

PDL BIOPHARMA, INC.

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 09/12/17

Address	932 SOUTHWOOD BLVD INCLINE VILLAGE, NV, 89451
Telephone	775-832-8500
CIK	0000882104
Symbol	PDLI
SIC Code	2836 - Biological Products, Except Diagnostic Substances
Industry	Biotechnology & Medical Research
Sector	Healthcare
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

PDL BioPharma, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

94-3023969
(I.R.S. Employer
Identification Number)

932 Southwood Boulevard
Incline Village, Nevada 89351
(Address of Principal Executive Offices) (Zip code)

(775) 832-8500
(Registrant's Telephone Number, Including Area Code)

PDL BioPharma, Inc. Nonstatutory Inducement Stock Option Grant Notice and Nonstatutory Inducement Stock Option Agreement
PDL BioPharma, Inc. Inducement Restricted Stock Grant Notice and Inducement Restricted Stock Agreement
(Full Title of the Plan)

Christopher L. Stone
Vice President, General Counsel and Secretary
932 Southwood Boulevard
Incline Village, Nevada 89351
(Name and Address of Agent for Service)

(775) 832-8500
(Telephone Number, Including Area Code, of Agent for Service)

The commission is requested to mail copies of all orders, notices and communications to:
Cheston Larson, Esq.
Latham & Watkins LLP
12670 High Bluff Drive
San Diego, California 92130

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

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

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered (1)	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Common Stock, par value \$0.01 per share (2)	961,000	\$3.21 (4)	\$3,084,810	\$357.53
Common Stock, par value \$0.01 per share (3)	240,200	\$3.18 (5)	\$763,836	\$88.53

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this registration statement on Form S-8 (the "Registration Statement") also covers such indeterminable number of additional shares of the Registrant's Common Stock as may become issuable to prevent dilution in the event of stock splits, stock dividends, or similar transactions pursuant to the terms of the Inducement Award Agreements (as defined below).
- (2) Represents 961,000 shares of our common stock issuable upon exercise of stock options granted to Dominique Monnet, our President, pursuant to the form of Nonstatutory Inducement Stock Option Grant Notice and Nonstatutory Inducement Stock Option Agreement (the "Inducement Option Agreement").
- (3) Represents 240,200 shares of our common stock to be issued to Dominique Monnet, our President, pursuant to the form of Inducement Restricted Stock Grant Notice and Inducement Restricted Stock Agreement (the "Inducement Restricted Stock Agreement," and together with the Inducement Option Agreement, the "Inducement Award Agreements").
- (4) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) under the Securities Act, based upon the weighted average exercise price of \$3.21 per share of the stock options granted under the Inducement Option Agreement.
- (5) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act, based upon the average of the high and low prices of the Registrant's Common Stock on the NASDAQ Global Select Market on September 11, 2017.

Proposed sales to take place as soon after the effective date of the registration statement as awards granted under the above-named plans are granted, exercised and/or distributed.

NOTE

This Registration Statement on Form S-8 is filed pursuant to General Instruction E to Form S-8 by PDL BioPharma, Inc. (the "Company" or "Registrant") for the purpose of registering (i) 961,000 shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"), which may be issued to Dominique Monnet, the Company's President, under the Inducement Option Agreement, and (ii) 240,200 shares of the Company's common stock to be issued to Mr. Monnet under the Inducement Restricted Stock Agreement.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for in Part I of Form S-8 is not being filed with or included in this Form S-8 (by incorporation by reference or otherwise) in accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC").

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

In this registration statement, PDL BioPharma, Inc. is sometimes referred to as the "Company," "PDL BioPharma," "registrant," "we," "us" or "our."

Item 3. Incorporation of Documents by Reference.

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this registration statement, and later information filed with the SEC will update and supersede this information. We hereby incorporate by reference into this registration statement the following documents previously filed with the SEC:

- (a) Our Annual Report on Form 10-K for the annual period ended December 31, 2016, filed with the SEC on March 1, 2017;
- (b) Our Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2017 and June 30, 2017, filed with the SEC on May 3, 2017 and August 3, 2017, respectively;
- (c) Our Current Reports on Form 8-K, filed with the SEC on March 1, 2017, March 10, 2017, April 6, 2017, May 11, 2017, June 5, 2017, June 12, 2017 and September 11, 2017; and
- (d) The description of our common stock set forth in our Registration Statement on Form 8-A, filed with the SEC on December 23, 1992, as amended on Form 8-A/A filed with the SEC on January 22, 1992, and any amendment or report filed with the SEC for the purpose of updating the description.

In addition, all documents filed by us with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") subsequent to the filing of this registration statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers all securities then remaining unsold shall be deemed to be incorporated by reference into this registration statement and to be a part hereof from the date of filing such documents, except as to specific sections of such statements as set forth therein. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained herein or in any other subsequently filed document which also is incorporated or deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement contained herein shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained in any subsequently filed document which also is incorporated or deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Under no circumstances shall any information furnished under Item 2.02 or 7.01 of Form 8-K be deemed incorporated herein by reference unless such Form 8-K expressly provides to the contrary.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

PDL BioPharma, Inc.'s certificate of incorporation, as amended, eliminates the personal liability of its directors to the extent permitted by the Delaware General Corporation Law, or DGCL. PDL BioPharma, Inc.'s Bylaws provide that PDL BioPharma, Inc. shall, to the full extent permitted by the DGCL, indemnify each person who is or was a director or officer of PDL BioPharma, Inc., and each person who is or was serving at the request of PDL BioPharma, Inc. as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. PDL BioPharma, Inc. has entered into an indemnification agreement with each of its directors and executive officers.

Section 145 of the DGCL permits a corporation to indemnify its directors and officers against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with any action, suit or proceeding brought by third parties, if such directors or officers acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. In a derivative action, i.e., one by or in the right of the corporation, indemnification may be made only for expenses actually and reasonably incurred by directors and officers in connection with the defense or settlement of an action or suit, and only with respect to a matter as to which they shall have acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made if such person shall have been adjudged liable for negligence or misconduct in the performance of his respective duties to the corporation, although the court in which the action or suit was brought may determine upon application that the defendant officers or directors are fairly and reasonably entitled to indemnity for such expenses despite such adjudication of liability.

Section 102(b)(7) of the DGCL provides that a corporation may eliminate or limit the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that such provisions shall not eliminate or limit the liability of a director (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) under section 174 of the DGCL, or (4) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective. PDL BioPharma, Inc.'s certificate of incorporation provides for such limitations on liability.

PDL BioPharma, Inc. also has obtained directors and officers liability insurance that provides insurance coverage for certain liabilities which may be incurred by directors and officers of PDL BioPharma, Inc. in their capacity as such.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits

Exhibit No.	Exhibit Description
4.1	Restated Certificate of Incorporation of the Company, effective March 23, 1993 (incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K, filed on March 31, 1993).
4.2	Certificate of Amendment to the Certificate of Incorporation, effective August 21, 2001 (incorporated by reference to Exhibit 3.3 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission, filed on March 14, 2002).
4.3	Certificate of Amendment to the Certificate of Incorporation, effective January 9, 2006 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed January 10, 2006).
4.4	Third Amended and Restated Bylaws, effective December 4, 2014 (incorporated by reference to Exhibit 99.1 to Current Report on Form 8-K, filed on December 9, 2014).
4.5	Certificate of Amendment of Restated Certificate of Incorporation, effective May 22, 2013 (incorporated by reference to Exhibit 4.4 to Registration Statement on Form S-3, filed on June 21, 2013).
4.6	Specimen of Common Stock Certificate (incorporated by reference to Exhibit 4.9 to Form S-3 ASR, filed on May 9, 2011).
5.1*	Opinion of Latham & Watkins LLP.
23.1*	Consent of Latham & Watkins LLP (included in Exhibit 5.1).
23.2*	Consent of PricewaterhouseCoopers LLP.
24.1*	Power of Attorney (included on signature page hereto).
99.1*	Form of Nonstatutory Inducement Stock Option Grant Notice and Nonstatutory Inducement Stock Option Agreement between PDL BioPharma, Inc. and Dominique Monnet.
99.2*	Form of Inducement Restricted Stock Grant Notice and Inducement Restricted Stock Agreement between PDL BioPharma, Inc. and Dominique Monnet.

