

**HEMISPHERX BIOPHARMA
EMPLOYEES 401(K) PLAN**

SUMMARY PLAN DESCRIPTION

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HEMISPHERX BIOPHARMA EMPLOYEES 401(K) PLAN

SUMMARY PLAN DESCRIPTION

INTRODUCTION TO YOUR PLAN

Hemispherx Biopharma Employees 401(k) Plan ("Plan") has been adopted to provide you with the opportunity to save for retirement on a tax-deferred basis. This Summary Plan Description ("SPD") contains valuable information regarding when you may become eligible to participate in the Plan, your Plan benefits, your distribution options, and many other features of the Plan. You should take the time to read this SPD to get a better understanding of your rights and obligations in the Plan.

We have attempted to answer most of the questions you may have regarding your benefits in the Plan. If this SPD does not answer all of your questions, please contact the Administrator (or other plan representative). The name and address of the Administrator can be found in the Article of this SPD entitled "GENERAL INFORMATION ABOUT THE PLAN."

This SPD describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language. If the non-technical language in this SPD and the technical, legal language of the Plan document conflict, the Plan document always governs. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

This SPD describes the current provisions of the Plan which are designed to comply with applicable legal requirements. The Plan is subject to federal laws, such as ERISA (the Employee Retirement Income Security Act), the Internal Revenue Code and other federal and state laws which may affect your rights. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS) or Department of Labor (DOL). We may also amend or terminate this Plan. If the provisions of the Plan that are described in this SPD change, we will notify you.

ARTICLE I PARTICIPATION IN THE PLAN

Am I eligible to participate in the Plan?

Provided you are not an Excluded Employee, you are eligible to participate in the Plan once you satisfy the Plan's eligibility conditions described in the next question. Then, you may elect to have your compensation reduced by a specific percentage or dollar amount, and have that amount contributed to the Plan as a salary deferral contribution. You may also be entitled to receive contributions from us.

If you are a member of a class of employees identified below, you are an Excluded Employee for purposes of the Plan. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining.
- certain nonresident aliens who have no earned income from sources within the United States.

When am I eligible to participate in the Plan?

Provided you are not an Excluded Employee, you are eligible to participate in the Plan once you satisfy the Plan's eligibility conditions described in this section. Then, you may elect to have your compensation reduced by a specific percentage or dollar amount, and have that amount contributed to the Plan as a salary deferral contribution. You may also be entitled to receive contributions from us.

You will be eligible to make salary deferrals to the Plan on your date of hire.

If you are employed on March 11, 2003, the age and service requirements are waived and you will enter the Plan for salary reduction contributions and discretionary profit sharing contributions on this date.

You do not have to satisfy any minimum age or service conditions prior to receiving matching and discretionary profit sharing contributions under the Plan. However, you may not receive these contributions until you reach your Entry Date as described in the next question.

When is my Entry Date?

Provided you are not an Excluded Employee, you may begin participating under the Plan once you have satisfied the eligibility requirements and reached your "Entry Date." The following describes the specific Entry Date that applies under the Plan. In addition, special rules may apply if you terminate employment and are then rehired. If you have questions about the timing of your Plan participation, please contact the Administrator.

Your Entry Date will be the earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date you satisfy the Plan's eligibility requirements.

What happens if I'm a participant, terminate employment and then I'm rehired?

If you are no longer a participant because you terminated employment, and you are rehired, then you will continue to participate in the Plan in the same manner as if your termination had not occurred.

ARTICLE II CONTRIBUTIONS

What kind of Plan is this?

This Plan is a type of qualified retirement plan commonly referred to as a 401(k) Plan. As a participant under the Plan, you may elect to defer your compensation by a specific percentage or dollar amount and have that amount contributed to the Plan on a pre-tax basis as a salary deferral. You generally are not taxed on your salary deferrals until you withdraw those amounts from the Plan. In addition, we may make additional contributions to the Plan on your behalf. This Article describes the types of contributions that may be made to the Plan and how these monies will be allocated to your account to provide for your retirement benefit.

Do I have to contribute money to the Plan in order to participate?

No, you are not required to contribute any money in order to participate in our Plan. However, you may receive additional amounts if you defer.

Is this a special type of 401(k) Plan?

Yes. This Plan is referred to as a "safe harbor 401(k) plan." If we elect to satisfy the "safe harbor" rules, then at least 30 days, but not more than 90 days, before the beginning of each Plan Year, you will be provided with a comprehensive notice of your rights and obligations under the Plan. However, if you become eligible after the 90th day before the beginning of the Plan Year and you do not receive the notice for that reason, the notice will be provided to you within 90 days before you become eligible.

In order to maintain "safe harbor" status, we will contribute the total amount of your salary deferrals each Plan Year. In addition, effective January 1, 2004, we will make a safe harbor matching contribution equal to 100% of your salary deferrals that do not exceed 6% of your compensation. This safe harbor matching contribution is fully vested and is referred to as an Enhanced Matching Contribution.

For purposes of calculating the safe harbor matching contribution, your compensation and deferrals will be determined on a payroll period basis.

How much may I contribute to the Plan?

