of Principal Executive Offices) (Zip Code)

(505) 988-5520

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

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to be simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425).
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

- 1.01 Entry into a Definitive Material Agreement
- 2.01 Completion of Acquisition or Disposition of Assets

On January 30, 2007 CytoDyn, Inc. entered into an Acquisition agreement with UTEK Corporation, to acquire 100% of the outstanding stock of Advanced Genetic Technologies, Inc. (AITI), a Florida Corporation in exchange for 100,000 preferred no par value stock convertible into \$1.3 million worth of common unregistered restricted shares of CytoDyn, Inc stock. The option to convert is any time after twelve (12) months and before thirty six (36) months from the date of closing of the agreement.

AGTI holds the worldwide exclusive and nonexclusive license agreements from the CBR Institute for Biomedical Research affiliated with Harvard Medical School for certain biological materials.

The term of the licensing agreement is until the later of 20 years or the date the last patent expires that is owned or controlled by the Licensee.

Milestone fees are payable to the University per licensed product and due within 30 days of the event of certain occurrences required.

The University shall also receive 2% royalties of net sales of the licensed products up to \$200 million and 3% royalties of net sales in excess of \$200 million. In the case of a sublicense the University would get 25% of non-royalty sublicense income.

AGTI has prepaid the license fees in full for the next 7 years and has \$100,000 in cash.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits.

Exhibit Number	Description
10.1	Agreement and Plan of Acquisition
10.2	Exclusive License Agreement

SIGNATURE

Pursuant to the requirements of Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CytoDyn, Inc.

Date: January 31, 2007

/s/ Allen D. Allen

-----  
Allen D. Allen  
President

ACQUISITION OF ADVANCED GENETIC TECHNOLOGIES, INC.  
by  
CYTODYN, INC.  
AGREEMENT AND PLAN OF ACQUISITION

This Agreement and Plan of Acquisition ("Agreement") is entered into by and between Advanced Genetic Technologies, Inc., a Florida corporation ("AGTI"), UTEK CORPORATION, a Delaware corporation ("UTEK"), and CytoDyn, Inc., a Colorado corporation ("CYDY").

WHEREAS, UTEK owns 100% of the issued and outstanding shares of common stock of AGTI ("AGTI Shares");

WHEREAS, before the Closing Date, AGTI will acquire the license for the fields of use as described in the License Agreement which is attached hereto as part of Exhibit A and made a part of this Agreement (License Agreement) and the rights to develop and market a patented and proprietary technology for the fields of uses specified in the License Agreement (Technology);

WHEREAS, the parties desire to provide for the terms and conditions upon which AGTI will be acquired by CYDY in a stock-for-stock exchange ("Acquisition") in accordance with the respective corporation laws of their state, upon consummation of which all AGTI Shares will be owned by CYDY, and all or a portion of the issued and outstanding AGTI Shares will be exchanged for convertible preferred stock of CYDY with terms and conditions as set forth more fully in this Agreement; and

WHEREAS, for federal income tax purposes, it is intended that the Acquisition qualifies within the meaning of Section 368 (a)(1)(B) of the Internal Revenue Code of 1986, as amended ("Code").

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are by this Agreement acknowledged, the parties agree as follows:

ARTICLE 1  
THE STOCK-FOR-STOCK ACQUISITION

1.01 The Acquisition

(a) Acquisition Agreement. Subject to the terms and conditions of this Agreement, at the Effective Date, as defined below, all AGTI Shares shall be acquired from UTEK by CYDY in accordance with the respective corporation laws of their states and the provisions of this Agreement and the separate corporate existence of AGTI, as a wholly-owned subsidiary of CYDY, shall continue after the closing.

(b) Effective Date. The Acquisition shall become effective ("Effective Date") upon the execution of this Agreement and closing of the transaction.

1.02 Consideration.

In the amount of: \$1,300,000 based on Convertible Preferred stock as has been approved and authorized by the board of directors of CYDY:

Page 1 of 17

- a) On the date of closing ("the Effective Date") CytoDyn, Inc. (CYDY) shall acquire all 1,000 Shares of common stock of Advanced Genetic Technologies, Inc, which represent all of the issued and outstanding Shares at the date of closing, and in exchange, CYDY shall issue to UTEK 100,000 shares of convertible preferred stock (as described in Exhibit D of the Acquisition Agreement).
- b) At any time after Twelve (12) months and before 36 months from the

date of closing, UTEK shall have the option right to convert part or all its convertible preferred stock to restricted common stock ("Conversion Shares") of CYDY, to be adjusted to equal the total amount of \$1,300,000 based on the previous 10 day average closing bid price on the day of conversion. For example, if on the date of conversion of all shares to common, if the 10 day average closing bid price is \$1.00, then UTEK shall receive 1,300,000 shares of common stock in CYDY. The common stock that UTEK receives shall be delivered to UTEK within 30 days of the conversion.

- c) At CytoDyn's next scheduled shareholders meeting following the date of executing this Agreement, the shareholders will be asked to approve and authorize a minimum of 1,300,000 shares of CYDY stock to be given to CYDY's transfer agent to comply with the Irrevocable Transfer Agent Instructions (Section (1.02-d below), to the Transfer Agent, attached and made part of this Agreement, to hold for the purpose of converting the preferred convertible shares held by UTEK. These newly authorized shares shall be delivered to the transfer agent within 30 days of this authorization by the shareholders.
- d) The IRREVOCABLE TRANSFER AGENT INSTRUCTIONS, attached hereto, shall be agreed to and shall instruct the Transfer Agent to effectuate UTEK'S option to convert said shares.
- e) The return yield on the convertible preferred stock shall be 5% compounded quarterly, paid in cash or in-kind, and will be required to be repaid at the time of conversion by CYDY to UTEK.
- f) Exchange of Stock. At the Effective Date, by virtue of the Acquisition, all of the AGTI Shares that are issued and outstanding at the Effective Date shall be exchanged for 100,000 Convertible Preferred shares of CYDY (CYDY Shares, as described in Exhibit D) as follows:

To:	CYDY Convertible Preferred Shares
- ---	-----
UTEK Corporation	100,000

1.03 Effect of Acquisition.

(a) Rights in AGTI Cease. At and after the Effective Date, the holder of each certificate of common stock of AGTI shall cease to have any rights as a shareholder of AGTI.

(b) Closure of AGTI Shares Records. From and after the Effective Date, the stock transfer books of AGTI shall be closed, and there shall be no further registration of stock transfers on the records of AGTI. 1.04 Closing. Subject to the terms and conditions of this Agreement, the Closing of the

Acquisition shall be the date of the last executed signature affixed to this Agreement, but in no event later than January 26, 2007.

ARTICLE 2  
REPRESENTATIONS AND WARRANTIES

2.01 Representations and Warranties of UTEK and AGTI. UTEK and AGTI jointly and severally represent and warrant to CYDY that the facts set forth below are true and correct:

(a) Organization. AGTI and UTEK are corporations duly organized, validly existing and in good standing under the laws of their respective states of incorporation, and they have the requisite power and authority to conduct their business and consummate the transactions contemplated by this Agreement. True, correct and complete copies of the articles of incorporation, bylaws and all corporate minutes of AGTI have been provided to CYDY and such documents are

presently in effect and have not been amended or modified.

(b) Authorization. The execution of this Agreement and the consummation of the Acquisition and the other transactions contemplated by this Agreement have been duly authorized by the board of directors and shareholder of AGTI and the board of directors of UTEK; no other corporate action by the respective parties is necessary in order to execute, deliver, consummate and perform their respective obligations hereunder; and AGTI and UTEK have all requisite corporate and other authority to execute and deliver this Agreement and consummate the transactions contemplated by this Agreement.