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement,

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if this registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this registration statement.

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

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement, relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Incline Village, State of Nevada, on this 12 th day of September, 2017.

PDL BIOPHARMA, INC.

By: /s/ Christopher L. Stone

Christopher L. Stone

Vice President, General Counsel and Secretary

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints John P. McLaughlin, Christopher L. Stone and Nathan Kryszak, and each of them, his true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her and in his name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and any registration statement relating to the offering covered by this Registration Statement and filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ John P. McLaughlin</u> John P. McLaughlin	Chief Executive Officer, and Director (Principal Executive Officer)	September 12, 2017
<u>/s/ Peter S. Garcia</u> Peter S. Garcia	Vice President and Chief Financial Officer (Principal Financial Officer)	September 12, 2017
<u>/s/ Steffen Pietzke</u> Steffen Pietzke	Vice President, Finance and Chief Accounting Officer (Principal Accounting Officer)	September 12, 2017
<u>/s/ Paul R. Edick</u> Paul R. Edick	Director	September 12, 2017
<u>/s/ David W. Gryska</u> David W. Gryska	Director	September 12, 2017
<u>/s/ Jody S. Lindell</u> Jody s. Lindell	Director	September 12, 2017
<u>/s/ Dr. Samuel R. Saks</u> Dr. Samuel R. Saks	Director	September 12, 2017
<u>/s/ Paul W. Sandman</u> Paul W. Sandman	Director	September 12, 2017
<u>/s/ Harold E. Selick</u> Harold E. Selick	Director	September 12, 2017

Index to Exhibits

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4.3	<u>Certificate of Amendment to the Certificate of Incorporation, effective January 9, 2006 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed January 10, 2006).</u>
4.4	<u>Third Amended and Restated Bylaws, effective December 4, 2014 (incorporated by reference to Exhibit 99.1 to Current Report on Form 8-K, filed on December 9, 2014).</u>
4.5	<u>Certificate of Amendment of Restated Certificate of Incorporation, effective May 22, 2013 (incorporated by reference to Exhibit 4.4 to Registration Statement on Form S-3, filed on June 21, 2013).</u>
4.6	<u>Specimen of Common Stock Certificate (incorporated by reference to Exhibit 4.9 to Form S-3 ASR, filed on May 9, 2011).</u>
5.1*	<u>Opinion of Latham & Watkins LLP.</u>
23.1*	<u>Consent of Latham & Watkins LLP (included in Exhibit 5.1).</u>
23.2*	<u>Consent of PricewaterhouseCoopers LLP.</u>
24.1*	<u>Power of Attorney (included on signature page hereto).</u>
99.1*	<u>Form of Nonstatutory Inducement Stock Option Grant Notice and Nonstatutory Inducement Stock Option Agreement between PDL BioPharma, Inc. and Dominique Monnet.</u>
99.2*	<u>Form of Inducement Restricted Stock Grant Notice and Inducement Restricted Stock Agreement between PDL BioPharma, Inc. and Dominique Monnet.</u>

* Filed herewith.

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 San Diego, California 92130
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LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES

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London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

September 12, 2017

PDL BioPharma, Inc.
 932 Southwood Boulevard
 Incline Village, Nevada 89351

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as special counsel to PDL BioPharma, Inc., a Delaware corporation (the “**Company**”), in connection with the proposed issuance of an aggregate of 1,201,200 shares (the “**Shares**”) of common stock, \$0.01 par value per share (the “**Common Stock**”), of which 961,000 Shares are issuable pursuant to that certain Nonstatutory Inducement Stock Option Grant Notice and Nonstatutory Inducement Stock Option Agreement dated September 11, 2017, between the Company and Dominique Monnet (the “**Inducement Option Agreement**”), and 240,200 Shares will be issuable pursuant to that certain Inducement Restricted Stock Grant Notice and Inducement Restricted Stock Agreement to be dated September 12, 2017, between the Company and Dominique Monnet (the “**Inducement Restricted Stock Agreement**,” and together with the Inducement Option Agreement, the “**Inducement Agreements**”). The Shares are included in a registration statement on Form S-8 under the Securities Act of 1933, as amended (the “**Act**”), filed with the Securities and Exchange Commission (the “**Commission**”) on September 12, 2017 (the “**Registration Statement**”). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement, other than as expressly stated herein with respect to the issue of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein only as to the General Corporation Law of the State of Delaware, as amended (the “**DGCL**”), and we express no opinion with respect to any other laws.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the recipient, or certificates representing the Shares (in the form of the

specimen certificate incorporated by reference as an exhibit to the Company's most recent Annual Report on Form 10-K) have been manually signed by an authorized officer of the transfer agent and registrar therefor, and when the Shares have been issued by the Company for legal consideration in excess of par value in the circumstances contemplated by the Inducement Agreements, assuming in each case that the grants or awards under the Inducement Agreements are duly authorized by all necessary corporate action and exercised in accordance with the requirements of law, corporate action approving such grants or awards and the applicable Inducement Agreement, the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ LATHAM & WATKINS LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 1, 2017 relating to the consolidated financial statements and the effectiveness of internal control over financial reporting, which appears in PDL BioPharma, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2016.

/s/ PricewaterhouseCoopers LLP
San Jose, California
September 12, 2017

PDL BioPharma, inc.
Nonstatutory Inducement Stock Option Grant Notice

As an inducement material to the decision by the undersigned person (“*Participant*”) to accept employment with PDL BioPharma, Inc. (the “*Company*”), the Company hereby grants an option (the “*Option*” or the “*Award*”) to purchase shares of common stock of the Company (the “*Shares*”) to the Participant, as set forth below. This Award is made and granted as a stand-alone award and is not granted under or pursuant to the Company’s Amended and Restated 2005 Equity Incentive Plan (the “*Plan*”). This Award is subject to the terms and conditions set forth in this Nonstatutory Inducement Stock Option Grant Notice (this “*Notice*”) and the Nonstatutory Inducement Stock Option Agreement (the “*Stock Option Agreement*”) attached hereto, which is incorporated herein by reference. However, for convenience purposes, unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Notice and the Stock Option Agreement.

Participant: Dominique Monnet
Date of Grant: September 11, 2017
Number of Option Shares: 961,000
Exercise Price: \$3.21
Option Expiration Date: September 10, 2027
Tax Status of Option: Nonstatutory Stock Option

Vested Shares: Except as provided in the Stock Option Agreement and provided that Participant’s Continuous Service has not terminated prior to the relevant date set forth below, the Shares subject to the Option shall vest and become “*Vested Shares*” as follows:

- (a) Twenty-five percent (25%) of the Shares subject to the Option shall vest on September 10, 2018;
- (b) Twenty-five percent (25%) of the Shares subject to the Option shall vest on a monthly basis pro rata over the thirty-six (36) months following September 10, 2018;
- (c) Twenty-five percent (25%) of the Shares subject to the Option shall vest upon a thirty-three percent (33%) increase in the price of the Company’s Common Stock above the Exercise Price for twenty (20) consecutive trading days; and
- (d) Twenty-five percent (25%) of the Shares subject to the Option shall vest upon a fifty percent (50%) increase in the price of the Company’s Common Stock above the Exercise Price for twenty (20) consecutive trading days.