As a participant, you may elect to defer a percentage of your compensation each year instead of receiving that amount in cash. In addition, you may separately elect to defer up to 100% of any bonuses paid to you during the year. However, your total deferrals in any taxable year may not exceed a dollar limit which is set by law. The limit is \$12,000 (for 2003), \$13,000 (for 2004), \$14,000 (for 2005), and \$15,000 (for 2006). This limit may be increased after 2006 for cost of living changes. The Administrator will notify you of the maximum percentage you may defer. The amount you elect to defer, and any earnings on that amount, will not be subject to income tax until it is actually distributed to you. However, the amount you defer is counted as compensation for Social Security taxes.

If you are age 50 or older, then you may elect to defer additional amounts (called "catch-up contributions") to the plan. The additional amounts may be deferred regardless of any other limitations on the amount that you may defer to the plan. The maximum "catch-up contribution" that you can make in 2003 is \$2,000. This amount is increased by \$1,000 in each year after 2003 up to 2006, when the maximum is \$5,000. After 2006, the maximum may increase for cost-of-living adjustments.

You should also be aware that the annual dollar limit is an aggregate limit that applies to all deferrals you may make under this Plan or other cash or deferred arrangements (including tax-sheltered 403(b) annuity contracts, simplified employee pensions or other 401(k) plans in which you may be participating). Generally, if your total deferrals under all cash or deferred arrangements for a calendar year exceed the annual dollar limit, the excess must be included in your income for the year. For this reason, it is desirable to request in writing that these excess deferrals be returned to you. If you fail to request such a return, you may be taxed a second time when the excess deferral is ultimately distributed from the Plan.

You must decide which plan or arrangement you would like to return the excess. If you decide that the excess should be distributed from this Plan, you must communicate this in writing to the Administrator no later than the March 1st following the close of the calendar year

in which such excess deferrals were made. However, if the entire dollar limit is exceeded in this Plan or any other plan we maintain, then you will be deemed to have notified the Administrator of the excess. The Administrator will then return the excess deferral and any earnings to you by April 15th.

The Administrator will allocate the amount you elect to defer to an account maintained on your behalf. You will always be 100% vested in this account. This means that you will always be entitled to all amounts that you defer. This money will, however, be affected by any investment gains or losses. If there is an investment gain, then the balance in your account will increase. If there is an investment loss, then the balance in your account will decrease.

Distributions of amounts attributable to your salary deferrals are generally not permitted EXCEPT in the event of:

- (a) death; or
- (b) disability; or
- (c) severance from employment; or
- (d) reasons of proven financial hardship (See the question entitled "Can I withdraw money from my account in the event of financial hardship?").

In the event you receive a hardship distribution from your deferrals to this Plan, you will not be allowed to make salary deferrals for a period of six (6) months after you receive the distribution.

How often can I modify the amount I contribute?

The amount you elect to defer will be deducted from your pay in accordance with a procedure established by the Administrator. You may elect to defer your salary as of your Entry Date or on the first day of each Plan Year quarter. Such election will become effective as soon as administratively feasible. Your election will remain in effect until you modify or terminate it.

You may modify your salary deferral election on the first day of any Plan Year quarter. You are permitted to revoke your election any time during the Plan Year. The modification will become effective as soon as administratively feasible.

However, if we elect to satisfy the safe harbor rules, then in addition to any other election periods provided above, you may make or modify a salary deferral election during the 30-day period immediately following receipt of the notice describing your rights and obligations under the Plan.

Will the Employer contribute to the Plan?

Each year, in addition to your salary deferrals, and any safe harbor contributions, we may contribute to the Plan matching contributions and discretionary profit sharing contributions.

What is the Employer matching contribution?

We may make a matching contribution equal to a uniform percentage of your salary deferrals, which percentage we will determine each year.

In applying this matching percentage, however, we have the option to disregard salary deferrals made each payroll period that exceed a certain dollar amount or a certain percentage of your compensation for such period.

You will always share in the matching contribution regardless of the amount of service you complete during the Plan Year.

However, a matching contribution will not be made for any Plan Year for which this Plan is a "safe harbor 401(k) plan."

What is the Employer discretionary profit sharing contribution?

Each year, we may make a discretionary profit sharing contribution.

In order to share in the profit sharing contribution you must satisfy the following conditions:

- If you are actively employed on the last day of the Plan Year, you will share regardless of the number of Hours of Service credited during the Plan Year.
- If you terminate employment (not actively employed on the last day of the Plan Year), you must be credited with more than 500 Hours of Service during the Plan Year.
- You will share in the discretionary profit sharing contribution for the year regardless of the number of Hours of Service credited in the year of your death, disability or retirement.

How will the Employer discretionary profit sharing contribution be allocated to my account?

Any discretionary profit sharing contribution will be "allocated" or divided among participants eligible to share in the contribution for the Plan Year.

Your share of any discretionary profit sharing contribution is determined by the following fraction:

$$\text{Discretionary Contribution} \quad \times \quad \frac{\text{Your Compensation}}{\text{Total Compensation of All Participants Eligible to Share}}$$

For example: Suppose the discretionary profit sharing contribution for the Plan Year is \$20,000. Employee A's compensation for the Plan Year is \$25,000. The total compensation of all participants eligible to share, including Employee A, is \$250,000. Employee A's share will be:

$$\$20,000 \quad \times \quad \frac{\$25,000}{\$250,000} \quad \text{or} \quad \$2,000$$

What compensation is used to determine my Plan benefits?

