

**Pullman & Comley, LLC**  
**1/4/12**

**BIOSCIENCE COLLABORATION,  
OPERATING AND FUNDING AGREEMENT**

**BETWEEN**

**CONNECTICUT INNOVATIONS, INCORPORATED**

**and**

**THE JACKSON LABORATORY**

**Dated January \_\_, 2012**

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**BIOSCIENCE COLLABORATION,  
OPERATING AND FUNDING AGREEMENT**

THIS BIOSCIENCE COLLABORATION, OPERATING AND FUNDING AGREEMENT is made and entered into as of the 5th day of January, 2012 (the "Effective Date"), by and between CONNECTICUT INNOVATIONS, INCORPORATED ("CI"), a quasi-public agency of the State of Connecticut (the "State"), and THE JACKSON LABORATORY, a Maine nonprofit corporation ("Jax").

**WITNESSETH**

WHEREAS, the Connecticut General Assembly has enacted Public Act 11-2 of the October, 2011 Special Session (the "Act") to support the establishment of a bioscience cluster anchored by a research laboratory housed at The University of Connecticut Health Center ("UCHC") for the purposes of enhancing education and research and promoting economic development;

WHEREAS, the Act establishes within CI the Connecticut Bioscience Collaboration (the "Bioscience Collaboration") and creates the Connecticut Bioscience Collaboration Fund (the "Fund"), the Fund to be held separate and apart from all other funds and accounts of CI and monies held in the Fund to be used and applied to carry out the purposes of the Bioscience Collaboration;

WHEREAS, the Act provides that CI shall work in collaboration with an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), to develop, construct and equip a structure for use as a research laboratory and office building operation and authorizes CI to make loans to such organization to develop, construct and equip such structure as provided in the Act;

WHEREAS, the Act provides that CI may provide annual operations, research and development grants to such organization for annual operating expenses and bioscience medical research, including research on stem cells, DNA (deoxyribonucleic acid), systems genomics and genome-based medicine;

WHEREAS, the Act provides that the State Bond Commission (the "Bond Commission") shall authorize the issuance of bonds in an amount not to exceed \$290,685,000 to fund the Bioscience Collaboration (the "Bonds"), all as provided in, and subject to, the Act, including the approval by the Bond Commission of a Memorandum of Understanding (the "MOU") between CI, the Secretary of the State Office of Policy and Management ("OPM") and the State Treasurer (the "State Treasurer") providing for the issuance of the Bonds;

WHEREAS, CI has, in accordance with the Act and state statutes, adopted Operating Procedures for the Connecticut Bioscience Collaboration Program (the "CI Procedures") including the requirements of an application to participate in the Bioscience Collaboration program (the "Application");

WHEREAS, Jax is one of the country's pre-eminent, private, non-profit research organizations and has become internationally recognized for its research into immunology, molecular and cellular biology, neurosciences, autoimmune diseases and cardiovascular diseases;

WHEREAS, Jax desires to establish and operate The Jackson Laboratory for Genomic Medicine in Connecticut;

WHEREAS, Jax has submitted an Application to CI to participate in the Bioscience Collaboration and CI has considered and approved such Application;

WHEREAS, pursuant to the Application and the CI approval, CI has approved a project with Jax (the "Project") contemplating the following: (1) Jax will enter into the Land Lease with UCHC and the Collaborative Research Agreement with the University of Connecticut and Jax will design, construct and equip a research laboratory and office facility to be known as The Jackson Laboratory for Genomic Medicine (the "Facility") on the site leased by Jax from UCHC; (2) the Land Lease grants to Jax an option to purchase the site once Jax creates 600 new Employees at the Facility; (3) CI will provide a maximum \$145 million loan to Jax from the Fund to design and construct the Facility in accordance with plans, a budget and a schedule approved by CI (the "Facility Loan"); (4) CI will provide a maximum \$46.7 million loan from the Fund to Jax for furniture, fixtures and equipment (the "FF&E") to fit out the Facility in accordance with plans, a budget and schedule approved by CI (the "FF&E Loan" and, together with the Facility Loan, the "Loans"); (5) CI will provide annual operations, research and development grants for annual operating expenses and bioscience medical research to Jax in a total maximum amount of \$99 million (the "Grants") in accordance with the terms and conditions and the schedule approved by CI; (6) until the Facility is ready for occupancy by Jax, UCHC will provide a temporary facility to Jax (the "Temporary Facility"); (7) Jax has committed to build, maintain and operate Jax Genomic Medicine at the Facility for a minimum ten-year period and to create a minimum of 300 new Employees, at least thirty percent (30%) of whom shall be Senior Scientists, at Jax Genomic Medicine by the tenth anniversary of the Effective Date; (8) as a condition to receipt from CI of the Facility Loan, the FF&E Loan and the Grants, Jax has agreed to the operating metrics, terms and conditions and covenants in this Agreement; and (9) in consideration of the receipt of the Facility Loan, the FF&E Loan and the Grants, Jax and CI have agreed to the arrangements for licensing of, and sharing of economic benefits from certain net royalty revenues from, Intellectual Property, as described in this Agreement;

WHEREAS, the Act contemplates that CI and Jax will enter into this Agreement governing the disbursement and use of the Loans and the Grants; and

WHEREAS, Jax and CI desire to make certain representations, warranties, covenants and agreements governing their respective rights and obligations with respect to, among other things, the establishment and operation of Jax Genomic Medicine and the disbursements by CI of the Loans and the Grants to Jax, consistent with the provisions of the Act.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, the parties hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

Capitalized terms used in this Agreement without other definition shall, unless expressly stated otherwise, have the meanings specified in this Article 1.

“Act” means Public Act 11-2 of the October, 2011 Special Session of the Connecticut General Assembly.

“Affiliate” means any Person, other than Jax, directly or indirectly controlling, controlled by, or under common control with Jax.

“Agreement” means this Bioscience Collaboration, Operating and Funding Agreement. Words such as “herein,” “hereafter,” “hereof,” “hereto,” “hereby” and “hereunder,” when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

“Annual Budget” means the annual budget for Jax Genomic Medicine included as part of the Business Plan in substantially the same format as the Initial Budget and to be submitted on an annual basis to CI not less than sixty (60) days prior to each Funding Date, as a condition to funding the Grants. The Annual Budget shall include an income statement, balance sheet, and capital budget prepared consistently with the Jax’s method of accounting, for the forthcoming fiscal year, and a cash flow statement which shall show in reasonable detail the anticipated receipts and disbursements (including anticipated expenditures) projected for Jax Genomic Medicine for the forthcoming fiscal year and the amount of any corresponding cash deficiency or surplus. The Annual Budget also shall include a description of how any overhead costs from Jax operations outside of Connecticut are charged to Jax Genomic Medicine. The Annual Budget shall be prepared on a basis consistent with Jax’s financial statements and in accordance with the provisions of this Agreement.

“Annual Report” means the annual report prepared by Jax for Jax Genomic Medicine each year and delivered to CI each year not later than March 1.

“Annual Science Report” means the annual report that describes the scientific achievements of Jax Genomic Medicine, as set forth in Section 11.4.

“Application” means an application for assistance under the Bioscience Collaboration program in accordance with the CI Procedures and as required by the Act.

“Audit Committee” means the committee of the Board of Trustees, or any successor committee with substantially similar functions, responsible for, among other things, engaging the auditors, determining the scope of the audit, considering and reporting to the Board of Trustees on the quality of Jax’s financial statements and financial reporting procedures, and reviewing and assessing internal controls.

“Average Annual Wage” means the annualized average annual salary and benefits paid to all Employees employed or maintained by Jax at Jax Genomic Medicine as of December 31 for each Report Year of the Agreement.

“Average Annual Wage Obligation” means the obligation of Jax to maintain an Average Annual Wage for Employees at least equal to one hundred twenty-five percent (125%) of the Connecticut average annual wage applicable across all industries, as measured by the index entitled “Quarterly Census of Employment and Wages (QCEW)” maintained by the Connecticut Department of Labor or similar successor index until the Employment Obligation has been satisfied for the Job Review Period. Compliance with this requirement shall be measured at the end of each Report Year by comparing the quarterly QCEW index number most recently published by the Connecticut Department of Labor with the Average Annual Wage of Employees as of the end of such Report Year.

“Bioscience Collaboration” means the Connecticut Bioscience Collaboration created by the Act.

“Board of Trustees” means the body vested with the authority for governance of the affairs of Jax, pursuant to the bylaws of Jax, as they may be amended from time to time.

“Bond Commission” means the State of Connecticut Bond Commission or any successor thereto.

“Bonds” means the bonds to be issued from time to time by the State of Connecticut in the maximum amount of \$290,685,000, as authorized by the Act to fund the Bioscience Collaboration program.

“Business Plan” means the business plan of Jax Genomic Medicine, which includes the Initial Budget and the Organizational Plan, and may include, among other information, strategic goals and objectives, general research and development information, status reports, and study updates, as such Business Plan may be amended from time to time by Jax. The Business Plan shall cover the first ten years of the operation of Jax Genomic Medicine. The Business Plan shall include the Annual Budget, including a staffing plan, an equipment purchase budget, and proposed revenues from private and public sources and proposed operating expenses. The staffing plan shall identify the number and average salary of Employees and Senior Scientists to be funded in Connecticut and the expected Average Annual Wage. A copy of the initial Business Plan is attached hereto as Schedule A. At least sixty (60) days prior to each Funding Date, Jax will submit an annual update to the Business Plan to CI, together with the certification of the President of Jax that: (a) Loans and Grant Funds have not been budgeted for and will not be utilized for activities that do not principally benefit or that are not directly related to the establishment or operation of Jax Genomic Medicine, (b) no Loans or Grant Funds have been budgeted to be used for the purpose of lobbying any branch or agency of state government or any political subdivision of Connecticut, or for any political purpose, and (c) the Annual Budget and such updated Business Plan are believed to comply with the requirements of the Act and to be consistent with establishing and operating a state of the art bioscience medical research institution in Connecticut. Such updated Business Plan will serve as the basis for the following year’s performance review.

“Ceased Operations” means, commencing on the third anniversary of the Effective Date, Jax’s failure to achieve at least 50% of any of the following metrics as specified in the Business

Plan: (a) the Average Annual Wage Obligation; (b) the total number of Employees; or (c) the number of Senior Scientists.

“CI” means Connecticut Innovations, Incorporated, a Connecticut quasi-public agency.

“CI Default” means a CI Event of Default set forth in Section 15.1 hereof.

“CI Event of Default” shall have the meaning set forth in Section 15.1 of this Agreement.

“CI Procedures” means the operating procedures adopted by CI to implement the Act.

“Code” means the United States Internal Revenue Code of 1986, as amended, and as to any specific Code section, any corresponding provision or provisions of any succeeding law.

“Collaborative Research Agreement” means the agreement between the University of Connecticut and Jax dated the Effective Date and providing for the collaborative use of facilities and staff for bioscience research within Connecticut and the sharing of the products of such collaboration.

“Collateral Assignment” means the Collateral Assignment of Contracts, Permits and Licenses referred to in Section 3.6 hereof dated the Effective Date and attached hereto as Exhibit 1 and made a part hereof.

“Construction Inspector” means the independent architectural or engineering firm chosen by CI to monitor the construction by Jax of the Facility and to approve all requisitions under the Facility Loan.

“Construction Schedule” means the schedule for the design and construction of the Facility developed by Jax and approved by CI, as such schedule may be amended from time to time by Jax with the consent of CI.

“Delay Beyond Jax Control Event” shall have the meaning set forth in Section 17.20 hereof.

“Disclosure Letter” means the letter from Jax to CI and containing any exceptions to the representations and warranties of Jax contained in Article 9 hereof.

“Direct Margin” means all revenue derived from Jax’s manufacture, use, importation, offer for sale or sale of any products, apparatus, processes or methods that is covered by or incorporates, in whole or in part, the Intellectual Property and to which Jax becomes entitled during the fifteen (15) years following the Royalty Commencement Date. For avoidance of doubt, (a) any portion of any revenue derived from any Intellectual Property described in the preceding sentence which Jax becomes obligated to pay, and pays, to any (1) third-party licensor of intellectual property which is exploited in connection with the Jax’s commercialization of such Intellectual Property or (2) joint owner of any Intellectual Property, shall be excluded from Direct Margin, (b) any revenue derived by Jax from the performance of educational seminars and classes shall be excluded from Direct Margin.

“Effective Date” means January 5, 2012.

“Employee” means: (i) employees of Jax who (a) reside in Connecticut, (b) work primarily at the Temporary Facility or the Facility (subject to Jax customary telecommuting policy and to normal business travel) for a minimum schedule of thirty-five (35) hours per week, regardless of the source of funds providing the salary, stipend or other compensation to that person, and (c) are eligible to receive benefits accorded to other similarly classified employees under the Jax provided benefit plan, and specifically including post-doctoral fellows working under the direction and control of Jax. For purposes of establishing compliance with the Employment Obligation (but not the operating metrics in Section 8.6 hereof), such persons also must have worked for Jax for a minimum of six (6) months in the year in which they are counted as Employees;

(ii) (A) employees of Jax’s vendors, contractors, joint venture partners or licensees (“vendors”) operating under agreement with Jax who (a) reside in Connecticut, (b) perform their work substantially at the Temporary Facility or the Facility (subject to normal business travel), (c) work a minimum schedule of thirty-five (35) hours per week, (d) for whom either (1) the vendor certifies that such employees are assigned during the month in which they are counted for the purpose of fulfilling the terms of the vendor’s contract with Jax; or (2) Jax certifies as to the satisfaction of (b) and (c) above and provides documentary evidence (which may redact personally identifiable information) of the vendors’ invoicing of Jax for such contractors’ work hours, and (e) for whom the vendor has either certified or agreed in writing that so long as such contractors are employed with respect to Jax’s project, that the vendor will not seek any economic incentives from the State of Connecticut with respect to such vendor employees (provided that for vendors under existing contracts, Jax shall only be required to use best efforts to obtain such agreement or certification, as it relates to (ii)(e)); and (B) up to a maximum of ten (10) faculty members employed by UCHC under the Collaborative Research Agreement. For purposes of establishing compliance with the Employment Obligation (but not the operating metrics in Section 8.6 hereof), the employment positions which such persons fill for the vendor must have existed for a minimum of six (6) months in the year in which such persons are counted as Employees;

(iii) individuals working for Jax as independent contractors who (a) reside in Connecticut, (b) perform their work substantially at the Temporary Facility or the Facility (subject to normal business travel), and (c) receive IRS Form 1099 from Jax. For purposes of establishing compliance with the Employment Obligation (but not the operating metrics in Section 8.6 hereof), such individuals must have been engaged by Jax as an independent contractor for a minimum of six (6) months in the year in which they are counted as Employees.

Jax shall calculate the number of Employees at the end of each calendar year during the term of this Agreement. Employees who are scheduled to work less than 35 hours per week at or for the benefit of Jax shall be calculated as a fraction of a full-time equivalent Employee, and all such part-time Employees shall be aggregated and calculated as equivalent full-time Employees in determining compliance with respect to the targeted goal of employment positions.

Jax will be required to provide CI with copies of its most recent State of Connecticut Department of Labor UC-2 and UC-5a forms (if any) or payroll service equivalent or out-of-state equivalent, if any.

**Affiliate Qualification:** Provided, further, that to the extent that Jax directly or indirectly acquires any other entity having employees within the State of Connecticut (thereby making such other company an Affiliate of Jax) and relocates pre-existing Connecticut employees of such other company to Jax Genomic Medicine, that such pre-existing Connecticut employees of such other company shall not constitute Employees (nor shall any employees of such other company be counted as Employees to the extent such other company is similarly receiving incentives from the State of Connecticut on account of such employees).

**“Employee Audit”** means the audit, performed by a certified public accountant, to be furnished by Jax to CI to establish satisfaction by Jax of the Employment Obligation for the Job Review Period.

**“Employment Obligation”** means the obligation of Jax hereunder relating to the creation of 300 Employees, including 90 Senior Scientists, with a collective Average Annual Wage sufficient to meet the Average Annual Wage Obligation.

**“Extended Maturity Date”** shall have the meaning set forth in Section 5.1 of this Agreement.

**“Extraordinary Revenue”** means all revenue (including any cash or any cash alternative such as Funding Securities or similar instruments), other than Lump Sum Consideration, in excess of \$3,000,000 in any calendar year, which is derived from the license or assignment of Intellectual Property and to which Jax becomes entitled during the period between the Effective Date and the Royalty Commencement Date. For avoidance of doubt, any portion of any revenue derived from any Intellectual Property described in the preceding sentence to which Jax becomes obligated to pay, and pays, to any (1) third-party licensor of intellectual property which is exploited in connection with the license or assignment of such Intellectual Property or (2) joint owner of any Intellectual Property, shall not be Extraordinary Revenue.

**“Facility”** means the research laboratory and office to be designed, constructed and operated by Jax on the Property.

**“Facility Budget”** means the budget for the design, construction and soft costs for the Facility developed by Jax and approved by CI, as such budget may be modified from time to time by Jax with the consent of CI.

**“Facility Loan”** means the ten-year construction permanent mortgage loan in the maximum principal amount of \$145 million to be provided by CI to Jax bearing interest at the rate of one (1%) percent per annum, principal and accrued interest due on the tenth (10th) anniversary of the Effective Date, subject to extension and forgiveness as provided in Article 5 hereof.

“Facility Loan Note” means the note in the maximum amount of \$145 million executed and delivered by Jax to CI to evidence the Facility Loan dated the Effective Date and attached hereto as Exhibit 2 and made a part hereof.

“Fair Market Value” means the value that a willing buyer and a willing seller would pay for the Facility and the FF&E determined as of the date giving rise to a determination of such value.

“Fair Market Rental Value” means the then commercially reasonable rent charge to lease premises similar to the Facility and FF&E for the period outlined in Section 5.4 hereof.

“FF&E” means the furniture, fixtures and equipment for use in the Facility to be purchased by Jax and funded by CI under the FF&E Loan.

“FF&E Budget” means the budget for the purchase of FF&E developed by Jax and approved by CI, as such budget may be amended from time to time by Jax with the consent of CI.

“FF&E Inspector” means the inspector chosen by CI to verify the purchase of all FF&E and to review all requisitions under the FF&E Loan.

“FF&E Loan” means the ten (10) year loan in the maximum amount of \$46.7 million to be provided by CI to Jax for the acquisition of FF&E to be used at the Facility bearing interest at the rate of one (1%) percent per annum, principal and accrued interest due on the tenth (10th) anniversary of the Effective Date, subject to extension and forgiveness as provided in Article 5 hereof.

“FF&E Loan Note” means the note in the maximum amount of \$46.7 million executed and delivered by Jax to CI to evidence the FF&E Loan dated the Effective Date and attached hereto as Exhibit 3 and made a part hereof.

“FF&E Schedule” means the schedule for the purchase of FF&E developed by Jax and approved by CI, as such schedule may be amended from time to time by Jax with the consent of CI.

“Force Majeure Event” shall have the meaning set forth in Section 17.19 hereof.

“Fund” means the Bioscience Collaboration Fund operated by CI and funded pursuant to the Act.

“FOIA” means the Connecticut Freedom of Information Act.

“Funding Date” shall mean the annual date for funding of the Grants to Jax by CI.

“Funding Documents” means the Facility Loan Note, the FF&E Loan Note, the Open-End Leasehold Mortgage Deed, the Security Agreement, the Intellectual Property License and the Collateral Assignment.

“Funding Expenses” means the costs of CI and UCHC incurred in accordance with Section 17.14, not to exceed a maximum amount of \$400,000, and ongoing costs and expenses that CI may require for its staffing and necessary administrative expenses, including, but not limited to, travel and per diem, legal and audit expenditures to effectuate and monitor this Agreement, with such ongoing expenses not to exceed the amount per year in each Report Year as provided in Schedule B provided that the cap on such expenses shall cease to exist upon a Jax Default hereunder. Except as to the Costs to be paid to CI and UCHC under Section 17.14 hereof, which shall be deducted from the Facility Loan, Jax shall direct whether other Funding Expenses are to be reimbursed to CI from the Loans or the Grants. Claims for all Funding Expenses must be accompanied by invoices or other documentation evidencing the costs and expenses actually incurred.

“Funding Material Adverse Effect” means the failure by, or inability of, CI to advance any of the Loans or Grants required to be advanced under this Agreement wherein such failure would materially effect the ability of Jax to operate Jax Genomic Medicine as contemplated hereunder.

“Funding Securities” means the applicable portion, determined in accordance with Section 12.2, of the amount of securities Jax receives, or is due to receive, if any, from a third party as payment of some or all of the Royalty Revenue, Lump Sum Consideration, and Extraordinary Revenues.

“GAAP” means accounting principles generally accepted in the United States of America, applied on a consistent basis.

“Grant Disbursement Schedule” means the schedule for the disbursement by CI to Jax of Grant Funds from the Fund attached hereto as Schedule C as such schedule may be amended from time to time by the mutual agreement of CI and Jax.

“Grant Funds” means a maximum aggregate of \$99,000,000 (plus, at the sole discretion of CI, the amount of any undisbursed Loans), less certain Funding Expenses, which funds are to be disbursed to CI for disbursement to Jax as grants in accordance with the terms and conditions of the Act, the CI Procedures, and this Agreement.

“Grant Request” means the annual written disbursement request submitted by Jax to CI to request Grant Funds, executed by the President of Jax or other authorized officer, substantially in the form attached as Exhibit 4 hereto.

“Grants” means disbursement of the Grant Funds, subject to the terms and conditions of the Act, the CI Procedures and this Agreement.

“Initial Budget” means the line item budget of Jax Genomic Medicine included as part of the Business Plan, which includes a detailed line item budget for the Pre-Grant Period and the first year of operations and a less detailed line item budget for the succeeding nine years of operation, and shows the total costs for each category of expenditures and the amount of each line item to be funded from the Loans and Grants, as may be revised from time to time with the

approval of CI, and which shall be revised each year not less than sixty (60) days prior to each Funding Date to add a detailed line item budget for the next fiscal year.

“Intellectual Property” means all discoveries, inventions, methods, processes, patents, know how, trade secrets, trademarks, copyrights and other confidential information to the extent created, conceived or developed by Jax-Genomic Medicine Employees or as a result of research conducted in the Temporary Facility or the Facility, in each case to the extent that Jax or any of its Affiliates has an ownership interest.

“Intellectual Property License” means the Intellectual Property License dated the Effective Date, attached hereto as Exhibit 5 and made a part hereof.

“Jax Default” means a Jax Event of Default set forth in Section 14.1 hereof.

“Jax Event of Default” shall have the meaning set forth in Section 14.1 of this Agreement.

“Jax Genomic Medicine or “The Jackson Laboratory for Genomic Medicine”” means the state-of-the-art bioscience research institution and campus to be established and operated in Connecticut by Jax at UCHC.

“Job Review Period” means the six (6) month period during which Jax has met the Employment Obligation. Upon attaining the Employment Obligation, Jax will have maintained the Employment Obligation for the Job Review Period if the average for any six (6) month period thereafter equals or exceeds the Employment Obligation.

“Land Lease” means the 98 year lease dated the Effective Date between UCHC and Jax regarding the Property on which the Facility will be constructed and Jax Genomic Medicine will operate.

“Legal Opinion” means the legal opinion of counsel to Jax, dated as of the date of each Grant Request, substantially in the form of Exhibit 6 attached hereto

“Loans” means the Facility Loan and the FF&E Loan.

“Lump Sum Consideration” means the aggregate amount of any one-time payment and the value of any one-time cash alternatives (including Funding Securities or similar instruments) received by Jax during the period between the Effective Date and the Royalty Commencement Date as consideration for the license or assignment of Intellectual Property. For avoidance of doubt, any portion of any revenue derived from any Intellectual Property described in the preceding sentence to which Jax becomes obligated to pay, and pays, to any (1) third-party licensor of intellectual property which is exploited in connection with the license or assignment of such Intellectual Property or (2) joint owner of any Intellectual Property, shall not be Lump Sum Consideration.