In addition, all of the Shares subject to the Option shall become Vested Shares in the event of a Change in Control (as defined in Section 4.1(c) of the Stock Option Agreement) provided that Participant’s Continuous Service has not terminated prior to the date of such Change in Control.

By their signatures below or by electronic acceptance or authentication in a form authorized by the Company, the Company and Participant agree that the Option is governed by this Notice and by the provisions of the Plan and the Stock Option Agreement, which is made a part of this document. Participant acknowledges that copies of the Stock Option Agreement and the prospectus for the Award are available on the Company’s internal web site and may be viewed and printed by Participant for attachment to Participant’s copy of this Notice. Participant represents that Participant has read and is familiar with the

provisions of the Stock Option Agreement, and hereby accepts the Option subject to all of the terms and conditions hereof and thereof.

PDL BIOPHARMA, INC.

By: _____
Print Name: _____
Title: _____

PARTICIPANT

By: _____
Print Name: Dominique Monnet

Date: _____

Date: _____

ATTACHMENTS: Stock Option Agreement; Exercise Notice

PDL BioPharma, Inc.
Nonstatutory Inducement Stock Option Agreement

PDL BioPharma, Inc., has granted to Participant named in the *Nonstatutory Inducement Stock Option Grant Notice* (the “*Notice*”) to which this Nonstatutory Inducement Stock Option Agreement (this “*Agreement*”) is attached an option (the “*Option*”) to purchase certain shares of Common Stock upon the terms and conditions set forth in the Notice and this Agreement. By signing the Notice, the Participant: (a) acknowledges receipt of and represents that Participant has read and is familiar with the Notice and this Agreement and the current prospectus under the registration statement filed with the Securities and Exchange Commission (the “*Prospectus*”) which covers the Option, (b) accepts the Award subject to all of the terms and conditions of the Notice and this Agreement and (c) agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Notice and this Agreement.

1. Definitions and Construction.

1.1 Non-Plan Grant; Incorporation of Terms of Plan . The Option is made and granted as a stand-alone award, separate and apart from, and outside of, the Company’s Amended and Restated 2005 Equity Incentive Plan (the “*Plan*”), and shall not constitute an Award granted under or pursuant to the Plan. Notwithstanding the foregoing, the terms, conditions and definitions set forth in the Plan shall apply to the Option (including but not limited to the adjustment provisions contained in Section 10 of the Plan), and the Option shall be subject to such terms, conditions and definitions, which are hereby incorporated into this Agreement by reference. For the avoidance of doubt, the Option shall not be counted for purposes of calculating the aggregate number of Shares that may be issued or transferred pursuant to Awards under the Plan as set forth in Section 4(a) of the Plan. In the event of any inconsistency between the Plan and the Notice or this Agreement, the terms of the Notice and this Agreement shall control.

1.2 Employment Inducement Grant. The Option is intended to constitute an “employment inducement grant” under NASDAQ Listing Rule 5635(c)(4), and consequently is intended to be exempt from the NASDAQ rules regarding stockholder approval of stock option and stock purchase plans. This Agreement and the terms and conditions of the Option shall be interpreted in accordance and consistent with such exemption.

1.3 Defined Terms. For convenience purposes only, unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in the Notice and the Agreement.

1.4 Construction . Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term “or” is not intended to be exclusive, unless the context clearly requires otherwise.

2. Grant of Option.

2.1 **Grant of Option.** In consideration of Participant's agreement to commence employment with and remain in the employ of the Company or an Affiliate and for other good and valuable consideration, effective as of the Date of Grant set forth in the Notice, the Company has granted to Participant the Option to purchase any part or all of an aggregate of the number of shares of Common Stock set forth in the Notice, upon the terms and conditions set forth in the Notice and this Agreement.

2.2 **Exercise Price.** The Exercise Price per share of the shares of Common Stock subject to the Option shall be as set forth in the Notice.

2.3 **Tax Status of Option.** This Option is intended to be a Nonstatutory Stock Option and shall not be treated as an Incentive Stock Option within the meaning of Section 422(b) of the Code.

3. Administration.

All questions of interpretation concerning the Option and this Agreement shall be determined by the Committee. All determinations by the Committee shall be final and binding upon all persons having an interest in the Option. For purposes of the Notice and this Agreement, the "Committee" shall mean (a) the Company's Compensation Committee comprised of Independent Directors (as defined below), each of whom is also a Non-Employee Director, or (b) a majority of the Company's Independent Directors. For purposes of this Award, the Notice and this Agreement, "**Independent Director**" shall mean a Director of the Company who is not an Employee of the Company and who qualifies as "independent" within the meaning of NASDAQ Stock Market Rule 5605(a)(2), or any successor rule, if the Company's securities are traded on the NASDAQ Stock Market, and/or the applicable requirements of any other established stock exchange on which the Company's securities are traded, as applicable, as such rules and requirements may be amended from time to time.

4. Exercise of the Option.

4.1 Right to Exercise.

(a) **In General.** Except as otherwise provided herein, and subject to Sections 6 and 7, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the Notice in an amount not to exceed the number of Vested Shares less the number of Shares previously acquired upon exercise of the Option. In no event shall the Option be exercisable for more Shares than the Number of Option Shares, as adjusted pursuant to Section 8. No portion of the Option which has not become vested and exercisable at the date of Participant's termination of Continuous Service shall thereafter become vested and exercisable, except as may be otherwise provided by the Committee or as set forth in a written agreement between the Company and Participant.

(b) **Vesting Cumulative.** The installments provided for in the vesting schedule set forth in the Notice are cumulative. Each such installment of Shares which becomes Vested Shares pursuant to the vesting schedule set forth in the Notice shall remain Vested Shares until it becomes unexercisable under Section 6 or 7 hereof.

(c) **Change in Control Vesting.** Solely for purposes of the vesting schedule set forth in the Notice (and for the avoidance of doubt, “Change in Control” for any other purposes of the Notice or this Agreement shall continue to have the meaning given to such term in the Plan), a “**Change in Control**” shall be deemed to have occurred as of the first day after the Date of Grant that any one or more of the following conditions is satisfied:

(i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, other than a trustee or other fiduciary holding securities of the Company under an employee benefit plan of the Company, becomes the “beneficial owner” (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of (i) the outstanding shares of Common Stock of the Company or (ii) the combined voting power of the Company’s then-outstanding securities entitled to vote generally in the election of directors; or

(ii) the Company (i) is party to a merger, consolidation or exchange of securities which results in the holders of voting securities of the Company outstanding immediately prior thereto failing to continue to hold at least fifty percent (50%) of the combined voting power of the voting securities of the Company, the surviving entity or a parent of the surviving entity outstanding immediately after such merger, consolidation or exchange, or (ii) sells or disposes of all or substantially all of the Company’s assets (or any transaction or combination of transactions having similar effect is consummated), or (iii) the individuals constituting the Board immediately prior to such merger, consolidation, exchange, sale or disposition shall cease to constitute at least fifty percent (50%) of the Board, unless the election of each director who was not a director prior to such merger, consolidation, exchange, sale or disposition was approved by a vote of at least two-thirds of the directors then in office who were directors prior to such merger, consolidation, exchange, sale or disposition.