For the purposes of the Plan, compensation has a special meaning. Compensation is generally defined as your total compensation that is subject to income tax and paid to you by your Employer during the Plan Year.

The following adjustments to compensation will be made:

- salary deferrals to this Plan or any other plan or arrangement (such as a cafeteria plan or qualified transportation fringe benefit) will be included

Is there a limit on the amount of compensation which can be considered?

The Plan, by law, cannot recognize annual compensation in excess of \$200,000. This amount may be adjusted for cost of living increases.

Are there limits on how much can be contributed to my account each year?

Generally, the law imposes a maximum limit on the amount of contributions you may receive under the Plan. This limit applies to all contributions we make on your behalf, all contributions you make to the Plan, and any other amounts allocated to any of your accounts during the Plan Year, excluding earnings. This total cannot exceed the lesser of \$40,000 or 100% of your annual compensation. The dollar limit may be adjusted for cost of living increases.

May I "rollover" payments from other retirement plans or IRAs?

At the discretion of the Administrator, you may be permitted to deposit into the Plan distributions you have received from other plans and certain IRAs. Such a deposit is called a "rollover" and may result in tax savings to you. You may ask your prior plan administrator or trustee to directly transfer (a "direct rollover") to this Plan all or a portion of any amount which you are entitled to receive as a distribution from a prior plan. Alternatively, if you received a distribution from a prior plan, you may elect to deposit any amount eligible for rollover within 60 days of your receipt of the distribution. You should consult qualified counsel to determine if a rollover is permitted and in your best interest.

Your rollover will be placed in a separate account called a "rollover account." You will always be 100% vested in your "rollover account." This means that you will always be entitled to all of your rollover contributions. Rollover contributions will be affected by any investment gains or losses.

You may withdraw the amounts in your "rollover account" at any time.

How is the money in the Plan invested?

You will be able to direct the investment of your entire interest in the Plan. The Administrator will provide you with information on the investment choices available to you, the frequency with which you can change your investment choices and other information. Periodically, you will receive a benefit statement that provides information on your account balance and your investment returns. If you have any questions about the investment of your Plan accounts, please contact the Administrator (or other Plan representative). To the extent you do not direct the investment of the Plan benefits, the Trustee or another designated person will be responsible for the investment of all assets held by the Plan. The Trustee or other designated person will make investment decisions that are in the best interests of you and other Plan participants.

When you direct investments, your accounts are segregated for purposes of determining the earnings or losses on these investments. Your account does not share in the investment performance of other participants who have directed their own investments.

You should remember that the amount of your benefits under the Plan will depend in part upon your choice of investments. Gains as well as losses can occur. There are no guarantees of performance. The Employer, the Administrator, and the Trustee will not provide investment advice or guarantee the performance of any investment you choose.

ARTICLE III RETIREMENT BENEFITS

What benefits will I receive at normal retirement?

You will be entitled to all of your accounts under the Plan if you retire on or after your Normal Retirement Age. However, the actual payment of benefits may generally not begin until you have terminated employment and reached your Normal Retirement Date. In such event, a distribution will be made, at your election, as soon as administratively feasible. If you remain employed past your Normal Retirement Date, you may generally defer the receipt of benefits until your Late Retirement Date. In such event, benefit payments will begin as soon as feasible following your Late Retirement Date.

You will attain your Normal Retirement Age when you reach your 65 birthday. Your Normal Retirement Date is the date on which you attain your Normal Retirement Age.

Your Late Retirement Date is the date you choose to retire after first having reached your Normal Retirement Date.

What happens if I leave the Employer's workforce before I retire?

If your employment terminates for reasons other than death or disability, you will be entitled to receive only your "vested percentage" of your account balance. (See the question in this Article entitled "What is my vested interest in my accounts?".)

You may elect to have your vested benefit distributed to you as soon as administratively feasible following your termination of employment. However, if the value of your vested benefit (excluding amounts attributable to rollovers) is less than \$5,000, a lump-sum distribution will be made to you within a reasonable time after you terminate employment regardless of whether you elect to receive it. (See the question in Article V entitled "How will my benefits be paid?" for a further explanation.)

What is my vested interest in my accounts?

You are always 100% vested in amounts attributable to your salary deferrals and Enhanced Matching Contributions.

You will become 100% vested in your account attributable to matching contributions immediately upon your Entry Date. (See the question in Article I entitled "When is my Entry Date?".)

Your "vested percentage" in your account attributable to discretionary profit sharing contributions is determined under the following schedule and is based on vesting Years of

Service. You will always, however, be 100% vested if you are employed on or after your Normal Retirement Age. (See the question in this Article entitled "What benefits will I receive at normal retirement?".)

Vesting Schedule
Discretionary Profit Sharing Contributions

Years of Service	Percentage
1	20%
2	40%
3	60%
4	80%
5	100%

How do I determine my Years of Service for vesting purposes?

To earn a Year of Service, you must be credited with at least 1000 Hours of Service during any Plan Year. (See the Article entitled "HOURS OF SERVICE"). The Plan contains specific rules for crediting Hours of Service for vesting purposes. The Administrator will track your service and will credit you with a Year of Service for each Plan Year in which you are credited with the required Hours of Service, in accordance with the terms of the Plan. If you have any questions regarding your vesting service, you should contact the Administrator.