“Material Adverse Effect” means a material adverse change in or effect on the business, condition (financial or otherwise), or in the “change in unrestricted net assets,” affairs or

prospects, whether or not in the ordinary course of operations, of Jax (considered as one enterprise) or of Jax Genomic Medicine, which change would reasonably be expected to jeopardize the ability of Jax to continue to conduct its core operations or its Connecticut operations in the future.

“Material Default” means a Jax Event of Default set forth in Sections 14.1 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) or (o) that is determined to be a Material Default in accordance with Section 14.2.

“Maturity Date” means the date ten (10) years after the Effective Date.

“MOU” means the Memorandum of Understanding between CI, OPM and the State Treasurer providing for the issuance of the Bonds and as required by the Act.

“Net Direct Margin” means Direct Margin less (a) the cost of obtaining, maintaining and enforcing related patent and intellectual property rights, both foreign and domestic, for said Intellectual Property generating said Direct Margin, and (b) amounts payable to Jax inventors and to the Jax Discretionary Research Award Fund in respect of Direct Margin that are no greater than provided on the Effective Date in the Jax Intellectual Property Rights policy (60-10.009), (c) for products and apparatus that generate Direct Margin, costs and expenses incurred by Jax directly attributable to manufacture of such products or apparatus, including costs of goods sold, cost of sales, and applicable general and administrative expenses, as well as costs for shipping, insurance and taxes in connection with such products and apparatus, (d) for processes and methods that generate Direct Margin, costs and expenses incurred by Jax related to the provision of such processes and methods, including costs of goods sold, cost of sales, and applicable general and administrative expenses, and (e) amounts refunded by Jax to customers for returns of such any such products or apparatus.

“Net Extraordinary Revenue” means all Extraordinary Revenue less (a) the cost of obtaining, maintaining and enforcing related patent and intellectual property rights, both foreign and domestic, for the Intellectual Property generating said Extraordinary Revenues, and (b) amounts payable to Jax inventors and to the Jax Discretionary Research Award Fund in respect of Extraordinary Revenue that are no greater than provided on the Effective Date in the Jax Intellectual Property Rights policy (60-10.009).

“Net Lump Sum Consideration” means all Lump Sum Consideration less (a) the cost up to the date that Jax receives said Lump Sum Consideration of obtaining, maintaining and enforcing related patent and intellectual property rights, both foreign and domestic, for the Intellectual Property generating said Lump Sum Consideration, and (b) amounts payable to Jax inventors and to the Jax Discretionary Research Award Fund in respect of Lump Sum Consideration that are no greater than provided on the Effective Date in the Jax Intellectual Property Rights policy (60-10.009).

“Net Royalty Revenues” means all Royalty Revenues less (a) the cost of obtaining, maintaining and enforcing related patent and intellectual property rights, both foreign and domestic for said Intellectual Property generating said Royalty Revenue, and (b) amounts payable to Jax inventors and to the Jax Discretionary Research Award Fund in respect of

Royalty Revenues that are no greater than provided on the Effective Date in the Jax Intellectual Property Rights policy (60-10.009).

“Open-End Leasehold Mortgage Deed” means the Open-End Leasehold Mortgage Deed and Security Agreement given by Jax to CI to secure the Facility Loan, dated the Effective Date, attached hereto as Exhibit 7 and made a part hereof.

“Operating Metrics” means metrics outlined in Section 8.6 and established by CI which Jax must satisfy in order to be eligible for the Grants.

“OPM” means the Secretary of the State of Connecticut Office of Policy and Management or any successor thereto.

“Organizational Plan” means the plan of organization for Jax Genomic Medicine required to be submitted to CI in connection with the Business Plan, which plan shall include job titles and duties for Employees and Senior Scientists and salary information for Employees and Senior Scientists and the expected Average Annual Wage.

“Person” means any partnership, joint venture, association, corporation, limited liability company, trust or other entity, or, where the contexts so permits or requires, a natural person.

“Pre-Grant Period” means the period starting from the adoption of the Act on November 8, 2011 and ending on the Effective Date.

“Prohibited Occupant” means any health care provider or any educational institution of higher learning; provided, however, that independent research institutes that are members of the Association of Independent Research Institutes or its successor organization that may offer educational programs and/or grant doctoral degrees are specifically excluded from this definition of Prohibited Occupant.

“Project” means the initial fit up and renovation to the Temporary Facility and thereafter construction, renovation and retrofit of the Facility, including the on-going capital projects and improvements made therein and on the Property.

“Property” means that certain piece and parcel of land located in Farmington, Connecticut and leased to Jax by UCHC, subject to conveyance pursuant to the Land Lease.

“Reinvestment” means the amount of money to be remitted by Jax to CI for further remittance to the Fund pursuant to Article 12 hereof.

“Reinvestment Amount” means the amount that Jax shall be required to remit for deposit in the Fund pursuant to Article 12 hereof.

“Report Year” means a twelve-month period ending on December 31st.

“Royalty Cessation Date” means the date which is fifteen (15) years from the Royalty Commencement Date.

“Royalty Commencement Date” means that date which is ten (10) years after the Effective Date.

“Royalty Revenue” means all revenue (including cash and any cash alternative such as Funding Securities or similar instruments) derived from the licenses and assignment of Intellectual Property and to which Jax becomes entitled during the fifteen (15) years following the Royalty Commencement Date. For avoidance of doubt, any portion of any revenue derived from any Intellectual Property described in the preceding sentence to which Jax becomes obligated to pay, and pays, to any (1) third-party licensor of intellectual property which is exploited in connection with the license or assignment of such Intellectual Property or (2) joint owner of any Intellectual Property, shall not be Royalty Revenue.

“Security Agreement” means the Security Agreement dated the Effective Date between Jax and CI to secure the FF&E Loan, attached hereto as Exhibit 8 and made a part hereof.

“Security Interest” means the security interest of CI granted by Jax pursuant to the Security Agreement.

“Security Interest Default” means an Event of Default set forth in Section 14.1 (c), (d), (e), (f), (g), (i), (k), (l), (m), (n) or (o); provided, however, that with respect to Section 14.1(m), a Security Interest Default shall not occur until sixty (60) days after written notice thereof shall have been given to Jax if Jax is using its best efforts to cure such breach during such sixty (60) day period.

“Senior Scientists” means Professors, Associate and Assistant Professors, Medical Doctors, Doctors of Veterinary Medicine, Ph.Ds., or other scientists with a similar doctoral-level degree. “Senior Scientists” shall include postdoctoral fellows who receive stipends rather than salaries. Persons working on short term projects or short term rotations and who are performing work at the Facility for less than six (6) months in any year shall not be included as “Senior Scientists” for that Report Year.

“Sources and Uses” means the sources and uses of funds for the design, construction and equipping of the Facility, the Temporary Facility and the FF&E developed by Jax and approved by CI, as such Sources and Uses may be amended from time to time by Jax with the consent of CI.

“State Treasurer” means the Connecticut State Treasurer or any successor thereto.

“Tax Compliance Requirements” means the requirements set forth in Schedule 11.7(b).

“Temporary Facility” means the temporary facility on site at UCHC to be provided by UCHC to Jax pursuant to the Temporary Facility Lease.

“Temporary Facility Lease” means that lease agreement between UCHC and Jax dated the Effective Date and providing for Jax’s use of temporary laboratory and office facilities at UCHC until the Facility is completed.

“Treasury Regulations” means the regulations issued by the United States Treasury Department under the Code, as such regulations may be amended from time to time, including any successor regulations.

“UCHC” means The University of Connecticut Health Center.

## ARTICLE 2

### ESTABLISHMENT OF THE JACKSON LABORATORY FOR GENOMIC MEDICINE

2.1. Establishment of The Jackson Laboratory for Genomic Medicine; Purpose. Jax Genomic Medicine shall be a part of Jax, a private nonprofit corporation, or a division, subsidiary, affiliate or entity formed by Jax to establish a state-of-the art bioscience research institution and campus in Connecticut. Jax Genomic Medicine shall promote research and development that may lead to improvements in the diagnosis, treatment, or prevention of disease, initially focusing on bioscience medical research, including research on stem cells, DNA (deoxyribonucleic acid), systems genomics and genome-based medicine. The parties acknowledge and agree that Jax is an independent research institute controlled and directed by its Board of Trustees and management, that Jax controls and directs its research and related affairs, and that CI shall not control or direct Jax’s research or, except as expressly set forth in this Agreement, its related affairs.

2.2. Name. The Jackson Laboratory for Genomic Medicine shall operate as “The Jackson Laboratory for Genomic Medicine” or such other name as determined by Jax. Jax shall make such filings and take such other actions as shall be necessary for Jax Genomic Medicine to conduct its operations under such name.

2.3. Term. Unless sooner terminated in accordance with this Agreement, the term of this Agreement shall end upon the last to occur of the following: (a) forgiveness of the Loans under Section 5.1 hereof; (b) disbursement of the Grants under Article 8 hereof; and (c) if the Loans are not forgiven, exercise by CI of any or all of CI’s rights and remedies under Section 5.3 hereof; provided, however, that the following provisions of this Agreement shall survive as follows:

(a) The Intellectual Property License shall survive in accordance with its terms;

(b) Section 5.4 shall survive to permit Jax to exercise the right to lease the Facility thereunder;

(c) Article 6 shall survive to permit CI or UCHC, as assignee of CI, to exercise the rights provided thereunder;

(d) If Jax elects to exercise the lease option provided in Section 5.4 hereof, Sections 11.1, 11.2, 11.7(c), 11.9, 11.10, 11.12 and 11.15 shall survive so long as the lease continues unless otherwise varied by the lease agreement;

(e) Section 11.7 shall survive as long as the Bonds are outstanding;

(f) Article 12 shall survive so long as any Reinvestment Amounts are due to CI under the provisions thereof;

(g) Section 16 shall survive for a period of five (5) years after the term of this Agreement; and

(h) Section 17 shall survive so long as any of the obligations of Jax hereunder continue.

2.4. Jax's Tax-Exempt Status. Jax acknowledges that maintenance of its tax-exempt status under Section 501(c)(3) of the Code is required under the Act, the CI Procedures and this Agreement. Jax agrees to take any and all actions necessary or as may be required by CI to maintain such status. CI acknowledges and agrees that maintenance of Jax's tax-exempt status under Section 501(c)(3) of the Code is critical to the goals set forth herein, and CI agrees it shall impose no requirements upon Jax that would jeopardize Jax's tax exempt status or the tax exempt status of any obligations of Jax for the purposes of federal, state and local laws.

2.5. Jax's Federal Funding. CI agrees it shall not impose any requirements upon Jax that would reasonably be expected to jeopardize Jax's federal financial grants or to jeopardize Jax's ability to obtain federal financial grants in the future. In addition, CI agrees that the obligations of Jax under this Agreement are subject to the requirements of Jax's federal financial grants and such obligations shall not be interpreted in a manner that would violate any term or condition of such grants.

### **ARTICLE 3** **THE FACILITY LOAN**

3.1. The Facility Loan. Subject to the satisfaction of the terms and conditions hereof, and in reliance on the representations and warranties contained herein, CI agrees to furnish a construction/permanent leasehold mortgage loan to Jax in the maximum amount of One Hundred Forty-Five Million and 00/100 Dollars (\$145,000,000.00) (the "Facility Loan"). The Facility Loan shall be advanced in accordance with Schedule 3.1(a) attached hereto and made a part hereof, as such schedule may be amended from time to time by CI and Jax, and the provisions of Sections 3.3 and 3.4 below, and subject to the following limitation:

The Facility Loan will be advanced to Jax in monthly installments, commencing on a date immediately after the Bond Commission approval of the issuance of the Bonds and receipt by CI of amounts needed to fund the Facility Loan, to finance one hundred percent (100%) of the costs of construction of the Project, including hard, soft and design costs, and including initial amounts to retrofit the Temporary Facility and future advances to retrofit the Facility once it is constructed, all in accordance with Schedule B. A summary budget showing Sources and Uses is attached hereto as Schedule 3.1(b). Except as provided in the following sentence, CI will not advance any portion of the Facility Loan until CI and its Construction Inspector have reviewed and approved (a) final plans and specifications for the Project, (b) the Facility Budget which shall be consistent with the Sources and Uses, (c) construction contracts consistent with the Facility Budget, and (d) the Construction Schedule. Notwithstanding the foregoing, CI will advance sums under the Facility Loan prior to satisfaction of the conditions

contained herein to fund Funding Expenses, sums necessary to retrofit the Temporary Facility and pre-construction costs attributable to the Facility, subject to satisfaction of all of the other conditions for advances for the Facility Loan hereunder and which are applicable to such advances. All construction contracts shall include a maximum price guaranty. All construction and design contracts entered into directly by Jax and any subcontracts with a value in excess of five million dollars (\$5,000,000) shall be subject to CI's prior written approval, such approval not to be unreasonably withheld, and each contractor shall be required to provide a performance bond in accordance with market practice. Any change orders to the construction contract in excess of (a) five percent (5%) or (b) \$100,000, of any line item in the Facility Budget, shall require CI's prior written consent, such approval not to be unreasonably withheld. The proportion of the Facility Loan to be advanced will relate to the percentage of the work completed, based upon Jax's detailed requisition, in form and substance acceptable to CI (together with supporting invoices for all sums requisitioned for soft costs), as verified by the inspection of the Construction Inspector. Subject to the foregoing covenants (and retainage as described below), CI will advance 100% of the construction costs with retainages to be withheld from each advance. If the total hard and/or soft costs of the Project exceed the principal amount of the Facility Loan, Jax shall bear all such excess costs. If, on the other hand, such costs are less than the principal amount of the Facility Loan, CI, at its discretion, may apply such unused portion of the Facility Loan to make future Grants to Jax.

3.2. Interest and Repayment of Principal of the Facility Loan. The Facility Loan shall bear interest at the rate of one (1%) percent per annum and shall accrue on a non-compounding basis over its ten year term. Accrued interest and, if applicable, principal shall be due on the later of the Maturity Date or the Extended Maturity Date, if applicable, subject to extension and forgiveness as provided in Article 5 hereof.

3.3. Advances for Retrofit of Temporary Facility. Initial advances under the Facility Loan shall commence immediately upon satisfaction of the applicable conditions contained herein to retrofit the Temporary Facility. The amount of advances for such retrofit shall not exceed the amount listed in the Facility Budget. At the conclusion of the Temporary Facility Lease, all work performed as part of the retrofit and which cannot be utilized in the Facility shall become the property of UHC.

3.4. Construction; Limitations on Advances.

(a) The construction of the Facility shall commence as provided for in the Construction Schedule and shall be pursued diligently and continuously by Jax; subject, however, to any Force Majeure Event in accordance with Section 17.19 hereof or any Delay Beyond Jax Control Event in accordance with Section 17.20 hereof. Construction of the Facility shall be completed no later than December 31, 2014.

(b) In addition to the limitations set forth in Section 3.1 above, all advances of the Facility Loan shall be subject to the following conditions:

(i) Each request for advances from the Facility Loan shall be on a form provided or approved by CI and shall include such information as CI may require, in form and substance reasonably satisfactory to CI.

(ii) Advances under the Facility Loan will be subject to not less than ten (10) days' prior written notice to CI, and submission of such documents, including updated survey (if there have been changes to the footprint of the building or other changes to the exterior improvements on the Property since the date of the last advance), waivers of mechanics' liens, updated title insurance reflecting no additional liens or encumbrances (if specifically requested by CI), and certificate of occupancy (upon completion and before final advance) as CI may require, in form and substance acceptable to it and subject to any other conditions specified in this Agreement. Without limiting the generality of the foregoing, advances will be made on an "As-Completed" basis upon inspection by the Construction Inspector and upon submission and satisfactory review of a completed form of requisition for payment.

(iii) All advances under the Facility Loan, except for advances to be used to pay Funding Expenses, for the retrofit of the Temporary Facility or for pre-construction costs attributable to the Facility, shall be subject to retainage of ten percent (10%) until such time as the Facility is at least fifty percent (50%) complete, as determined by CI with input from the Construction Inspector, and a retainage of five percent (5%) thereafter, until such time as a certificate of occupancy is obtained for the Facility.

(iv) CI will retain, as part of its Funding Expenses, the services of the Construction Inspector who shall serve as CI's consultant to review all Facility Loan draw requests. The funding of all advances will be subject to approval of the Construction Inspector. The appointment of the Construction Inspector shall not be deemed to place any duty or responsibility upon CI to inspect the Project or any obligation or liability upon CI regarding the quality of construction or the absence of defects.

(v) All advances will be subject to verification of work in place by CI, based on input from the Construction Inspector. The verification of work by CI shall not be deemed to place any duty or responsibility upon CI to inspect the Project or any obligation or liability upon CI regarding the quality of construction or the absence of defects.

(vi) Notwithstanding anything contained herein to the contrary, Jax shall not make a request for advances from the Facility Loan more frequently than once in any calendar month.

(vii) CI shall have no obligation to make any advance from the Facility Loan if there has been a Material Default as defined in Article 14 hereof.

(viii) All Funding Expenses payable to CI and UCHC referred to in Section 17.14 hereof shall be included in and deducted from the first advance under the Facility Loan. Thereafter, any additional Funding Expenses may be reimbursed from future advances from either the Loans or the Grants at the election of Jax.

3.5. Security for Facility Loan. As security for the repayment by Jax to CI of all sums due to CI under the Facility Loan, Jax will enter into the following agreements with CI: (a) the Open-End Leasehold Mortgage Deed; and (b) the Intellectual Property License. The Facility Loan shall be cross defaulted with the FF&E Loan.

3.6. Collateral Assignment of Contracts, Permits and Licenses. Jax shall provide CI with the Collateral Assignment of (a) all architect and construction contracts and agreements entered into by Jax and relating to the Project, and (b) all plans, designs and specifications in connection with the construction of the Facility.

3.7. Capital and Maintenance Fund. For so long as the Facility Loan is outstanding, Jax shall include in the Annual Budget, an annual capital and maintenance fund line item amounts of at least \$1.1 million and shall provide in the Business Plan the use of such reserves to maintain the Facility in a commercially reasonable fashion.

3.8. Maturity Date. The entire balance of the Facility Loan shall be due on or before the Maturity Date, subject to extension and forgiveness as provided in Article 5 hereof.

#### **ARTICLE 4** **THE FF&E LOAN**

4.1. The FF&E Loan. Subject to the satisfaction of the terms and conditions hereof and in reliance on the representations and warranties contained herein and in the other Funding Documents, CI agrees to furnish a loan to Jax in the maximum amount of Forty-Six Million Seven Hundred Thousand and 00/100 Dollars (\$46,700,000.00) to purchase the FF&E (the "FF&E Loan"). The FF&E Loan shall be advanced in accordance with Section 4.3 below and subject to the following limitation:

The FF&E Loan will be advanced to Jax in installments commencing on a date after the Bond Commission approval of the issuance of the Bonds and receipt by CI of amounts needed to fund the FF&E Loan to finance up to one hundred percent (100%) of the costs of the FF&E. A summary budget showing Sources and Uses is attached hereto as Schedule 3.1(b). CI will not advance any portion of the FF&E Loan until CI and its FF&E Inspector have reviewed and approved (a) final plans for FF&E purchases; (b) the FF&E Budget which shall be consistent with the Sources and Uses, (c) proposals for the purchase of such FF&E consistent with the FF&E Budget, and (d) the FF&E Schedule. The proportion of the FF&E Loan to be advanced will relate to the actual purchases of FF&E, based upon Jax's detailed requisition, in form and substance acceptable to CI (together with supporting invoices for all sums requisitioned). CI's advances will be based upon the actual purchases of FF&E for the Project as verified by the FF&E Inspector. If the total costs of FF&E for the Project exceed the principal amount of the FF&E Loan, Jax shall bear all such excess costs. If, on the other hand, such costs are less than the principal amount of the FF&E Loan, CI, at its discretion, may apply such unused portion of the FF&E Loan to make future Grants to Jax.

4.2. Interest and Repayment of Principal of the FF&E Loan. The FF&E Loan shall bear interest at the rate of one (1%) percent per annum and shall accrue on a non-compounding basis over its ten year term. Accrued interest and principal shall be due on the later of the Maturity Date or Extended Maturity Date, if applicable, subject to extension and forgiveness as provided in Article 5 hereof.

4.3. FF&E Purchases; Limitations on Advances.

(a) Purchases and installation of FF&E shall commence as provided in the FF&E Schedule and shall be pursued diligently and continuously by Jax; subject, however, to any Force Majeure Event in accordance with Section 17.19 hereof or any Delay Beyond Jax Control Event in accordance with Section 17.20 hereof.

(b) In addition to the limitations set forth in Section 4.1 above, all advances of the FF&E Loan shall be subject to the following conditions:

(i) Each request for advances from the FF&E Loan shall be on a form provided or approved by CI and shall include such information as CI may require, in form and substance reasonably satisfactory to CI.

(ii) Advances under the FF&E Loan will be subject to not less than ten (10) days' prior written notice to CI, and submission of such documents, including copies of all invoices upon which such advance is based and waivers of mechanics' liens, as CI may require, in form and substance acceptable to it and subject to any other conditions specified in this Agreement. Without limiting the generality of the foregoing, advances will be made on an "As-Completed" basis upon inspection by the FF&E Inspector and upon submission and satisfactory review of a completed form of requisition for payment.

(iii) CI will retain, as part of its Funding Expenses, the services of the FF&E Inspector, who will serve as CI's consultant to review FF&E Loan draw requests. The funding of all advances will be subject to approval of CI, based upon information from the FF&E Inspector and to the satisfaction of CI that the FF&E to be purchased is suitable for its intended use.

(iv) All advances will be subject to verification of actual purchases of FF&E. The verification of purchases by CI shall not be deemed to place any duty or responsibility upon CI to inspect the FF&E or any obligation or liability upon CI regarding the quality of the FF&E or the absence of defects.

(v) Notwithstanding anything contained herein to the contrary, Jax shall not make a request for advances from the FF&E Loan more frequently than once in any calendar month.

(vi) CI shall have no obligation to make any advance if there is an ongoing Material Default as defined in Article 14.2 hereof.

4.4. Security for FF&E Loan. As security for the repayment by Jax to CI of all sums due to CI under the FF&E Loan, Jax will grant to CI (a) the Security Interest pursuant to the Security Agreement, and (b) the Intellectual Property License. The FF&E Loan shall be cross-collateralized and cross-defaulted with the Facility Loan.

4.5. Maturity Date. The entire balance of the FF&E Loan shall be due on or before the Maturity Date, subject to extension and forgiveness as provided in Article 5 hereof.

**ARTICLE 5**  
**FORGIVENESS OF LOANS; REMEDIES IF LOANS ARE NOT FORGIVEN**

5.1. Forgiveness of Loans. Upon the Maturity Date (or any time prior to the Maturity Date), if Jax has (a) completed the Project as designed and operated the Facility; and (b) satisfied the Employment Obligation for the Job Review Period, the Loans shall be forgiven, the Open-End Leasehold Mortgage Deed and Security Agreement shall be released, the Facility Loan Note and FF&E Loan Note shall be cancelled and Jax will have no obligation to CI with respect to principal, accrued interest or any other amounts that would otherwise be due on the Loans, except for those amounts advanced by CI on account of Jax under the Open-End Leasehold Mortgage Deed and Security Agreement and Security Agreement necessary in the opinion of CI to maintain the mortgage and lien provided to CI thereunder. If at the Maturity Date, Jax has satisfied the Employment Obligation but has not yet maintained the Employment Obligation for the Job Review Period, the Maturity Date of the Loans will be extended for an additional eighteen (18) months in order for Jax to comply with that requirement (the "Extended Maturity Date"). If Jax has not satisfied the Employment Obligation for the Job Review Period by the Extended Maturity Date, CI may elect not to forgive the Loans and CI's sole and exclusive remedy shall be the rights expressly provided in Section 5.3 hereof.

5.2. Satisfaction of Loan Forgiveness Requirements. Satisfaction of the requirement contained in Section 5.1(a) hereof shall be made by CI after consideration of input from the Construction Inspector. Satisfaction of the requirements contained in Section 5.1(b) hereof shall be determined as follows: if, during the Job Review Period ending on the Maturity Date or the Extended Maturity Date (or an earlier date on which Jax has satisfied the Employment Obligation for the Job Review Period), if applicable, Jax has satisfied the Employment Obligation for the Job Review Period, then Jax shall have satisfied the Employment Obligation. No later than sixty (60) days following the end of the Job Review Period, Jax shall furnish to CI an Employee Audit to establish compliance with the Employment Obligation. All determinations regarding Jax's satisfaction of the Employment Obligation shall be made by CI and any dispute regarding satisfaction of the Employment Obligation for the Job Review Period shall be resolved in the first instance in accordance with the mediation provisions in Section 14.3(b) of this Agreement.