4.2 **Method of Exercise** . Exercise of the Option shall be by means of electronic or written notice (the “**Exercise Notice**”) in a form authorized by the Company. An electronic Exercise Notice must be digitally signed or authenticated by Participant in such manner as required by the notice and transmitted to the Company or an authorized representative of the Company (including a third-party administrator designated by the Company). In the event that Participant is not authorized or is unable to provide an electronic Exercise Notice, the Option shall be exercised by a written Exercise Notice addressed to the Company, which shall be signed by Participant and delivered in person, by certified or registered mail, return receipt requested, by confirmed facsimile or electronic transmission, or by such other means as the Company may permit, to the Company, or an authorized representative of the Company (including a third-party administrator designated by the Company). Each Exercise Notice, whether electronic or written, must state Participant’s election to exercise the Option, the number of whole shares of Common Stock for which the Option is being exercised and such other representations and agreements as to Participant’s investment intent with respect to such shares as may be required pursuant to the provisions of this Option Agreement. Further, each Exercise Notice must be received by the Company prior to the termination of the Option as set forth in Section 6 and must be accompanied by full payment of the aggregate Exercise Price for the number of shares of Common Stock being purchased in such form of consideration permitted under Section 4.3(a) and the payment of any applicable withholding tax in accordance with Section 4.4. The Option shall be deemed to be exercised upon receipt by the Company of such electronic or written Exercise Notice, the aggregate Exercise Price and any applicable withholding tax.

4.3 **Payment of Exercise Price .**

(a) **Forms of Consideration Authorized .** Except as otherwise provided below, payment of the aggregate Exercise Price for the number of shares of Common Stock for which the Option is being exercised shall be made in one of the following forms:

(i) By cash, check, bank draft or money order payable to the Company;

(ii) With the consent of the Committee, by tender to the Company, or attestation to the ownership, of whole shares of Common Stock owned by Participant having a Fair Market Value not less than the aggregate Exercise Price;

(iii) With the consent of the Committee, by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the largest whole number of Shares with a Fair Market Value that does not exceed the aggregate Exercise Price; provided, however, that the Company will accept a cash or other payment from Participant to the extent of any remaining balance of the aggregate Exercise Price not satisfied by such reduction in the number of whole Shares to be issued;

(iv) By means of a Cashless Exercise, as defined in Section 4.3(b); or

(v) By any combination of the foregoing.

(b) **Limitations on Forms of Consideration .**

(i) **Tender of Stock .** Notwithstanding the foregoing, the Option may not be exercised (and any tax withholding obligation may not be satisfied) by tender to the Company, or attestation to the ownership, of shares of Common Stock to the extent such tender or attestation would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Company’s stock. If required by the Company, the Option may not be exercised (and any tax withholding obligation may not be satisfied) by tender to the Company, or attestation to the ownership, of shares of Common Stock unless such shares either have been owned by Participant for more than six (6) months or such other shorter or longer period, if any, required by the Company (and not used for another option exercise by attestation during such period) or were not acquired, directly or indirectly, from the Company.

(ii) **Cashless Exercise .** A “*Cashless Exercise*” means the delivery of a properly executed notice together with irrevocable instructions to a broker in a form acceptable to the Company providing for the assignment to the Company of the proceeds of a sale with respect to some or all of the shares of Common Stock then issuable upon exercise of the Option pursuant to a program or procedure approved by the Company (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System), and confirmation that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option Exercise Price; provided that payment of such proceeds is then made to the Company at such time as may be required by the Committee, but in any event not later than the settlement of such sale. The Company reserves, at any and all times, the right, in the Company’s sole and absolute discretion, to establish, decline to approve or terminate any such program or procedure, including with respect to Participant notwithstanding that such program or procedures may be available to others.

4.4 Tax Withholding .

(a) **Tax Withholding Right.** At the time the Option is exercised, in whole or in part, or at any time thereafter as requested by the Company or an Affiliate (each, a “ *Participating Company* ” and together the “ *Participating Company Group* ”), Participant hereby authorizes withholding from payroll and any other amounts payable to Participant, and otherwise agrees to make adequate provision for (including by means of a Cashless Exercise to the extent permitted by the Company), any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Participating Company Group, if any, which arise in connection with the Option. The Company shall have no obligation to deliver shares of Common Stock until the tax withholding obligations of the Participating Company Group have been satisfied by Participant.

(b) **Forms of Consideration Authorized .** The Company and its Affiliates may withhold or Participant may make such payment in one or more of the forms specified below:

(i) By cash, check, bank draft or money order payable to the Company or its Affiliate with respect to which the withholding obligation arises;

(ii) By the deduction of such amount from other compensation payable to Participant;

(iii) With respect to any withholding taxes arising in connection with the exercise of the Option, with the consent of the Committee, by tendering to the Company, or attestation to the ownership, of whole shares of Common Stock owned by Participant having a Fair Market Value not exceeding the amount necessary to satisfy the withholding obligation of the Company and its Affiliates based on the minimum applicable statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes (or such lesser amount as may be necessary to avoid classification of the Option as a liability for financial accounting purposes);

(iv) With the consent of the Committee, by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the largest whole number of Shares with a Fair Market Value not exceeding the amount necessary to satisfy the withholding obligation of the Company and its Affiliates based on the minimum applicable statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes (or such lesser amount as may be necessary to avoid classification of the Option as a liability for financial accounting purposes); provided, however, that the Company will accept a cash or other payment from Participant to the extent of any remaining balance of the tax withholding obligation is not satisfied by such reduction in the number of whole Shares to be issued;

(v) With respect to any withholding taxes arising in connection with the exercise of the Option, by means of a Cashless Exercise pursuant to which the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company or the Affiliate with respect to which the withholding obligation arises in satisfaction of such withholding taxes; or

(vi) In any combination of the foregoing.

(c) **Certain Company Rights .** With respect to any withholding taxes arising in connection with the Option, in the event Participant fails to provide timely payment of all sums required pursuant to Section 4(b), the Company shall have the right and option, but not the obligation, to treat such failure as an election by Participant to satisfy all or any portion of Participant’s required payment

obligation pursuant to Section 4(b)(ii) or Section 4(b)(iv) above, or any combination of the foregoing as the Company may determine to be appropriate.

(d) **Participant Responsibility.** Participant is ultimately liable and responsible for all taxes owed in connection with the Option, regardless of any action the Participating Company Group takes with respect to any tax withholding obligations that arise in connection with the Option. No member of the Participating Company Group makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or exercise of the Option or the subsequent sale of Common Stock. The Participating Company Group does not commit and is under no obligation to structure the Option to reduce or eliminate Participant's tax liability.

4.5 **Beneficial Ownership of Shares; Certificate Registration .** Participant hereby authorizes the Company, in its sole discretion, to deposit for the benefit of Participant with any broker with which Participant has an account relationship of which the Company has notice any or all shares acquired by Participant pursuant to the exercise of the Option. Except as provided by the preceding sentence, a certificate for the shares as to which the Option is exercised shall be registered in the name of Participant, or, if applicable, in the names of the heirs of Participant.