(c) Capitalization. The authorized capital of AGTI consists of 1,000,000 shares of common stock with a par value \$.01 per share. At the date of this Agreement, 1,000 AGTI Shares are issued and outstanding as follows:

Shareholder	Number of AGTI Shares
----- UTEK Corporation	----- 1000

All issued and outstanding AGTI Shares have been duly and validly issued and are fully paid and non-assessable shares and have not been issued in violation of any preemptive or other rights of any other person or any applicable laws. AGTI is not authorized to issue any preferred stock. All dividends on AGTI Shares which have been declared prior to the date of this Agreement have been paid in full. There are no outstanding options, warrants, commitments, calls or other rights or Agreements requiring AGTI to issue any AGTI Shares or securities convertible, exercisable or exchangeable into AGTI Shares to anyone for any reason whatsoever. None of the AGTI Shares is subject to any charge, claim, condition, interest, lien, pledge, option, security interest or other encumbrance or restriction, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

(d) Binding Effect. The execution, delivery, performance and consummation of this Agreement, the Acquisition and the transactions contemplated by this Agreement will not violate any obligation to which AGTI or UTEK is a party and will not create a default under any such obligation or under any Agreement to which AGTI or UTEK is a party. This Agreement constitutes a legal, valid and binding obligation of AGTI, enforceable in accordance with its terms, except as the enforcement may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditor's rights generally and by the availability of injunctive relief, specific performance or other equitable remedies.

(e) Litigation Relating to this Agreement. There are no suits, actions or proceedings pending or, to the best of AGTI's and UTEK's knowledge, information and belief, threatened, which seek to enjoin the Acquisition or the

transactions contemplated by this Agreement or which, if adversely decided, would have a materially diverse effect on the business, results of operations, assets or prospects of AGTI.

(f) No Conflicting Agreements. Neither the execution and delivery of this Agreement nor the fulfillment of or compliance by AGTI or UTEK with the terms or provisions of this Agreement nor all other documents or agreements contemplated by this Agreement and the consummation of the transaction contemplated by this Agreement will result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in a violation of, AGTI's or UTEK's articles of incorporation or bylaws, the Technology, the License Agreement, the Consulting Agreement, or any agreement, contract, instrument, order, judgment or decree to which AGTI or UTEK is a party or by which AGTI or UTEK or any of their respective assets is bound, or violate any provision of any applicable law, rule or regulation or any order, decree, writ or injunction of any court or government entity which materially affects their respective assets or businesses.

(g) Consents. No consent from or approval of any court, governmental entity or any other person is necessary in connection with

execution and delivery of this Agreement by AGTI and UTEK or performance of the obligations of AGTI and UTEK hereunder or under any other agreement to which AGTI or UTEK is a party; and the consummation of the transactions contemplated by this Agreement will not require the approval of any entity or person in order to prevent the termination of the Technology, the License Agreement, the Consulting Agreement or any other material right, privilege, license or agreement relating to AGTI or its assets or business.

(h) Title to Assets. AGTI has or has agreed to enter into the agreements as listed on Exhibit A attached hereto. These agreements and the assets shown on the balance sheet of attached Exhibit B are the sole assets of AGTI. Except as set forth on Schedule 2.01(h), AGTI has good and marketable title to its assets, free and clear of all liens, claims, charges, mortgages, options, security agreements and other encumbrances of every kind or nature whatsoever. On the Closing Date, AGTI will have good and marketable title to its assets, free and clear of all liens, claims, charges, mortgages, options, security agreements and other encumbrances of every kind and nature whatsoever.

(i) Intellectual Property

(1) The CBR Institute for Biomedical Research, affiliated with the Harvard Medical School ("Laboratory") invented and owns the Technology and has all right, power, authority and ownership with respect to the Inventions listed in Exhibit A hereto.

(2) The License Agreement between Laboratory and AGTI covering the Inventions is legal, valid, binding and will be enforceable in accordance with its terms as contained in Exhibit A.

(3) Except as otherwise set forth in this Agreement, CYDY acknowledges and understands that AGTI and UTEK make no representations and provide no assurances that the rights to the Technology and Intellectual Property contained in the License Agreement do not, and will not in the future, infringe or otherwise violate the rights of third parties; however, AGTI and UTEK have no knowledge of pending or threatened claims by, or any basis for any claims by, any third parties alleging such infringement or other violation, and

(4) Except as otherwise expressly set forth in this Agreement, AGTI and UTEK make no representations and extend no warranties of any kind, either express or implied, including, but not limited to warranties of merchantability, fitness for a particular purpose, non-infringement and validity of the Intellectual Property.

(j) Liabilities of AGTI. AGTI has no assets (except as set forth in Section 2.01 (h)), no liabilities or obligations of any kind, character or description except those listed on the attached schedules and exhibits.

Page 4 of 17

(k) Financial Statements. The unaudited financial statements of AGTI, including a balance sheet, attached as Exhibit B and made a part of this Agreement, are, in all respects, complete and correct and present fairly AGTI's financial position and the results of its operations on the dates and for the periods shown in this Agreement; provided, however, that interim financial statements are subject to customary year-end adjustments and accruals that, in the aggregate, will not have a material adverse effect on the overall financial condition or results of its operations. AGTI has not engaged in any business not reflected in its financial statements. There have been no material adverse changes in the nature of its business, prospects, the value of assets or the financial condition since the date of its financial statements. There are no, and on the Closing Date there will be no, outstanding obligations or liabilities of AGTI except as specifically set forth in the financial statements and the other attached schedules and exhibits. There is no information known to AGTI or UTEK that would prevent the financial statements of AGTI from being audited in accordance with generally accepted accounting principles.

(l) Taxes. All returns, reports, statements and other similar filings required to be filed by AGTI with respect to any federal, state, local or foreign taxes, assessments, interests, penalties, deficiencies, fees and other governmental charges or impositions have been timely filed with the appropriate governmental agencies in all jurisdictions in which such tax returns

and other related filings are required to be filed; all such tax returns property reflect all liabilities of AGTI for taxes for the periods, property or events covered by this Agreement; and all taxes, whether or not reflected on those tax returns, and all taxes claimed to be due from AGTI by any taxing authority, have been properly paid, except to the extent reflected on AGTI's financial statements, where AGTI has contested in good faith by appropriate proceedings and reserves have been established on its financial statements to the full extent if the contest is adversely decided against it. AGTI has not received any notice of assessment or proposed assessment in connection with any tax returns, nor is AGTI a party to or to the best of its knowledge, expected to become a party to any pending or threatened action or proceeding, assessment or collection of taxes. AGTI has not extended or waived the application of any statute of limitations of any jurisdiction regarding the assessment or collection of any taxes. There are no tax liens (other than any lien which arises by operation of law for current taxes not yet due and payable) on any of its assets. There is no basis for any additional assessment of taxes, interest or penalties. AGTI has made all deposits required by law to be made with respect to employees' withholding and other employment taxes, including without limitation the portion of such deposits relating to taxes imposed upon AGTI. AGTI is not and has never been a party to any tax-sharing agreements with any other person or entity.

(m) Absence of Certain Changes or Events. From the date of the full execution of the Term Sheet until the Closing Date, AGTI has not, and without the written consent of CYDY, it will not have:

(1) Sold, encumbered, assigned let lapsed or transferred any of its material assets, including without limitation the Intellectual Property, the License Agreement or any other material asset;

(2) Amended or terminated the License Agreement or other material agreement or done any act or omitted to do any act which would cause the breach of the License Agreement or any other material agreement;

(3) Suffered any damage, destruction or loss whether or not in control of AGTI;

(4) Made any commitments or agreements for capital expenditures or otherwise;

(5) Entered into any transaction or made any commitment not disclosed to CYDY;

(6) Incurred any material obligation or liability for borrowed money;

Page 5 of 17

(7) Done or omitted to do any act, or suffered any other event of any character, which is reasonable to expect, would adversely affect the future condition (financial or otherwise), assets or liabilities or business of AGTI; or

(8) Taken any action, which could reasonably be foreseen to make any of the representations or warranties made by AGTI or UTEK untrue as of the date of this Agreement or as of the Closing Date.