5.3. CI Remedy if Loans are not Forgiven. Subject to the Jax option to lease under Section 5.4 hereof, if the Loans are not forgiven pursuant to Section 5.1 above or if Jax has Ceased Operations, CI may, at its discretion, elect that Jax forfeit its ownership rights in the Facility and the FF&E and require Jax to take any and all actions to permit CI to assume ownership and control and to operate the Facility and the FF&E. Upon the occurrence of such an event, the rights of CI to collect on the Loans shall be limited to the right to ownership and possession of all of the collateral under the terms of the Open-End Leasehold Mortgage Deed and Security Agreement, the Security Agreement, the Intellectual Property License and the continuing right to receive a portion of the Net Royalty Revenue, the Net Lump Sum Consideration, the Net Extraordinary Revenues and the Net Direct Margin, pursuant to Section 12 hereof and the right to collect the sums advanced by CI on account of Jax under the Open-End Leasehold Mortgage Deed and Security Agreement and Security Agreement as provided in Section 5.1 hereof. Any such amounts which are advanced by CI shall continue to be an

obligation of Jax to CI and CI may exercise any and all rights and remedies to collect such amounts from Jax.

5.4. Jax Right to Lease Facility if Loans are Not Forgiven. If the Loans are not forgiven pursuant to Section 5.1 above and Jax has achieved at least seventy-five percent (75%) of the Employment Obligation as of the date when failure to meet the Employment Obligation is determined, Jax shall have the one-time option to lease the Facility together with the FF&E from CI for a maximum period of five (5) years, subject to Jax's option to renew for an additional maximum period of five (5) years, at a Fair Rental Value. Jax shall notify CI within sixty (60) days following its failure to meet the Employment Obligation of its intention to exercise the first five (5) year option or such option shall be null and void. Jax shall provide CI with at least eighteen (18) months prior written notice of its intention to exercise the second five (5) year option or that option shall be null and void. Any disputes regarding the Fair Market Rental Value of the rental shall be resolved in the first instance through the mediation procedure set forth in Section 14.3(b). The terms of any such lease shall be acceptable to CI and shall include provisions which shall prohibit Jax from subleasing the Facility or any portion of the Facility, or from any assignment or pledge of the lease without the prior written consent of CI.

## **ARTICLE 6**

### **CI/UCHC RIGHT TO PURCHASE FACILITY AND FF&E**

6.1. Sale of the Facility; Right to Purchase. If at any time during the period of four (4) years immediately following forgiveness of the Loans pursuant to Section 5 hereof, Jax decides to (i) sell the Facility and the FF&E (for the purposes of this Section 6, each as defined herein, and collectively, the "Jax Assets"), or (ii) assign the Land Lease to other than an Affiliate of Jax, or (iii) sublease all, or substantially all, of the Facility, to other than an Affiliate of Jax, then, in any such event, Jax shall provide CI with notice of such intent ("Jax Sale Notice"), and CI shall thereafter have the option (the "CI's Purchase Option") for a period of thirty days (30) from and after the delivery of the Jax Sale Notice (the "Section 6.1 Option Period"), to purchase all of Jax's right, title and interest in the Jax Assets for a purchase price equal to the Fair Market Value less the discount, if any, from Fair Market Value determined in accordance with Section 6.1(a) below, by delivering notice of the exercise of such option to Jax ("CI's Purchase Notice") not later than the expiration of the Section 6.1 Option Period. CI's failure to deliver a CI's Purchase Notice in the time and manner specified shall be deemed to constitute CI's election not to purchase the Jax Assets pursuant to such Jax Sale Notice. The closing of the conveyances of the Jax Assets shall occur at the CI's offices upon a date mutually agreeable to the parties on or before the later of (i) One hundred twenty (120) days following CI's deliver of CI's Purchase Notice to Jax, or (ii) One hundred twenty (120) days following determination of Fair Market Value under Section 6.1(a) below. The purchase and sale of the Jax Assets shall be on the terms and conditions set forth in this Section 6.1.

(a) The purchase price for the Jax Assets for a closing under this Section 6.1 shall be as follows:

Year 1 after Loan forgiveness	Fair Market Value less 75% discount
Year 2	Fair Market Value less 50% discount
Year 3	Fair Market Value less 25% discount
Year 4	Fair Market Value without discount

CI shall notify Jax of its determination of the Fair Market Value for the Jax Assets (“CI’s Determination”) simultaneous with delivery of CI’s Purchase Notice. Jax shall give CI notice (“Jax’s Notice”), no later than thirty (30) days after delivery of the CI’s Determination, of whether Jax accepts or disputes CI’s Determination. If Jax shall fail to give a timely Jax’s Notice, Jax shall be deemed to have rejected CI’s Determination. If Jax, in Jax’s Notice, disputes CI’s Determination, then Jax shall appoint an independent appraiser (“Jax’s Appraiser”) within then thirty (30) days after delivery of Jax’s Notice. If within forty-five (45) days after delivery of CI’s Determination, CI’s designated appraiser (the “CI’s Appraiser”) and Jax’s Appraiser shall mutually agree upon the determination (the “Mutual Determination”) of the Fair Market Value, their determination shall be final. If CI’s Appraiser and Jax’s Appraiser shall be unable to reach a Mutual Determination within said forty-five (45) day period, both of the Appraisers shall jointly select a third independent real estate appraiser (the “Third Appraiser”). In the event that CI’s Appraiser and Jax’s Appraiser shall be unable to jointly agree on the designation of the Third Appraiser within five (5) days after they are requested to do so by either party, then the parties agree to allow the American Arbitration Association, or any successor organization, to designate the Third Appraiser in accordance with the rules, regulations and/or procedures then obtaining of the American Arbitration Association or any successor organization. The Third Appraiser shall conduct such hearings and investigations as he or she may deem appropriate and shall, within twenty (20) days after the date of designation of the Third Appraiser, choose either of the Fair Market Value determinations of Jax’s Appraiser or CI’s Appraiser. For a period of ten (10) days from and after CI’s and Jax’s receipt of a notice of (x) the Mutual Determination, or (y) the Third Appraiser’s decision, as the case may be, either CI or Jax may elect, by notice delivered to the other within such ten (10) day period, to reject such determination of Fair Market Value in which event the Jax shall not sell the Jax Assets to CI, and CI shall not purchase the Jax Assets from Jax, and notwithstanding anything to the contrary contained in this Agreement, during the period of four (4) years immediately following forgiveness of the Loans pursuant to Section 5 hereof, in no event shall Jax (except with respect to an Affiliate) (i) sell the Jax Assets, or (ii) sublease all, or substantially all, of the Facility. In the event neither CI or Jax shall reject the Mutual Determination or the determination of the Third Appraiser within the time and manner specified herein, then CI and Jax shall be obligated to close the purchase and sale of the Jax Assets in accordance with the terms of this Section 6.1. Jax expressly acknowledges and agrees that the prohibition against sale, assignment or sublease following a party’s rejection of a Mutual Determination or Third Appraiser’s decision of Fair

Market Value is not a penalty, forfeiture or unreasonable restraint on alienation but that such prohibition is supported by good and valuable consideration received to Jax's satisfaction. Jax covenants not to challenge the validity and enforceability of this prohibition. Each party shall pay its own counsel fees and expenses if any, in connection with any proceeding under this Section 6.1(a). The parties shall share equally the costs and expenses of the Third Appraiser. Appraisers shall be paid on an hourly basis only.

(b) At a closing of the sale and transfer of the Jax Assets to CI pursuant to this Section 6.1, Jax, at its sole cost, shall convey good and marketable fee simple title to the Facility by statutory form Quit-Claim Deed and Jax shall convey good and marketable title to all FF&E, in their "As Is" condition as of the date of delivery of CI's Purchase Notice, without warranty or representation of any kind whatsoever. At CI's request, Jax shall take any other actions reasonably requested by CI to acquire Jax's rights in and to the Jax Assets, including, but not limited to, assignments of warranties and service contracts, to the extent assignable and in existence. Jax shall be responsible for all real estate taxes and other costs of owning and operating the Jax Assets, until the Closing Date, as customarily adjusted at real estate closings. Jax shall be responsible for the payment of any state and municipal conveyance tax (if then applicable) required to be paid in connection with the transfer of the Jax Assets. CI shall be responsible for the cost of any survey and/or title insurance CI may obtain. Each party shall be responsible for their legal fees associated with the transfer.

(c) At a Closing under this Section 6.1, Jax shall represent and warrant that it has full power and authority to convey the Jax Assets to CI in accordance with the terms herein and that prior to Closing, Jax shall (i) obtain any authorization (excluding land use authorizations) which may be necessary in order for Jax to have legal authority to convey the Jax Assets to CI in accordance with the terms herein, (ii) perform any and all actions that may be reasonably and customarily required by CI's title insurance company to convey title to the Jax Assets in accordance with this Section 6.1 and Jax shall provide CI or its title company with such affidavits, other documentary evidence, or assurances as the title company shall reasonably require in order to provide CI with a Title Policy that does not take exception to any matter except for any permitted encumbrances, and any encumbrances arising from the actions or omissions of CI.

(d) Notwithstanding anything to the contrary contained herein, in no event may Jax sell, lease or sublease the Facility to a Prohibited Occupant without CI's prior written consent which may be withheld in CI's sole discretion

## 6.2. Relocation of Jax's Operations; CI's Relocation Purchase Option.

(a) Notwithstanding the provisions of Section 6.1 hereof, if at any time within a period of four (4) years after the Loans are forgiven pursuant to Section 5 hereof Jax decides to relocate its operations from the Facility, to another site in Connecticut acceptable to the Connecticut Department of Economic Development ("CDECD") and which the CDECD has certified in writing to CI satisfies all of the required criteria set forth in Section 6.2 hereof (the "Approved New Site"), whether such relocation is proposed to be effected by a sale of the Jax Assets, a sale of all or substantially all of the assets of Jax, the merger or consolidation of Jax with another entity, or a proposed sublease of all, or substantially all of the Facility then, in any

such event, Jax shall provide CI with notice of such intent (“Jax’s Relocation Notice”), or CI shall thereafter have the option to purchase all of Jax’s right, title and interest in and to the Jax Assets on the terms and conditions of Section 6.1, except as otherwise provided in this Section 6.2 below (“CI’s Relocation Purchase Option”). Notwithstanding the foregoing, CI shall not have a CI’s Relocation Purchase Option with respect to (x) any sale of assets, sublease or assignment to an Affiliate that is not a Prohibited Occupant, and (y) the merger or consolidation of Jax with an Affiliate of Jax who is not a Prohibited Occupant.

(b) The “CI’s Section 6.2 Option Period” shall commence upon the later of (i) Jax’s delivery of Jax’s Relocation Notice to CDECD and CI, and (ii) CDECD’s delivery of its written verification to Jax and CI that the CDECD has approved the Approved New Site pursuant to the terms of Section 6.2(a) hereof, and CI’s Section 6.2 Option Period shall expire thirty (30) days thereafter. CI may elect to purchase all of Jax’s right, title and interest in and to the Jax Assets by delivering notice of the exercise of such option to Jax (“CI’s Relocation Purchase Notice”) prior to the expiration of the CI’s Section 6.2 Option Period. CI’s failure to deliver a CI’s Relocation Purchase Notice within the time and manner specified shall be deemed to constitute CI’s election not to exercise its CI’s Relocation Purchase Option by reason of such Jax’s Relocation Notice.

(c) The purchase price to be paid for the Jax Assets shall be the Fair Market Value thereof (as determined pursuant to Section 6.1(a)), without any discount otherwise provided for in Section 6.1(a) above.

(d) The closing of the conveyances of the Jax Assets pursuant to this Section 6.2 shall occur at the CI’s offices upon a date mutually agreeable to the parties on or before the later of (i) One hundred twenty (120) days following CI’s delivery of CI’s Relocation Purchase Notice to Jax, or (ii) One hundred twenty (120) days following determination of Fair Market Value under Section 6.1(a) above.

(e) Except for the fact that the purchase price to be paid for the Jax Assets shall be the Fair Market Value thereof (as determined pursuant to Section 6.1(a)) without the discount otherwise provided for in Section 6.1(a) above, the purchase and sale of the Jax Assets under this Section 6.2, shall be on all of the terms and conditions of Section 6.1, and the terms of Section 6.1(b) through and including Section 6.1(d) shall be applicable to a closing and transfer or the Jax Assets under this Section 6.2.

6.3. Sale of Facility After Extended Operation; CI’s Right of First Offer. If after the expiration of both (i) the CI’s Purchase Option set forth in Section 6.1 above, and (ii) the CI’s Relocation Purchase Option set forth in Section 6.2 above, Jax desires to sell or convey the Jax Assets, or sell or convey all or substantially all of the assets of Jax, or merge or consolidate Jax with another entity, or sublease all, or substantially all of the Facility then, in any such event, Jax shall provide CI with notice of such intent (a “Jax Section 6.3 Sale Notice”), and thereafter CI shall have a right of first offer (the “CI’s Right of First Offer”) to purchase all of Jax’s right, title and interest in and to the Jax Assets on the terms of this Section 6.3.

(a) Notice; CI’s Appraisal; Offer. If CI desires to make an offer to Jax to purchase the Jax Assets, then (i) CI shall deliver, to Jax, a notice of intent to make an offer no

later than thirty (30) days of Jax's delivery of the Jax Section 6.3 Sale Notice and (ii) no later than ninety (90) days after delivery of CI's notice in Section 6.3(a)(i), CI shall, at its cost, procure, and deliver to Jax, an appraisal of the Jax Assets commissioned and prepared in accordance with applicable State Laws, policies and guidelines (the "CI's Appraisal").

(b) Acceptance of Offer; Sale. If CI delivers a written offer to Jax, on or before the date which is thirty (30) days after the delivery of the CI's Appraisal to Jax, to purchase the Jax Assets at, or below, the appraised price for the Jax Assets as set forth in the CI's Appraisal (the "CI's Offer to Purchase"), then no later than sixty (60) days after delivery of the CI's Offer to Purchase, Jax shall deliver a notice to CI electing either to (i) unconditionally accept the CI's Offer to Purchase in its entirety and without modification, or (ii) reject CI's Offer to Purchase. If Jax shall elect to accept CI's Offer to Purchase, the Jax shall transfer and convey good marketable title to the Jax Assets to CI at a closing held, in accordance with the terms and conditions of this Section 6.3, on or before the date which is one hundred twenty (120) days after Jax's delivery of notice of acceptance of CI's Offer to Purchase.

(c) Rejection of Offer; Continuing Right of First Offer: If Jax delivers a timely notice to CI rejecting CI's Offer to Purchase, then Jax may sell the Jax Assets on terms more favorable to Jax than the terms of the rejected CI's Offer to Purchase, to a purchaser or transferee of the Jax Assets approved by CI, which approval shall not be unreasonably withheld so long as such proposed transferee or purchaser is reputable, creditworthy, and not a Prohibited Occupant; provided, however (1) if Jax does not sell the Jax Assets on terms more favorable to Jax than the rejected CI's Offer to Purchase within three hundred sixty (360) days after Jax's rejection of CI's Offer to Purchase to a purchaser or transferee approved by CI as aforesaid, or (2) if, after rejecting CI's Offer to Purchase, Jax desires to sell or otherwise transfer the Jax Assets for a price less than the appraised value of the Jax Assets, as set forth in CI's Appraisal, or on terms less favorable to Jax than those proposed in the rejected CI's Offer to Purchase, then Jax shall, before selling, transferring or conveying the Jax Assets, deliver to CI a notice setting forth the terms and conditions, including the purchase price, on which Jax would be willing to sell the Jax Assets (the "Jax Offer"), in which event CI shall, for a period of sixty (60) days after delivery of the Jax Offer, have an option to elect to purchase the Jax Assets on the terms of the Jax Offer, provided, however, if the closing of such transaction is more than one (1) year after the date of CI's Appraisal, the purchase price paid by CI for the Jax Assets shall be the lesser of (x) the purchase price set forth in the Jax Offer, and (y) the fair market value of the Jax Assets as established by another CI's Appraisal procured by CI, if acceptable to Jax. If CI shall timely accept the Jax Offer, the closing of the conveyances of the Jax Assets to CI, pursuant to this Section 6.3 shall occur at the CI's offices upon a date mutually agreeable to the parties on or before the later to occur of (x) one hundred twenty (120) days following CI's delivery of notice to Jax accepting the Jax Offer, and (y), if a new CI's Appraisal is required, one hundred twenty (120) days following receipt of the new CI's Appraisal. Notwithstanding anything to the contrary in this Section 6.3, the terms and provisions of Section 6.1(b) through and including Section 6.1(d) shall be applicable to a closing and sale of the Jax Assets under this Section 6.3. If CI shall decline to timely accept the Jax Offer then Jax shall have the right to sell the Jax Assets to a transferee or purchaser approved by CI as aforesaid, subject to CI's continuing right of first offer as set forth in this Section 6.3. In other words, if (1) Jax does not sell the Jax Assets on terms more favorable to Jax than the terms of the rejected the Jax Offer within three hundred sixty (360) days after CI's rejection of the Jax Offer to a purchaser or transferee approved by CI

as aforesaid, or (2) if, after CI has rejected the Jax Offer, Jax desires to sell or otherwise transfer the Jax Assets for a price less than the purchase price set forth in the Jax Offer, or on terms less favorable to Jax than those proposed in the rejected the Jax Offer to Purchase, then Jax shall, before selling, transferring or conveying the Jax Assets, deliver to CI a new Jax Offer in accordance with the terms of this Section 6.3.

(d) The CI's Right of First Offer shall be binding upon Jax, its successors and assigns, and all future owners of the Facility, and shall inure to the benefit of CI, its successors and assigns. Except as set forth herein, during the Term of the Land Lease, the sale of the Facility shall be subject and subordinate to CI's Right of First Offer in this Section 6.3. Notwithstanding anything contained herein to the contrary, the CI's Right of First Offer shall expire and be of no further force of effect immediately upon the transfer of the UCHC's Remaining Property (as defined in the Land Lease) to a third party other than a successor agency of the State, or a political subdivision of the State, that continues to operate the University of Connecticut Health Center.

6.4. Assignment to UCHC of CI Right to Purchase Facility and FF&E. As permitted in Section 17.8 hereof, CI shall assign any and all of its rights under this Article 6 to UCHC. The provisions of this Article 6, and the rights and obligations contained herein, are expressly conditioned upon, and shall have no force or effect, unless and until CI has executed such an assignment of all of its rights under this Article 6.

6.5. Affiliates and Successors. Solely for the purpose of this Article 6, the term Affiliate shall also include any successor in interest to all or substantially all of the Jax Assets provided such successor is reputable, creditworthy, and is not a Prohibited Occupant.

## **ARTICLE 7**

### **GRANT OF APPROPRIATED FUNDS**

7.1. Terms of Grant. CI agrees to distribute the Grant Funds to Jax at such times and on the terms and conditions hereinafter set forth.

7.2. Use of Grant Funds. The proceeds of the Grant Funds shall be used by Jax in a manner that is consistent with the Business Plan and the Initial Budget, as such Business Plan and Initial Budget are amended from time to time in accordance with the terms and conditions of this Agreement. Grant Funds may not be disbursed or expended for activities that do not principally benefit or that are not directly related to the establishment or operation of Jax Genomic Medicine.

7.3. Prohibition on Use of Grant Funds for Lobbying. Grant Funds may not be used for the purpose of lobbying any branch or agency of state government or any political subdivisions of the state, or for any political purpose.

7.4. Ownership of Intellectual Property. The parties acknowledge and agree that, as between Jax and CI, all Intellectual Property shall be owned exclusively by Jax, and CI shall have no legal interest or right in any such Intellectual Property, except for the rights and licenses contained in the Intellectual Property License. Nothing in this Section 7.4, including but not

limited to the preceding sentence, shall act to limit, restrict, alter, reduce or otherwise affect the obligations of Jax to pay CI a portion of the Net Royalty Revenues, Net Extraordinary Revenues, Net Lump Sum Consideration or Net Direct Margin pursuant to Article 12 hereof. Other than as set forth in this Agreement or the Intellectual Property License, nothing shall in any way limit or restrict the right of Jax to commercialize or license its Intellectual Property. Notwithstanding anything to the contrary herein, nothing contained in this Agreement shall be construed to contradict or otherwise affect the terms and conditions of the Collaborative Research Agreement entered into by and between Jax and UCHC as such terms and conditions therein relate to the Intellectual Property.

7.5. Publications. CI acknowledges and agrees that Jax shall have the right to publish (whether orally, in writing, or otherwise) results of its research in accordance with its policies which encourage publication of all research conducted at Jax.

7.6. Other Funding Sources. Nothing contained in this Agreement shall in any way limit or restrict Jax's right to receive funds from sources other than CI.

## **ARTICLE 8**

### **TIMING AND CONDITIONS OF GRANTS**

8.1. Grant. Subject to the terms and conditions of this Agreement, CI shall disburse Grant Funds to Jax on the dates requested by Jax as Funding Dates (as defined below) and in accordance with the Grant Disbursement Schedule, and as otherwise provided, herein.

8.2. Timing of Disbursement of Grant Funds. Subject to compliance by Jax with all of the applicable conditions to funding set forth in Section 8.4, disbursement of Grant Funds by CI shall be approved by CI in not less than ten (10) annual disbursements (in each case, a "Funding Date") and each annual disbursement shall be disbursed in quarterly installments or as agreed to by CI at a later date, commencing on a date immediately after the Bond Commission approval of the issuance of the Bonds and receipt by CI of Grant Funds sufficient to fund the Grants and ending on a date not later than January 5, 2021 (or such later date as may be computed in accordance with this Agreement, including Sections 17.19 and 17.20 hereof), on such business days as may be requested by Jax; and

8.3. Request for Grant Funds. The initial request for Grant Funds shall be submitted upon execution of this Agreement. With respect to each subsequent annual request for Grant Funds, Jax shall submit to CI, not less than thirty (30) days prior to each Funding Date, a completed Grant Request. Such request will be as proposed in the Business Plan unless another amount is agreed to by CI.

8.4. General Conditions to Funding. CI shall disburse the Grant Funds to Jax upon receipt of an executed Grant Request as set forth in Section 8.3, provided no Material Default has been declared and is continuing. CI may reduce or eliminate funding in any year, in accordance with and to the extent permitted by Sections 8.6 and Article 14 hereof, if Jax has Ceased Operations in Connecticut, if Jax has failed to commit in writing to maintain operations in Connecticut for the succeeding year, or if Jax is otherwise in default under this Agreement.

8.5. Conditions to Initial Grant. CI's obligation hereunder to make the initial Grant is conditioned upon CI's receipt of the following documents and Jax's satisfaction of the following conditions:

- (a) CI's receipt of a timely and properly executed Grant Request;
- (b) CI's receipt and approval of the Business Plan;
- (c) CI receipt and approval of the Initial Budget;
- (d) CI's receipt of the Legal Opinion; and
- (e) Evidence satisfactory to CI that the Temporary Facility Lease, the Land Lease and the Collaborative Research Agreement are in full force and effect.

8.6. Operating Metrics for Subsequent Grants. CI's obligation hereunder to make any of the subsequent grants contained in the Grant Disbursement Schedule is conditioned upon the fulfillment by Jax of the following annual operating metrics as outlined in the Business Plan:

- (a) number of Employees employed by Jax in the preceding year;
- (b) number of Senior Scientists employed by Jax in the preceding year; and
- (c) compliance with the Average Annual Wage Obligation in the preceding year.