4.6 **Restrictions on Grant of the Option and Issuance of Shares .** The grant of the Option and the issuance of shares of Common Stock upon exercise of the Option shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. The Option may not be exercised if the issuance of shares of Common Stock upon exercise would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Common Stock may then be listed. In addition, the Option may not be exercised unless (a) a registration statement under the Securities Act shall at the time of exercise of the Option be in effect with respect to the shares issuable upon exercise of the Option or (b) in the opinion of legal counsel to the Company, the shares issuable upon exercise of the Option may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. **PARTICIPANT IS CAUTIONED THAT THE OPTION MAY NOT BE EXERCISED UNLESS THE FOREGOING CONDITIONS ARE SATISFIED. ACCORDINGLY, PARTICIPANT MAY NOT BE ABLE TO EXERCISE THE OPTION WHEN DESIRED EVEN THOUGH THE OPTION IS VESTED.** The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares subject to the Option shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to the exercise of the Option, the Company may require Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

4.7 **Fractional Shares .** The Company shall not be required to issue fractional shares upon the exercise of the Option.

5. **Nontransferability of the Option .**

During the lifetime of Participant, the Option shall be exercisable only by Participant or Participant's guardian or legal representative. The Option shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of Participant or Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Following the death of Participant, the Option, to the extent provided in Section 7, may be

exercised by Participant's legal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

6. Termination of the Option

The Option shall terminate and may no longer be exercised after the first to occur of (a) the close of business on the Option Expiration Date, or (b) the close of business on the last date for exercising the Option following termination of Participant's Continuous Service as described in Section 7.

7. Effect of Termination of Continuous Service

7.1 **Option Exercisability** . The Option shall terminate immediately upon Participant's termination of Continuous Service to the extent that it is then unvested and shall be exercisable after Participant's termination of Continuous Service to the extent unexercised and exercisable for Vested Shares only during the applicable time period as determined below and thereafter shall terminate.

(a) **Disability** . If Participant's Continuous Service terminates because of the Disability of Participant, the Option, to the extent unexercised and exercisable for Vested Shares on the date on which Participant's Continuous Service terminated, may be exercised by Participant (or Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which Participant's Continuous Service terminated, but in any event no later than the Option Expiration Date.

(b) **Death** . If Participant's Continuous Service terminates because of the death of Participant, the Option, to the extent unexercised and exercisable for Vested Shares on the date on which Participant's Continuous Service terminated, may be exercised by Participant's legal representative or other person who acquired the right to exercise the Option by reason of Participant's death at any time prior to the expiration of twelve (12) months after the date on which Participant's Continuous Service terminated, but in any event no later than the Option Expiration Date. Participant's Continuous Service shall be deemed to have terminated on account of death if Participant dies within three (3) months after Participant's termination of Continuous Service for any reason other than the discharge of Participant by a Participating Company for Cause.

(c) **Cause** . If Participant's Continuous Service terminates because of the discharge of Participant by a Participating Company for Cause, the Option shall terminate immediately upon such termination and may not thereafter be exercised by Participant.

(d) **Other Termination of Continuous Service** . If Participant's Service terminates for any reason, except Disability, death or by reason of discharge for Cause, the Option, to the extent unexercised and exercisable for Vested Shares by Participant on the date on which Participant's Continuous Service terminated, may be exercised by Participant within three (3) months after the date on which Participant's Continuous Service terminated, but in any event no later than the Option Expiration Date.

8. Adjustments for Changes in Capital Structure; Transactions

Participant acknowledges that the Award is subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan, including Section 10 of the Plan.

9. Rights as a Stockholder, Director, Employee or Consultant.

Participant shall have no rights as a stockholder with respect to any Shares covered by the Option until the date of the issuance of the Shares for which the Option has been exercised (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date the Shares are issued, except as provided in Section 10 of the Plan. If Participant is an Employee, Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and Participant, Participant's employment is "at will" and is for no specified term. Nothing in this Agreement shall confer upon Participant any right to continue in the Continuous Service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate Participant's Continuous Service as a Director, an Employee or Consultant, as the case may be, at any time.

10. Legends.

The Company may at any time place legends referencing any applicable federal, state or foreign securities law restrictions on all certificates representing shares of Common Stock subject to the provisions of this Agreement. Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing shares acquired pursuant to the Option in the possession of Participant in order to carry out the provisions of this Section.

11. Miscellaneous Provisions.

11.1 Termination or Amendment. The Committee may terminate or amend this Agreement at any time; provided, however, that, except as provided in Section 8, no such termination or amendment may adversely affect the Option or any unexercised portion hereof without the consent of Participant unless such termination or amendment is necessary to comply with any applicable law or government regulation. No amendment or addition to this Agreement shall be effective unless in writing.

11.2 Further Instruments. The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement.

11.3 Binding Effect. This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon Participant and Participant's heirs, executors, administrators, successors and assigns.

11.4 Delivery of Documents and Notices. Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the Company at its principal executive offices and to Participant at Participant's most-recent address on the Company's personnel records or at such other address as such party may designate in writing from time to time to the other party.

(a) **Description of Electronic Delivery.** The Award documents, which may include but do not necessarily include: the Notice, this Agreement, the Prospectus, and any reports of the Company provided generally to the Company's stockholders, may be delivered to Participant

electronically. In addition, Participant may deliver electronically the Grant Notice and Exercise Notice called for by Section 4.2 to the Company or to such third party involved in administering the Plan as the Company may designate from time to time. Such means of electronic delivery may include but do not necessarily include the delivery of a link to a Company intranet or the internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other means of electronic delivery specified by the Company.

(b) **Consent to Electronic Delivery.** Participant acknowledges that Participant has read Section 11.4(a) of this Agreement and consents to the electronic delivery of the Award documents, the Notice and the exercise Notice, as described in Section 11.4(a). Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to Participant by contacting the Company by telephone or in writing. Participant further acknowledges that Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, Participant understands that Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. Participant may revoke his or her consent to the electronic delivery of documents described in Section 11.4(a) or may change the electronic mail address to which such documents are to be delivered (if Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, Participant understands that he or she is not required to consent to electronic delivery of documents described in Section 11.4(a).

11.5 **Clawback/Recovery.** Participant hereby agrees that the Option is subject to the provisions of Section 9(l) of the Plan.

11.6 **Integrated Agreement.** The Notice and this Agreement together with any other employment, severance, service or other agreement between Participant and a Participating Company referring to the Option, if any, shall constitute the entire understanding and agreement of Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersedes any prior agreements, understandings, restrictions, representations, or warranties among Participant and the Participating Company Group with respect to such subject matter other than those as set forth or provided for herein or therein. To the extent contemplated herein or therein, the provisions of the Notice and the Agreement shall survive any exercise of the Option and shall remain in full force and effect.

11.7 **Applicable Law.** This Agreement and any controversy arising out of or relating to this Agreement shall be governed by, and construed in accordance with, the General Corporation Law of the State of Delaware, without regard to that state's conflict of law rules.

11.8 **Counterparts.** The Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.9 **Limitation on Participant's Rights.** The grant of the Option confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Participant shall have only the rights of a general unsecured creditor of the Company with respect to the Option.

Participant: _____

Date: _____

STOCK OPTION EXERCISE NOTICE

PDL BioPharma, Inc.
Stock Administrator

Ladies and Gentlemen:

Option. I was granted a nonstatutory stock option (the “ *Option* ”) to purchase shares of the common stock (the “ *Shares* ”) of PDL BioPharma, Inc. (the “ *Company* ”) pursuant to the Nonstatutory Inducement Stock Option Grant Notice (the “ *Notice* ”) and the Nonstatutory Inducement Stock Option Agreement (the “ *Option Agreement* ”) as follows:

Date of Grant: September 11, 2017

Number of Option Shares: _____

Exercise Price per Share: \$ _____

Exercise of Option. I hereby elect to exercise the Option to purchase the following number of Shares, all of which are Vested Shares in accordance with the Notice and the Option Agreement:

Total Shares Purchased: _____

Total Exercise Price (Total Shares X Price per Share) \$ _____

Payments. I enclose payment in full of the total exercise price for the Shares in the following form(s), as authorized by my Option Agreement:

Cash: \$ _____

Check: \$ _____

Other: _____ Contact Plan Administrator

Tax Withholding. I authorize payroll withholding and otherwise will make adequate provision for the federal, state, local and foreign tax withholding obligations of the Company, if any, in connection with the Option.