(n) Material Agreements. Exhibit A attached contains a true and complete list of all contemplated and executed agreements between AGTI and a third party. A complete and accurate copies of all material agreements, contracts and commitments of the following types, whether written or oral, to which it is a party or is bound (Contracts), has been provided to CYDY. Such executed Contracts are, and such contemplated Contracts will be, at the Closing Date, in full force and effect without modifications or amendment and constitute the legally valid and binding obligations of AGTI in accordance with their respective terms and will continue to be valid and enforceable following the Acquisition. AGTI is not, and will not be at the Closing Date, in default of any of the Contracts. In addition:

(1) There are no outstanding unpaid promissory notes, mortgages, indentures, deed of trust, security agreements and other agreements

and instruments relating to the borrowing of money by or any extension of credit to AGTI; and

(2) There are no outstanding operating agreements, lease agreements or similar agreements by which AGTI is bound; and

(3) The complete final draft of the License Agreement and Consulting Agreement have been provided to CYDY; and

(4) Except as set forth in (3) above, there are no outstanding licenses to or from others of any Intellectual Property and trade names; and

(5) There are no outstanding agreements or commitments to sell, lease or otherwise dispose of any of AGTI's property; and

(6) There are no breaches of any agreement to which AGTI is a party.

(o) Compliance with Laws. AGTI is in compliance with all applicable laws, rules, regulations and orders promulgated by any federal, state or local government body or agency relating to its business and operations.

(p) Litigation. There is no suit, action or any arbitration, administrative, legal or other proceeding of any kind or character, or any governmental investigation pending or to the best knowledge of AGTI or UTEK, threatened against AGTI, the Technology, or License Agreement, affecting its assets or business (financial or otherwise), and neither AGTI nor UTEK is in violation of or in default with respect to any judgment, order, decree or other finding of any court or government authority relating to the assets, business or properties of AGTI or the transactions contemplated hereby. There are no pending or threatened actions or proceedings before any court, arbitrator or administrative agency, which would, if adversely determined, individually or in the aggregate, materially and adversely affect the assets or business of AGTI or the transactions contemplated hereby.

(q) Employees. AGTI has no and never had any employees. AGTI is not a party to or bound by any employment agreement or any collective bargaining agreement with respect to any employees. AGTI is not in violation of any law, rule or regulation relating to employment of employees.

Page 6 of 17

(r) Neither AGTI nor UTEK has any knowledge of any existing or threatened occurrence, action or development that could cause a material adverse effect on AGTI or its business, assets or condition (financial or otherwise) or prospects.

(s) Employee Benefit Plans. There are no and have never been any employee benefit plans, and there are no commitments to create any, including without limitation as such term is defined in the Employee Retirement Income Security Act of 1974, as amended, in effect, and there are no outstanding or un-funded liabilities nor will the execution of this Agreement and the actions contemplated in this Agreement result in any obligation or liability to any present or former employee.

(t) Books and Records. The books and records of AGTI are complete and accurate in all material respects, fairly present its business and operations, have been maintained in accordance with good business practices, and applicable legal requirements, and accurately reflect in all material respects its business, financial condition and liabilities.

(u) No Broker's Fees. Neither UTEK nor AGTI has incurred any investment banking, advisory or other similar fees or obligations in connection with this Agreement or the transactions contemplated by this Agreement.

(v) Full Disclosure. All representations or warranties of UTEK and AGTI are true, correct and complete in all material respects to the best of UTEK's and AGTI's knowledge on the date of this Agreement and shall be true, correct and complete in all material respects as of the Closing Date as if they were made on such date. No statement made by them in this Agreement or in the

exhibits and schedules to this Agreement or any document delivered by them or on their behalf pursuant to this Agreement contains an untrue statement of material fact or omits to state all material facts necessary to make the statements in this Agreement not misleading in any material respect in light of the circumstances in which they were made.

2.02 Representations and Warranties of CYDY. CYDY represents and warrants to UTEK and AGTI that the facts set forth below are true and correct.

(a) Organization. CYDY is a corporation duly organized, validly existing and in good standing under the laws of Colorado, is qualified to do business as a foreign corporation in other jurisdictions in which the conduct of its business or the ownership of its properties require such qualification, and have all requisite power and authority to conduct its business and operate its properties.

(b) Authorization. The execution of this Agreement and the consummation of the Acquisition and the other transactions contemplated by this Agreement have been duly authorized by the board of directors of CYDY; no other corporate action on CYDY's part is necessary in order to execute, deliver, consummate and perform its obligations hereunder; and it has all requisite corporate and other authority to execute and deliver this Agreement and consummate the transactions contemplated by this Agreement.

(c) Binding Effect. The execution, delivery, performance and consummation of the Acquisition and the transactions contemplated by this Agreement will not violate any obligation to which CYDY is a party and will not create a default hereunder, and this Agreement constitutes a legal, valid and binding obligation of CYDY, enforceable in accordance with its terms, except as the enforcement may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditor's rights generally and by the availability of injunctive relief, specific performance or other equitable remedies.

(d) Litigation Relating to this Agreement. There are no suits, actions or proceedings pending or to its knowledge threatened which seek to enjoin the Acquisition or the transactions contemplated by this Agreement or which, if adversely decided, would have a materially adverse effect on its business, results of operations, assets, prospects or the results of its operations of CYDY.

Page 7 of 17

(e) No Conflicting Agreements. Neither the execution and delivery of this Agreement nor the fulfillment of or compliance by CYDY with the terms or provisions of this Agreement will result in a breach of the terms, conditions or provisions of, or constitute default under, or result in a violation of, the corporate charter or bylaws, or any agreement, contract, instrument, order, judgment or decree to which it is a party or by which it or any of its assets are bound, or violate any provision of any applicable law, rule or regulation or any order, decree, writ or injunction of any court or governmental entity which materially affects its assets or business.

(f) Consents. Assuming the correctness of UTEK's and AGTI's representations, no consent from or approval of any court, governmental entity or any other person is necessary in connection with its execution and delivery of this Agreement; and the consummation of the transactions contemplated by this Agreement will not require the approval of any entity or person in order to prevent the termination of any material right, privilege, license or agreement relating to CYDY or its assets or business.

(g) Financial Statements. The audited financial statements of CYDY attached as Exhibit C present fairly its financial position and the results of its operations on the dates and for the periods shown on such statements; provided, however, that interim financial statements are subject to customary year-end adjustments and accruals that, in the aggregate, will not have a material adverse effect on the overall financial condition or results of its operations. CYDY has not engaged in any business not reflected in its financial statements. There have been no material adverse changes in the nature of its business, prospects, the value of assets or the financial condition since the date of its financial statements. There are no outstanding obligations or liabilities of CYDY except as specifically set forth in the CYDY financial

statements.

(h) Full Disclosure. All representations or warranties of CYDY are true, correct and complete in all material respects on the date of this Agreement and shall be true, correct and complete in all material respects as of the Closing Date as if they were made on such date. No statement made by it in this Agreement or in the exhibits to this Agreement or any document delivered by it or on its behalf pursuant to this Agreement contains an untrue statement of material fact or omits to state all material facts necessary to make the statements in this Agreement not misleading in any material respect in light of the circumstances in which they were made.

(i) Compliance with Laws. CYDY is in compliance with all applicable laws, rules, regulations and orders promulgated by any federal, state or local government body or agency relating to its business and operations.

(j) Litigation. There is no suit, action or any arbitration, administrative, legal or other proceeding of any kind or character, or any governmental investigation pending or, to the best knowledge of CYDY, threatened against CYDY materially affecting its assets or business (financial or otherwise), and CYDY is not in violation of or in default with respect to any judgment, order, decree or other finding of any court or government authority. There are no pending or, to the knowledge of CYDY, threatened actions or proceedings before any court, arbitrator or administrative agency, which would, if adversely determined, individually or in the aggregate, materially and adversely affect its assets or business. CYDY has no knowledge of any existing or threatened occurrence, action or development that could cause a material adverse affect on CYDY or its business, assets or condition (financial or otherwise) or prospects.