If Jax shall fail in any year to satisfy the metrics listed in Section 8.6 (a), (b) and (c) hereof by more than 50%, as determined by CI's review of the Annual Report, Jax will be deemed to have Ceased Operations. If Jax fails to meet any of those metrics by less than 50%, CI may, at its option, reduce the amount of Grants otherwise payable to Jax under the Grant Disbursement Schedule by a pro rata share comparable to the percentage by which Jax failed to meet the operating metrics. If the amounts of Grants paid in any year are reduced through application of this Section, Jax shall be eligible to recoup those amounts in subsequent years if CI is satisfied in its sole discretion that Jax has met or exceeded the expected operating metrics in succeeding years.

8.7. Conditions to Subsequent Grants. CI's obligation hereunder to make any of the Grants subsequent to the initial Grant is conditioned upon CI's receipt of the following documents and Jax's satisfaction of the following conditions in connection with each subsequent Grant Request:

- (a) CI's receipt of a timely and properly executed Grant Request;
- (b) CI's receipt of the annual update to the Business Plan and CI's approval of any material changes to the Business Plan from the original submitted with the Application;
- (c) CI's receipt of the Annual Budget and CI's approval of any material changes to the Annual Budget from the Initial Budget;

(d) Evidence satisfactory to CI that Jax has complied or will comply with the Operating Metrics for the preceding grant year;

(e) CI's receipt of the Annual Science Report;

(f) CI's receipt, not later than six (6) months after the end of Jax's preceding fiscal year, of the annual audited financial statements of Jax, audited in compliance with Section 11.2 hereof;

(g) CI's receipt of the Annual Report required by Section 11.3 for the most recently concluded Report Year, and if there have been any material developments between the date of such Annual Report and the end of the calendar year, CI's receipt, at least sixty (60) days prior to the Funding Date, of an updated progress report, which shall address those items contained in the Annual Report, including any changes in the budgeted expenditures for the next annual disbursement of Grant Funds;

(h) CI's receipt of a Legal Opinion of counsel for Jax, dated as of the date of the Grant Request, substantially in the form set forth in Exhibit 6; and

(i) CI's receipt of a Certification of Jax that (a) Grant Funds have not been budgeted for and will not be utilized for activities that do not principally benefit or that are not directly related to the establishment or operation of Jax Genomic Medicine, and (b) no Grant Funds have been budgeted to be used for the purpose of lobbying any branch or agency of state government or any political subdivision of Connecticut, or for any political purpose.

## **ARTICLE 9**

### **REPRESENTATIONS AND WARRANTIES OF JAX**

Jax represents and warrants to CI on the date hereof and as of each Funding Date that, except as set forth in the Disclosure Letter dated as of the date of this Agreement or as of the applicable Funding Date, as the case may be:

9.1. Existence and Qualification. Jax has been duly incorporated or organized and is validly existing as a not-for-profit corporation under the laws of the jurisdiction in which it is chartered. Jax is in good standing under the laws of the jurisdiction in which it is chartered and is duly qualified to do business as a foreign corporation under the laws of each jurisdiction which requires such qualification wherein it owns or leases properties or conducts business, except in such jurisdictions in which the failure to be so incorporated or organized and validly existing or to so qualify, in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Jax does not have any Affiliates other than those listed on Schedule 9.1.

9.2. Corporate Power. Jax has full corporate power to own or lease its properties and conduct its operations and has full corporate power to enter into this Agreement and to carry out all the terms and conditions hereof.

9.3. Board of Trustees. The Board of Trustees and officers of Jax are empowered to make all business decisions with respect to Jax, and such Board of Trustees has not delegated, whether by contract or through its Articles of Incorporation or by-laws, any of its powers to

manage or operate Jax to any Person, except to the extent such Board of Trustees has delegated some of its powers to its Executive Committee and its Audit Committee, or other committees it is permitted to establish consistent with Maine nonprofit corporation law.

9.4. Independent Accountant. KPMG, or another accounting firm reasonably acceptable to CI and selected by Jax as the auditors for Jax in the future, is or will be, as the case may be, an “independent” public accountant with respect to Jax within the meaning of such term in the Securities Act of 1933, as amended (the “Securities Act”), and the applicable rules and regulations thereunder. Notwithstanding the application of such definition, Jax is not representing that its activities are governed by the Securities Act.

9.5. Financial Statements; Compliance with GAAP. The financial statements (including the schedules and notes thereto) of Jax at May 31, 2011 and for the twelve months then ended, fairly present in all material respects the financial position of Jax, and its results of operations as of the dates and for the periods specified therein; since the date of such financial statements, there has been no change nor any development or event involving a prospective change which has had or would reasonably be expected to have a Material Adverse Effect; and such financial statements have been prepared in accordance with GAAP consistently applied throughout the periods involved (except as otherwise expressly noted in the notes thereto).

9.6. Internal Accounting; Records. Jax maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

9.7. Due Authorization; Enforceability. This Agreement has been duly authorized, executed and delivered by Jax and constitutes a valid and binding agreement of Jax, enforceable against Jax in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors’ rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

9.8. Consents; Approvals; Compliance with Agreements. The authorization, execution and delivery of this Agreement and the performance, as of the date hereof, of the Agreement by Jax do not (i) require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over any of Jax or its assets or properties, except for consents, approvals, authorizations, orders, registrations or qualifications of, or filings with, any governmental authority in connection with the temporary or permanent facilities for Jax Genomic Medicine, except for such filings as may be necessary or appropriate to perfect the Security Interest, or except where the failure to obtain such consents, approvals, authorizations, orders, registrations or qualifications, or make such filings, would not reasonably be expected to have a Material

Adverse Effect; or (ii) conflict with, result in a breach or violation of, or constitute a default under, (a) any contract, indenture, mortgage, deed of trust or loan or credit agreement, note, lease or other agreement or instrument to which Jax is a party or by which Jax or any of its properties is bound, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Material Adverse Effect, or (b) the charter or bylaws of Jax, or (c) any statute, rule or regulation or any judgment, order or decree of any governmental authority or court or any arbitrator applicable to Jax, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Material Adverse Effect.

9.9. No Proceedings or Investigations. No legal or governmental proceedings or investigations are pending or, to the knowledge of Jax, threatened to which Jax is a party or to which the property of Jax is subject, except for such proceedings or investigations that would not reasonably be expected to have a Material Adverse Effect.

9.10. Solvency. After giving effect to the Grants and the execution, delivery and performance of this Agreement, and excluding the amount of the Loans in calculating Jax's liabilities, Jax will not be (i) insolvent, (ii) left with unreasonably small capital with which to engage in its anticipated operations, or (iii) incurring debts or other obligations beyond its ability to pay such debts or obligations as they become due.

9.11. ERISA Compliance. No "prohibited transaction" (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"), or Section 4975 of the Code or "accumulated funding deficiency" (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(c) of ERISA (other than events with respect to which the 30-day notice requirement under Section 4043 of ERISA has been waived)) has occurred, exists or is reasonably expected to occur with respect to any employee benefit plan (as defined in Section 3(3) of ERISA) that Jax maintains, contributes to or has any obligation to contribute to, or with respect to which Jax has any liability, direct or indirect, contingent or otherwise (a "Plan"), which would reasonably be expected to have a Material Adverse Effect; each Plan is in compliance with applicable law, including ERISA and the Code, except where non-compliance would not reasonably be expected to have a Material Adverse Effect; Jax has not incurred and does not expect to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any Plan, which liability would reasonably be expected to have a Material Adverse Effect; and each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would reasonably be expected to cause the loss of such qualification, except where such action or failure to act would not reasonably be expected to have a Material Adverse Effect

9.12. No Merger or Dissolution. No proceeding looking toward merger, amalgamation, consolidation, liquidation or dissolution of Jax, or the sale of all or substantially all of the assets of Jax is pending or contemplated.

9.13. Intellectual Property. Jax represents and warrants as follows:

(a) it shall be either the sole owner or a joint owner of all rights, title and interest in and to the Intellectual Property;

(b) it has the full right to grant the licenses as set forth under the Intellectual Property License in connection with the Intellectual Property;

(c) it has not engaged in any activity which would constitute a misappropriation of any third party proprietary information in the conception, reduction to practice, design, development, or the like, of any Intellectual Property; and

(d) to its knowledge, it will own or otherwise possess all necessary rights and licenses to carry out its operations at the Facility and the Temporary Facility and the carrying out of such operations, including but not limited to the manufacture, use, importation, offer for sale or sale of any equipment, apparatus, processes and/or methods, will not infringe any third party intellectual property rights or otherwise be deemed as misappropriation of any third party intellectual property rights.

9.14. Insurance. Jax is insured by insurers of recognized financial responsibility against such losses and risks, in such amounts, and with such deductibles as are prudent for the operations in which it is engaged; and Jax has no reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its operations at a cost that would not reasonably be expected to have a Material Adverse Effect.

9.15. Governmental Approvals. Jax possesses all certificates, authorizations and permits (collectively, "Governmental Licenses") issued by the appropriate federal, state, local, provincial or foreign regulatory authorities necessary to conduct its operations, except where the failure to have such Governmental Licenses would not reasonably be expected to have a Material Adverse Effect; Jax is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not reasonably be expected to have a Material Adverse Effect; and all of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to have a Material Adverse Effect; and Jax has not received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit that would reasonably be expected to have a Material Adverse Effect.

9.16. Compliance with Environmental Law and Permits.

(a) Jax is and has been in compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, judgments, decisions, decrees, standards, and requirements (collectively, "Legal Requirements") relating to: pollution or protection of human health and safety from pollution; management, disposal or release of any chemical substance, product or waste; and protection, cleanup, remediation or corrective action relating to the environment or natural resources (collectively, "Environmental Law");

(b) Jax has obtained and is in compliance with the conditions of all permits, authorizations, licenses, approvals, and variances necessary under any Environmental Law for the continued conduct in the manner now conducted of its operations (collectively, "Environmental Permits");

(c) There are no past or present conditions or circumstances, including, but not limited to, pending changes in any Environmental Law or Environmental Permits, that are likely to interfere with the conduct of the operations of Jax in the manner now conducted or which would interfere with compliance with any Environmental Law or Environmental Permits; and

(d) There are no past or present conditions or circumstances at, or arising out of, the operations, assets and properties of Jax or any operations, assets or properties formerly leased, operated or owned by Jax, including, but not limited to, on-site or off-site disposal or release of any chemical substance, product or waste, which may give rise to: (i) liabilities or obligations of Jax for any cleanup, remediation or corrective action under any Environmental Law; (ii) claims against Jax arising under any Environmental Law for personal injury, property damage, or damage to natural resources; (iii) liabilities or obligations incurred by Jax to comply with any Environmental Law; or (iv) fines or penalties against Jax arising under any Environmental Law;

except in the case of each of (a), (b), (c) or (d), for any non-compliance or condition or circumstance that would not reasonably be expected to have a Material Adverse Effect.

9.17. No Default. No default exists, and no event has occurred that, with notice or lapse of time or both, would constitute a default in the due performance and observation of any term, covenant or condition of any indenture, mortgage, deed of trust, lease or other agreement or instrument to which Jax is a party or by which Jax or any of its properties is bound which, after notice or lapse of time or both, would reasonably be expected to have a Material Adverse Effect.

9.18. Tax Compliance. Jax has filed all foreign, federal, state, provincial and local tax returns that are required to be filed or have requested extensions thereof and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith and for which Jax retains adequate reserves and except in each case for any noncompliance that would not reasonably be expected to have a Material Adverse Effect. Jax has received a determination from the Internal Revenue Service that it meets the requirements of Section 501(c)(3) of the Code, and Jax is in material compliance with the terms of such determination.

9.19. Labor Matters. No labor dispute with the employees of Jax exists or, to the knowledge of Jax, is threatened or imminent, which would reasonably be expected to have a Material Adverse Effect, and Jax is not aware of any existing or imminent labor disturbance by the employees of Jax's principal suppliers, manufacturers, customers or contractors, which would reasonably be expected to have a Material Adverse Effect.

9.20. Compliance with Grant Requests. Jax is in compliance with the terms, conditions, rules, mandates and policy guidelines pertaining to all applicable federal, state and private financial grants, sponsored research agreements and funding contracts from which Jax derives revenue, including, but not limited to, all related financial and progress reporting and

disclosure requirements, except for any non-compliance that would not reasonably be expected to have a Material Adverse Effect.

9.21. License, Compliance with Law. Jax is and has at all times been in compliance with all federal, state, local, provincial and foreign laws, statutes, ordinances, rules, regulations, decrees, orders, and permits applicable to the operation of Jax's facilities and the conduct of its research activities and operations, including, without limitation, to the extent applicable, (a) Medicare, Medicaid, other federal, state and local health care and reimbursement laws and regulations, (b) insurance laws and regulations and (c) licensing and certificate laws and regulations covering any aspect of the operations of Jax, except, in each case, where such non-compliance would not reasonably be expected to have a Material Adverse Effect. Jax has not received any notification asserting, and has no knowledge of, any present or past failure to comply with, or any violation of, such laws, statutes, ordinances, rules, regulations, decrees, orders, and permits, except where such non-compliance or violation would not reasonably be expected to have a Material Adverse Effect.

## **ARTICLE 10**

### **REPRESENTATIONS AND WARRANTIES OF CI**

CI represents and warrants to Jax on the date hereof as follows:

10.1. Due Organization. CI has been duly incorporated and is validly existing as a quasi-public agency under the laws of Connecticut. CI is in good standing under the laws of Connecticut.

10.2. Corporate Power. CI has full corporate power to own or lease property and conduct its operations, and to enter into this Agreement and to carry out all the terms and provisions hereof.

10.3. Due Authorization. This Agreement has been duly authorized, executed and delivered by CI and constitutes a valid and binding agreement of CI, enforceable against CI in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

10.4. Consents; Approvals. The authorization, execution and delivery of this Agreement and the performance of the Agreement by CI do not (i) require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over CI or its assets or properties, except for such consents as are being obtained concurrently with the execution of this Agreement, or (ii) conflict with, result in a breach or violation of, or constitute a default under, (a) any contract, indenture, mortgage, deed of trust or loan or credit agreement, note, lease or other agreement or instrument to which CI is a party or by which CI or any of its properties is bound, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Funding Material Adverse Effect, or (b) any statute, rule or regulation or any judgment, order or decree of

any governmental authority or court or any arbitrator applicable to CI, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Funding Material Adverse Effect.

## **ARTICLE 11** **COVENANTS OF JAX**

11.1. Treatment of Jax Genomic Medicine as a Separate Segment for Accounting Purposes. All revenue and expenses of Jax Genomic Medicine shall be accounted for separately from the revenue and expenses of Jax's other operations. Jax shall provide audited financial statements for Jax, and agreed upon procedures for Jax Genomic Medicine. Jax shall develop a reasonable and adequate cost allocation methodology with respect to the Grant Funds and shall explain such methodology to CI and provide such documentation with respect to the application of such methodology to CI as is sufficient for CI to be able to meet its monitoring obligations under this Agreement. In addition, Jax shall establish and maintain segregated accounts for any and all Grant Funds so that the receipt and use of the Grant Funds can be easily identified.

11.2. Financial Information. Jax shall furnish the following reports to CI.

(a) As soon as reasonably practicable after the end of each fiscal year of Jax, starting with the fiscal year of 2012, and in any event within six (6) months thereafter, an audited consolidated balance sheet of Jax and any Affiliates as at the end of such fiscal year, and audited consolidated statements of activities and cash flows of Jax and any Affiliates for such year prepared in accordance with GAAP and setting forth in each case in comparative form the figures for the previous year, all in reasonable detail and accompanied by an independent auditors' report from independent public accountants of recognized national standing selected by Jax. For the fiscal year of 2011, Jax shall provide an audited consolidated balance sheet of Jax and any Affiliates covering the last seven (7) months of 2011 as soon as reasonably practicable, and in any event by June 30, 2012. The audit shall be conducted in accordance with Generally Accepted Auditing Standards, as applicable at the time of such audit. In addition, the schedules to the audited financial statements shall (i) include such additional schedules as are required so that the audited financial statements comply with U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and (ii) include additional schedules that set forth the assets and liabilities, and revenues and expenses of Jax Genomic Medicine separately from those of the rest of Jax. Agreed upon procedures shall be performed on revenues, receipts, expenses and equipment purchases for Jax Genomic Medicine.

(b) As soon as reasonably practicable after the end of the first, second, and third quarterly accounting periods in each fiscal year of Jax, and in any event within sixty (60) days thereafter, an unaudited consolidated balance sheet of Jax and any Affiliates, as of the end of each such quarterly period, and unaudited consolidated statements of activities of Jax and any Affiliates for the current fiscal year to date, prepared in accordance with GAAP and setting forth in comparative form the figures for the corresponding periods of the previous fiscal year, subject to changes resulting from normal year-end audit adjustments, all in reasonable detail and certified by the principal financial officer or accounting officer of Jax, except that such financial statements need not contain the notes required by GAAP. To the extent that Jax already prepares

similar information for other purposes, CI shall accept such similar information in substitution for that required herein.

11.3. Annual Report. Jax shall prepare the Annual Report for Jax Genomic Medicine each year and deliver such Annual Report to CI by March 1 of each year. The Annual Report shall include, but not be limited to, the following information:

(a) an accounting of the expenditures of Grant Funds during the previous fiscal year (the "Report Year") and financial commitments made by Jax during the Report Year;

(b) data regarding the activities and performance of Jax Genomic Medicine during such Report Year and detailing the progress of Jax in meeting its Business Plan, including but not limited to:

(i) information on the number and salary level of Employees and Senior Scientists created by Jax within Jax Genomic Medicine, including the number and salary level of jobs created for residents of Connecticut and the Average Annual Wage paid to Employees for the Report Year;

(ii) a description of the status of the performance expectations set forth in Section 11.5 of this Agreement;

(iii) information on the positions of Employees and funds required to be committed for equipment for such positions by means of the next annual disbursement of Grant Funds;

(iv) commencing with the Annual Report for the 2012 Report Year and ending with the Report Year after which Jax has moved Jax Genomic Medicine operations to the Facility and such facility is fully operational, a description of the status of Jax's relocation to the Facility and the progress of construction activities for the Facility, as described in the Business Plan, including a projected date for and status of Jax's occupancy of the Facility;

(v) commencing with the Annual Report for the Report Year during which Jax commences activities at the Facility, a description of the status of Jax's activities in the Facility, including its educational and outreach programs;

(c) a schedule of the shares of stock (or other securities) held by Jax as payment of the royalty referred to in Article 12 and a report on any trades or activity concerning such stock (or other securities);

(d) a report regarding the status of activities and programs contemplated by the Collaborative Research Agreement; and

(e) such internal information regarding Jax Genomic Medicine as CI may reasonably request to confirm Jax's compliance with the terms of this Agreement

With respect to the information required by this Section 11.3, Jax may, where feasible, comply with one or more of these reporting standards by submitting to CI copies of information

submitted by Jax to the federal government or to other organizations awarding research grants to Jax, if such information satisfies the reporting standards of this Section 11.3. Jax shall provide information reasonably requested by CI to assist their completion of the reports required by the Act, including the required reporting by CI on:

(i) information on the amount and nature of economic activity generated through the activities of Jax Genomic Medicine; and

(ii) an assessment of factors affecting the progress toward achieving the projected biotech industry cluster associated with Jax Genomic Medicine operations, as projected by economists on behalf of the Connecticut Department of Economic and Community Development.

11.4. Annual Science Report. Jax shall prepare the Annual Science Report that describes its scientific activities for Jax Genomic Medicine each year and make such annual report available to CI within one hundred twenty (120) days after the end of each fiscal year of Jax. The form of the annual report will be substantially similar to the form Jax uses at such time with respect to its Maine operations. A copy of the annual report Jax currently uses with respect to its Maine operations is attached hereto as Exhibit 9.

11.5. Performance Expectations. Jax shall report to CI not less than annually on its progress in meeting certain performance expectations that reflect the aspirations of the Connecticut Governor and the General Assembly for the benefits accruing to Connecticut as a result of the Loans and the Grants. These reports shall include, but are not limited to, performance expectations addressing the following with respect to Jax Genomic Medicine:

(a) the number and dollar value of research grants obtained by Jax with respect to Jax Genomic Medicine from the federal government or sources other than Connecticut;

(b) patents and licensing agreements obtained by Jax with respect to Jax Genomic Medicine, and any other indications that research conducted by Jax Genomic Medicine has resulted in commercial applications;

(c) collaborative agreements reached and maintained with colleges and universities in Connecticut and with research institutions in Connecticut, including agreements that foster participation in research opportunities by public and private colleges and universities and research institutions in Connecticut;

(d) collaborative partnerships established and maintained with businesses in Connecticut, including small businesses;

(e) the total amount of funding received by Jax with respect to Jax Genomic Medicine from sources other than CI, including a breakdown of amounts received from grants and from other sources;

(f) spin-off businesses created in Connecticut as a result of commercialization of the research of Jax Genomic Medicine;

- (g) businesses that locate in Connecticut as a result of Jax Genomic Medicine;
- (h) the establishment and implementation of policies to promote minority, local and small business participation using the guidelines developed by the State of Connecticut; and
- (i) the establishment and implementation of a program to conduct workforce recruitment activities at public and private colleges and universities and community colleges in Connecticut, regardless of their size, which request the participation of Jax.

11.6. Jax to Use Reasonable Best Efforts. Jax shall use its reasonable best efforts to operate Jax Genomic Medicine in accordance with the terms of this Agreement, in accordance with all applicable laws, in accordance with applicable policies and mandates of the federal agencies and related entities that provide Jax with financial grants, and in general in a manner that is cost efficient and that Jax believes will result in the greatest benefit to the public and the residents of Connecticut from Jax's use of the Grant Funds. Jax shall also implement and maintain internal controls and compliance procedures with respect to Jax Genomic Medicine.

11.7. Tax Status and Returns.

(a) Jax shall not take any action that is reasonably likely to cause it to lose its tax exempt status granted by the Internal Revenue Service pursuant to Code Section 501 (c)(3); and

(b) Jax shall at all times comply with the Tax Compliance Requirements attached hereto as Schedule 11.7(b) and made a part of this Agreement so as to ensure the maintenance of the tax-exempt status of the Bonds;

(c) Jax shall prepare or cause to be prepared all tax returns and statements, if any, that must be filed on behalf of Jax with any taxing authority and shall make timely filing thereof and pay any amount due to any such taxing authority in a timely manner except for such amounts as are being contested in good faith by Jax. Such returns and statements, as filed, shall be correct in all material respects. Further, Jax shall prepare or shall cause to be prepared all tax statements, if any, that must, by law, be provided to any employee or other person and shall timely deliver such statements to such persons.

11.8. Jax to Proceed Diligently to Implement its Business Plan. Jax shall proceed diligently with implementing a plan to hire, associate or retain professors, associate professors, assistant professors, research faculty, staff scientists, research associates, post-doctoral students and administrative personnel within the time periods provided in the Business Plan.

11.9. Employment Issues with respect to Jax Genomic Medicine.

(a) Jax shall be an equal opportunity employer and shall comply with the Specific State Law Requirements attached hereto in Schedule 17.15 and made a part hereof;

(b) to the extent consistent with applicable law, Jax-Genomic Medicine shall maintain a policy of awarding preference in employment of Employees to residents of

Connecticut, except for professional scientific staff positions requiring a doctoral degree, postdoctoral training positions, and graduate student positions; this policy means that when two candidates are otherwise equally qualified, Jax will give preference to the candidate who is a Connecticut resident;

(c) Jax shall use the Connecticut Job Central System operated by the Connecticut Department of Labor as a non-exclusive means of advertising employment opportunities; and

(d) Jax shall enter into a Community Workforce Agreement for the construction of the Facility, acceptable to CI.

11.10. Vendors. To the extent consistent with applicable law, Jax shall maintain a policy of making purchases from vendors in Connecticut, with respect to Jax Genomic Medicine, to the extent it is cost-effective, schedule appropriate and scientifically sound.

11.11. Job Creation. On or before the Maturity Date, or the Extended Maturity Date, if applicable, Jax shall fulfill the Employment Obligation.