Does all my service count for vesting purposes?

In calculating your vested percentage, all service you perform for us will generally be counted. However, there are some exceptions to this general rule.

Break in Service rules. If you terminate employment and are rehired, you may "lose" credit for prior service under the Plan's Break in Service rules.

For vesting purposes, you will have a Break in Service if you complete less than 501 Hours of Service during the computation period used to determine whether you have a Year of Service. However, if you are absent from work for certain leaves of absence such as a maternity or paternity leave, you may be credited with 501 Hours of Service to prevent a Break in Service.

Five-year Break in Service rule. The five-year Break in Service rule applies only to totally non-vested (0% vested) participants. If you are totally non-vested in your account and you have five consecutive Breaks in Service (as defined above), all the service you earned before the 5-year period no longer counts for vesting purposes. Thus, if you return to employment after incurring five consecutive Breaks in Service, you will be treated as a new employee (with no prior service) for purposes of determining your vested percentage under the Plan.

As a veteran, will my military service count as service with the Employer?

If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. If you may be affected by this law, ask your Administrator for further details.

What happens to my non-vested account balance if I'm rehired?

If you have no vested benefit in your account balance when you leave, your account balance will be forfeited. However, if you return to service with the Employer before incurring

five consecutive Breaks in Service, your account balance as of your termination date will be restored unadjusted for any gains or losses.

If you are partially vested in your account balance when you leave, the non-vested portion of your account balance will be forfeited on the earlier of the date:

- (a) of the distribution of your vested account balance, or
- (b) when you incur five consecutive Breaks in Service.

If you received a distribution of your vested account balance and are reemployed, you may have the right to repay this distribution. If you repay the entire amount of the distribution, we will restore your account balance with your forfeited amount. You must repay this distribution within five years from your date of reemployment, or, if earlier, before you incur five consecutive 1-Year Breaks in Service. If you were fully vested when you left, you do not have the opportunity to repay your distribution.

What happens to the non-vested portion of a terminated participant's account?

The non-vested portion of a terminated participant's account balance remains in the Plan and is called a forfeiture. Forfeitures may be used by the Plan for several purposes such as the payment of Plan expenses.

Any remaining forfeitures will be used to reduce any Employer contributions.

However, any remaining forfeitures attributable to matching contributions will be used to reduce any matching contributions.

ARTICLE IV DISABILITY BENEFITS

How is disability defined?

Under the Plan, disability is defined as a physical or mental condition resulting from bodily injury, disease, or mental disorder which renders you incapable of continuing any gainful occupation. Your disability will be determined by a licensed physician chosen by the Administrator. However, if your condition constitutes total disability under the federal Social Security Act, then the Administrator may deem that you are disabled for purposes of the Plan.

What happens if I become disabled?

If you become disabled while a participant, you will be entitled to 100% of your account balance. Payment of your disability benefits will be made to you as if you had retired. However, if the value of your disability benefit is less than \$5,000, then a lump-sum distribution will be made to you within a reasonable time after you become disabled regardless of whether you elect to receive it. (See the question in Article V entitled "How will my benefits be paid?".)

ARTICLE V FORM OF BENEFIT PAYMENT

How will my benefits be paid?

All distributions from the Plan will be made in one lump-sum payment in cash or in property. If your vested benefit in the Plan (excluding amounts attributable to rollovers) exceeds \$5,000, you must consent to the distribution before it may be made. If your vested benefit in the Plan (excluding amounts attributable to rollovers) does not exceed \$5,000, then your benefit will be distributed to you in a lump-sum as soon as practicable following the event that entitles you to a distribution.

May I delay the receipt of benefits?

Yes, you may delay the receipt of benefits unless a distribution is required to be made, as explained earlier, because your vested benefit under the Plan (excluding amounts attributable to rollovers) does not exceed \$5,000. However, if you elect to delay the receipt of benefits, there are rules which require that certain minimum distributions be made from the Plan. Generally, these minimum distributions must begin not later than the April 1st following the end of the year in which you reach age 70 1/2. However, if you are not a 5% owner, there are certain options available to you.

If you had already been receiving distributions as of January 1, 1996, because you had attained age 70 1/2, then you may elect to stop receiving distributions until your retirement. If you elect to suspend distributions, then distributions will not be required to begin again until April 1st of the calendar year following the year in which you retire.

If you had not begun receiving distributions as of January 1, 1996, because you had not attained age 70 1/2, then you may elect to postpone distributions until you retire or begin receiving distributions once you have reached age 70 1/2 even if you have not retired. You should see the Administrator if you think you may be affected by these rules.

ARTICLE VI DEATH BENEFITS

What happens if I die while working for the Employer?

If you die while still employed by us, then 100% of your account balance will be used to provide your beneficiary with a death benefit.

Who is the beneficiary of my death benefit?

If you are married at the time of your death, your spouse will be the beneficiary of the entire death benefit unless an election is made to change the beneficiary. IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, YOUR SPOUSE MUST IRREVOCABLY CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE'S CONSENT MUST BE IN WRITING, BE WITNESSED BY A NOTARY OR A PLAN REPRESENTATIVE AND ACKNOWLEDGE THE SPECIFIC NON-SPOUSE BENEFICIARY.