Participant Information

My address is: _____

My Social Security Number is: _____

Binding Effect. I agree that the Shares are being acquired in accordance with and subject to the terms, provisions and conditions of the Notice and the Option Agreement, to all of which I hereby expressly assent. This Agreement shall inure to the benefit of and be binding upon my heirs, executors, administrators, successors and assigns.

Very truly yours,

(Signature)

Receipt of the above is hereby acknowledged.

PDL BIOPHARMA, INC.

By: _____

Title: _____

Dated: _____

**PDL BioPharma, inc.
Inducement Restricted Stock Grant Notice**

As an inducement material to the decision by the undersigned person (“*Participant*”) to accept employment with PDL BioPharma, Inc. (the “*Company*”), the Company hereby grants an award (the “*Award*”) of shares of common stock of the Company (the “*Shares*”) to the Participant, as set forth below. This Award is made and granted as a stand-alone award and is not granted under or pursuant to the Company’s Amended and Restated 2005 Equity Incentive Plan (the “*Plan*”). This Award is subject to the terms and conditions set forth in this Inducement Restricted Stock Grant Notice (this “*Notice*”) and the Inducement Restricted Stock Agreement (the “*Restricted Stock Agreement*”) attached hereto, which is incorporated herein by reference. However, for convenience purposes, unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Notice and the Restricted Stock Agreement.

Participant: Dominique Monnet
Date of Grant: September 12, 2017
Total Number of Shares: 240,200

Vesting of Shares: Except as provided in the Restricted Stock Agreement and provided that Participant’s Continuous Service has not terminated prior to the relevant date set forth below, the number of Shares (“*Vested Shares*”) set forth opposite such date shall, on such date, vest and no longer be subject to the Company Reacquisition Right (as defined in the Restricted Stock Agreement):

<u>Vesting Date</u>	<u>No. Shares Vesting</u>
December 12, 2018	80,067
December 12, 2019	80,067
December 12, 2020	80,066

In addition, all of the Shares shall become Vested Shares in the event of a Change in Control (as defined in Section 4 of the Restricted Stock Agreement) provided that Participant’s Continuous Service has not terminated prior to the date of such Change in Control.

By their signatures below or by electronic acceptance or authentication in a form authorized by the Company, the Company and Participant agree that the Award is governed by the terms and conditions of this Notice and the Restricted Stock Agreement, which is made part of this document. Participant acknowledges that copies of the Restricted Stock Agreement and the prospectus for the Award are available on the Company’s internal web site and may be viewed and printed by Participant for attachment to Participant’s copy of this Notice. Participant represents that Participant has read and is familiar with the provisions of the Restricted Stock Agreement, and hereby accepts the Award subject to all of the terms and conditions hereof and thereof.

PDL BIOPHARMA, INC.

PARTICIPANT

By:	_____	By:	_____
Print Name:	_____	Print Name:	Dominique Monnet
Title:	_____		_____
Date:	_____	Date:	_____

ATTACHMENTS: Restricted Stock Agreement; Assignment Separate from Certificate

PDL BioPharma, Inc.
Inducement Restricted Stock Agreement

PDL BioPharma, Inc., has granted to Participant named in the *Inducement Restricted Stock Grant Notice* (the “**Notice**”) to which this Inducement Restricted Stock Agreement (this “**Agreement**”) is attached an Award of Shares subject to the terms and conditions set forth in the Notice and this Agreement. By signing the Notice, the Participant: (a) acknowledges receipt of and represents that Participant has read and is familiar with the Notice and this Agreement and the current prospectus under the registration statement filed with the Securities and Exchange Commission (the “**Prospectus**”) which covers the Shares, (b) accepts the Award subject to all of the terms and conditions of the Notice and this Agreement and (c) agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Notice and this Agreement.

1. Definitions and Construction.

1.1 **Non-Plan Grant; Incorporation of Terms of Plan .** The Award is made and granted as a stand-alone award, separate and apart from, and outside of, the Company’s Amended and Restated 2005 Equity Incentive Plan (the “**Plan**”), and shall not constitute an Award granted under or pursuant to the Plan. Notwithstanding the foregoing, the terms, conditions and definitions set forth in the Plan shall apply to the Award (including but not limited to the adjustment provisions contained in Section 10 of the Plan), and the Award shall be subject to such terms, conditions and definitions, which are hereby incorporated into this Agreement by reference. For the avoidance of doubt, the Award shall not be counted for purposes of calculating the aggregate number of Shares that may be issued or transferred pursuant to Awards under the Plan as set forth in Section 4(a) of the Plan. In the event of any inconsistency between the Plan and the Notice or this Agreement, the terms of the Notice and this Agreement shall control.

1.2 **Employment Inducement Grant.** The Award is intended to constitute an “employment inducement grant” under NASDAQ Listing Rule 5635(c)(4), and consequently is intended to be exempt from the NASDAQ rules regarding stockholder approval of stock option and stock purchase plans. This Agreement and the terms and conditions of the Award shall be interpreted in accordance and consistent with such exemption.

1.3 **Defined Terms.** For convenience purposes only, unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in the Notice and the Agreement.

1.4 **Construction .** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term “or” is not intended to be exclusive, unless the context clearly requires otherwise.

2. Administration .

All questions of interpretation concerning the Notice and this Agreement shall be determined by the Committee. All determinations by the Committee shall be final and binding upon all persons having an interest in the Award. For purposes of the Notice and this Agreement, the “Committee” shall mean (a) the Company’s Compensation Committee comprised of Independent Directors (as defined below), each of whom is also a Non-Employee Director, or (b) a majority of the Company’s Independent Directors. For purposes of this Award, the Notice and this Agreement, “**Independent Director**” shall mean a Director of the Company who is not an Employee of the Company and who qualifies as

“independent” within the meaning of NASDAQ Stock Market Rule 5605(a)(2), or any successor rule, if the Company’s securities are traded on the NASDAQ Stock Market, and/or the applicable requirements of any other established stock exchange on which the Company’s securities are traded, as applicable, as such rules and requirements may be amended from time to time.

3. **The Award.**

3.1 **Grant and Issuance of Shares.** In consideration of Participant’s agreement to commence employment with and remain in the employ of the Company, upon the Date of Grant, Participant shall acquire and the Company shall issue, subject to the provisions of this Agreement, a number of Shares equal to the Total Number of Shares set forth in the Notice. As a condition to the issuance of the Shares, Participant shall execute and deliver to the Company along with the Notice, the Assignment Separate from Certificate duly endorsed (with date and number of shares blank) in the form attached to the Notice.

3.2 **No Monetary Payment Required.** Participant is not required to make any monetary payment (other than to satisfy applicable tax withholding, if any, with respect to the issuance or vesting of the Shares) as a condition to receiving the Shares, the consideration for which shall be future services to be rendered to the Company or an Affiliate or for its benefit having a value not less than the par value of the Shares issued pursuant to the Award.