(k) Development. CYDY agrees and warrants that it has the expertise necessary to and has had the opportunity to independently evaluate the inventions of the Licensed Patents and develop same for the market. CYDY further agrees that it will provide UTEK with copies of progress reports made to the university as required under the subject license agreement on a quarterly basis.

(l) Investment Company. CYDY is not an investment company, either registered or unregistered.

Page 8 of 17

2.03 Investment Representations of UTEK. UTEK represents and warrants to CYDY that:

(a) General. It has such knowledge and experience in financial and business matters as to be capable of evaluating the risks and merits of an investment in CYDY Shares pursuant to the Acquisition. It is able to bear the economic risk of the investment in CYDY Shares, including the risk of a total loss of the investment in CYDY Shares. The acquisition of CYDY Shares is for its own account and is for investment and not with a view to any distribution of such shares. Except as permitted by law, it has no present intention of selling, transferring or otherwise disposing in any way of all or any portion of the shares at the present time. All information that it has supplied to CYDY is true and correct. It has conducted all investigations and due diligence concerning CYDY to evaluate the risks inherent in accepting and holding the shares which it deems appropriate, and it has found all such information obtained fully acceptable. It has had an opportunity to ask questions of the officers and directors of CYDY concerning CYDY Shares and the business and financial condition of and prospects for CYDY, and the officers and directors of CYDY have adequately answered all questions asked and made all relevant information available to them. UTEK is an "accredited investor," as the term is defined in Regulation D, promulgated under the Securities Act of 1933, amended, and the rules and regulations thereunder.

ARTICLE 3  
TRANSACTIONS PRIOR TO CLOSING

3.01. Corporate Approvals. Prior to Closing Date, each of the parties shall submit this Agreement to its board of directors and, if necessary, its respective shareholders and obtain approval of this Agreement. Copies of

corporate actions taken shall be provided to each party.

3.02 Access to Information. Each party agrees to permit, upon reasonable notice, the attorneys, accountants, and other representatives of the other parties reasonable access during normal business hours to its properties and its books and records to make reasonable investigations with respect to its affairs, and to make its officers and employees available to answer questions and provide additional information as reasonably requested.

3.03 Expenses. Each party agrees to bear its own expenses in connection with the negotiation and consummation of the Acquisition and the transactions contemplated by this Agreement.

3.04 Covenants. Except with the prior written approval of CYDY or of AGTI or UTEK, as the case may be, each party agrees that it will:

(a) Use its good faith efforts to obtain all requisite licenses, permits, consents, approvals and authorizations necessary in order to consummate the Acquisition; and

(b) Notify the other parties upon the occurrence of any event which would have a materially adverse effect upon the Acquisition or the transactions contemplated by this Agreement or upon the business, assets or results of operations; and

(c) Not modify its corporate structure, except, upon prior written notice to the other parties, as necessary or advisable in order to consummate the Acquisition and the transactions contemplated by this Agreement.

Page 9 of 17

#### ARTICLE 4 CONDITIONS PRECEDENT

The obligation of the parties to consummate the Acquisition and the transactions contemplated by this Agreement are subject to the following conditions that may be waived, to the extent permitted by law:

4.01. Each party must obtain the approval of its board of directors and such approval shall not have been rescinded or restricted.

4.02. Each party shall obtain all requisite licenses, permits, consents, authorizations and approvals required to complete the Acquisition and the transactions contemplated by this Agreement.

4.03. There shall be no claim or litigation instituted or threatened in writing by any person or government authority seeking to restrain or prohibit any of the contemplated transactions contemplated by this Agreement or challenge the right, title and interest of UTEK in the AGTI Shares, AGTI in the License Agreement, or the right of AGTI or UTEK to consummate the Acquisition contemplated hereunder.

4.04. The representations and warranties of the parties shall be true and correct in all material respects at the Effective Date.

4.05. The Technology and Intellectual Property shall have been prosecuted in good faith with reasonable diligence.

4.06. The License Agreement and Consulting Agreement shall have been executed and delivered by all parties thereto and, to the best knowledge of UTEK and AGTI, the License Agreement and Consulting Agreement shall be valid and in full force and effect without any default under such agreement.

4.07. CYDY shall have received, at or within 5 days before the Closing Date, each of the following:

(a) the stock certificates representing the AGTI Shares, duly endorsed (or accompanied by duly executed stock powers) by UTEK for cancellation;

(b) all documentation relating to AGTI's business, all in form and

substance satisfactory to CYDY;

(c) such agreements, files and other data and documents pertaining to AGTI's business as CYDY may reasonably request;

(d) copies of the general ledgers and books of account of AGTI, and all federal, state and local income, franchise, property and other tax returns filed by AGTI since the inception of AGTI;

(e) certificates of (i) the Secretary of State of the State of Florida as to the legal existence and good standing, as applicable (including tax), of AGTI in Florida;

(f) the original corporate minute books of AGTI, including the articles of incorporation and bylaws of AGTI, and all other documents filed in this Agreement;

(g) all consents, assignments or related documents of conveyance to give CYDY the benefit of the transactions contemplated hereunder;

(h) such documents as may be needed to accomplish the Closing under the corporate laws of the states of incorporation of CYDY and AGTI, and

Page 10 of 17

(i) such other documents, instruments or certificates as CYDY, or its counsel may reasonably request.

4.08. CYDY shall have completed its due diligence investigation of AGTI to CYDY's satisfaction in its sole discretion.

4.09. CYDY shall receive the resignations of each director and officer of AGTI effective the Closing Date.

ARTICLE 5  
INDEMNIFICATION AND LIABILITY LIMITATION

5.01. Survival of Representations and Warranties.

(a) The representations and warranties made by UTEK and AGTI shall survive for a period of 1 year after the Closing Date, and thereafter all such representation and warranties shall be extinguished, except with respect to claims then pending for which specific notice has been given during such 1-year period.

(b) The representations and warranties made by CYDY shall survive for a period of 1 year after the Closing Date, and thereafter all such representations and warranties shall be extinguished, except with respect to claims then pending for which specific notice has been given during such 1-year period.

5.02 Limitations on Liability. CYDY agrees that UTEK shall not be liable under this agreement to CYDY or their respective successor's, assigns or affiliates except where damages result directly from the negligence or willful misconduct of UTEK or its employees. In no event shall UTEK's liability exceed the total amount of the fees paid to UTEK under this agreement, nor shall UTEK be liable for incidental or consequential damages of any kind. CYDY shall indemnify UTEK, and hold UTEK harmless against any and all claims by third parties for losses, damages or liabilities, including reasonable attorneys fees and expenses ("Losses"), arising in any manner out of or in connection with the rendering of services by UTEK under this Agreement, unless it is finally judicially determined that such Losses resulted from the negligence or willful misconduct of UTEK. The terms of this paragraph shall survive the termination of this agreement and shall apply to any controlling person, director, officer, employee or affiliate of UTEK.

5.03 Indemnification. CYDY agrees to indemnify and hold harmless UTEK and its subsidiaries and affiliates and each of its and their officers, directors, principals, shareholders, agents, independent contactors and employees (collectively "Indemnified Persons") from and against any and all claims,

liabilities, damages, obligations, costs and expenses (including reasonable attorneys' fees and expenses and costs of investigation) arising out of or relating to matters or arising from this Agreement, except to the extent that any such claim, liability, obligation, damage, cost or expense shall have been determined by final non-appealable order of a court of competent jurisdiction to have resulted from the negligence or willful misconduct of the Indemnified Person or Persons in respect of whom such liability is asserted.

(a) Limitation of Liability. CYDY agrees that no Indemnified Person shall have any liability as a result of the execution and delivery of this Agreement, or other matters relating to or arising from this Agreement, other than liabilities that shall have been determined by final non-appealable order of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Indemnified Person or Persons in respect of whom such liability is asserted. Without limiting the generality of the foregoing, in no event shall any Indemnified Person be liable for consequential, indirect or punitive damages, damages for lost profits or opportunities or other like damages or claims of any kind. In no event shall UTEK's liability exceed the total amount of the fees paid to UTEK under this Agreement.