If you are married and you change your designation, then your spouse must again consent to the change. In addition, you may elect a beneficiary other than your spouse without your spouse's consent if your spouse cannot be located.

If you are not married you may designate a beneficiary on a form to be supplied to you by the Administrator.

In the event no valid designation of beneficiary exists, or if the beneficiary is not alive at the time of your death, the death benefit will be paid in the following order of priority to:

- (a) Your surviving spouse;
- (b) Your children, including adopted children (and if a child is not living, that child's share will be distributed to that child's heirs);
- (c) Your surviving parents, in equal shares; or
- (d) Your estate.

How will the death benefit be paid to my beneficiary?

The death benefit will be paid to your beneficiary in a single lump-sum payment.

When must the last payment be made to my beneficiary?

Regardless of the method of distribution selected, your entire death benefit must generally be paid to your beneficiaries within five years after your death (the "5-year rule"). However, if your designated beneficiary is a person (instead of your estate or most trusts), then you or your beneficiary may elect to have distributions begin within one year of your death and be paid over the designated beneficiary's life expectancy (the "1-year rule"). If your spouse is the beneficiary, then under the "1-year rule" the start of payments may be delayed until the year in which you would have attained age 70 1/2. The election to have death benefits distributed under the "1-year rule" instead of the "5-year rule" must be made no later than the time at which minimum distributions must commence under the "1-year rule" (or, in the case of a surviving spouse, the "5-year rule," if earlier).

Since your spouse has certain rights to the death benefit, you should immediately report any change in your marital status to the Administrator.

What happens if I'm a participant, terminate employment and die before receiving all my benefits?

If you terminate employment with us and subsequently die, your beneficiary will be entitled to the vested percentage of your remaining interest in the Plan at the time of your death.

ARTICLE VII IN-SERVICE DISTRIBUTIONS

Can I withdraw money from my account while working?

Generally, you may receive a distribution from the Plan prior to your termination of employment if you satisfy certain conditions.

You may be entitled to receive a pre-retirement distribution if you have reached age 59 1/2. However, this distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement. This distribution is made at your election and will be made in accordance with the forms of distributions available under the Plan.

Also, the law restricts any pre-retirement distribution from certain accounts which are maintained for you under the Plan before you reach age 59 1/2. These accounts are generally the ones set up to receive your salary deferral contributions and other Employer contributions which are used to satisfy special rules for 401(k) plans.

You may generally request a pre-retirement distribution from your fully vested accounts in the Plan.

Can I withdraw money from my account in the event of financial hardship?

Yes, if you satisfy certain conditions. This hardship distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement.

You may request a hardship distribution from your fully vested accounts in the Plan.

In addition, there are restrictions placed on hardship distributions which are made from certain accounts. These accounts are generally the accounts which receive your salary deferral contributions and other Employer contributions which are used to satisfy special rules that apply to 401(k) plans. Generally, the only amounts that can be distributed to you on account of a hardship from these accounts are your salary deferrals. The earnings on your salary deferrals and special Employer contributions may not be distributed to you on account of a hardship. Ask the Administrator if you need further details.

What conditions must I satisfy to receive a hardship distribution?

A hardship distribution may be made to satisfy certain immediate and heavy financial needs that you have. A hardship distribution may only be made for payment of the following:

- Expenses for medical care (described in Section 213(d) of the Internal Revenue Code) previously incurred by you, your spouse or your dependent or necessary for you, your spouse or your dependent to obtain medical care;
- Costs directly related to the purchase of your principal residence (excluding mortgage payments);
- Tuition, related educational fees, and room and board expenses for the next twelve (12) months of post-secondary education for yourself, your spouse or dependent;
- Amounts necessary to prevent your eviction from your principal residence or foreclosure on the mortgage of your principal residence.

If you have one of the above expenses, a hardship distribution can only be made if you certify and agree that all of the following conditions are satisfied:

- (a) The distribution is not in excess of the amount of your immediate and heavy financial need. The amount of your immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution;
- (b) You have obtained all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under all plans maintained by your Employer; and

- (c) That your salary deferrals will be suspended for at least six (6) months after your receipt of the hardship distribution.

ARTICLE VIII TAX TREATMENT OF DISTRIBUTIONS

What are my tax consequences when I receive a distribution from the Plan?

Generally, you must include any Plan distribution in your taxable income in the year in which you receive the distribution. The tax treatment may also depend on your age when you receive the distribution. Certain distributions made to you when you are under age 59 1/2 could be subject to an additional 10% tax.

Can I reduce or defer tax on my distribution?

You may reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

(a) The rollover of all or a portion of the distribution to an Individual Retirement Account or Annuity (IRA) or another qualified employer plan. This will result in no tax being due until you begin withdrawing funds from the IRA or other qualified employer plan. The rollover of the distribution, however, **MUST** be made within strict time frames (normally, within 60 days after you receive your distribution). Under certain circumstances all or a portion of a distribution (such as a hardship distribution) may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to rollover all or a portion of your distribution amount, the direct transfer option described in paragraph (b) below would be the better choice.