11.12. Insurance. Jax shall purchase property and liability insurances for Jax Genomic Medicine in such amounts and with such coverage levels and with such deductibles as are prudent for the operations in which it is engaged. Jax shall cause CI to be named as an additional insured on such insurance policies. Jax shall maintain all required insurance in amounts, form, substance and quality reasonably acceptable to CI, as described more fully on Schedule 11.12 attached hereto and made a part hereof. An Accord 27 Certificate or equivalent evidencing such insurance with CI as loss payee and additional insured shall be delivered to CI at the time of the execution of this Agreement, and annually for the duration of this Agreement

11.13. Other Reports. Jax shall, upon request of CI, make available to CI a copy of or access to review each report Jax prepares with respect to Jax Genomic Medicine for federal and state funding sources, private donors and others; provided, however, that Jax shall not be required to provide CI copies or access to any reports where to do so would cause Jax to violate a confidentiality obligation it has to another person and provided further that CI agrees to maintain the confidentiality of information contained in such reports that Jax determines to be confidential and/or proprietary.

11.14. Compliance Assessment and Audit. The parties acknowledge and agree that CI shall have the right to review the activities of Jax Genomic Medicine to assess Jax's operational compliance with the terms of this Agreement and with relevant provisions of law, and shall have the right to engage a third party auditor to review the audit results and work product of the independent accountant appointed by Jax in accordance with Section 9.4 to confirm compliance with this Agreement. If, at any time, Jax has been shown to have expended or disbursed Loan or Grant Funds for activities that do not principally benefit or that are not directly related to the establishment or operation of Jax-Genomic Medicine, without the consent of CI, or if Jax is otherwise declared to be in Material Default or a Jax Default under Section 14.3(b) hereof, which has not been cured pursuant to this Agreement, then CI may require Jax to implement a plan of action to take corrective measures to restore compliance with this Agreement. CI's rights under

this Section 11.14 to conduct financial reviews and programmatic monitoring shall expire upon Jax's submission of the final Annual Report required hereunder, or one year after the final disbursement to Jax, whichever is later. Notwithstanding the foregoing, CI (or its successor) shall retain the right to conduct such financial reviews and obtain such reports from Jax as are reasonably necessary to verify Jax's compliance with the Reinvestment obligations herein.

11.15. Compliance with Applicable Laws. Jax shall comply with all applicable Federal and state laws in all material respects.

11.16. Jax Not to Pledge Equipment, Materials or Supplies. Until such time as the Loans have been forgiven, Jax shall not pledge, grant a security interest in, or otherwise encumber any equipment, materials or supplies it purchases with Loans or Grant Funds unless such pledge or encumbrance is necessary to comply with Jax's federal financial grants, without the prior approval of CI. Notwithstanding the foregoing, Jax shall be permitted to agree contractually to share royalty revenues with third parties as long as the terms of such agreements do not conflict with Jax's obligations under the Intellectual Property License or Article 12 of this Agreement.

11.17. Relocation of Equipment, Materials or Supplies. Jax shall not remove or relocate to a location outside the State of Connecticut any of the equipment, materials or supplies at Jax Genomic Medicine that have a value of over \$5,000 and that were purchased with Grant Funds; provided, however, nothing contained herein shall prohibit Jax from disposing of used and/or obsolete equipment, materials or supplies in the ordinary course of business.

## **ARTICLE 12**

### **REINVESTMENT OF GRANT FUNDS**

12.1. Reinvestment of Grant Funds. In consideration of the Loans and the Grants, Jax shall remit to CI for further remittance to the Fund, a portion, computed in accordance with Section 12.2, of its Net Royalty Revenue, Net Lump Sum Consideration, Net Extraordinary Revenue, and Net Direct Margin as described in Section 12.3.

12.2. Computation of Reinvestment Amount.

(a) The Reinvestment Amount shall be computed as follows:

(i) Jax shall pay to CI ten percent (10%) of all Net Royalty Revenue received by Jax; provided however, that if aggregate Net Royalty Revenue and Net Direct Margin received by Jax in any calendar year exceed three million dollars (\$3,000,000), Jax shall remit to CI fifty percent (50%) of the amount by which Net Royalty Revenue exceed three million dollars (\$3,000,000) in such year;

(ii) Jax shall pay to CI ten percent (10%) of any Net Lump Sum Consideration received by Jax; provided, however, that if aggregate Net Lump Sum Consideration received by Jax in any calendar year exceeds three million dollars (\$3,000,000), Jax shall remit to CI fifty percent (50%) of the amount by which Net Lump Sum Consideration exceeds three million dollars (\$3,000,000) in such calendar year;

(iii) Jax shall pay to CI fifty percent (50%) of any Net Extraordinary Revenue received by Jax; and

(iv) Jax shall pay to CI a commercially reasonable and fair market value royalty percentage of Net Direct Margin wherein the Parties will negotiate such royalty rate in good faith taking into account the proportional contribution of the Intellectual Property to the products, apparatus, processes and/or methods that generate the Net Direct Margin and the CI share of Net Royalty Revenue described in Section 12.2(a)(i) above.

(b) If Jax shall fail in any successive two (2) year period to achieve all of the revenue, expenditure and other operating support line targets in the Annual Budget for the preceding two years by more than 35%, as determined by CI's review of the applicable Annual Reports, and such failure is not attributable to a Funding Material Adverse Effect, the percentage of Net Royalty Revenue to be paid to CI under Section 12.2(a)(i) thereafter shall be increased from ten percent (10%) to fifteen percent (15%) unless and until Jax has subsequently achieved such targets prior to the Royalty Commencement Date.

(c) As between JAX and CI, Jax may use the balance of all Royalty Revenues, Lump Sum Payments, Extraordinary Revenue, and Direct Margin, after payments computed in accordance herewith, for its institutional purposes.

#### 12.3. Timing of Reinvestment Payments.

(a) When Jax receives Royalty Revenue, Lump Sum Consideration, Extraordinary Revenue or Direct Margin in cash, the amount to be remitted for deposit in the Fund shall be computed by Jax in accordance with Section 12.2 and paid to CI within thirty (30) days after the end of the Jax fiscal year in which such amounts were received. At the time such payment is made, Jax shall provide to CI supporting documentation and calculations that explain how such amount was calculated.

(b) When Jax receives Royalty Revenue, Lump Sum Consideration, Extraordinary Revenue or Direct Margin in the form of a cash alternative (including Funding Securities or similar instruments), Jax shall promptly notify CI thereof. Jax shall retain such cash alternative until Jax liquidates it and, upon such liquidation, shall treat the proceeds as Royalty Revenue received in cash which are subject to Section 12.3(a), regardless of whether such liquidation occurs before or after the Royalty Commencement Date or before or after the Royalty Cessation Date or before or after the expiration or termination of this Agreement.

(c) If, during the first ten years of this Agreement, CI recognizes a windfall amount of money from the payment by Jax to CI of the Reinvestment Amount as computed pursuant to Section 12.2 hereof, upon a request from Jax, CI shall consider but shall not be obligated to remit a portion of such windfall amount to Jax.

12.4. Survival of Certain Rights. The Reinvestment payment obligation shall survive the expiration or other termination of this Agreement with respect to revenues described in Section 12.2 that are not received by Jax when due and payable but are received after the expiration or termination of the Agreement. Notwithstanding such survival, CI acknowledges that the actual amount of Jax's obligation to make Reinvestment payments will depend on the

amounts of Net Lump Sum Consideration, Net Extraordinary Revenue, Net Royalty Revenue and Net Direct Margin that are actually received by Jax after the expiration or termination of the Agreement.

12.5. CI Representation on Jax Intellectual Property Committee. During the term of this Agreement and until the Royalty Cessation Date, Jax will permit a representative of CI to attend and participate in all meetings of the Jax Intellectual Property Committee or equivalent group, board or committee which reviews the development of all Intellectual Property and makes decisions for Jax regarding whether to patent Intellectual Property and to enforce Jax's rights in the Intellectual Property. The access of the representative of CI shall be subject to such representative's agreement to confidentiality and non-disclosure conforming to the policies established by Jax.

12.6. CI Right to Participate in Jax Intellectual Property Ventures. From the Effective Date until the Royalty Cessation Date, CI shall have a right of first refusal to invest pre-seed money in any venture to which Jax is a party, which venture requires pre-seed money and proposes or is intended to commercialize any of the Intellectual Property.

### **ARTICLE 13** **INSPECTION OF JAX'S RECORDS**

13.1. Records to be Kept. During the term of this Agreement and thereafter, where indicated, Jax shall keep at either its Connecticut or Maine office:

- (a) A current list of the full name and last known business, resident or mailing address of each member of the Board of Trustees, the Executive Committee and the Audit Committee;
- (b) Copies of this Agreement and all amendments hereto;
- (c) Copies of Jax's income tax returns and reports, if any, for the five (5) most recent years;
- (d) Copies of all financial statements and financial records of Jax Genomic Medicine for the five (5) most recent years; and
- (e) During the term of this Agreement and for five (5) years after the latter of submission of the final Report or Royalty Cessation Date (or such other period provided by federal law), Jax (i) shall retain all Grant records, and (ii) shall ensure the retention of its independent auditors' working papers. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five (5) year period (or such other period provided by federal law), the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the five (5) year period (or such other period provided by federal law), whichever is later.

13.2. Inspection of Jax's Records. At any time after a Material Default, or a Jax Default that has not been resolved pursuant to Section 14.3(b) hereof, has occurred and is continuing, the accounting books and records, the records of the Board of Trustees, and any other

records maintained by Jax and relating to Jax Genomic Medicine shall be open to inspection by CI upon the request of CI at any reasonable time during usual business hours. Such inspection by CI may be made in person or by agent or attorney, and the right of inspection includes the right to copy and make extracts. CI shall bear all expenses incurred in connection with any examination made by it or its representatives.

13.3. CI's Covenants Regarding Confidential and/or Proprietary Records of Jax. Subject to compliance with the Connecticut Freedom of Information Act, CI covenants and agrees that it shall at all times preserve and protect the confidentiality of any Jax documents and information deemed by Jax to be confidential and/or proprietary; provided, however, that confidential and/or proprietary information shall not include information which: (i) is or becomes generally available to the public other than as a result of a disclosure by CI or its representatives, (ii) was available to CI on a non-confidential basis prior to its disclosure to CI by Jax or its agents, or (iii) becomes available to CI on a non-confidential basis from a source other than Jax or its agents, provided that such source is not bound by a confidentiality agreement with Jax known to CI or its representatives. CI agrees it shall not copy or otherwise take possession of any Jax documents or records deemed by Jax to be confidential and/or proprietary unless and until Jax consents in writing.

#### **ARTICLE 14** **DEFAULTS BY JAX AND CI REMEDIES**

14.1. Events of Default by Jax. Each of the following shall constitute an event of default (each, a "Jax Event of Default") by Jax hereunder if so determined and declared by the affirmative vote of not less than two-thirds (2/3) of the entire number of members of the board of directors of CI:

(a) Any representation or warranty made by Jax in this Agreement, without regard to any matters set forth in the Disclosure Letter, shall prove to be false in any material respect as of the Effective Date or any Funding Date, and the effect thereof is a Material Adverse Effect;

(b) a breach by Jax of any term, covenant, obligation or agreement under this Agreement, the Facility Loan Note, the FF&E Loan Note, the Open-End Leasehold Mortgage Deed and the Security Agreement and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Jax, except for a breach of those provisions described in subsection (e) or (f) below;

(c) a "material default" shall have occurred under, and as defined in the Land Lease, which material default is not cured within the permitted cure period and would be reasonably expected to result in a Material Adverse Effect;

(d) a "material default," as defined in any of the Funding Documents, shall have occurred and be continuing under such Funding Documents, and such "material default" is not cured within the permitted cure period and would be reasonably expected to result in a Material Adverse Effect;

(e) Jax's loss of an amount of federal funding that would reasonably be expected to result in a Material Adverse Effect, loss of a license necessary for it to operate, suspension of an amount of federal funding for more than 120 days that would reasonably be expected to result in a Material Adverse Effect, or suspension of a license necessary for it to operate for more than 120 days;

(f) Jax's voluntary filing of or consent to a petition under any bankruptcy, insolvency, or reorganization law, Jax's failure to secure the dismissal of an involuntary bankruptcy petition within sixty (60) days of filing, or a determination by a court of competent jurisdiction that Jax is insolvent and unable to pay its debts when due;

(g) non-payment when due of any Reinvestment Amount required to be paid to CI for further remittance to the Fund and the continuance of such non-payment for a period of thirty (30) days after written notice thereof shall have been given to Jax;

(h) a breach by Jax of any material term under Sections 11.2, 11.3 or 11.4 of this Agreement and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Jax, unless such breach is immaterial (such as the failure by Jax to provide an immaterial amount of information required in a report due under Sections 11.2, 11.3 or 11.4) and Jax is using its reasonable best efforts to correct such breach;

(i) a breach by Jax of any material terms under Sections 11.16 or 11.17 of this Agreement and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Jax;

(j) a Grant Request contains a material misrepresentation;

(k) Jax having Ceased Operations in Connecticut or having failed to make a requested commitment in writing to remain in Connecticut for the next year;

(l) Jax's loss, whether voluntarily or involuntarily, of its tax exempt status under Code Section 501(c)(3);

(m) Jax's material breach of any of the covenants or agreements under Section 11.7(b), which breach, in the opinion of the State Treasurer and bond counsel, endangers the tax-exempt status of the Bonds;

(n) Jax's failure to achieve the Employment Obligation set forth in Section 11.11; or

(o) a lien or attachment in the amount of \$5,000,000 or more is placed on the Facility, the FF&E or the Intellectual Property, which lien or attachment is not discharged, satisfied or bonded by Jax to the reasonable satisfaction of CI within forty-five (45) days after written notice thereof has been given to Jax.

14.2. Material Default by Jax. The Jax Events of Default set forth in Section 14.1 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) shall, at CI's option, constitute a Material

Default, if so determined and declared by the affirmative vote of not less than two-thirds (2/3) of the entire number of members of the board of directors of CI.

14.3. CI Remedies.

(a) Upon or at any time after the occurrence of a Material Default and while such Material Default continues to exist, CI may postpone, reduce or eliminate disbursement of the Loans or the Grants in that year. In addition, if the Material Default also constitutes a Security Interest Default, CI may exercise any right, power or remedy as set forth in Section 5.3 hereof and in any Funding Document as if the Loans have not been forgiven;

(b) Upon or at any time after the occurrence of an Jax Event of Default that is not also a Material Default, CI shall notify Jax that a Jax Event of Default has occurred, and advise Jax that it must promptly report to CI regarding the circumstances that led to the Jax Event of Default, how it plans to cure such Event of Default and the time frame in which such cure will take place. If the Jax Event of Default is not capable of cure, Jax shall promptly report to CI regarding the circumstances that led to the Jax Event of Default, the impact of the Jax Event of Default on Jax, and in particular, on Jax Genomic Medicine, and how Jax intends to mitigate any anticipated or actual adverse impact on Jax and Jax Genomic Medicine. Such reports to CI shall occur as promptly as possible after notification to Jax that a Jax Event of Default has occurred, and shall continue until the Jax Event of Default has been cured or until CI is reasonably satisfied that any Jax Event of Default that is not capable of being cured, cannot reasonably be expected to impede the ability of Jax to continue to operate Jax Genomic Medicine as contemplated by this Agreement. During this time period CI shall continue to make Loans and Grants hereunder as contemplated hereby. If Jax and CI are unable to resolve the Jax Event of Default within sixty (60) days, either by its cure or by CI's satisfaction that Jax can continue to operate Jax Genomic Medicine as contemplated by this Agreement, the Chairman of the Board of CI and the President of Jax shall promptly meet to attempt to resolve the Jax Event of Default. If they cannot resolve the Jax Event of Default within thirty (30) days, the dispute shall be submitted to non-binding mediation. If the Jax Event of Default is not resolved within thirty (30) days from the time the dispute is submitted to mediation, then CI may, in its sole option, postpone, reduce or eliminate disbursement of any and all future Loans or Grants by the affirmative vote of not less than two-thirds (2/3) of the entire number of members of the Board of Directors of CI.

(c) Notwithstanding whether a Material Default or a Jax Event of Default has occurred, Jax shall comply with the terms of the Intellectual Property License and the Reinvestment provisions in accordance with and subject to the terms and conditions of this Agreement.

14.4. No Waiver. No consent or waiver, express or implied, by CI to or of any breach or default by Jax in the performance by Jax of its obligations under this Agreement shall constitute a consent to or waiver of any similar breach or default by Jax. Failure by CI to complain of any act or omission to act by Jax, or to declare Jax in default, irrespective of how long such failure continues, shall not constitute a waiver by CI of its rights under this Agreement.

**ARTICLE 15**  
**DEFAULT BY CI AND JAX REMEDIES**

15.1. Events of Default by CI. So long as there is no Material Default by Jax under this Agreement, (a) any action taken by the Bond Commission to deauthorize the issuance of the Bonds, (b) the failure by the State of Connecticut to provide the bond proceeds contemplated by the Act to the Fund in accordance with the funding schedule contained in the Act, such that CI is not able to make the Loans and the Grants, or (c) assuming compliance by Jax with all conditions necessary to the advance by CI of the Loans or Grants, the failure of CI to make any required Loans or Grants hereunder shall constitute a CI Event of Default hereunder; provided, however, that CI shall have one hundred twenty (120) days from the date of any such event to cure such CI Event of Default.

15.2. Jax Remedies. Upon or at any time after the occurrence of a CI Event of Default which has not been cured as provided in Section 15.1 above, Jax shall be entitled to exercise any or all of the following remedies at its sole discretion:

- (a) all amounts then outstanding under the Loans shall be immediately forgiven;
- (b) the Open-End Leasehold Mortgage Deed and the Security Interest under the Security Agreement and the Collateral Assignment shall be immediately released by CI;
- (c) the CI/UHC Right to Purchase the Facility contained in Section 6.1 hereof shall be null and void;
- (d) the Intellectual Property License shall terminate;
- (e) the obligations of Jax to pay Reinvestment Amounts to CI contained in Section 12 shall immediately terminate for all amounts that would otherwise be due to CI after the CI Event of Default; and
- (f) all continuing covenants and obligations of Jax hereunder except as provided for in Section 15.3 hereof shall be released.

15.3. Jax Remedies Exclusive; Survival. The remedies contained in Section 15.2 above shall constitute Jax's sole and exclusive remedies against CI in the event of a CI Event of Default. Notwithstanding a CI Event of Default, Jax shall be required to follow the Right of First Offer provisions contained in Section 6.3 hereof, shall have a continuing obligation to abide by the Tax Compliance Covenants in Section 11.7(a) and 11.7(b) hereof, and shall be obligated under the Indemnity provisions of Section 16 hereof for events occurring prior to the date of the CI default.

15.4. No Waiver. No consent or waiver, express or implied, by Jax to or of any breach or default by CI in the performance by CI of its obligations under this Agreement shall constitute a consent to or waiver of any similar breach or default by CI. Failure by Jax to complain of any act or omission to act by CI, or to declare CI in default, irrespective of how long such failure continues, shall not constitute a waiver by Jax of its rights under this Agreement.

**ARTICLE 16**  
**INDEMNIFICATION OF CI BY JAX**

16.1. Scope of Indemnification. To the extent permitted by applicable law, Jax shall defend, indemnify and hold harmless CI and its employees, agents, officers, directors and consultants (each such person being referred to as an “Indemnified Party”) from and against any losses, penalties, fines, liabilities, settlements, damages, costs and expenses, suffered by an Indemnified Party in connection with any claim, investigation, litigation or other proceeding (whether or not CI is a party thereto) and the prosecution and defense thereof, arising out of or in any way connected with this Agreement or any other Funding Document or any claim related to the construction, equipping or operation of the Facility and Jax Genomic Medicine including without limitation reasonable attorney’s and consultant’s fees, except to the extent that any of the foregoing directly result from the willful misconduct of the party seeking indemnification therefor. The obligation of Jax to indemnify an Indemnified Party shall be secondary to any insurance coverage available to such Indemnified Party.

16.2. Indemnification Procedures. CI shall give notice to Jax of any losses incurred by any Indemnified Party that may be subject to indemnification under this Section 16 promptly after learning of any relevant third party claim or demand, and Jax shall have the right to assume the defense of such claim or demand with counsel reasonably satisfactory to the Indemnified Party. An Indemnified Party must assist Jax in its defense of any indemnifiable claim by promptly providing all relevant materials to Jax upon request. Jax will not be subject to any liability for any settlement of such claim or demand made by an Indemnified Party without the prior written consent of Jax (such consent not to be unreasonably withheld or delayed), and Jax will not be obligated to pay the fees and expenses of any separate counsel retained by CI or an Indemnified Party with respect to any claim or demand in which Jax has assumed defense of the claim. If Jax elects not to assume defense of such claim or demand against an Indemnified Party, Jax shall reimburse the Indemnified Party for any losses, penalties, fines, liabilities, settlements, damages, costs and expenses of the Indemnified Party within twenty (20) days of receiving written notice detailing the claimed amounts with supporting invoices.

**ARTICLE 17**  
**MISCELLANEOUS**

17.1. Notices. All notices and communications under this Agreement shall be in writing and shall be given by either (a) hand delivery, (b) certified mail, return receipt requested (postage prepaid), (c) reliable overnight commercial courier (charges prepaid), or (d) facsimile (with confirmation of transmission) to each of the parties as follows:

If to CI:

Connecticut Innovations, Incorporated  
999 West Street  
Rocky Hill, Connecticut 06067  
Attention: Chairman of the Board  
Fax: (860) 563-4877

With copies to:

Pullman & Comley, LLC  
850 Main Street  
Bridgeport, Connecticut 06604  
Attention: John F. Stafstrom, Jr., Esq.  
Fax: (203) 330-2089

If to Jax:

The Jackson Laboratory  
610 Main Street  
Bar Harbor, Maine 04609  
Attention: Chief Operating Officer  
and  
Attention: General Counsel  
Fax: (207) 288-6808

With a copy to:

Hogan Lovells US LLP  
Mellon Financial Center  
1111 Brickell Avenue, Suite 1900  
Miami, Florida 33131  
Attention: Carol A. Licko, Esq.  
Fax: (305) 459-6550

Notice shall be deemed to have been given and received: (i) if by hand delivery, upon receipted delivery; (ii) if by mail, three (3) calendar days after the date first deposited in the United States mail; (iii) if by overnight courier, on the date shown on the courier's receipt as the date of actual delivery, and (iv) if by facsimile, on the date shown on the confirmation of transmission. A party may change its address by giving written notice to the other party as specified herein.

17.2. Survival; Rights not Affected by Knowledge. All representations, warranties, covenants, and obligations in this Agreement and any Grant Request, Schedule, certificate or document delivered pursuant to this Agreement will survive the execution of this Agreement to the extent provided in Section 2.3 hereof. The right to any remedies granted in this Agreement will not be affected by any investigation conducted, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation.

17.3. No Implied Waiver. No party shall be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the party sought to be charged, and then only to the extent specifically set forth therein. A waiver shall not be construed as an amendment of this Agreement and a waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy on a subsequent event.

17.4. Partial Invalidity. The invalidity or unenforceability of any one or more provisions of this Agreement shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and

enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

17.5. Binding Effect. The covenants, conditions, and agreements contained in this Agreement shall bind, and the benefits thereof shall inure to, the parties hereto and their respective heirs, executors, administrators, successors and assigns.

17.6. Modifications. Jax and CI may supplement, extend, modify or terminate this Agreement by an instrument in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

17.7. Governing Law. This Agreement shall be governed by, and construed in accordance with, the substantive laws of the State of Connecticut without regard to conflict of laws. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF CONNECTICUT FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (a) ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT; AND (b) ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

17.8. Assignment. This Agreement and the rights and obligations hereunder may not be assigned by either CI or Jax, in whole or in part, without the prior written consent of the other party. Any purported or attempted assignment without such consent shall be void and of no force or effect; provided, however, that (a) Jax may assign this Agreement in its entirety, without obtaining such consent, to (i) any Affiliate of Jax, or (ii) any successor in interest to all or substantially all of the assets of Jax, if such successor assumes all rights and obligations hereunder, including the rights and obligations under the Funding Agreements, and further provided that any such successor in interest is not a Prohibited Occupant. CI may assign any or all of its rights and obligations under this Agreement without obtaining such consent, (a) to the University of Connecticut or another quasi-public agency of the State of Connecticut, if such successor assumes all concomitant right and obligations hereunder; or (b) to UCHC, pursuant to Section 6.4 hereof.