Page 11 of 17

ARTICLE 6  
REMEDIES

6.01 Specific Performance. Each party's obligations under this Agreement are unique. If any party should default in its obligations under this Agreement, the parties each acknowledge that it would be extremely impracticable to measure the resulting damages. Accordingly, the non-defaulting party, in addition to any other available rights or remedies, may sue in equity for specific performance, and the parties each expressly waive the defense that a remedy in damages will be adequate.

6.02 Costs. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

ARTICLE 7  
ARBITRATION

In the event a dispute arises with respect to the interpretation or effect of this Agreement or concerning the rights or obligations of the parties to this Agreement, the parties agree to negotiate in good faith with reasonable diligence in an effort to resolve the dispute in a mutually acceptable manner. Failing to reach a resolution of this Agreement, either party shall have the right to submit the dispute to be settled by arbitration under the Commercial Rules of Arbitration of the American Arbitration Association. The parties agree that, unless the parties mutually agree to the contrary such arbitration shall be conducted in Los Angeles, California. The cost of arbitration shall be borne by the party against whom the award is rendered or, if in the interest of fairness, as allocated in accordance with the judgment of the arbitrators. All awards in arbitration made in good faith and not infected with fraud or other misconduct shall be final and binding. The arbitrators shall be selected as follows: one by CYDY, one by UTEK and a third by the two selected arbitrators. The third arbitrator shall be the chairman of the panel.

ARTICLE 8  
MISCELLANEOUS

8.01. No party may assign this Agreement or any right or obligation of it hereunder without the prior written consent of the other parties to this Agreement. No permitted assignment shall relieve a party of its obligations under this Agreement without the separate written consent of the other parties.

8.02. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

8.03. Each party agrees that it will comply with all applicable laws, rules and regulations in the execution and performance of its obligations under this Agreement.

8.04. This Agreement shall be governed by and construct in accordance with the laws of the State of Delaware without regard to principles of conflicts of law.

8.05. This document constitutes a complete and entire agreement among the parties with reference to the subject matters set forth in this Agreement. No statement or agreement, oral or written, made prior to or at the execution of this Agreement and no prior course of dealing or practice by either party shall vary or modify the terms set forth in this Agreement without the prior consent of the other parties to this Agreement. This Agreement may be amended only by a written document signed by the parties.

8.06. Notices or other communications required to be made in connection with this Agreement shall be sent by U.S. mail, certified, return receipt

requested, personally delivered or sent by express delivery service and delivered to the parties at the addresses set forth below or at such other address as may be changed from time to time by giving written notice to the other parties.

8.07. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.08. This Agreement may be executed in multiple counterparts, each of which shall constitute one and a single Agreement.

8.09 Any facsimile signature of any part to this Agreement or to any other Agreement or document executed in connection of this Agreement should constitute a legal, valid and binding execution by such parties.

CYTODYN, INC.

ADVANCED GENETIC TECHNOLOGIES, INC.

By: /s/ Allen D. Allen

By:

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Allen D. Allen,  
CEO

Joel H. Edelson  
President

Address:  
27 E. Palace Avenue  
Suite M  
Santa Fe NM 87501

Address:  
2109 E. Palm Avenue  
Tampa, Florida 33605

Date: January 25, 2007

Date:

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UTEK CORPORATION

COMPLIANCE OFFICER

By:

By:

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Douglas Schaedler  
Chief Operating Officer

Date:

Address:  
2109 E. Palm Avenue  
Tampa, Florida 33605

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Date:

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EXHIBIT A

Outstanding Agreements

1. Exclusive License Agreement from the CBR Institute for Biomedical Research, affiliated with the Harvard Medical School, attached hereto and embodied herein by reference as if fully set forth in this Agreement.

EXHIBIT B

ASSETS OF ADVANCED GENETIC TECHNOLOGIES, Inc.

Financial Statements as of

January 26, 2006

When delivered to CYDY by Utek, AGTI shall have the following assets:

- 1) The exclusive license agreement referenced in Appendix A, with the first seven (7) year's fees fully paid,
- 2) \$100,000 in cash against which there is no obligation or liability over the first seven (7) years as shown in the License Agreement and Financial Statements as of January 26, 2007 attached herein

EXHIBIT C

CytoDyn, Inc.

FORM 10-QSB or Audited Financials

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Including Audited Financial Statements  
For the fiscal quarter ended September 30, 2006

EXHIBIT D

Provided By CytoDyn, Inc.:

- 1) Certificate of Designation of the Rights and Preferences of Convertible Preferred Stock
- 2) Board of Director's Authorization and Certificate of Acquisition
- 3) Irrevocable Transfer Agent Instructions

THE CBR INSTITUTE FOR BIOMEDICAL RESEARCH, INC.

EXCLUSIVE LICENSE AGREEMENT  
CBRI ID: CYT-EX-112806

Effective Date: January 1, 2007

In consideration of the mutual promises and covenants set forth below, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

- 1.1 **AFFILIATE:** Any company, corporation, or business in which LICENSEE owns or controls at least fifty percent (50%) of the voting stock or other ownership. Unless otherwise specified, the term LICENSEE includes AFFILIATES.
- 1.2 **BIOLOGICAL MATERIALS:** The materials supplied by CBRI (identified in Appendix A) together with any progeny, mutants, or derivatives thereof, together with any materials produced through use of the original materials or purified from a source material included in the original materials, either supplied by CBRI or created by LICENSEE.
- 1.3 **FIELD:** Field of use shall be limited to HIV disease applications, explicitly excluding targeted delivery of other drugs.
- 1.4 **CBRI:** The CBR Institute for Biomedical Research, Inc., a nonprofit Massachusetts corporation, having offices at the 800 Huntington Avenue, Boston, Massachusetts 02115.
- 1.5 **LICENSE YEAR:** The period from the Effective Date until the first anniversary thereof, together with any successive one-year period.
- 1.6 **LICENSED PROCESSES:** The processes utilizing BIOLOGICAL MATERIALS or some portion thereof.
- 1.7 **LICENSED PRODUCTS:** Products made or services provided in accordance with or by means of LICENSED PROCESSES or products made or services provided utilizing BIOLOGICAL MATERIALS or incorporating some portion of BIOLOGICAL MATERIALS.
- 1.8 **LICENSEE:** Advanced Genetic Technologies, Inc., a corporation organized under the laws of Florida having its principal offices at 2109 E. Palm Avenue, Tampa, Florida 33605.
- 1.9 **NET SALES:** The amount billed, invoiced, or received (whichever occurs first) by LICENSEE or its sublicensees for sales, leases, or other transfers of LICENSED PRODUCTS, less:
- (a) customary trade, quantity or cash discounts and non-affiliated brokers' or agents' commissions actually allowed and taken:
  - (b) amounts repaid or credited by reason of rejection or return:
  - (c) to the extent separately stated on purchase orders, invoices, or other documents of sale, taxes levied on and/or other governmental charges made as to production, sale, transportation, delivery or use and paid by or on behalf of LICENSEE or sublicensees; and
  - (d) reasonable charges for delivery or transportation provided by third parties, if separately stated. NET SALES also includes the fair market value of any non-cash consideration received by LICENSEE or sublicensees for the sale, lease, or transfer of LICENSED PRODUCTS.

1.10 NON-COMMERCIAL RESEARCH PURPOSES: Use of BIOLOGICAL MATERIALS for academic research or other not-for-profit scholarly purposes which are undertaken at a nonprofit or governmental institution that does not use the BIOLOGICAL MATERIALS in the production or manufacture of products for sale or the performance of services for a fee.