(b) For most distributions, you may request that a direct transfer (sometimes referred to as a direct rollover) of all or a portion of a distribution be made to either an Individual Retirement Account or Annuity (IRA) or another qualified employer plan willing to accept the transfer. A direct transfer will result in no tax being due until you withdraw funds from the IRA or other qualified employer plan. Like the rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct transfer. If you elect to actually receive the distribution rather than request a direct transfer, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes.

WHENEVER YOU RECEIVE A DISTRIBUTION, THE ADMINISTRATOR WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH DETERMINE WHETHER YOU QUALIFY FOR FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH QUALIFIED TAX COUNSEL BEFORE MAKING A CHOICE.

ARTICLE IX HOURS OF SERVICE

What is an Hour of Service?

You will be credited with an Hour of Service for:

- (a) each hour for which you are directly or indirectly compensated by your Employer for the performance of duties during the Plan Year;
- (b) each hour for which you are directly or indirectly compensated by the Employer for reasons other than the performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty, jury duty or leave of absence during the Plan Year); and
- (c) each hour for back pay awarded or agreed to by the Employer.

You will not be credited for the same Hours of Service both under (a) or (b), as the case may be, and under (c).

How are Hours of Service credited?

You will be credited with your actual Hours of Service.

ARTICLE X LOANS

May I borrow money from the Plan?

Yes. You may request a participant loan using an application form provided by the Administrator. Your ability to obtain a participant loan depends on several factors. The Administrator will determine whether you satisfy these factors.

What are the loan rules and requirements?

There are various rules and requirements that apply to any loan, which are outlined in this question. In addition, we have established a written loan program which explains these requirements in more detail. You can request a copy of the loan program from the Administrator. Generally, the rules for loans include the following:

- Loans are available to participants on a reasonably equivalent basis. Loans will be made to participants who are creditworthy. The Administrator may request that you provide additional information, such as financial statements, tax returns and credit reports to make this determination.
- All loans must be adequately secured. You must sign a promissory note along with a loan pledge. Generally, you must use your vested interest in the Plan as security for the loan, provided the outstanding balance of all your loans does not exceed 50% of your vested interest in the Plan. In certain cases, the Administrator may require you to provide additional collateral to receive a loan.
- You will be charged a reasonable rate of interest for any loan received from the Plan. The Administrator will determine a reasonable rate of interest by reviewing the interest rates charged for similar types of loans by other lenders.

- If approved, your loan will provide for level amortization with payments to be made not less frequently than quarterly. Generally, the term of your loan may not exceed five (5) years. However, if the loan is for the purchase of your principal residence, the Administrator may permit a longer repayment term. Unless approved by the Administrator, you must repay your loan through payroll deduction. If you have an unpaid leave of absence or go on military leave while you have an outstanding loan, please contact the Administrator to find out your repayment options.
- All loans will be considered a directed investment of your account under the Plan. All payments of principal and interest by you on a loan will be credited to your account.
- The amount the Plan may loan to you is limited by rules under the Internal Revenue Code. Any new loans, when added to the outstanding balance of all other loans from the Plan, will be limited to the lesser of:
 - (a) \$50,000 reduced by the excess, if any, of your highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date of the new loan over your current outstanding balance of loans as of the date of the new loan; or
 - (b) 1/2 of your vested interest in the Plan.
- No loan in an amount less than \$1000 will be made.
- The maximum number of loans that you may have outstanding at any one time is 1.
- If you fail to make payments when they are due under the terms of the loan, you will be considered to be "in default." The Administrator will consider your loan to be in default if any scheduled loan repayment is not made by the end of the calendar quarter following the calendar quarter in which the missed payment was due. The Plan would then have authority to take all reasonable actions to collect the balance owed on the loan. This could include filing a lawsuit or foreclosing on the security for the loan. Under certain circumstances, a loan that is in default may be considered a distribution from the Plan and could result in taxable income to you. In any event, your failure to repay a loan will reduce the benefit you would otherwise be entitled to from the Plan.
- If you become entitled to a distribution from the Plan (except in the case of an in-service distribution or a hardship distribution), your loan becomes due and payable in full immediately. You may repay the entire outstanding balance of the loan (including any accrued interest). If you do not repay the entire outstanding loan balance, your vested account balance will be reduced by the remaining outstanding balance of the loan.

The Administrator may periodically revise the Plan's loan policy. If you have any questions on participant loans or the current loan policy, please contact the Administrator.

ARTICLE XI YOUR PLAN'S "TOP HEAVY RULES"

What is a "top heavy plan"?

A retirement plan that primarily benefits "key employees" is called a "top heavy plan." Key employees are certain owners or officers of your Employer. A plan is generally a "top heavy plan" when more than 60% of the plan assets are attributable to key employees.

Each year, the Administrator is responsible for determining whether the Plan is a "top heavy plan."

What happens if the Plan becomes "top heavy"?

If the Plan becomes top heavy in any Plan Year, then non-key employees may be entitled to certain "top heavy minimum benefits," and other special rules will apply. These top heavy rules include the following:

- Your Employer may be required to make a contribution to your account in order to provide you with at least "top heavy minimum benefits."
- If you are a participant in more than one Plan, you may not be entitled to "top heavy minimum benefits" under both Plans.

ARTICLE XII PROTECTED BENEFITS AND CLAIMS PROCEDURES

Is my benefit protected?