17.9. Counterparts. This Agreement may be executed in any number of counterparts by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

17.10. No Partnership. Nothing contained herein shall be deemed to create an equity investment on the part of CI in Jax, or a partnership or joint venture of the parties.

17.11. Entire Agreement. This Agreement, including the exhibits and schedules hereto, constitutes the entire agreement between CI and Jax with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No party hereto shall be liable or bound to the other in any manner by any

warranties, representations or covenants with respect to the subject matter hereof except as specifically set forth herein.

17.12. Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto and, solely with respect to the Reinvestment payments, CI and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein or in the Schedules or Exhibits hereto.

17.13. Titles and Subtitles; Form of Pronouns; Construction and Definitions. The titles of the sections and paragraphs of this Agreement are for convenience only and are not to be considered in construing this Agreement. All pronouns used in this Agreement shall be deemed to include masculine, feminine and neuter forms, the singular number includes the plural and the plural number includes the singular. Unless otherwise specified, references to an Article or Articles are to an Article or Articles in this Agreement. Unless the context otherwise requires, the term "including" shall mean "including, without limitation."

17.14. Costs. All costs incurred by CI (including legal and accounting fees) in connection with the negotiation and preparation of this Agreement, and by UCHC in connection with the Land Lease, the Temporary Facility Lease and related real estate, land use and environmental matters and which are approved by CI, up to a maximum of four hundred thousand dollars (\$400,000), shall be considered Funding Expenses and shall be paid from the Facility Loan. CI shall reimburse Jax for all expenses set forth in the Initial Budget and incurred during the Pre-Grant Period in connection with negotiation and preparation of this Agreement up to a maximum of five hundred thousand dollars (\$500,000).

17.15. Specific State Law Requirements. Throughout the term of this Agreement, Jax agrees to comply with all applicable State law requirements attached hereto as Schedule 17.15.

17.16. Further Assurances. Each Party will execute and deliver such documents, instruments and agreements and take such action as the other party may reasonably request and as may be reasonably necessary, proper or advisable, to the extent permitted by applicable law, to fulfill the purposes and intent of this Agreement.

17.17. Limitation on Recourse. Jax acknowledges that (a) CI is acting hereunder in connection with the fulfillment of its statutory obligation to administer the Fund, and (b) CI's obligations hereunder and/or relating hereto shall be limited to the extent of the assets of the Fund available for use and investment by CI. Nothing herein or with respect to the transaction contemplated hereunder shall be deemed to create or impose a general corporate obligation on CI regarding the obligations of the Fund, and Jax shall not have recourse against CI hereunder and/or relating hereto in excess of Fund assets available for use and investment by CI. All liabilities and obligations of CI under this Agreement are subject and limited to the funding available under Connecticut law.

17.18. Freedom of Information Act. CI is a "public agency" for purposes of the FOIA. Accordingly, this Agreement and information received pursuant to this Agreement will be considered public records and will be subject to disclosure under the FOIA, except for

information falling within one of the exemptions in Conn. Gen. Stat. § 1-210(b) or § 32-40(c). Because only the particular information falling within one of these exemptions can be withheld by CI pursuant to a FOIA request, Jax should specifically and in writing identify to CI the information that Jax claims to be exempt. Jax should further provide a statement stating the basis for each claim of exemption. It will not be sufficient to state generally that the information is proprietary or confidential in nature and not, therefore, subject to release to third parties. A convincing explanation and rationale sufficient to justify each exemption consistent with Conn. Gen. Stat. § 1-210(b) or § 32-40(c) must be provided.

Jax acknowledges that (1) CI has no obligation to notify Jax of any FOIA request received by CI, (2) CI may disclose materials claimed by Jax to be exempt if in CI's judgment such materials do not appear to fall within a statutory exemption, (3) CI may in its discretion notify Jax of FOIA requests and/or of complaints made to the Freedom of Information Commission concerning items for which an exemption has been claimed, but CI has no obligation to initiate, prosecute, or defend any legal proceeding, or to seek to secure any protective order or other relief to prevent disclosure of any information pursuant to an FOIA request, (4) Jax will have the burden of establishing the availability of any FOIA exemption in any such legal proceeding, and (5) in no event shall CI or any of its officers, directors, or employees have any liability for the disclosure of documents or information in CI possession where CI, or such officer, director, or employee, in good faith believes the disclosure to be required under the FOIA or other law.

17.19. Force Majeure. Notwithstanding any other terms contained in this Agreement, if Jax is prevented from: (i) achieving any funding requirement, job creation obligation or other covenant set forth herein by the dates set forth herein, (ii) occupying the Facility (including laboratory space within such facility) within five (5) years of entering this Agreement, or (iii) performing under the terms of this Agreement due to, acts of God, war, riot, terrorism, civil unrest, labor disturbances, or other similar events beyond the control of Jax, then all of the dates set forth in the Business Plan (including Schedules 3.1(a) and 3.1(b)) and the dates for performance of Jax's other obligations under this Agreement shall be extended by the number of days by which Jax was prevented from complying with the funding conditions or from performing its other obligations under the terms of this Agreement. In no event shall the extension be more than two (2) years. Upon the occurrence of a Force Majeure Event, CI shall continue to fund Jax at a level that permits it to sustain its then-current level of operations until the Force Majeure Event ceases and Jax is able to resume the timetable set forth in its Business Plan as adjusted based on the Force Majeure Event.

17.20. Delays. Notwithstanding any other terms contained in this Agreement, if Jax is prevented from: (i) achieving any funding requirement, job creation obligation or other covenant set forth herein by the dates set forth herein, (ii) occupying the Facility (including laboratory space within such facility) within five (5) years of entering this Agreement, or (iii) performing under the terms of this Agreement due to (a) an inability or failure by CI to disburse the Grants and Loans to Jax in accordance with the schedule set forth in the Business Plan, through no fault of Jax and for reasons beyond Jax's control; (b) an inability or failure by UCHC to deliver the Facility site as contemplated by the Facility Lease and in accordance with the time frame set forth in the Facility Lease, through no fault of Jax and for reasons beyond Jax's control; or (c) an inability or failure by Jax to obtain required permits and commence construction of the Facility

in accordance with the schedule set forth in the Business Plan and the Construction Schedule, through no fault of Jax and for reasons beyond Jax's control; (each, a "Delay Beyond Jax Control Event," then all of the dates set forth in the Business Plan (including Schedules 3.1(a) and 3.19(b)) and the dates for performance of Jax's other obligations under this Agreement shall be extended by the number of days by which Jax was prevented from complying with the funding conditions or from performing its other obligations under the terms of this Agreement. In no event shall the extension be more than two (2) years. Upon the occurrence of a Delay Beyond Jax Control, CI shall continue to fund Jax at a level that permits it to sustain its then-current level of operations until the Delay Beyond Jax Control ceases and Jax is able to resume the timetable set forth in its Business Plan as adjusted based on the Delay Beyond Jax Control.

17.21. Agreement Subject to Bond Commission Approval. All obligations of CI to make the Loans and Grants hereunder or to reimburse Jax for any expenses incurred prior to the Effective Date are contingent upon approval by the Bond Commission of the MOU. Notwithstanding any other provisions of this Agreement, (i) all of the rights and obligations of the parties hereunder and under the Funding Documents shall terminate, at the option of either CI or Jax, if the Bond Commission has not approved the MOU and the issuance of the Bonds by March 31, 2012, and (ii) each of CI and Jax shall take such further actions as may be necessary to effectuate such termination.

IN WITNESS WHEREOF, the undersigned have executed this Bioscience Collaboration, Operating and Funding Agreement as of the day set forth on the first page of this Agreement.

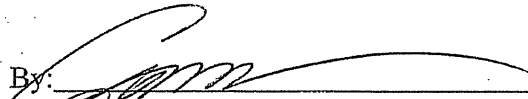
**THE JACKSON LABORATORY**

By:  \_\_\_\_\_

Name: Edison Tak Bun Liu, MD

Title: President and CEO

**CONNECTICUT INNOVATIONS,  
INCORPORATED**

By:  \_\_\_\_\_

Name: Catherine H. Smith

Title: Chairman of the Board

EXHIBIT 1

COLLATERAL ASSIGNMENT OF CONTRACTS, PERMITS AND LICENSES

**THIS COLLATERAL ASSIGNMENT OF CONTRACTS, PERMITS AND LICENSES** (hereinafter referred to as this "Assignment"), is made as of the 5<sup>th</sup> day of January, 2012, by **THE JACKSON LABORATORY**, a Maine non-profit corporation, ("Jax"), in favor of **CONNECTICUT INNOVATIONS INCORPORATED**, a quasi-public agency of the State of Connecticut ("CI"), and its permitted successors and/or assigns.

WITNESSETH:

**WHEREAS**, Jax has executed a Bioscience, Collaboration, Operating and Funding Agreement of even date herewith by and between Jax and CI (as it may be amended, renewed, replaced, restated or otherwise modified from time to time hereafter, the "Funding Agreement"), pursuant to which CI agreed to make a loan to Jax in the principal amount of ONE HUNDRED FORTY-FIVE MILLION AND 00/100 (\$145,000,000.00) DOLLARS (the "Facility Loan");

**WHEREAS**, the Facility Loan is made to finance the construction of a medical research facility in Farmington, Connecticut known as 299 and a portion of 266 Farmington Avenue as particularly described on Schedule A attached hereto and made a part hereof (the "Property"), and the Facility Loan will be secured by, among other documents, an Open-End Leasehold Mortgage Deed and Security Agreement (as it may be amended, renewed, replaced, restated or otherwise modified from time to time hereafter, the "Mortgage");

All capitalized terms in this Assignment otherwise defined herein shall have the meanings set forth in the Funding Agreement.

**WHEREAS**, CI will not make the Facility Loan based solely upon the covenants of Jax under the Funding Agreement, the promissory note that evidences the Facility Loan (as it may be amended, renewed, replaced, restated or otherwise modified from time to time hereafter, the "Note") and the other Funding Documents, but will require, as further collateral and security therefor, the conditional assignment from the Jax as hereinafter described;

**WHEREAS**, pursuant to Section 3.6 of the Funding Agreement, Jax shall provide CI with a Conditional Assignment of certain contractual rights in relation to construction of the medical research facility, and all capitalized terms in this Assignment not otherwise defined herein shall have the meanings set forth in the Funding Agreement;

**NOW, THEREFORE**, for the better securing of the performance of all obligations of Jax under or in connection with the Facility Loan, and all future advances under the Mortgage, and the Funding Agreement, and for other good and valuable consideration paid to Jax, the receipt and sufficiency of which are hereby acknowledged, Jax does hereby covenant and agree as follows:

1. Jax does hereby assign, grant, bargain and convey to CI, and grant to CI a security interest in all of Jax's right, title and interest in and to the following property of Jax, whether now owned or existing or hereafter acquired or arising, located in, on, pertaining to, or used or intended to be used in connection with the Property or resulting or created from the ownership, development or leasing, of the Property or any construction thereon:

(a) All building and other construction permits, surveys, architectural and engineering plans and specifications, certifications, studies and work product prepared and hereafter prepared relating to the design or construction of the improvements to be constructed on the Property (the "Improvements"), and governmental approvals, certificates of occupancy and completion, licenses, authorizations, insurance policies and the proceeds thereof, agreements with any utility companies, all deposits associated with the foregoing and any other consents and approvals which Jax may now or hereafter own with respect to or in connection with the construction of Improvements on the Property or any portion thereof, including, without limitation, all plans and specifications respecting the design and construction of the Improvements;

(b) All existing and future contracts in connection with the construction, development and maintenance of the Property or any portion thereof;

(c) All of the following personal property primarily relating to the Property: property management contracts, construction contracts, architectural contracts, contracts with third party service providers, engineering contracts, purchase orders, equipment leases, monies in escrow accounts derived from the proceeds of the Facility Loan, prepaid expenses, and abstracts of title; and

(d) All proceeds, products, replacements, additions, betterments, extensions, improvements, substitutions, renewals and accessions of any and all of the foregoing.

2. This Assignment shall be in full force and effect and fully operative as of the date hereof, but until the occurrence of a Material Default (as defined in the Funding Agreement) and subject to the provisions, limitations and provisions of the Funding Documents, Jax shall have the absolute, unfettered and exclusive right to take all actions with respect to the items assigned hereby to the extent not inconsistent with or prohibited by the terms of this Assignment. Upon the occurrence of a Material Default, CI may, at its option, exercise from time to time any and all rights and remedies available to CI under this Assignment, under any of the other Funding Documents, or under any other agreement or instrument relating to or arising out of the Facility Loan and, in addition, CI may (a) proceed to perform any and all obligations of Jax contained in any of the items assigned hereby and exercise any and all rights of Jax with respect thereto as fully as Jax itself could, and without regard to the adequacy of security for the indebtedness hereby secured and with or without the bringing of any legal action or the causing of any receiver to be appointed by any court, (b) take possession of all items assigned hereby reasonably required by CI in the exercise of its rights and remedies hereunder, and (c) do all other acts which CI may deem necessary or proper to protect its security. Jax hereby constitutes and appoints CI as its attorney-in-fact to take such actions and execute such documents from and

after the occurrence of any Material Default as CI may deem appropriate in the exercise of the rights and remedies of CI granted herein. The powers herein granted shall include, but shall not be limited to, the power to sue on the items assigned hereby, in the name of Jax or CI or both. The power of attorney granted hereby shall be irrevocable and coupled with an interest and shall terminate only upon the full and final payment of all sums due to the CI by Jax, the termination of all further obligations to make advances under the Loans, and the satisfaction of the Mortgage and Security Agreement, but CI shall not be entitled to take any actions under the power of attorney until a Material Default shall have occurred. Jax shall pay all of the reasonable costs and expenses incurred by CI in enforcing its rights hereunder, including reasonable attorneys' fees, paralegal fees and legal expenses through and including any appellate proceedings.

3. To protect the security of this Assignment, Jax agrees to give prompt notice to CI of any claim of default received by Jax under any of the items assigned hereby, together with a complete copy or statement of any information submitted or referenced in support of such claim.

4. Jax agrees that, until the occurrence of an event of Material Default, CI shall not be under any obligation to perform any of the terms and provisions under any of the items and matters assigned hereby and nothing contained herein shall be construed to impose any liability upon the CI by reason of the assignment granted hereby. Upon the occurrence of a Material Default and CI's exercise of its rights hereunder, CI shall be responsible for the performance of any and all obligations to perform in accordance with the terms of the assigned items above.

5. Jax represents and warrants to CI that Jax has full right and authority to make this Assignment and vest in the CI the security interest created hereby. Jax further represents and warrants to CI that Jax's right, title and interest under the items assigned hereby, together with all proceeds, profits and income arising out of or in connection with the items assigned hereby, have not been previously assigned or anticipated. Jax covenants with CI that it will not execute any other assignment of Jax's rights under the items assigned hereby relating to the Property or any other assignment of payments arising, accruing or becoming due under the items assigned hereby.

6. Upon an event of Material Default, Jax agrees to indemnify and hold CI harmless from and against any and all liability, loss, damage, cost and expense, including reasonable attorneys' fees, paralegal fees and disbursements through all appellate levels, which CI may or shall incur by reason of exercising its rights under this Assignment, and from and against any and all claims and demands whatsoever which may be asserted against CI by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants and conditions contained herein. The foregoing indemnity shall not apply to any demands, claims, civil or criminal actions or causes of action, damages, liabilities, obligations, costs, disbursements, expenses or fees directly resulting from the willful misconduct or gross negligence of CI.

7. Neither the existence of this Assignment nor the exercise of the privileges granted to CI shall be construed as a waiver by CI of its right to enforce the terms and provisions of the

Note, the Funding Agreement, the Mortgage and the other Funding Documents. All rights and remedies under this Assignment shall be cumulative with all other rights and remedies of CI.

8. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. This Assignment may only be assigned or transferred by the parties hereto in accordance with the assignment provisions in Section 17.8 of the Funding Agreement.

9. Neither this Assignment nor any provisions hereof may be modified or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the modification or termination is sought.

10. The parties agree that in all respects, including all matters of construction, validity and performance, this Assignment and the obligations arising hereunder shall be governed by, and construed in accordance with, the internal laws of the State of Connecticut without regard to principles of conflicts of law. This Assignment is a security agreement under the Connecticut Uniform Commercial Code for the purpose of creating a lien on the personal property described herein, and CI shall have all of the rights and remedies afforded under the Connecticut Uniform Commercial Code in addition to all other rights and remedies provided herein.

11. This Assignment shall become and be void and of no effect upon the earlier of the occurrence of (a) issuance of a certificate of occupancy for the Facility to Jax or (b) forgiveness of the Facility Loan as provided in the Funding Agreement, but the affidavit, certificate, letter or statement of any officer or attorney of CI showing that this Assignment is effective shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person may, and is hereby authorized to, rely thereon.

12. JAX AND CI HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS ASSIGNMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OR INACTIONS OF ANY PARTY; THIS IRREVOCABLE WAIVER BEING A MATERIAL INDUCEMENT FOR CI TO ACCEPT THIS ASSIGNMENT AND TO FUND THE FACILITY LOAN.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURE PAGE TO FOLLOW]



## SCHEDULE A

### LEGAL DESCRIPTION OF THE PROPERTY

#### 299 Farmington Avenue

Being the same premises (the "Phase 2 Premises") described in First American Title Insurance Company Commitment No. CTST1805350(B) dated November 17, 2011 and more particularly described as follows:

All that certain piece or parcel of land situated in the Town of Farmington of the County of Hartford, State of Connecticut, being Parcel B-2 on a map entitled "Plan of Sub-Division Land Owned By William Francis O'Meara, et al. Farmington Avenue Farmington, Connecticut Scale 1"=100' – June 1977 Certified Substantially Correct Edward F Reubin, Surveyor Hodge Surveying Associates P.C." and recorded as map C52-3292 of the Farmington Land Records and being the Phase 2 Premises on a map entitled "Proposed Lease Areas Map Within Land of the State of Connecticut To Be Granted To The Jackson Laboratory, Farmington Avenue – Connecticut Route 4, Farmington, Connecticut, Scale: 1"=50' – Date: December 28, 2011, Stein Survey" and being more particularly bounded and described as follows:

Beginning at a point being a south west corner of the Phase 2 Premises and being a southeast corner of land now or formerly of the Town of Farmington and being distant 70 feet southeast from the southeast highway line of Farmington Avenue;

Thence running along said Town of Farmington land, North 31°15'18" East, a distance of 518.78 feet to land now or formerly of the State of Connecticut and being Parcel A-2 on the hereinbefore referenced map to a point;

Thence turning and running along said State land South 11°01'52" East, a distance of 304.47 feet to a point;

Thence turning and running along said State land North 78°58'08" East, a distance of 328.58 feet to the southeast corner of said parcel A-2 and land now or formerly of the State of Connecticut to a point;

Thence turning and running along said State land South 11°01'52" East, a distance of 1030.57 feet to the south corner of said State land and land formerly of Martin J. O'Meara, et al. to a point;

Thence turning and running along said O'Meara land North 63°14'59" West, a distance of 687.70 feet to a point;

Thence turning and running along said O'Meara land North 30°02'53" East, a distance of 256.32 feet to a point; and

Thence turning and running along said O'Meara land North 52°58'15" West, a distance of 452.65 feet to the point and place of beginning.

The herein-described Phase 2 Premises contains 10.87 acres, more or less.

Together with an easement for landscaping and pavement adjustment from Farms Associates to Farm Hollow Corporate Center, Limited Partnership dated November 17, 1986 and recorded in Volume 343, Page 379 of the Farmington Land Records.

Together with rights and privileges of access and related uses as set forth in a certain Quitclaim Deed from Farm Hollow Corporate Center, Limited Partnership to the Town of Farmington dated September 8, 1989 and recorded on February 15, 1990 in Volume 407 at Page 223 of the Farmington Land Records (the "Access Easement").

Together with terms and conditions of a certain Ground Lease Agreement (the "Ground Lease") by and between STATE OF CONNECTICUT, ACTING BY AND THROUGH THE UNIVERSITY OF CONNECTICUT as Landlord, and THE JACKSON LABORATORY as Tenant, Notice (the "Notice of Lease") of which is dated as of January 5, 2012 and recorded in the Farmington Land Records.

The Phase 2 Premises being one and the same as the PHASE 2 PREMISES on a preliminary map entitled "PROPOSED LEASE AREAS MAP WITHIN LAND OF THE STATE OF CONNECTICUT TO BE GRANTED TO THE JACKSON LABORATORY FARMINGTON AVENUE – CONNECTICUT ROUTE 4 FARMINGTON, CONNECTICUT" Scale 1"=50' Date: December 28, 2011, by Stein Survey, a copy of which will be recorded as an exhibit to the Notice of Lease in the Farmington Land Records.

#### **Portion of 263 Farmington Avenue**

Being a portion (the "Phase 1 Premises") of the premises described in First American Title Insurance Company Commitment No. CTST1805350(A) dated November 17, 2011 and more particularly described as follows:

All that certain piece or parcel of land situated in the Town of Farmington of the County of Hartford, State of Connecticut, being a portion of land on a map entitled "Land to be Acquired from William F. O'Meara William F. O'Meara et al. & Mar-Will Corp. by the State of Connecticut in Farmington, Connecticut," Scale 1"=100' August 25, 1962 F P Molloy & Associates Consulting Engineers and recorded as map C36-2225 of the Farmington Land Records and being a portion of other land of the State of Connecticut and being Phase 1 Premises on a map entitled "Proposed Lease Areas Map Within Land of the State of Connecticut To Be Granted To The Jackson Laboratory, Farmington Avenue – Connecticut Route 4, Farmington, Connecticut, Scale: 1"=50' – Date: December 28, 2011, Stein Survey" and being more particularly bounded and described as follows:

Beginning at a point being the most south corner of the Phase 1 Premises and being the southeast corner of the hereinbefore-described Phase 2 Premises and being a northeast corner of land formerly of Martin J. O'Meara, et al. and being along a west line of other land of the State of Connecticut;

Thence running northerly along said Phase 2 Premises land, a distance of 876 feet, more or less to the centerline of a drive known as "Dowling Way";

Thence turning and running easterly along said centerline, a distance of 181 feet, more or less to a point being the intersection of said centerline and a line being 5 feet west from and parallel to the back of a sidewalk along a drive known as "Main Road";

Thence turning and running along said line being 5 feet west from and parallel to the back of a sidewalk along drives known as "Main Road", a connector drive, and "West Road" and extensions thereof, a distance of 823 feet, more or less to a point;

Thence turning and running easterly, a distance of 157 feet, more or less to a point;

Thence turning and running southerly, a distance of 203 feet, more or less to the point and place of beginning.

The herein described Phase 1 Premises contains 5.3 acres, more or less.

Together with terms and conditions of the Ground Lease.

The Phase 1 Premises being one and the same as the PHASE 1 PREMISES on a preliminary map entitled "PROPOSED LEASE AREAS MAP WITHIN LAND OF THE STATE OF CONNECTICUT TO BE GRANTED TO THE JACKSON LABORATORY FARMINGTON AVENUE – CONNECTICUT ROUTE 4 FARMINGTON, CONNECTICUT" Scale 1"=50' Date: December 28, 2011, by Stein Survey, a copy of which will be recorded as an exhibit to the Notice of Lease in the Farmington Land Records.

The above-described premises are subject to the following:

**AS TO BOTH PARCELS:**

1. Real Estate Taxes to the Town of Farmington on the Grand List of October 1, 2010, and thereafter, as the same may become due and payable. This policy insures that the Land is currently exempt from taxation.
2. Sewer Use Charges due the Town of Farmington.
3. Water Charges as may be due the Metropolitan District Commission
4. Riparian or littoral rights of others in and to any body of water abutting or crossing through the premises.
5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
6. Upgrade and Expansion of the Farmington Water Pollution Control Plant – billed to UCONN Health Center – Yearly payments of \$72,114.60 next bill due July 2012. 2011 payment is made.
7. Terms and conditions of a certain Ground Lease Agreement by and between STATE OF CONNECTICUT, ACTING BY AND THROUGH THE UNIVERSITY OF CONNECTICUT as Landlord, and THE JACKSON LABORATORY as Tenant, Notice of which is dated as of January 5, 2012 and recorded in the Farmington Land Records.