1.11 NON-ROYALTY SUBLICENSE INCOME: Sublicense issue fees, sublicense maintenance fees, sublicense milestone payments, co-development or co-marketing arrangements, and similar non-royalty payments made by sublicensees to LICENSEE on account of sublicenses pursuant to this Agreement.

1.12 TERRITORY: Worldwide.

1.13 TERM: The period from the Effective Date of this agreement until the later of 20 years thereafter or the date of the last patent to expire that is owned or controlled by LICENSEE and whose claims cover, in whole or in part, LICENSED PROCESSES or LICENSED PRODUCTS. 1.14 The terms "Public Law 96-51T" and "Public Law 98-620" include all amendments to those statutes. 1.15 The terms "sold" and "sell" include, without limitation, leases, licenses, other transfers and similar transactions.

## ARTICLE II

### REPRESENTATIONS

2.1 CBRI has the authority to issue licenses for BIOLOGICAL MATERIALS.

2.2 CBRI is committed to the policy that ideas or creative works produced at CBRI should be used for the greatest possible public benefit and believes that every reasonable incentive should be provided for the prompt introduction of such ideas into public use, all in a manner consistent with the public interest.

2

2.3 LICENSEE is prepared and intends to diligently develop the BIOLOGICAL MATERIALS and to bring LICENSED PRODUCTS to market which are subject to this Agreement.

2.4 LICENSEE is desirous of obtaining the exclusive and nonexclusive licenses set forth below in the TERRITORY, and to manufacture, use and sell in the commercial market LICENSED PRODUCTS, and CBRI is desirous of granting such licenses to LICENSEE in accordance with the terms of this Agreement. 2.5 LICENSEE anticipates that all of its issued and outstanding capital stock will be acquired by CytoDyn, Inc., a Colorado corporation (CYTODYN), within thirty (30) days of the Effective Date, whereupon CYTODYN, by virtue of its status as an AFFILIATE will become the LICENSEE.

## ARTICLE III

### GRANT OF RIGHTS

3.1 CBRI hereby grants to LICENSEE and LICENSEE accepts, subject to the terms and conditions hereof, in the TERRITORY and in the FIELD:

(a) A nonexclusive commercial license to use BIOLOGICAL MATERIALS Plasmid 8630 (encodes CD11a); and

(b) An exclusive commercial license to use BIOLOGICAL MATERIALS monoclonal antibodies TS1-18 and TS1-22 to make and have made, to use and have used, to sell and have sold LICENSED PRODUCTS, and to practice LICENSED PROCESSES, for the TERM of the Agreement. Such licenses shall include the right to grant sublicenses related to the Cytolin development program, subject to CBRI's approval, which approval shall not be unreasonably withheld.

3.2 The granting and exercise of this license is subject to the following:

(a) CBRI's "Research and Technology Development Policy," dated October 24, 2004 and any amendments thereto; Public Law 96-517, Public Law 98-620; and CBRI's obligations under agreements with other sponsors of research relating to the BIOLOGICAL MATERIALS. Any right granted in this Agreement greater than or inconsistent with those permitted under Public Law 96-517, or Public Law 98-620,

shall be deemed modified as shall be required to conform to the provisions of those statutes.

(b) CBRI reserves the right to make and use, and provide the BIOLOGICAL MATERIALS to others on a non-exclusive basis, and grant others non-exclusive licenses to make and use the BIOLOGICAL MATERIALS, all for NON-COMMERCIAL RESEARCH PURPOSES: and

(c) LICENSEE shall further provide in any sublicenses that such sublicenses are subject and subordinate to the terms and conditions of this Agreement, except: (i) the sublicensee may not further sublicense; and (ii) the rate of royalty on

3

NET SALES paid by the sublicensee to the LICENSEE. Copies of all sublicense agreements shall be provided promptly to CBRI.

(d) During the period of exclusivity of any portion of this license in the United States, LICENSEE shall cause any LICENSED PRODUCT produced for sale in the United States to be manufactured substantially in the United States.

3.3 All rights reserved to the United States Government and others under Public Law 96-517, and Public Law 98-620, shall remain and shall in no way be affected by this Agreement.

#### ARTICLE IV

#### ROYALTIES

4.1 LICENSEE shall pay to CBRI a non-refundable, non-creditable license fee in the sum of fifteen thousand dollars (\$15,000) upon execution of this Agreement.

4.2 Royalties:

(a) LICENSEE shall pay to CBRI during the TERM of this Agreement a royalty of two percent (2%) of NET SALES by LICENSEE and sublicensees on aggregate NET SALES of up to \$200 million per LICENSE YEAR, and a royalty of three percent (3%) of aggregate NET SALES by LICENSEE and sublicensees in excess of \$200 million per LICENSE YEAR.

(b) In the case of sublicenses. LICENSEE shall also pay to CBRI an amount equal to twenty-five percent (25%) of NON -ROYALTY SUBLICENSE INCOME.

(c) On sales between LICENSEE and its AFFILIATES or sublicensees for resale, the royalty shall be paid on the NET SALES of the AFFILIATE or sublicensee, as the case may be.

(d) Charitable Donation Exemption: Subject to CBRI's written approval, not to be unreasonably withheld. both parties will agree to an exemption of the payment of royalties subject to this Licensing Agreement, when licensed product is provided as a charitable donation, to not-for profit organizations for use within the Continent of Africa. Organizations receiving donated LICENSED PRODUCT will not be required to pay tax for the product, nor will CBRI or LICENSEE receive royalties or other payments for licensed products provided.

4.3 No later than on the first anniversary of the Effective Date of this Agreement and on each anniversary thereafter of the Effective Date of this Agreement, until the first commercial sale of LICENSED PRODUCT. LICENSEE shall pay to CBRI the following non-refundable license maintenance fees:

Anniversary	Payment
1st Anniversary	\$2,500.00
2nd Anniversary	\$5,000.00
3rd Anniversary	\$5,000.00
4th Anniversary	\$10,000.00
5th Anniversary	\$10,000.00

Each subsequent Anniversary	\$10,000.00
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The foregoing license maintenance fees shall be non-creditable against future royalties, but license maintenance fees paid with respect to a particular LICENSE YEAR shall be creditable against any milestone payment set forth below which becomes due within that same LICENSE YEAR. LICENSEE has elected to prepay, as of the Effective Date, the license maintenance fees associated with the 1st through 7th Anniversary dates, and additional payments will commence as specified above on the 8th Anniversary until first commercial sale of a LICENSED PRODUCT.

4.4 LICENSEE shall pay to CBRI non-refundable and non-creditable milestone fees for the first LICENSED PRODUCT. The milestone payments shall be as follows:

Milestone	Payment
Initiation of Phase I clinical trial	\$50,000
Initiation of Phase II clinical trial	\$100,000
Initiation of Phase III clinical trial	\$250,000
U.S. FDA marketing approval	\$750,000

4.5 LICENSEE shall pay to CBRI the non-refundable minimum royalty set forth below upon the first Anniversary of first commercial sale of any LICENSED PRODUCT by LICENSEE, its AFFILIATES or sublicensees, and thereafter annual minimum royalty payments shall be paid in the amounts listed below for each LICENSED PRODUCT, but each such minimum royalty shall be fully creditable against actual royalties paid or payable in the same LICENSE YEAR:

Year	Payment
1st & 2nd Anniversary	\$50,000.00
3rd & 4th Anniversary	\$60,000.00
5th Anniversary	\$70,000.00
6th and each subsequent Anniversary	\$200,000.00

## ARTICLE V

### REPORTING

5.1 Prior to first commercial sale of the first LICENSED PRODUCT, LICENSEE shall provide to CBRI not later than sixty (60) days the expiration of each LICENSE YEAR, a written annual progress report describing in reasonable detail the progress of LICENSEE or its sublicensees on research and development, regulatory approvals, manufacturing, sublicensing, marketing and sales during the most recent LICENSE YEAR, as well as its plans for the forthcoming LICENSE YEAR,

5.2 LICENSEE shall report to CBRI the date of first commercial sale of each LICENSED PRODUCT in each country within thirty (30) days of occurrence.