As a general rule, your interest in your account, including your "vested interest," may not be alienated. This means that your interest may not be sold, used as collateral for a loan (other than for a Plan loan), given away or otherwise transferred. In addition, your creditors may not attach, garnish or otherwise interfere with your account.

Are there any exceptions to the general rule?

There are two exceptions to this general rule. The Administrator must honor a "qualified domestic relations order." A "qualified domestic relations order" is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Administrator, all or a portion of your benefits may be used to satisfy the obligation. The Administrator will determine the validity of any domestic relations order received. You and your beneficiaries can obtain, without charge, a copy of the QUALIFIED DOMESTIC RELATIONS ORDER PROCEDURE from the Administrator.

The second exception applies if you are involved with the Plan's operation. If you are found liable for any action that adversely affects the Plan, the Administrator can offset your benefits by the amount that you are ordered or required by a court to pay the Plan. All or a portion of your benefits may be used to satisfy any such obligation to the Plan.

Can the Plan be amended?

Yes. We have the right to amend the Plan at any time. In no event, however, will any amendment authorize or permit any part of the Plan assets to be used for purposes other than the exclusive benefit of participants or their beneficiaries. Additionally, no amendment will cause any reduction in the amount credited to your account.

What happens if the Plan is discontinued or terminated?

Although we intend to maintain the Plan indefinitely, we reserve the right to terminate the Plan at any time. Upon termination, no further contributions will be made to the Plan and all amounts credited to your accounts will become 100% vested. We will direct the distribution of your accounts in a manner permitted by the Plan as soon as practicable. (See the question in Article V entitled "How will my benefits be paid?" for a further explanation.) You will be notified if the Plan is terminated.

How do I submit a claim for Plan benefits?

Benefits will be paid to you and your beneficiaries without the necessity of formal claims. However, if you think an error has been made in determining your benefits, then you or your beneficiaries may make a request for any Plan benefits to which you believe you are entitled. Any such request should be in writing and should be made to the Administrator.

If the Administrator determines the claim is valid, then you will receive a statement describing the amount of benefit, the method or methods of payment, the timing of distributions and other information relevant to the payment of the benefit.

What if my benefits are denied?

Your request for Plan benefits will be considered a claim for Plan benefits, and it will be subject to a full and fair review. If your claim is wholly or partially denied, the Administrator will provide you with a written or electronic notification of the Plan's adverse determination. This written or electronic notification must be provided to you within a reasonable period of time, but not later than 90 days after the receipt of your claim by the Administrator, unless the Administrator determines that special circumstances require an extension of time for processing your claim. If the Administrator determines that an extension of time for processing is required, written notice of the extension will be furnished to you prior to the termination of the initial 90 day period. In no event will such extension exceed a period of 90 days from the end of such initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the benefit determination.

In the case of a claim for disability benefits, if disability is determined by a physician chosen by the Administrator (rather than relying upon a determination of disability for Social Security purposes), then instead of the above, the Administrator will provide you with written or electronic notification of the Plan's adverse benefit determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the Plan. This period may be extended by the Plan for up to 30 days, provided that the Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies you, prior to the expiration of the initial 45 day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, the Administrator determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional 30 days, provided that the Administrator notifies you, prior to the expiration of the first 30-day extension period, of the circumstances

requiring the extension and the date as of which the plan expects to render a decision. In the case of any such extension, the notice of extension will specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and you will be afforded at least 45 days within which to provide the specified information.

The Administrator's written or electronic notification of any adverse benefit determination must contain the following information:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the determination is based.
- (c) A description of any additional material or information necessary for you to perfect the claim and an explanation of why such material or information is necessary.
- (d) Appropriate information as to the steps to be taken if you or your beneficiary want to submit your claim for review.
- (e) In the case of disability benefits where disability is determined by a physician chosen by the Administrator:
 - (i) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of the rule, guideline, protocol, or other similar criterion will be provided to you free of charge upon request.
 - (ii) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances, or a statement that such explanation will be provided to you free of charge upon request.

If your claim has been denied, and you want to submit your claim for review, you must follow the Claims Review Procedure in the next question.

What is the Claims Review Procedure?

Upon the denial of your claim for benefits, you may file your claim for review, in writing, with the Administrator.

- (a) YOU MUST FILE THE CLAIM FOR REVIEW NO LATER THAN 60 DAYS AFTER YOU HAVE RECEIVED WRITTEN NOTIFICATION OF THE DENIAL OF YOUR CLAIM FOR BENEFITS.

HOWEVER, IF YOUR CLAIM IS FOR DISABILITY BENEFITS AND DISABILITY IS DETERMINED BY A PHYSICIAN CHOSEN BY THE ADMINISTRATOR, THEN INSTEAD OF THE ABOVE, YOU MUST FILE THE CLAIM FOR REVIEW NO LATER THAN 180 DAYS FOLLOWING RECEIPT OF NOTIFICATION OF AN ADVERSE BENEFIT DETERMINATION.

- (b) You may submit written comments, documents, records, and other information relating to your claim for benefits.
- (c) You may review all pertinent documents relating to the denial of your claim and submit any issues and comments, in writing, to the Administrator.
- (d) You will be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (e) Your claim for review must be given a full and fair review. This review will take into account all comments, documents, records, and other information submitted by you relating to your claim, without regard to whether such information was submitted or considered in the initial benefit determination.