**AS TO 299 FARMINGTON AVENUE (THE PHASE 2 PREMISES) ONLY:**

8. Caveat by The Water Bureau of the Metropolitan District against William Francis O'Meara, et al dated June 27, 1967 and recorded in Volume 184, Page 450 of the Farmington Land Records.
9. Drainage Covenant between William F. O'Meara, Bernard M. O'Meara and Marguerite O'Meara Egan and Bernard M. O'Meara, Marguerite F. Storrs, William Foster O'Meara, Marguerite Egan, Martin J. O'Meara, Jr. , Patricia Ann Jevons, Elizabeth Ann Mahoney and Estate of Mary Ellen Padgett dated June 10, 1981 and recorded in Volume 281, Page 849 of the Farmington Land Records.
10. Sewer Easement from William F. O'Meara, Bernard M. O'Meara, John F. O'Meara and Marguerite O'Meara Egan to the Town of Farmington dated June 10, 1981 and recorded in Volume 281, Page 853 of the Farmington Land Records.
11. Sixty-five foot building line and rights of ingress and egress, if any, in favor of Farms Associates as reference in a Warranty Deed from Frank P. Carabillo to Farm Hollow Corporate Center, Limited Partnership dated December 27, 1985 and recorded in Volume 324, Page 655 of the Farmington Land Records.
12. Possible rights of ingress and egress in favor of Farms Associates as referenced in a Warranty from Frank P. Carabillo to Farm Hollow Corporate Center, Limited Partnership dated December 27, 1985 and recorded in Volume 324, Page 655 of the Farmington Land Records.
13. Easement for ingress and egress from Farm Hollow Corporate Centers, Limited Partnership to Farms Associates dated October 23, 1986 and recorded in Volume 343, Page 374 of the Farmington Land Records.
14. Variance regarding parking and landscape buffer issued to Farm Hollow Corporate Center, Limited Partnership by the Farmington Zoning Board of Appeals recorded February 29, 1988 in Volume 373, Page 98 of the Farmington Land Records.
15. Variance regarding parking and landscape buffer issued to Farm Hollow Corporate Center, Limited Partnership by the Farmington Zoning Board of Appeals recorded August 23, 1990 in Volume 414, Page 701 of the Farmington Land Records.
16. Fence Easement from the Board of Trustees of the University of Connecticut to Farms Associates dated January 24, 2005 and recorded in Volume 850, page 752 of the Farmington Land Records.

*As to the appurtenant easement for landscaping and pavement adjustment from Farms Associates to Farm Hollow Corporate Center, Limited Partnership dated November 17, 1986 and recorded in Volume 343, Page 379 of the Farmington Land Records:*

A. Reciprocal Easement Agreement by and between Farms Associates, Farmington Office Associates and Murray O. Gibson, et al, dated November 18, 1986 and recorded in Volume 343, Page 383 of the Farmington Land Records.

B. Notice of Lease from Farms Associates to Richard H. Gordon dated October 24, 1977 and recorded in Volume 257, page 766 of the Farmington Land Records.

C. Notice of Lease from Farms Associates to Murray O. Gibson, et al, dated February 27, 1978 and recorded in Volume 259, Page 733 of the Farmington Land Records.

**AS TO 263 FARMINGTON AVENUE (THE PHASE 1 PREMISES) ONLY:**

17. Drainage easements referenced in a Warranty Deed from Bernard M. O'Meara, et al, to the State of Connecticut dated March 13, 1963 and recorded in Volume 164, Page 222 of the Farmington Land Records.
18. Caveat by the Metropolitan District against the State of Connecticut dated June 30, 1967 and recorded in Volume 184, Page 452 of the Farmington Land Records.
19. Gas pipe easement from the State of Connecticut to Connecticut Natural Gas Corporation dated April 9, 1969 and recorded in Volume 194, Page 396 of the Farmington Land Records.
20. Electrical distribution easement from the State of Connecticut to The Hartford Electric Light Company dated August 6, 1969 and recorded in Volume 196, Page 503 of the Farmington Land Records.
21. Final Sewer Assessment by the Farmington Water Pollution Control Authority of the Town of Farmington against the State of Connecticut dated September 14, 1983 and recorded in Volume 298, Page 217 of the Farmington Land Records.

**EXHIBIT 2**

**Facility Loan Note**

**EXHIBIT 3**

**FF&E Loan Note**

EXHIBIT 4

FORM OF SUBSEQUENT GRANT REQUEST

[JAX LETTERHEAD]

[Date]

TO: Connecticut Innovations, Incorporated  
865 Brook Street  
Rocky Hill, CT 06067-3444  
Attention: \_\_\_\_\_

Ladies and Gentlemen:

We refer to the Bioscience Collaboration, Operating and Funding Agreement (the "Agreement") dated as of January 5, 2012, between Connecticut Innovations, Incorporated ("CI") and The Jackson Laboratory ("Jax"), which provides that CI shall advance Grant Funds to Jax as provided in Sections 8.1 and 8.2 of the Agreement, including the Grant Disbursement Schedule, and in accordance with the requirements of Sections 8.3 to 8.7 of the Agreement. Terms defined in the Agreement shall have the same meanings when used herein.

We refer to Section 8.7 of the Agreement and hereby request disbursement of the following portion of the Grants:

(a) the amount of the requested annual disbursement for [YEAR] is \$ \_\_\_\_\_;

(b) the Funding Date of the requested disbursement is \_\_\_\_\_; and *[Note: Funding Date to be at least 30 days after the Grant Request date.]*

(c) the payment instructions for the requested quarterly installments are as follows:

Date _____	Installment amount _____
Date _____	Installment amount _____
Date _____	Installment amount _____
Date _____	Installment amount _____

(d) payment of all amounts under the disbursement should be made to the following account:

Account holder:	The Jackson Laboratory
Beneficiary bank:	[Bank name]
Account number:	[Account number]
Routing number:	[Routing number]

We understand that you have already received and approved copies of the Business Plan, Annual Budget, Annual Science Report, audited financial statements of Jax for the previous fiscal year, Annual Report and Legal Opinion in connection with this Grant Request.

As a condition to the foregoing disbursement of the Grants, the undersigned hereby certifies for and on behalf of Jax that:

- (a) as of the date of this Grant Request, to my knowledge no circumstances exist and are ongoing that would in my opinion lead to a determination by CI that a Material Default has occurred and is continuing (and has not been cured) , and completion of the disbursement requested hereby would not affect this certification;
- (b) Jax commits to maintaining operations in Connecticut for the next succeeding year;
- (c) Grant Funds have not been budgeted for and will not be utilized for activities that do not principally benefit or that are not directly related to the establishment or operation of Jax Genomic Medicine;
- (d) no Grant Funds have been budgeted to be used for the purpose of lobbying any branch or agency of state government or any political subdivision of Connecticut, or for any political purpose.

THE JACKSON LABORATORY  
A Maine not-for-profit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

| ACTIVE/59125.26/JFS/2677638v2

**INTELLECTUAL PROPERTY LICENSE AGREEMENT**

This INTELLECTUAL PROPERTY LICENSE AGREEMENT (the "Agreement") is made and entered into as of the <sup>January, 2012</sup> ~~5<sup>th</sup>~~ day of ~~December, 2011~~ (the "Effective Date"), by and between Connecticut Innovations, Incorporated ("CI"), a quasi-public authority of the State of Connecticut (the "State"), and The Jackson Laboratory, a Maine nonprofit corporation ("JAX"). CI and JAX are sometimes referred to herein as a "Party" and collectively as the "Parties."

**RECITALS**

**WHEREAS**, CI and JAX have entered into a Bioscience Collaboration, Operating and Funding Agreement of equal date herewith (the "Funding Agreement") which sets forth the terms and conditions related to the Project.

**WHEREAS**, in connection with the Funding Agreement, JAX desires to grant, and CI desires to obtain, the rights and licenses to Intellectual Property.

**NOW, THEREFORE**, for good and valuable consideration including the mutual promises contained herein, the Parties agree as follows.

**SECTION 1. DEFINITIONS**

In addition to other terms that may be defined elsewhere in the text of this Agreement, any capitalized terms in this Agreement that are not defined in the text of this Agreement shall have the meaning ascribed to such term in the Funding Agreement.

**SECTION 2. LICENSE GRANTS**

2.1 Research License. JAX hereby grants to CI a royalty-free, non-exclusive, transferrable limited license, with right to sublicense, with a corresponding covenant not to sue, to fully utilize the Intellectual Property to conduct research (including modifying, improving and creating derivative works from any Intellectual Property) to the extent that research is conducted in the Temporary Facility or the Facility (the "Research License").

2.2 Commercialization License. JAX hereby grants, effective upon the occurrence of a Material Default under the Funding Agreement, to CI a worldwide, non-exclusive, transferrable license, with right to sublicense, with a corresponding covenant not to sue, to use the Intellectual Property but subject to any rights that JAX has theretofore granted to any third party, to make, have made, use, import, offer for sale and sell any products, apparatus, processes or methods that result from intellectual property developed under the Research License (the "Commercialization License"), that, without the Commercialization License, would otherwise infringe on, or be deemed a misappropriation of, the Intellectual Property. The Commercialization License shall be subject to warranty disclaimer, indemnification and limitation of liability provisions that are customary in intellectual property licensing transactions, and only term to be negotiated between the Parties upon the occurrence of a JAX Event of Default under the Funding Agreement related to the

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Commercialization License is the royalty rate and the Parties represent, warrant, covenant and agree to negotiate such a royalty rate that is commercially reasonable and at fair market value. In the event that the Parties cannot agree upon a royalty rate, the matter shall be escalated to the dispute resolution process set forth under this Agreement, provided, however, for the avoidance of doubt, the Parties understand and agree that the Commercialization License shall automatically commence upon the occurrence of a JAX Event of Default whether or not the Parties agree upon an applicable royalty rate at that time or thereafter.

2.3 Bankruptcy Code. The Parties agree that the Research License and Commercialization License are licenses to "intellectual property" as defined under the Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") and each Party acknowledges that if this Agreement or any agreement supplementary to this Agreement is rejected under the Bankruptcy Code by JAX or its trustee, CI may elect to retain its rights under this Agreement and any agreement supplementary to this Agreement as provided in Section 365(n) of the Bankruptcy Code.

### SECTION 3. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and, unless terminated as set forth hereunder, shall continue until all Intellectual Property has expired and/or is otherwise publicly available to use without license by JAX (the "Term"). This Agreement shall terminate in the event that the Loans are forgiven pursuant to Article 5.1 of the Funding Agreement. Notwithstanding anything to the contrary in this Agreement or the Funding Agreement, other than this Agreement terminating in the event that the Loans are forgiven pursuant to Article 5.1 of the Funding Agreement, this Agreement shall survive the expiration or termination of the Funding Agreement.

### SECTION 4. REPRESENTATIONS AND WARRANTIES

4.1 General. CI and JAX each hereby represent and warrant: (a) the Agreement is a legal and valid obligation binding upon such Party and enforceable in accordance with its terms; (b) the execution, delivery and performance of the 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 is bound; (c) the Agreement does not violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it; and (d) each Party is expressly authorized to enter into the Agreement.

4.2 Intellectual Property. JAX represents and warrants that (a) to the best of its knowledge, it shall be either the sole owner or a joint owner of all rights, title and interest in and to the Intellectual Property; (b) to the best of its knowledge, it has the full right to grant the licenses as set forth under this Agreement in connection with the Intellectual Property; (c) it has not knowingly engaged in any activity which would constitute a misappropriation of any third party proprietary information in the conception, reduction to practice, design, development, or the like, of any Intellectual Property; and (d) it has not received any notice or claim asserting, and to the best of its knowledge, there is not any infringement of, or conflict or interference with, any intellectual

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property rights of any third party with respect to the practice, or the proposed practice, of any Intellectual Property.

**SECTION 5. DISPUTE RESOLUTION**

Any and all disputes arising out of or related to this Agreement including questions concerning the construction, enforceability, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement will be initially referred to the Chairperson for CI and President/CEO for JAX, who shall work together in good faith to resolve such dispute within sixty (60) days following the Party claiming that a dispute has arisen first notifies the other Party in writing of such dispute . If the Parties are unable to resolve the dispute within such sixty (60) days, the dispute shall be submitted to non-binding mediation. If the dispute is not resolved within thirty (30) days from the time the dispute is submitted to mediation, then either Party may, at its respective option, exercise any right, power or remedy under the Agreement. The Parties acknowledge and agree that nothing in this Article shall be construed to alter the law of the State of Connecticut with respect to claims asserted against the State of Connecticut. Notwithstanding anything to the contrary herein, each Party shall have the right to seek injunctive relief in any court of competent jurisdiction in the State of Connecticut at any time and under any circumstances.

**SECTION 6. MISCELLANEOUS**

6.1 This Agreement may not be amended except by written agreement signed by both of the Parties. This Agreement constitutes the entire agreement of the Parties relating to the subject matter hereof, and all prior representations and understandings are merged into and superseded by this Agreement.

6.2 This Agreement shall be governed by and in accordance with the laws of the State of Connecticut. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF CONNECTICUT FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (a) ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT; AND (b) ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

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

6.4 Any notice required by this Agreement shall be sent and shall be deemed delivered if sent by prepaid first class, registered, or certified mail or by express/overnight delivery service

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provided by a commercial carrier to the following addresses of the respective Parties or such other address as is furnished by proper notice to the other Party:

**FOR CI:**

Chairperson  
Connecticut Innovations, Inc.  
865 Brook Street  
Rocky Hill, CT 06067

**FOR JAX:**

Executive Vice President / COO  
The Jackson Laboratory  
600 Main Street  
Bar Harbor, Maine 04609

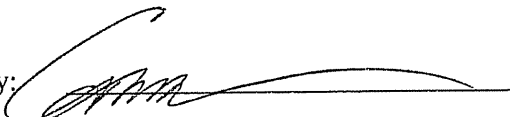
**With a Copy to for JAX:**

General Counsel  
The Jackson Laboratory  
600 Main Street  
Bar Harbor, Maine 04609

6.5 No Party shall be liable for failures or delays in the performance hereunder owing to compliance with the laws of the United States of America or any other government authority or to any other cause beyond the actual control of the party in question.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the later date of signature below, in duplicate originals by their duly authorized representatives.

**CONNECTICUT INNOVATION, INC.**

By:   
Name: Catherine H. Smith  
Title: Chair of the Board  
Date: January 5, 2012

**THE JACKSON LABORATORY**


By:   
Name: Edison Tak Bun Liu, MD  
Title: President and CEO  
Date: January 5, 2012

EXHIBIT 6

[FORM OF OPINION LETTER FOR PERIODIC GRANTS]

[\_\_\_\_\_]

Connecticut Innovations, Incorporated  
999 West Street  
Rocky Hill, CT 06067  
Attention: Chair of the Board

Re: Grant provided by Connecticut Innovations, Incorporated ("CI") to the Jackson Laboratory ("Jax") pursuant to a Bioscience Collaboration, Operating and Funding Agreement (the "Funding Agreement")

Ladies and Gentlemen:

I am in-house counsel to Jax, a Maine non-profit corporation.

This opinion is being delivered to you in connection with the provision of a Grant pursuant to a Grant Request of even date pursuant to the Funding Agreement dated January 5, 2012, between Jax and CI, a quasi-public agency of the State of Connecticut. All capitalized terms used and not defined herein have the same meanings herein as set forth in the Funding Agreement.

In rendering the opinions expressed herein I have examined copies of the following documents:

1. An executed copy of the Funding Agreement;
2. Certificate of Good Standing for Jax issued by the Secretary of the State of Maine dated [ \_\_\_\_\_ ] (the "Certificate of Existence"); and
3. Certificate of Authorization to Conduct Business for Jax from the Secretary of the State of Connecticut dated [ \_\_\_\_\_ ].

In addition, I have examined originals or copies, certified or otherwise identified to my satisfaction, of such other documents, records, agreements and instruments as I have deemed necessary or appropriate as a basis for the opinions set forth below.

In my examination of the documents referred to above, I have assumed the genuineness of all signatures (other than the persons signing on behalf of Jax), the legal capacity of all natural persons, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as certified or photostatic copies and the authenticity of the originals of such documents. In addition, except as expressly set forth below with respect to Jax, I have assumed the valid authorization, execution and delivery of the

Funding Agreement by each party thereto and that each of such parties is validly existing under its jurisdiction of formation with the corporate or other organizational power to perform its obligations thereunder and that the Funding Agreement is a valid and binding obligation of each such party thereto. I have further assumed that, as to any instrument, agreement, or document delivered, or obligation incurred, by any party, such party has received the agreed upon consideration therefor.

As to matters of fact material to the opinions expressed herein, I have relied upon the representations and warranties in the Funding Agreement and have assumed, without independent investigation, that such representations and warranties are accurate.

Any statements in the opinion qualified by the words "to the best of my knowledge" or any words of similar effect indicate that the statements are made based on my actual knowledge after having devoted substantive attention to this opinion. I have conducted no further independent investigation to determine the existence or absence of such facts but have relied on the representations of Jax in the Funding Agreement, other writings provided to me by Jax as aforesaid, and due inquiry of other officers of Jax.

I express no opinion other than on the corporate laws of the State of Maine and the federal laws of the United States. I do not undertake to express any opinion or advice on matters purported to be governed by laws of any other jurisdiction, and I express no opinion or advice with regard to a conclusion that might be reached by any court or administrative agency other than a court or agency of the State of Maine.

Based upon and subject to the foregoing, I am of the opinion that:

1. Jax is a validly existing and legally formed non-profit corporation under the laws of the State of Maine, is qualified to conduct business in the State of Connecticut and is qualified under Section 501(c)(3) of the Internal Revenue Tax Code, and has all requisite power and authority to have entered into the Funding Agreement, to have executed and delivered the Funding Agreement, and to carry out the transactions contemplated by the Funding Agreement.

2. The Funding Agreement has been duly executed and delivered by Jax, and constitutes the legal, valid and binding obligation of Jax enforceable against Jax in accordance with its terms.

3. The performance by Jax of its obligations under the Funding Agreement, including the Grant Request, has been duly authorized by all necessary corporate or company action and does not and will not constitute a default under or conflict with or violate: (i) any provision of Jax's certificate of incorporation, or bylaws; (ii) any court order or consent decree, of which I have knowledge; (iii) any applicable laws, rules or regulations, including applicable usury laws; (iv) to my knowledge and after due inquiry of officers of Jax and in reliance upon Jax's representations and warranties in the Funding Agreement, will not result in a breach or

default (or give rise to any right of termination, cancellation or acceleration) under any agreement binding upon Jax; or (v) will not result in the creation or imposition of any lien (other than liens referred to in the Funding Agreement in favor of CI) on any asset of Jax pursuant to the terms of any of such agreements.

4. To my knowledge, there is no litigation at law, in equity or in proceedings before any commission, agency or other governmental authority pending or threatened against or which may result in a Material Adverse Effect (as defined in the Funding Agreement) for Jax, involving the possibility of any judgment, order, award or other decision which might result in a Material Adverse Effect on the ability of Jax to perform its obligations under the Funding Agreement.

5. To my knowledge, no consent, notice to, or approval or other authorization of, or filing with, any court or governmental agency, commission or other authority of the State of Maine or any subdivision thereof, is required by the laws of said State as a condition to or in connection with the due execution and delivery by Jax of the Funding Agreement, or for the performance or observance of any terms thereof, or for the payment of any sums thereunder, except for the filing of the Financing Statements with the appropriate governmental offices.

This opinion is subject to the qualifications that: (i) enforceability of the Funding Agreement is subject to and may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the rights and remedies of creditors and contracting parties generally; (ii) enforceability of the Funding Agreement is subject to and may be limited by general principles of equity applied by courts of applicable jurisdiction, including the enforcement by such courts of equitable remedies such as specific performance or injunctive relief and the application of other general principles of equity and public policy (regardless of whether enforcement is considered in proceedings of law or in equity); (iii) the expression "enforceable" and its cognates, as used in this Legal Opinion, with reference to agreements or obligations means that such agreements and obligations are of a type which the federal courts or the courts of the State of Maine will treat as "enforceable" and not that such agreements or obligations will necessarily be enforced in all circumstances in accordance with their terms, particularly, but without limitation, under such circumstances referred to in the assumptions and qualifications included in this Legal Opinion; and (iv) certain of the rights, remedies and enforcement rights provided for in the Funding Agreement may be limited or rendered unenforceable by applicable laws or judicial decisions governing such provisions, which laws and judicial decisions do not, in my opinion, make such Funding Agreement or instruments legally inadequate for the ultimate practical realization of the principal benefits intended to be provided thereby, except for the economic consequences of procedural delay which result from the application of such laws or provisions.

The opinions expressed herein are also qualified to the extent that I express no opinion as to: (a) whether any provision of the Funding Agreement waiving trial by jury or designating an attorney for receipt of service of process or other attorney-in-fact or any other particular waiver, consent or indemnification not expressly permitted by statute in any jurisdiction is enforceable in

that jurisdiction; (b) the validity of any non-judicial remedy that may be authorized under the Funding Agreement; (c) the enforceability of any limitation of liability provision that purports to limit any duty or responsibility; (d) the enforceability of any waiver of rights granted by the Constitution of the United States of America and the Constitution of the State of Maine or by federal or Maine law; or (e) whether any specific provision contained in the Funding Agreement may be unenforceable by reason of being contrary to the principles of public policy. Furthermore, I express no opinion as to the availability of the remedy of specific performance or injunctive or other equitable relief (whether enforcement is sought in equity or at law) upon any breach of the Funding Agreement inasmuch as the availability of the remedy of specific performance or injunctive or other equitable relief is subject to the discretion of the court before which any proceeding for such remedy may be brought.

The opinions expressed herein also are subject to the assumptions, qualifications and other matters set forth on Schedule A attached hereto.

This opinion is a single, integrated document and may be referred to only in its entirety. This opinion is rendered as of the date hereof, and I disclaim any undertaking to advise you hereafter of developments hereafter occurring or coming to my attention, whether or not the same would (if now existing and known to us) cause any change or modification herein.

The above opinions are limited solely to the matters expressly set forth above. No other opinions are intended, nor should any be inferred here from.

This opinion has been furnished to you at your request, and I consider it to be a confidential communication which may not be furnished, reproduced, distributed or disclosed to anyone without my prior written consent, provided that, this opinion may be relied upon by your permitted successors and assigns in accordance with the restrictions on assignment contained in the Funding Agreement and copies of this opinion may be furnished, reproduced, distributed or disclosed to any regulatory authority if so required by law and any lawyer, accountant or auditor of CI, subject to customary confidentiality undertakings of such advisors.

Very truly yours,

[ \_\_\_\_\_ ]

## SCHEDULE A

Each specific opinion rendered herein is further subject to the following assumptions, but only as to any assumption if (i) I have no actual knowledge that the assumption is incorrect on the date of this opinion, and (ii) I relied on the particular assumption to my detriment in rendering such specific opinion:

1. CI satisfied those legal requirements that are applicable to it to the extent necessary to make the Funding Agreement enforceable against it.
2. CI has complied with all legal requirements pertaining to its status as relates to its rights to enforce the Funding Agreement.
3. Each document obtained from a governmental agency is accurate, complete and authentic and all official public records (including their proper indexing and filing) are accurate and complete.
4. CI has acted in good faith and without notice of any defense against the enforcement of any rights created by, or adverse claim to any property or security interest transferred or created as part of, the transaction.
5. The Funding Agreements are and will be legal, valid, binding and enforceable under the laws of the State of Connecticut.