5.3 (a) Subsequent to first commercial sale of each LICENSED PRODUCT, LICENSEE shall provide CBRI a semiannual Royalty Report within sixty (60) days after each six-month period of each LICENSE YEAR containing at least the following information:

(i) the number of LICENSED PRODUCTS sold by LICENSEE, its AFFILIATES and sublicensees in each country:

(ii) total billings for such LICENSED PRODUCTS:

(iii) an accounting for all LICENSED PROCESSES used or sold:

(iv) deductions applicable to determine the NET SALES thereof:

(v) the amount of NON-ROYALTY SUBLICENSE INCOME received by LICENSEE; and

(vi) the amount of royalty due to CBRI thereon, or, if no royalties are due to CBRI for any reporting period, the statement that no royalties are due.

Such report shall be certified as correct by an officer of LICENSEE.

(b) LICENSEE shall pay to CBRI with each such Royalty Report the amount of royalty due with respect to the six-month period to which the Royalty Report relates.

(c) All payments due hereunder shall be deemed received when funds are credited to CBRI's bank account and shall be payable by check or wire transfer in United States Dollars. Conversion of <<reign currency to U.S. Dollars shall be made at the conversion rate existing in the United States (as reported in the Wall Street Journal) on the last working day of each royalty period. No transfer, exchange, collection or other charges shall be deducted from such payments.

(d) All such reports shall be maintained in confidence by CBRI except as required by law, except that CBRI may periodically publicly report the aggregate amount of royalties received from all licensees.

(e) Late payments shall be subject to a charge of one and one half percent (1 1/2%) per month, or \$250, whichever is greater.

## ARTICLE VI

### RECORD KEEPING

6.1 LICENSEE shall keep, and shall require its AFFILIATES and sublicensees to keep, complete and accurate records (together with supporting documentation) of LICENSED PRODUCTS made, used or sold under this Agreement, as appropriate to determine the amount of royalties and other payments due to CBRI hereunder. Such records shall be retained for at least three (3) years following the end of the reporting period to which they relate. They shall be available during normal business hours for examination by an accountant selected by CBRI, for the sole purpose of verifying reports and payments hereunder. In conducting examinations pursuant to this paragraph, CBRI's accountant shall have access to all records which CBRI reasonably believes to be relevant to the calculation of royalties under Article IV, all of which information shall be treated as confidential

information of LICENSEE, its AFFILIATES and/or sublicensees, as the case may be.

6.2 CBRI's accountant shall not disclose to CBRI any information other than information relating to the accuracy of reports and payments made hereunder.

6.3 Such examination by CBRI's accountant shall be at CBRI's expense, except that if such examination shows an underreporting or underpayment in excess of five percent (5%) for any reporting period, then LICENSEE shall pay the cost of such examination as well as any additional sum that would have been payable to CBRI had the LICENSEE reported correctly, plus interest on the said shortfall at the rate of one and one half per cent (1 1/2%) per month.

## ARTICLE VII

### TERMINATION OF AGREEMENT

7.1 This Agreement, unless terminated as provided herein, shall remain in effect for the entire TERM.

7.2 CBRI may terminate this Agreement upon notice to LICENSEE as follows:

(a) If all of the issued and outstanding capital stock of LICENSEE is not acquired by CYTODYN within thirty (30) days of the Effective Date, as demonstrated by written documentation delivered to CBRI within such period;

(b) If LICENSEE does not make a payment due hereunder and fails to cure such non-payment (including the payment of interest in accordance with paragraph 5.4(e)) within forty-five (45) days after the date of notice in writing of such non-payment by CBRI;

(c) If LICENSEE defaults in its obligations under paragraph 8.2(c) and 8.2

(d) to procure and maintain insurance; (d) If LICENSEE shall become insolvent, shall make an assignment for the benefit of creditors, or shall have a petition in bankruptcy filed for or against it;

(e) If an examination by CBRI's accountant pursuant to Article VI shows an underreporting or underpayment by LICENSEE in excess of 20% for any reporting period.

(f) If LICENSEE is convicted of a felony relating to the manufacture, use, or sale of LICENSED PRODUCTS.

(g) Except as provided in subparagraphs (a) through (f) above, if LICENSEE defaults in the performance of any obligations under this Agreement and the default has not been remedied within ninety (90) days after the date of notice in writing of such default by CBRI.

7.3 LICENSEE shall provide, in all sublicenses granted by it under this Agreement, that such sublicenses shall at CBRI's option terminate or be assigned to CBRI upon termination of this Agreement.

7

7.4 Upon termination pursuant to Paragraph 7.2, whether by CBRI or by LICENSEE, LICENSEE shall cease all use of the BIOLOGICAL MATERIALS and shall, upon request, return or destroy (at CBRI's option) all BIOLOGICAL MATERIALS under its control or in its possession.

7.5 The following provisions of this Agreement shall survive termination: Section 3.3, Article IV (to the extent of any payments due to CBRI as of the date of termination or thereafter), Section 5.3 (to the extent any required reports were not provided prior to the date of termination, Article VI, Sections 7.3, 7.4, 7.5, and Article VIII.

## ARTICLE VIII

### GENERAL

8.1 CBRI EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED OR EXPRESS WARRANTIES AND MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE BIOLOGICAL MATERIALS. OF INFORMATION SUPPLIED BY CBRI, OR OF LICENSED PROCESSES OR LICENSED PRODUCTS CONTEMPLATED BY THIS AGREEMENT. Further CBRI has made no investigation and makes no representations that the BIOLOGICAL MATERIALS supplied by it or the methods used in making or using such materials are free from liability to any third party for patent infringement or violation of any other proprietary right.

#### 8.1.1. Prosecution.

(a) Notification of Infringement or Breach of Contract with CBRI. Each party agrees to provide written notice to the other party promptly after becoming aware of any infringement of these License Rights or breach of a contract with CBRI regarding the aforementioned biological materials by a third party.

(b) Right to Prosecute. CBRI may, under its own control and at its own

expense, prosecute any third party t()r the unauthorized use of biological material referred herein by a third party or any infringement of the License Rights in the Field, defend the License Rights in any declaratory judgment action brought by a third party which alleges invalidity, unenforceability, or infringement of the License Rights or in any manner that may cause the LICENSEE to lose business under this License. Prior to commencing any action, the parties shall consult with each other and shall consider the advisability of the proposed action. CBRI may not enter into any settlement, consent judgment, or other voluntary final disposition of any infringement action under this Subsection without the prior written consent of LICENSEE, which consent may not be unreasonably withheld or delayed. Any recovery obtained in an action under this Subsection shall be distributed as follows: (i) each party shall be reimbursed for any expenses incurred in the action (including the amount of any royalty pa)lllents withheld from CBRI as described below); (ii) as to ordinary damages, LICENSEE shall receive an amount equal to its lost profits or a reasonable royalty on the infringing sales (whichever measure of damages the court applied), less a reasonable approximation of the royalties that LICENSEE would have paid to CBRI if LICENSEE had sold the products and services rather than the third party; and (iii) as to special or punitive damages, the parties shall share equally in any award.

8

(c) LICENSEE Right to Prosecute. So long as LICENSEE remains the only licensee of the License Rights in the Field, and CBRI fails to initiate an infringement action within a reasonable time after it first becomes aware of the basis for the action, or to answer a declaratory judgment action within a reasonable time after the action is filed, LICENSEE may prosecute the infringement or any breach or answer the declaratory judgment action under its sole control and at its sole expense, and any recovery obtained shall be given to LICENESS.

(d) CBRI as Indispensable Party. CBRI shall permit any action under this Section to be brought in its name if required by law, provided that LICENSEE and its Affiliates shall hold CBRI harmless from, and if necessary indemnify CBRI against, any costs, expenses, or liability that CBRI may incur in connection with the action.