In addition to the Claims Review Procedure above, if your claim is for disability benefits and disability is determined by a physician chosen by the Administrator, then the Claims Review Procedure provides that:

- (a) Your claim will be reviewed without deference to the initial adverse benefit determination and the review will be conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual.
- (b) In deciding an appeal of any adverse benefit determination that is based in whole or part on medical judgment, the appropriate named fiduciary will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment.
- (c) Any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with your adverse benefit determination will be identified, without regard to whether the advice was relied upon in making the benefit determination.
- (d) The health care professional engaged for purposes of a consultation under (b) above will be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of any such individual.

The Administrator will provide you with written or electronic notification of the Plan's benefit determination on review. The Administrator must provide you with notification of this denial within 60 days after the Administrator's receipt of your written claim for review, unless the Administrator determines that special circumstances require an extension of time for processing your claim. If the Administrator determines that an extension of time for processing is required, written notice of the extension will be furnished to you prior to the termination of the initial 60 day period. In no event will such extension exceed a period of 60 days from the end of the initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the determination on review. However, if claim relates to disability benefits and disability is determined by a physician chosen by the Administrator, then 45 days will apply instead of 60 days in the preceding sentences. In the case of an adverse benefit determination, the notification will set forth:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the benefit determination is based.
- (c) A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (d) In the case of disability benefits where disability is determined by a physician chosen by the Administrator:
 - (i) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of the rule, guideline, protocol, or other similar criterion will be provided to you free of charge upon request.
 - (ii) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances, or a statement that such explanation will be provided to you free of charge upon request.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. However, in order to do so, you must file the suit no later than 180 days after the Administrator makes a final determination to deny your claim.

What are my rights as a Plan participant?

As a participant in the Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants are entitled to:

- (a) Examine, without charge, at the Administrator's office and at other specified locations, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- (b) Obtain, upon written request to the Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Administrator may make a reasonable charge for the copies.
- (c) Receive a summary of the Plan's annual financial report. The Administrator is required by law to furnish each participant with a copy of this summary annual report.
- (d) Obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age and, if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension benefit, the statement will tell you how many years you have to work to get a right to a

pension. THIS STATEMENT MUST BE REQUESTED IN WRITING AND IS NOT REQUIRED TO BE GIVEN MORE THAN ONCE EVERY TWELVE (12) MONTHS. The Plan must provide this statement free of charge.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your Employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Administrator to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. You and your beneficiaries can obtain, without charge, a copy of the qualified domestic relations order ("QDRO") procedures from the Administrator.

If it should happen that the Plan's fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees if, for example, it finds your claim is frivolous.

What can I do if I have questions or my rights are violated?

If you have any questions about the Plan, you should contact the Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in the telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

ARTICLE XIII GENERAL INFORMATION ABOUT THE PLAN

There is certain general information which you may need to know about the Plan. This information has been summarized for you in this Article.

General Plan Information

The full name of the Plan is Hemispherx Biopharma Employees 401(k) Plan.

Your Employer has assigned Plan Number 001 to your Plan.

This Plan was originally effective on January 1, 1995. The amended and restated provisions of the Plan become effective on January 1, 2003.

Valuations of the Plan assets are generally made every business day. Certain distributions are based on the Anniversary Date of the Plan. This date is the last day of the Plan Year.

The Plan's records are maintained on a twelve-month period of time. This is known as the Plan Year. The Plan Year begins on January 1 and ends on December 31.

The Plan and Trust will be governed by the laws of Pennsylvania to the extent not governed by federal law.

Benefits provided by the Plan are NOT insured by the Pension Benefit Guaranty Corporation (PBGC) under Title IV of the Employee Retirement Income Security Act of 1974 because the insurance provisions under ERISA are not applicable to this type of Plan.

Service of legal process may be made upon your Employer. Service of legal process may also be made upon the Trustee or Administrator.

Employer Information

Your Employer's name, address and identification number are:

Hemispherx Biopharma, Inc.
1617 JFK Boulevard, Suite 660
Philadelphia, Pennsylvania 19103
52-0845822

Administrator Information

The Plan's Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Administrator maintains the Plan records, including your account information, provides you with the forms you need to complete for Plan participation, and directs the payment of your account at the appropriate time. The Administrator will also allow you to review the formal Plan document and certain other materials related to the Plan. If you have any questions about the Plan and your participation, you should contact the Administrator. The Administrator may designate other parties to perform some duties of the Administrator.

The Administrator has the complete power, in its sole discretion, to determine all questions arising in connection with the administration, interpretation, and application of the

Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

The name, address and business telephone number of the Plan's Administrator are:

Hemispherx Biopharma, Inc.
1617 JFK Boulevard, Suite 660
Philadelphia, Pennsylvania 19103
215-988-0080

Trustee Information

All money that is contributed to the Plan is held in a trust fund. The Trustees are responsible for the safekeeping of the trust fund. The trust fund established by the Plan's Trustees will be the funding medium used for the accumulation of assets from which benefits will be distributed.

The names and address of the Plan's Trustees are:

William A. Carter
Robert E. Peterson
Adam Pascale

1617 JFK Boulevard, Suite 660
Philadelphia, Pennsylvania 19103

The Trustees shall collectively be referred to as Trustee throughout this Summary Plan Description.