3.3 **Beneficial Ownership of Shares; Certificate Registration .** Participant hereby authorizes the Company, in its sole discretion, to deposit the Shares with the Company’s transfer agent, including any successor transfer agent, to be held in book entry form during the term of the Escrow pursuant to Section 6. Furthermore, Participant hereby authorizes the Company, in its sole discretion, to deposit, following the term of such Escrow, for the benefit of Participant with any broker with which Participant has an account relationship of which the Company has notice any or all Shares which are no longer subject to such Escrow. Except as provided by the foregoing, a certificate for the Shares shall be registered in the name of Participant, or, if applicable, in the names of the heirs of Participant.

3.4 **Issuance of Shares in Compliance with Law .** The issuance of the Shares shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. No Shares shall be issued hereunder if their issuance would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Common Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company’s legal counsel to be necessary to the lawful issuance of any Shares shall relieve the Company of any liability in respect of the failure to issue such Shares as to which such requisite authority shall not have been obtained. As a condition to the issuance of the Shares, the Company may require Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

4. Vesting of Shares .

The Shares shall vest and become Vested Shares as provided in the Notice. Solely for purposes of the vesting schedule set forth in the Notice (and for the avoidance of doubt, “Change in Control” for any other purposes of the Notice or this Agreement shall continue to have the meaning given to such term in the Plan), a “ **Change in Control** ” shall be deemed to have occurred as of the first day after the Date of Grant that any one or more of the following conditions is satisfied:

(a) any “person” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, other than a trustee or other fiduciary holding securities of the Company under an employee benefit plan of the Company, becomes the “beneficial owner” (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of (i) the outstanding shares of Common Stock of the Company or (ii) the combined voting power of the Company’s then-outstanding securities entitled to vote generally in the election of directors; or

(b) the Company (i) is party to a merger, consolidation or exchange of securities which results in the holders of voting securities of the Company outstanding immediately prior thereto failing to continue to hold at least fifty percent (50%) of the combined voting power of the voting securities of the Company, the surviving entity or a parent of the surviving entity outstanding immediately after such merger, consolidation or exchange, or (ii) sells or disposes of all or substantially all of the Company’s assets (or any transaction or combination of transactions having similar effect is consummated), or (iii) the individuals constituting the Board immediately prior to such merger, consolidation, exchange, sale or disposition shall cease to constitute at least fifty percent (50%) of the Board, unless the election of each director who was not a director prior to such merger, consolidation, exchange, sale or disposition was approved by a vote of at least two-thirds of the directors then in office who were directors prior to such merger, consolidation, exchange, sale or disposition.

5. Company Reacquisition Right .

5.1 **Grant of Company Reacquisition Right** . Except to the extent otherwise provided in a written agreement between the Company and Participant, in the event that (a) Participant’s Continuous Service terminates for any reason or no reason, with or without Cause, or (b) Participant, Participant’s legal representative, or other holder of the Shares, attempts to sell, exchange, transfer, pledge, or otherwise dispose of (other than pursuant to a Transaction), including, without limitation, any transfer to a nominee or agent of Participant, any Shares which are not Vested Shares (“ **Unvested Shares** ”), the Company shall automatically reacquire the Unvested Shares, and Participant shall not be entitled to any payment therefor (the “ **Company Reacquisition Right** ”).

5.2 **Transaction** . Upon the occurrence of a Transaction or Capitalization Adjustment, any and all new, substituted or additional securities or other property to which Participant is entitled by reason of Participant’s ownership of Unvested Shares shall be immediately subject to the Company Reacquisition Right and the Escrow and included in the terms “Shares,” “Common Stock” and “Unvested Shares” for all purposes of the Company Reacquisition Right with the same force and effect as the Unvested Shares immediately prior to the Transaction or Capitalization Adjustment.

6. Escrow .

6.1 **Appointment of Agent** . To ensure that Shares subject to the Company Reacquisition Right will be available for reacquisition, Participant and the Company hereby appoint the

Secretary of the Company, or any other person designated by the Company, as their agent and as attorney-in-fact for Participant (the “**Agent**”) to hold any and all Unvested Shares and to sell, assign and transfer to the Company any such Unvested Shares reacquired by the Company pursuant to the Company Reacquisition Right. Participant understands that appointment of the Agent is a material inducement to make this Agreement and that such appointment is coupled with an interest and is irrevocable. The Agent shall not be personally liable for any act the Agent may do or omit to do hereunder as escrow agent, agent for the Company, or attorney in fact for Participant while acting in good faith and in the exercise of the Agent’s own good judgment, and any act done or omitted by the Agent pursuant to the advice of the Agent’s own attorneys shall be conclusive evidence of such good faith. The Agent may rely upon any letter, notice or other document executed by any signature purporting to be genuine and may resign at any time.

6.2 **Establishment of Escrow .** Participant authorizes the Company to deposit the Unvested Shares with the Company’s transfer agent to be held in book entry form, as provided in Section 3.3, and Participant agrees to deliver to and deposit with the Agent each certificate, if any, evidencing the Shares and an Assignment Separate from Certificate with respect to such book entry shares and each such certificate duly endorsed (with date and number of Shares blank) in the form attached to the Notice, to be held by the Agent under the terms and conditions of this Section 6 (the “**Escrow**”). The Company shall bear the expenses of the Escrow.

6.3 **Delivery of Shares to Participant .** The Escrow shall continue with respect to any Shares for so long as such Shares remain subject to the Company Reacquisition Right. Upon termination of the Reacquisition Right with respect to Shares, the Company shall so notify the Agent and direct the Agent to deliver such number of Shares to Participant. As soon as practicable after receipt of such notice, the Agent shall cause to be delivered to Participant the Shares specified by such notice, and the Escrow shall terminate with respect to such Shares.

7. **Tax Matters .**

7.1 **Tax Withholding.**

a. **In General.** At the time the Notice is executed, or at any time thereafter as requested by the Company or an Affiliate (each, a “**Participating Company**” and together the “**Participating Company Group**”), Participant hereby authorizes withholding from payroll and any other amounts payable to Participant, and otherwise agrees to make adequate provision for, any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Participating Company Group, if any, which arise in connection with the Award, including, without limitation, obligations arising upon (i) the transfer of Shares to Participant, (ii) the lapsing of any restriction with respect to any Shares, (iii) the filing of an election to recognize tax liability, or (iv) the transfer by Participant of any Shares. The Company shall have no obligation to deliver the Shares or to release any Shares from the Escrow established pursuant to Section 6 until the tax withholding obligations of the Participating Company have been satisfied by Participant.

b. **Withholding in Shares.** Participant may satisfy all or any portion of a Participating Company’s tax withholding obligations by requesting the Company to withhold a number of whole, Vested Shares otherwise deliverable to Participant or by tendering to the Company, or attestation to the ownership, of a number of whole, Vested Shares or vested shares of Common Stock acquired otherwise than pursuant to the Award having, in any such case, a Fair Market Value, as determined by the Company as of the date on which the tax withholding obligations arise, not in excess of the amount of

such tax withholding obligations determined by the applicable minimum statutory withholding rates (or such lesser amount as may be necessary to avoid classification of the Award as a liability for financial accounting purposes). Any adverse consequences to Participant resulting from the procedure permitted under this Section, including, without limitation, tax consequences, shall be the sole responsibility of Participant.

c. **Participant Responsibility.** Participant is ultimately liable and responsible for all taxes owed in connection with the Award, regardless of any action the Participating Company Group takes with respect to any tax withholding obligations that arise in connection with the Award. No member of the Participating Company Group makes any representation or undertaking regarding the treatment of any tax withholding in connection with the Award or the subsequent sale of Common Stock. The Participating Company Group does not commit and is under no obligation to structure the Award to reduce or eliminate Participant's tax liability.