(e) Cooperation. If both parties agree to cooperate fully in any action under this Section 8.1.1, which is controlled by one party, then the controlling party shall reimburse the cooperating party promptly for any costs and expenses incurred by the cooperating party in connection with providing assistance.

8.2 LICENSEE shall not distribute or release the BIOLOGICAL MATERIALS to others except to further the purposes of this Agreement. LICENSEE shall protect the BIOLOGICAL MATERIALS at least as well as it protects its own valuable tangible personal property and shall take measures to protect the BIOLOGICAL MATERIALS from any claims by third parties including creditors and trustees in bankruptcy.

(a) LICENSEE shall indemnify, defend and hold harmless CBRI and its current or former directors, governing board members, trustees, officers, faculty, medical and professional staff employees, students, and agents and their respective successors, heirs and assigns (collectively, the "INDEMNITEES"), from and against any claim, liability, cost, expense, damage, deficiency, loss or obligation of any kind or nature (including, without limitation, reasonable attorney's fees and other costs and expenses of litigation) (collectively, "Claims"), based upon, arising out of, or otherwise relating to this Agreement, including without limitation any cause of action relating to product liability concerning any product, process, or service made, used or sold pursuant to any right or license granted under this Agreement.

(b) LICENSEE shall, at its own expense, provide attorneys reasonably acceptable to CBRI to defend against any actions brought or tiled against any Indemnitee hereunder, whether or not such actions are rightfully brought.

(c) Beginning at the time any LICENSED PRODUCT is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by or for LICENSEE or an AFFILIATE or sublicensee, LICENSEE shall, at its sole cost and expense, procure and maintain commercial general liability insurance in amounts not less than 53.000.000 per incident and 55.000.000 annual aggregate and naming the Indemnitees as additional insureds. During clinical trials of any LICENSED PRODUCT, LICENSEE shall, at its sole cost and expense, procure and maintain

commercial general liability insurance in such equal or lesser amount as CBRI shall require, naming the Indemnitees as additional insureds. In each case such commercial general liability insurance shall provide (i) product liability coverage and (ii) broad form contractual liability coverage for LICENSEE's

9

indemnification under this Agreement. The minimum amounts of insurance coverage required shall not be construed to create a limit of LICENSEE's liability with respect to its indemnification under this Agreement.

(d) LICENSEE shall provide CBRI with written evidence of such insurance upon request of CBRI. LICENSEE shall provide CBRI with written notice at least fifteen (15) days prior to the cancellation, non-renewal or material change in such insurance: if LICENSEE does not obtain replacement insurance providing comparable coverage within such fifteen (15) day period, CBRI shall have the right to terminate this Agreement effective at the end of such fifteen (15) day period without notice or any additional waiting periods.

8.3 LICENSEE shall maintain such commercial general liability insurance beyond the expiration or termination of this Agreement during (i) the period that any LICENSED PRODUCT is being commercially distributed or sold by or through LICENSEE or by a sublicensee or AFFILIATE of LICENSEE and (ii) a reasonable period after the period referred to in (e)(i) above which in no event shall be less than fifteen (15) years. LICENSEE shall not use CBRI, or Harvard's name or either of their insignias, or any adaptation of them, or the name of any of CBRI's inventors or other personnel in any advertising, promotional or sales literature without the prior written approval of CBRI. The name of CBRI (but not their insignia) will be used in making periodic public reports to the SEC and on the CYTODYN web site and in news releases by CYTODYN, for the purpose of factually describing the license agreement, as may be required by law, including, but without limitation, attaching the license agreement to such periodic reports.

8.4 This Agreement may not be assigned by either party without the prior written consent of the other party, such consent not to be unreasonably withheld. CBRI hereby agrees that it would be unreasonable to withhold consent to the assignment of this Agreement to any third party that acquires all of the voting securities of Company. This Agreement shall be binding upon the respective successors, legal representatives and assignees of CBRI and LICENSEE. The foregoing notwithstanding, LICENSEE intends to be acquired by CYTODYN within 30 days of the Effective Date of this Agreement, and CBRI consents to such acquisition and the consequent assignment of this Agreement by operation of law. All terms and conditions of this Agreement shall remain binding on any such assignee.

8.5 The interpretation and application of the provisions of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

8.6 LICENSEE shall comply with all applicable laws and regulations. In particular, LICENSEE acknowledges that the transfer of certain commodities and technical data is subject to United States laws and regulations controlling the export of such commodities and technical data, including all Export Administration Regulations of the United States Department of Commerce. These laws and regulations among other things, prohibit or require a license for certain exports to certain specified countries. LICENSEE hereby agrees and gives written assurance that it will comply with all such United States laws and regulations, that it will be solely responsible for any violation of such by LICENSEE or its AFFILIATES or sublicensees, and that any Claims against the CBRI

10

Indemnitees arising from such violation will be subject to the indemnification obligations set forth in Sections 8.3 (a) and (b) above.

8.7 LICENSEE agrees (i) to obtain all regulatory approvals required for the manufacture and sale of LICENSED PRODUCTS and LICENSED PROCESSES and (ii) agrees to register or record this Agreement in any country where such registration or recordation is required by law or regulation or is a condition of the availability of any legal remedy of CBRI with respect thereto.

8.8 Any notices to be given hereunder shall be sufficient if signed by the party (or party's attorney) giving same and either (a) delivered in person, or (b) mailed certified mail return receipt requested, or (c) faxed to other party if the sender has evidence of successful transmission and if the sender promptly sends the original by ordinary mail. in any event to the following addresses:

If to LICENSEE:

Advanced Genetic Technologies, Inc.  
2109 E. Palm Avenue  
Tampa FL 33605  
813-754-2383

If to CBRI:

Office of Technology Development  
The CBR Institute for Biomedical Research, Inc.  
800 Huntington Avenue  
Boston, MA 02115  
Fax: (617) 278-3395

By such notice either party may change their address for future notices.

Notices delivered in person shall be deemed given on the date delivered. Notices sent by fax shall be deemed given on the date faxed. Notices mailed shall be deemed given on the date postmarked on the envelope.

8.9 Should a court of competent jurisdiction hold any provision of this Agreement to be invalid, illegal, or unenforceable, and such holding is not reversed on appeal, it shall be considered severed from this Agreement. All other provisions, rights and obligations shall continue without regard to the severed provision, provided that the remaining provisions of this Agreement, taken as a whole, remain able to fulfill the intentions of the parties.

8.10 In the event of any controversy or claim arising out of or relating to any provision of this Agreement or the breach thereof: the parties shall try to settle such conflict amicably between themselves. Subject to the limitation stated in the final sentence of this section, any such conflict which the parties are unable to resolve promptly shall be settled through arbitration conducted in accordance with Commercial Arbitration Rules. The demand for arbitration shall be filed within a reasonable time after the controversy or claim has arisen, and in no event after the date upon which institution of legal

11

proceedings based on such controversy or claim would be barred by the applicable statute of limitation. Such arbitration shall be held in Boston, Massachusetts. The award through arbitration shall be final and binding. Either party may enter any such award in a court having jurisdiction or may make application to such court for judicial acceptance of the award and an order of enforcement, as the case may be. Notwithstanding the foregoing, either party may, without recourse to arbitration, assert against the other party a third-party claim or cross-claim in any action brought by a third party, to which the subject matter of this Agreement may be relevant.

8.11 This Agreement constitutes the entire understanding between the parties and neither party shall be obligated by any condition or representation other than those expressly stated herein or as may be subsequently agreed to by the parties hereto in writing.

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

THE CBR INSTITUTE FOR BIOMEDICAL  
RESEARCH, INC.

ADVANCED GENETIC TECHNOLOGIES,  
INC.

/s/ John C. Baldwin

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John C. Baldwin, M.D.  
President and CEO

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Joel H. Edelson  
President

1/8/07

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Date

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Date

12

APPENDIX A

The following comprise the BIOLOGICAL MATERIALS:

- o Monoclonal antibodies TS1-18 and TS1-22
- o Plasmid 8630 (encodes CD11a)

13