**EXHIBIT 7**

**Open-End Leasehold Mortgage Deed**

**EXHIBIT 8**

**Security Agreement**

**EXHIBIT 9**

**Form of Annual Science Report**

**SCHEDULE A**

**Business Plan for Jax Genomic Medicine**

**SCHEDULE B**

**Funding Expense in Report Year**

**SCHEDULE C**

**Grant Disbursement Schedule**

**SCHEDULE 3.1(a)**

**Schedule of Advances under Facility Loan**

**SCHEDULE 3.1(b)**

**Summary Budget showing Sources and Uses**

**SCHEDULE 9.1**

**Listing of Jax Affiliates**

**None**

Schedule 11.7

Tax Compliance Requirements

All terms not specifically defined in this Schedule 11.7 shall have the meaning assigned to them in Article 1 of the Bioscience Collaboration, Operating and Funding Agreement between Connecticut Innovations, Incorporated and The Jackson Laboratory

**Section 1.** The Bonds Jax acknowledges that the Loans and Grants are to be funded with proceeds of the Bonds and that the interest on the Bonds is intended to be excluded from gross income for federal income tax purposes. Under the Act, the Bonds are to be issued over a number of years in a number of different series. Bonds may be issued in different series at the same time if issued for different purposes. The term "Bonds" refers to all Bonds issued pursuant to the Act and the term "Specific Series Bonds" means any Bonds issued as part of a specific series of the Bonds. Jax acknowledges that the State anticipates that it may elect under Code Section 141(b)(9) to treat any Specific Series Bonds or portion thereof that fund the Loans as Qualified Section 145 Bonds and in order to make that election such Bonds must satisfy all of the requirements imposed by the Code and Regulations on Qualified Section 145 Bonds and the proceeds thereof. Further, Jax acknowledges that it has had other facilities financed with proceeds of Qualified Section 145 Bonds and is familiar with the requirements imposed upon users of facilities financed with Qualified Section 145 Bonds and that such requirements need to be met for each Specific Series Bonds at issuance and thereafter. Following the issuance of Specific Series Bonds, Jax shall be informed of the terms of such Specific Series Bonds and whether an election was made under Code Section 141(b)(9) with respect to such Specific Series Bonds.

**Section 2.** General Tax Covenant. Jax covenants that it shall at all times perform all acts and things necessary or appropriate under any valid provision of law in order to ensure that the interest paid on the Bonds and on each Specific Series Bonds shall be excluded from gross income for federal income tax purposes under the Code. Without limiting the generality of the foregoing, Jax will not directly or indirectly use or permit the use of the Facility and FF&E funded with proceeds of the Bonds, or take or omit to take any action, that would cause the Bonds or any Specific Series of Bonds to be "private activity bonds" that are not "qualified bonds" within the meaning of Code Section 141 or "arbitrage bonds" within the meaning of Code Section 148. As to Specific Series Bonds for which an election has been made pursuant to Code Section 141(b)(9), Jax will not directly or indirectly use or permit the use of the Facility and FF&E funded with proceeds of the such Specific Series Bonds, or take or omit to take any action, that would cause that such Specific Series of Bonds not to be Qualified Section 145 Bonds. This covenant and the other covenants contained in this Schedule 11.7 shall survive payment in full or defeasance of the Bonds or any Specific Series Bonds. Jax also agrees, at the State Treasurer's request, to adopt reasonable procedures to assure compliance with such requirements and to take appropriate remedial action if such requirements are not satisfied. Such procedures may include annual reports to the State Treasurer as to ongoing compliance. Jax acknowledges that the covenants and conditions set forth in this Schedule 11.7 are based upon

the Code and the Regulations as they exist on the date hereof and that the Code or Regulations may be subsequently interpreted or modified by the federal government in a manner which is inconsistent with the covenants set forth herein. Jax agrees that any such subsequent modification or interpretation of the Code or Regulations will be deemed a requirement that must be met pursuant to the general tax covenant set forth above.

**Section 3. Specific Tax Covenants.** Jax hereby agrees and covenants as follows:

a. Ownership. All property financed with proceeds of the Loans will be owned for federal income tax purposes by Jax, a Tax Exempt Organization or by a Governmental Person(s).

b. No Private Business Use. Jax covenants and represents that except for De Minimis Non Qualified Use, no portion of the Facility and FF&E funded with proceeds of the Loans will be used for a Private Business Use and no portion of the Loans will be, directly or indirectly, (a) secured by an interest in the property used or to be used in such Private Business Use, (b) secured by payments in respect to such property, or (c) derived from payments in respect to such property ("Private Activity"). A Private Business Use includes any use by Jax or any other Tax-Exempt Organization with respect to a trade or business carried on by Jax or such Tax-Exempt Organization which is an unrelated trade or business within the meaning of Code Section 513(a).

c. Management and Service Contracts. Jax covenants and agrees that, with respect to the Facility and FF&E funded with proceeds of the Loan, no management or other services will be rendered to it by a Service Provider pursuant to any management or service contract unless the management or service contract entered into with the Service Provider, or a modification of an existing management or service contract with a Service Provider, is a Qualified Management Contract, or is otherwise permitted as determined in writing by Bond Counsel selected by the State Treasurer. The cost of such advice of Bond Counsel is a Funding Expense.

d. Research Agreements. No portion of the Facility or FF&E funded with proceeds of the Loan has been used, is used or will be used for the conduct of scientific research pursuant to any research agreement between Jax and any non-Governmental Person (including the United States and any agencies or instrumentalities thereof) which would cause such use of the Facility or FF&E to be deemed to be Private Business Use and give rise to Private Activity.

e. Maintenance of 501(c)(3) Status. Jax is in compliance with the terms, conditions and limitations in the determination letter issued by the Internal Revenue Service to it, and the facts and circumstances that form the basis of such letter, as represented to the Internal Revenue Service, continue substantially to exist and no other material facts or circumstances have arisen which could adversely affect the determination in such letter. Such letter has not been modified, limited or revoked as to Jax. As long as Jax is the owner or user of the Facility and or FF&E, Jax will take all action reasonably necessary to maintain its status as such an organization and its exemption from federal income tax under Code Section 501(c)(3) or corresponding provisions of future federal income tax laws at all times until the Bonds have matured or been paid in full. No proceedings are pending or, to the knowledge of Jax, threatened or in any way contesting or

affecting Jax's status as an organization described in Section 501(c)(3) of the Code, or that would subject any income of Jax to federal income taxation to such extent as would result in loss of exclusion from gross income of interest on the Bonds funding the Loans for federal income tax purposes. Jax is not under examination or audit by the Internal Revenue Service, nor has it received written or oral notice from the Internal Revenue Service of a proposed examination or audit thereby, with respect to any fiscal year of Jax.

f. Reimbursement. A portion of the proceeds of the Loans funded by the Bonds may be applied to reimburse Jax for costs of the Project paid prior to the date hereof. None of these Project costs were paid more than sixty (60) days prior to the Act becoming law, except for amounts which do not exceed twenty percent (20%) of the costs of the Project financed with the proceeds of the Bonds that were applied to finance certain preliminary expenditures with respect to the Project. Preliminary expenditures, for purposes of this subsection f., include architectural, engineering, surveying, soil testing and similar costs incurred prior to the commencement of construction or rehabilitation of the Project, but do not include land acquisition, site preparation and similar costs incident to the commencement of construction or rehabilitation of the Project. No portion of the proceeds of the Bonds will be applied to reimburse Jax for a cost paid more than eighteen (18) months prior to the date of issuance of such Bonds or with respect to a facility placed-in-service more than eighteen (18) months prior to the date of issuance of such Bonds, whichever is later, unless such cost is attributable to a preliminary expenditure, as described above. In no event shall the proceeds of the Bonds be applied to reimburse Jax for a project cost paid more than three (3) years prior to the date of issuance of such Bonds, unless such cost is attributable to a preliminary expenditure, as described above. Jax may also reimburse itself for costs of the Project in an amount not to exceed the lesser of \$100,000 or five percent (5%) of the proceeds of the Bonds financing the Project, irrespective of the foregoing limitations.

g. Purchase of Bonds. Jax agrees that neither it, nor any person related to it within the meaning of Code Section 147(a)(2), pursuant to an arrangement, formal or informal, shall purchase the Bonds upon their initial issuance.

h. Documentation of Expenditures. Jax will maintain expenditure records to show the times, amounts and purposes and uses for which the Bond proceeds are spent on capital expenditures for qualified purposes.

i. Jax Cooperation. Jax agrees to cooperate with the State Treasurer in the issuance of any Bonds funding the Loans and Grants and shall execute and deliver such agreements, certificates and other documents concerning the Facility and FF&E and use of proceeds of the Loans and Grants that the State Treasurer may reasonably requests to establish that the Specific Series Bonds being issued are tax exempt. In addition, Jax agrees to cooperate with the State Treasurer in the issuance of any Bonds refunding Bonds described in the preceding sentence and shall execute and deliver such agreements, certificates and other documents concerning the Facility and FF&E and use of proceeds of the Loans and Grants that the State Treasurer may reasonably requests to establish that such refunding Bonds are tax exempt.

**Section 4.** Jax further represents that:

a. Commitment to Spend. As the date of issuance of any Specific Series Bonds, Jax shall confirm to the Treasurer that it has entered into contracts or will enter into within six (6) months after the date of the issue of the Specific Series Bonds binding commitments with respect to the Facility or the specific FF&E to be funded with the proceeds of such Specific Series Bonds and the amount expended or to be expended pursuant to such commitments exceeds five percent (5%) of the net sale proceeds of such Specific Series Bonds. In the event Jax shall not be able to make such confirmation, it shall inform the Treasurer when it does expect to enter such commitments in respect to the proceeds of such Bonds.

b. Disposition of the Facility and FF&E. There is no expectation that any portion of the Facility will be sold or otherwise disposed of, in whole or in part, prior to the final maturity date of the Specific Series Bonds whose proceeds funded such portion of the Facility. There is no expectation that any FF&E will be sold or otherwise disposed of, in whole or in part, prior to the earlier of the end of its reasonably expected economic life or the final maturity date of the Specific Series Bonds whose proceeds funded its acquisition. However, this section shall not restrict the right of Jax to dispose of any obsolete FF&E provided that the proceeds of the sale are used to acquire similar equipment within three months of disposal.

c. Gifts, Donations, Grants and Bequests. Jax has not and does not expect to receive any gifts, donations, grants, bequests or other funds which are required by their terms to be used to pay any item which is a cost of the Project. If Jax receives any gifts, donations, grants, bequests or other funds which are required by their terms to be used to pay for any item which is a cost of the Project and is not able to use such amounts for the Project, it will transfer such amount to the State Treasurer to use to pay the Bonds. In the event the amount deposited exceeds the principal amount coming due on the Bonds for the one year period after transfer to the State Treasurer, such excess shall be invested in nonpurpose investments at a yield not exceeding the yield on the Bonds and the State Treasurer shall request the advice of Bond Counsel as to the disposition of such funds, including the redemption of Bonds prior to their scheduled maturity. The cost of such advice shall be a Funding Expense.

**Section 5.** Permitted Sale of Facilities and FF&E. Withstanding any representation, warranty or covenant made by Jax herein, it shall be permitted to sell all or a portion of the Facility and FF&E if the following conditions are satisfied: 1) the Loans have been forgiven pursuant to Article 5 of the Agreement; 2) Jax has satisfied all requirements imposed upon it under Article 6 of the Agreement; 3) such sale is specifically authorized pursuant to the terms of the Article 6 of the Agreement; and 4) the sale occurs at least ten years after the Facility is placed in service. After such permitted sale, Jax shall have no ongoing obligations under this Schedule 11.7 as to the use of the sold Facility and FF&E. However, such permitted sale shall not relieve Jax of any liability arising from any breach of the terms of this Schedule 11.7 that occurred prior to such sale which, with the giving of notice or the passage of time, would constitute an event of default. Nothing in this Schedule shall restrict the right of Jax to transfer the Facility and FF&E to a Governmental Person or an Exempt Organization if such transfer is permitted by the other terms of the Agreement.

## Definitions

“Capitation Fee” means a fixed periodic amount paid under a management or service contract or agreement for each person for whom the Service Provider assumes the responsibility to provide all needed services for a specified period, provided the quantity and type of services actually provided varies substantially.

“Controlled Group” means a group of entities controlled directly or indirectly by the same entity or group of entities. In general, “direct control” exists while a controlling entity possesses either of the following rights or powers and such rights or powers are discretionary and non-ministerial:

(a) the right or power to approve of and to remove without cause a controlling portion of the governing body of the controlled entity, or

(b) the right or power to require the use of funds or assets of the controlled entity for any purpose of the controlling entity.

If one entity (the “Controlling Entity”) directly controls another (the “Controlled Entity”), then the Controlling Entity “indirectly controls” any entity controlled directly or indirectly by such Controlled Entity.

“De Minimis Non-Qualified Use ” as to the Facility or any specific piece of FF&E shall mean all Private Business Uses of the Facility and such FF&E (or portion thereof) aggregating in any calendar year not more than three percent (3%) of the cost thereof that that will be financed with the Loans.

“General Public Use” means use intended to be available and in fact is reasonably available on the same basis by natural persons not engaged in a Trade or Business. Use under an arrangement that conveys priority rights or other preferential benefits is not General Public Use. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights or other preferential benefits, including rates applicable to different classes of users, e.g., volume purchasers, if such differences in rates are customary and reasonable.

“Governmental Unit” means any state of the United States or a political subdivision thereof, but does not include the United States or any agency or instrumentality thereof.

“Governmental Person” mans a state or local government unit as described in Regulation 1.103-1 or any instrumentality of the same. It does not include the United States or any agency or instrumentality of the same.

“Periodic Fixed Fee” means a stated dollar amount for services rendered during a specified period of time (e.g., \$XX per month). A fee does not fail to qualify as a Periodic Fixed Fee as a result of a one-time incentive award during the term of the contract pursuant to which compensation automatically increases when a gross revenue or expense target (but not both) is reached if such award is a single, stated dollar amount.

“Per Unit Fee” means a stated dollar amount for each unit of service provided (e.g., \$XX per medical procedure).

“Private Business Use” means use, directly or indirectly, in a Trade or Business of a person other than a Governmental Unit or a Tax-Exempt Organization with respect to its activities which do not constitute an Unrelated Trade or Business.

(a) Proceeds of the Bonds shall be deemed to be used directly or indirectly in a Private Business Use to the extent they are used to finance property which is owned by a person other than a Governmental Unit or a Tax-Exempt Organization or property as to which a person other than a Governmental Unit or a Tax-Exempt Organization has actual or beneficial use under a lease, management or other service contract, incentive payment contract, take-or-pay or other output contract or similar arrangement.

(b) Subparagraph (a) above notwithstanding, operation of a facility under a Qualified Management Contract shall not be deemed to constitute Private Business Use.

(c) Use of property or other facilities financed by the Bonds shall not constitute Private Business Use if such use is General Public Use.

“Proceeds” means any sale proceeds, investment proceeds and transferred proceeds of the Bonds or the Loans.

“Prohibited Relationship” means a role or relationship with the Service Provider which substantially limits Jax’s ability to exercise its rights, including cancellation rights, under a management or service contract based on all the facts and circumstances. No Prohibited Relationship exists if not more than 20% of the voting power of Jax is vested in the Service Provider and its directors, officers, shareholders and employees, overlapping board members do not include the chief executive officers of the Service Provider or its governing body or Jax or its governing body and the Service Provider are not Related Parties.

“Qualified Management Contract” means a management or other service contract between Jax and a Service Provider not having a Prohibited Relationship to Jax, which provides for reasonable compensation for services rendered, no compensation based on a share of net profits from the operation of the Project and meets one of the following sets of guidelines:

(a) Up to 15 Year Contracts. Such contract has a term (including all Renewal Options) not in excess of the lesser of 15 years or 80% of the reasonably expected useful life of the Project and such contract provides that at least 95% of the compensation payable to the Service Provider is a Periodic Fixed Fee.

(b) Up to 10 Year Contracts. Such contract has a term (including all Renewal Options) not in excess of the lesser of 10 years or 80% of the reasonably expected useful life of the Project and such contract provides that at least 80% of the compensation payable to the Service Provider is a Periodic Fixed Fee.

(c) Up to Five Year Contracts. Such contract has a term (including all Renewal Options) not in excess of five years and such contract provides that (i) at least 50% of the compensation payable to the Service Provider is based on a Periodic Fixed Fee or 100% is a Capitation Fee or a combination of a Capitation Fee and a Periodic Fixed Fee and (ii) the contract is terminable by Jax on reasonable notice, without penalty or cause, on or before the end of the third year of such contract.

(d) Up to Three Year Contracts. Such contract has a term (including all Renewal Options) not in excess of three years and such contract provides that (i) 100% of the compensation payable to the Service Provider is based on a Per Unit Fee or a combination of a Per Unit Fee and a Periodic Fixed Fee and (ii) the contract is terminable by Jax on reasonable notice, without penalty or cause, on or before the end of the second year of such contract.

(e) Up to Two Year Contracts. The Service Provider under such contract primarily provides services to third parties or the contract involves a facility during an initial start-up period and has a term (including all Renewal Options) not in excess of two years and such contract provides that (i) 100% of the compensation payable to the Service Provider is based on a percentage of fees charged or a combination of a Per Unit Fee and a percentage of revenue or expense fee and (ii) the contract is terminable by the Jax upon reasonable notice, without penalty or cause, on or before the end of the first year of such contract.

“Qualified Section 145 Bond” shall mean an obligation issued pursuant to Code Section 145 of which (a) all of the property financed with the Proceeds of such bond is owned by a Tax-Exempt Organization or a Governmental Person, and (b) no more than five percent (5%) of the Proceeds of such Bond is used in an Unrelated Trade or Business by a Tax-Exempt Organization, or by a non-Governmental Person, and the payments of principal or interest on no more than five percent (5%) of the Proceeds of such Bond is directly or indirectly secured by or derived from payments in respect of property or borrowed money used or to be used in a nongovernmental business activity including any such activity which, as to the particular Tax-Exempt Organization, is an Unrelated Trade or Business. For purposes of this definition proceeds used to pay issuance costs are considered to be used in an Unrelated Trade or Business.

“Regulations” means Income Tax Regulations promulgated under Code Section 103 or Code Sections 141 through 150 by the United States Treasury from time to time.

“Related Party” means with respect to a Governmental Unit or a Tax-Exempt Organization, any member of its Controlled Group.

“Renewal Option” means a provision under which the Service Provider has a legally enforceable right to renew the contract. For example, a provision which automatically renews the contract absent cancellation by either party is not a Renewal Option.

“Service Provider” means any person, other than a Governmental Unit or a Tax-Exempt Organization if the financed property is not used in the Tax-Exempt Organization’s Unrelated Trade or Business, that provides services under a contract to or for the benefit of a qualified user.

“Trade or Business” means any activity carried on by any person other than a natural person.

“Tax-Exempt Organization” shall mean a legal entity organized under the laws of the United States of America or any state thereof which is an organization described in Section 501(c)(3) of the Code and exempt from federal income taxes under Section 501(a) of the Code, or corresponding provisions of federal income tax laws from time to time in effect.

“Unrelated Trade or Business” means any Trade or Business the conduct of which is not substantially related to the exercise or performance by a Tax-Exempt Organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Code Section 501(c)(3).

ACTIVE/59125.26/FBC/2644551v6

**INSURANCE REQUIREMENTS**

Jax shall procure and maintain for the duration of the contract the following types of insurance, in amounts no less than the stated limits:

1. Commercial General Liability: \$1,000,000 each occurrence/\$2,000,000 aggregate combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operation and Contractual Liability.

2. Products & Completed Operations: \$1,000,000 each occurrence/\$2,000,000 aggregate combined single limit per occurrence for bodily injury and property damage.

3. Workers' Compensation and Employer's Liability: Statutory coverage in compliance with compensation laws of The State of Connecticut. Coverage shall include Employer's Liability with a minimum limit of \$1,000,000 each accident, \$1,000,000 Disease – Policy limit, \$1,000,000 each employee.

4. Directors and Officers Liability: \$7,500,000 occurrence limit of liability.

5. Comprehensive Crime Insurance: \$10,000,000 limit for each of the following coverages: Employee Dishonesty, Forgery/Alteration and On Premises.

6. Builders Risk: (Construction Phase) With respect to any work involving the construction of real property during the construction of the Project, Jax shall maintain Builder's Risk insurance providing coverage for the entire work at the Project site. Coverage shall be on a Completed Value form basis in an amount equal to the projected value of the project.

7. Property Insurance: Jax shall maintain insurance covering all risks of direct physical loss, damage or destruction to real and personal property and improvements and betterment's (including flood insurance up to an amount readily available if within a duly designated Flood Hazard Area as shown on maps prepared by the Department of Housing and Urban Development or its successor) at 100% of Replacement Value for such real and personal property, improvements and betterments.

8. Umbrella Liability Policy: Jax shall at all times maintain a \$15 million umbrella liability policy. The umbrella liability coverage shall provide excess liability limits for the general liability policies required above.

9. Additional Insurance Provisions:

(a) CI, its officials and employees shall be named as an Additional Insured on Commercial the General Liability Policy and Umbrella Policy.

- (b) The Commercial General Liability Policy and the Umbrella Policy shall be primary relative to any coverage, if any carried by CI, and Jax and Jax's insurer shall have no right of subrogation recovery or subrogation against CI.
- (c) CI shall be named as Loss Payee or Additional Insured, as appropriate.
- (d) Jax shall assume any and all deductibles in the described insurance policies.
- (e) Jax agrees to notify CI within ten (10) days if it receives any notice of cancellation or non-renewal of a policy of insurance required to be maintained by it hereunder.
- (f) Each policy shall be issued by an Insurance Company licensed to do business by Connecticut Department of Insurance and having a Best Rating of A-, VII, or equivalent or as otherwise approved by CI.

ACTIVE/59125.26/JFS/2642972v4

**SCHEDULE 17.15**

**SPECIFIC STATE LAW REQUIREMENTS**

As used hereinafter in this Schedule 17.15, the term "Contract" as used hereafter shall refer to this "Agreement"; the term "Party" shall refer to CI or Jax; the term "Contractor" shall refer to Jax; the term "State" shall refer to CI; the term "Contractor Parties" shall refer to the Jax's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them, or any other person or entity with whom Jax is in privity of oral or written contract if Jax intends for such other person or entity to perform under this Contract in any capacity, including, but not limited to, any subcontractors; and the term "Claims" shall mean and refer to all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.

- a) Summary of State Ethics Laws. Pursuant to the requirements of Conn. Gen. Stat. §1-101qq, the summary of State ethics laws developed by the State Ethics Commission pursuant to Conn. Gen. Stat. §1-81b is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract.
- b) Executive Orders. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and made a part of the Contract as if they had been fully set forth in it. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. State shall provide a copy of the Orders to the Contractor upon request.
- c) Campaign Contribution Restrictions. On February 8, 2007, Governor Rell signed into law Public Act 07-1, An Act Concerning the State Contractor Contribution Ban and Gifts to State and Quasi-Public Agencies. For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form, reproduced and inserted below.

**Notice to Executive Branch State Contractors and Prospective State Contractors of**

### Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

#### **CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS**

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

#### **DUTY TO INFORM**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

#### **PENALTIES FOR VIOLATIONS**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

**Civil penalties**—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

**Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

#### **CONTRACT CONSEQUENCES**

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to "Lobbyist/Contractor Limitations."

### DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material,

supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

d) Non-discrimination.

- i) For purposes of this Section, the following terms are defined as follows:
  - A) "Commission" means the Commission on Human Rights and Opportunities;
  - B) "Contract" and "contract" include any extension or modification of the Contract or contract;
  - C) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
  - D) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
  - E) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
  - F) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
  - G) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
  - H) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
  - I) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and

- J) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- ii) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books,

records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- iii) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- iv) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- v) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- vi) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- vii) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post

copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

- viii) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- e) Americans with Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (“ADA”), to the extent applicable, during the term of this Contract. State may cancel this Contract if the Contractor fails to comply with the ADA.
- f) Whistleblowing. This Contract may be subject to the provisions of Conn. Gen. Stat. §4-61dd, which applies to “large state contracts” having a value of five million dollars (\$5,000,000) or more. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee’s disclosure of information to any employee of State, the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of the statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty (20) percent of the value of this Contract. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each Calendar Day’s continuance of the violation shall be deemed to be a separate and distinct offense. State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. If the Contractor is a “large state contractor” as defined by Conn. Gen. Stat. §4-61dd, the Contractor shall post a notice of the provisions of that statute relating to large state contractors in a conspicuous place which is readily available for viewing by the Contractor’s employees.
- g) Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties disclose in writing to the Contractor, to the best of their knowledge,

any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under this Contract, no later than ten (10) Calendar Days after becoming aware or after they should have become aware of any such Claims.

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