7.2 Election Under Section 83(b) of the Code.

a. Participant understands that Section 83 of the Code taxes as ordinary income the difference between the amount paid for the Shares, if anything, and the fair market value of the Shares as of the date on which the Shares are "substantially vested," within the meaning of Section 83. In this context, "substantially vested" means that the right of the Company to reacquire the Shares pursuant to the Company Reacquisition Right has lapsed. Participant understands that he or she may elect to have his or her taxable income determined at the time he or she acquires the Shares rather than when and as the Company Reacquisition Right lapses by filing an election under Section 83(b) of the Code with the Internal Revenue Service no later than thirty (30) days after the date of acquisition of the Shares. Participant understands that failure to make a timely filing under Section 83(b) will result in his or her recognition of ordinary income, as the Company Reacquisition Right lapses, on the difference between the purchase price, if anything, and the fair market value of the Shares at the time such restrictions lapse. Participant further understands, however, that if Shares with respect to which an election under Section 83(b) has been made are forfeited to the Company pursuant to its Company Reacquisition Right, such forfeiture will be treated as a sale on which there is realized a loss equal to the excess (if any) of the amount paid (if any) by Participant for the forfeited Shares over the amount realized (if any) upon their forfeiture. If Participant has paid nothing for the forfeited Shares and has received no payment upon their forfeiture, Participant understands that he or she will be unable to recognize any loss on the forfeiture of the Shares even though Participant incurred a tax liability by making an election under Section 83(b).

b. Participant understands that he or she should consult with his or her tax advisor regarding the advisability of filing with the Internal Revenue Service an election under Section 83(b) of the Code, which must be filed no later than thirty (30) days after the date of the acquisition of the Shares pursuant to this Agreement. Failure to file an election under Section 83(b), if appropriate, may result in adverse tax consequences to Participant. Participant acknowledges that he or she has been advised to consult with a tax advisor regarding the tax consequences to Participant of the acquisition of Shares hereunder. ANY ELECTION UNDER SECTION 83(b) PARTICIPANT WISHES TO MAKE MUST BE FILED NO LATER THAN 30 DAYS AFTER THE DATE ON WHICH PARTICIPANT ACQUIRES THE SHARES. THIS TIME PERIOD CANNOT BE EXTENDED. PARTICIPANT ACKNOWLEDGES THAT TIMELY FILING OF A SECTION 83(b) ELECTION IS PARTICIPANT'S SOLE RESPONSIBILITY, EVEN IF PARTICIPANT REQUESTS THE COMPANY OR ITS REPRESENTATIVE TO FILE SUCH ELECTION ON HIS OR HER BEHALF.

c. Participant will notify the Company in writing if Participant files an election pursuant to Section 83(b) of the Code. The Company intends, in the event it does not receive from Participant evidence of such filing, to claim a tax deduction for any amount which would otherwise be taxable to Participant in the absence of such an election.

8. Adjustments for Changes in Capital Structure; Transactions.

Participant acknowledges that the Award is subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan, including Section 10 of the Plan.

9. Rights as a Stockholder, Director, Employee or Consultant.

Participant shall have no rights as a stockholder with respect to any Shares subject to the Award until the date of the issuance the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date the Shares are issued, except as provided in Section 10 of the Plan. Subject the provisions of this Agreement, Participant shall exercise all rights and privileges of a stockholder of the Company with respect to Shares deposited in the Escrow pursuant to Section 6. If Participant is an Employee, Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and Participant, Participant's employment is "at will" and is for no specified term. Nothing in this Agreement shall confer upon Participant any right to continue in the Continuous Service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate Participant's Continuous Service at any time.

10. Legends.

The Company may at any time place legends referencing the Company Reacquisition Right and any applicable federal, state or foreign securities law restrictions on all certificates representing the Shares. Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing the Shares in the possession of Participant in order to carry out the provisions of this Section. Unless otherwise specified by the Company, legends placed on such certificates may include, but shall not be limited to, the following:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS SET FORTH IN AN AGREEMENT BETWEEN THIS CORPORATION AND THE REGISTERED HOLDER, OR HIS PREDECESSOR IN INTEREST, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THIS CORPORATION."

11. Transfers in Violation of Agreement.

No Shares may be sold, exchanged, transferred, assigned, pledged, hypothecated or otherwise disposed of, including by operation of law, except pursuant to a Transaction, until the date on which such Shares become Vested Shares, and any such attempted disposition shall be void. The Company shall not be required (a) to transfer on its books any Shares which will have been transferred in violation of any of the provisions set forth in this Agreement or (b) to treat as owner of such Shares or to accord the right to vote as such owner or to pay dividends to any transferee to whom such Shares will have been so transferred. In order to enforce its rights under this Section, the Company shall be authorized to give a stop transfer instruction with respect to the Shares to the Company's transfer agent.

12. Miscellaneous Provisions.

12.1 **Termination or Amendment.** The Committee may terminate or amend this Agreement at any time; provided, however, that no such termination or amendment may adversely affect Participant's rights under this Agreement without the consent of Participant unless such termination or amendment is necessary to comply with applicable law or government regulation. No amendment or addition to this Agreement shall be effective unless in writing.

12.2 **Further Instruments.** The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement.

12.3 **Binding Effect.** This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon Participant and Participant's heirs, executors, administrators, successors and assigns.

12.4 **Delivery of Documents and Notices.** Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the Company at its principal executive offices and to Participant at Participant's most-recent address on the Company's personnel records or at such other address as such party may designate in writing from time to time to the other party.

a. **Description of Electronic Delivery.** The Award documents, which may include but do not necessarily include: the Notice, this Agreement, the Prospectus, and any reports of the Company provided generally to the Company's stockholders, may be delivered to Participant electronically. In addition, the parties may deliver electronically any notices called for in connection with the Escrow and Participant may deliver electronically the Notice to the Company or to such third party involved in administering the Plan as the Company may designate from time to time. Such means of electronic delivery may include but do not necessarily include the delivery of a link to a Company intranet or the internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other means of electronic delivery specified by the Company.

b. **Consent to Electronic Delivery.** Participant acknowledges that Participant has read Section 12.4(a) of this Agreement and consents to the electronic delivery of the Award documents, the Notice and notices in connection with the Escrow, as described in Section 12.4(a). Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to Participant by contacting the Company by telephone or in writing. Participant further acknowledges that Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, Participant understands that Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. Participant may revoke his or her consent to the electronic delivery of documents described in Section 12.4(a) or may change the electronic mail address to which such documents are to be delivered (if Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail

address by telephone, postal service or electronic mail. Finally, Participant understands that he or she is not required to consent to electronic delivery of documents described in Section 12.4(a).

12.5 **Clawback/Recovery.** Participant hereby agrees that the Award is subject to the provisions of Section 9(l) of the Plan.

12.6 **Integrated Agreement.** The Notice and this Agreement together with any other employment, severance, service or other agreement between Participant and a Participating Company referring to the Award, if any, shall constitute the entire understanding and agreement of Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersedes any prior agreements, understandings, restrictions, representations, or warranties among Participant and the Participating Company Group with respect to such subject matter other than those as set forth or provided for herein or therein. To the extent contemplated herein or therein, the provisions of the Notice and the Agreement shall survive any settlement of the Award and shall remain in full force and effect.

12.7 **Applicable Law.** This Agreement and any controversy arising out of or relating to this Agreement shall be governed by, and construed in accordance with, the General Corporation Law of the State of Delaware, without regard to that state's conflict of law rules.

12.8 **Counterparts.** The Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.9 **Limitation on Participant's Rights.** The grant of the Award confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Participant shall have only the rights of a general unsecured creditor of the Company with respect to the Award.