Exhibit 10.14  
  
  
 AGREEMENT  
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between  
  
  
FOUNTAIN PHARMACEUTICALS, INC.  
0000 Xxxxx Xxxxx Xxxx  
Xxxxx, Xxxxxxx 00000  
  
(subsequently called "FOUNTAIN")  
  
AND  
  
QUINODERM LTD.  
Xxxxxxxxxx Xxxx  
Xxxxxxxxxx Xxxxxx XX0 0XX  
Lancashire, England  
  
(subsequently called "QUINODERM")  
  
WITNESSETH  
  
Whereas, FOUNTAIN has developed a technology protected by patent applications  
and trade secrets known as Solvent Dilution MicroCarrier System, hereinafter  
referred to as "SDMC-SYSTEM";  
  
Whereas, FOUNTAIN has developed products based on the SDMC-SYSTEM hereinafter  
referred to as PRODUCTS;  
  
Whereas, FOUNTAIN is interested to have marketed and sold their PRODUCTS in  
territories outside the USA;  
  
Whereas, QUINODERM holds a dermatological marketing organization in the UK and  
Ireland;  
  
Whereas QUINODERM has the potential to do research on PRODUCTS, as well as to  
develop and to manufacture PRODUCTS;  
  
Whereas FOUNTAIN and QUINODERM have the opinion that it is of mutual interest to  
enter into this AGREEMENT with respect to the marketing and sales of PRODUCTS by  
QUINODERM in their marketing territories and to generate research and  
development as well as manufacturing experience which could be made available to  
FOUNTAIN for its use outside the TERRITORY.  
  
NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:  
  
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ARTICLE 1 - DEFINITIONS  
  
1. AFFILIATES will mean organizations in which a party to this agreement holds  
 more than fifty percent of the shares or organizations that hold more than  
 fifty percent of the shares of same party.  
  
2. EFFECTIVE DATE will mean the date when this AGREEMENT is signed by both  
 partners.  
  
3. TRADENAMES will mean all protected and unprotected brandnames used  
 particularly in conjunction with the sales of PRODUCTS in a specific  
 territory for which a license is granted under this AGREEMENT.  
  
4. PRODUCTS will mean dermatological products making use of the SDMC-SYSTEM.  
  
5. By NET SALES is understood the invoiced amounts for each calendar period  
 without value added tax.  
  
6. SCIENTIFIC INFORMATION will mean all results from clinical and pre-clinical  
 studies, laboratory experiments, literature and research and other sources,  
 that could significantly contribute to the know-how related to the  
 formulation, production, and use of PRODUCTS.  
  
7. TERRITORY means the UK (England, Wales, Scotland) and Ireland and any other  
 countries added by mutual agreement between the parties.  
  
8. MASS MERCHANDISER means large chains (i.e. Boots, Superdrug, Tesco, ASDA,  
 Sainsbury, etc.) and independents that sell merchandise to consumers.  
  
ARTICLE 2 - TERMS AND CONDITIONS  
  
1. FOUNTAIN grants QUINODERM for the term of five years after the EFFECTIVE  
 DATE of this AGREEMENT the right to manufacture, to market and to sell  
 PRODUCTS under their own TRADENAMES in the TERRITORY in mass merchandiser  
 channel of distribution.  
  
2. After the initial five year period, this AGREEMENT will renew automatically  
 each year unless notified by either FOUNTAIN or QUINODERM. Notification of  
 intent not to renew shall occur at least 90 days prior to the anniversary  
 date of the AGREEMENT.  
  
3. FOUNTAIN grants QUINODERM for the term of five years after the EFFECTIVE  
 DATE of this agreement the right to have the name "Fountain  
 Pharmaceuticals" and the trademark "LyphaZome" mentioned on the package of  
 PRODUCTS sold in TERRITORIES where they hold a license according to the  
 underlying AGREEMENT.  
  
4. QUINODERM and/or its sublicensees have the obligation to identify FOUNTAIN  
 by printing or labeling the name "Fountain Pharmaceuticals" and to identify  
 "LyphaZome" in a readable manner on the outer box (if applicable) and/or  
 the leaflet of each commercial package of PRODUCTS unless parties agree in  
 writing to do otherwise.  
  
5. QUINODERM and its sublicensees are free to set selling prices to their  
 distribution channels.  
  
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ARTICLE 3 - SUPPLY AND MUTUAL PROTECTION FOR EXCLUSIVE SALES  
  
1. QUINODERM undertakes to manufacture sufficient quantities of the PRODUCTS  
 to meet the anticipated requirements in its TERRITORY.  
  
2. QUINODERM shall provide FOUNTAIN with non-binding forecasts of its intended  
 bulk-manufacturing of PRODUCTS for a period of 12 months. The forecast will  
 be actualized (rolling systems) in months of January and July.  
  
3. FOUNTAIN and QUINODERM will assign the obligations under this agreement to  
 its distributors, partners, sublicensees or any outlets for the PRODUCTS as  
 far as they can act on these.  
  
ARTICLE 4 - TRADE NAMES  
  
1. In general, QUINODERM and/or its sublicensees are free to choose their  
 TRADENAMES for the PRODUCTS, if market or legal situation demands to do so.  
 The obligation under 2.3 to identify "FOUNTAIN" and "LYPHAZOME" is not  
 effected by that.  
  
ARTICLE 5 - RESEARCH AND DEVELOPMENT (R+D) ON PRODUCTS  
  
1. QUINODERM is allowed by FOUNTAIN to perform research and development on  
 PRODUCTS within its own responsibility and on its own costs.  
  
2. FOUNTAIN will get access to experience and data QUINODERM will generate  
 from research and development. Results from research on PRODUCTS will be  
 made also available to FOUNTAIN for its own use and free of charge.  
  
3. FOUNTAIN, vice-versa makes accessible to QUINODERM free of charge  
 development and research documentation on PRODUCTS which will be generated  
 by FOUNTAIN in the future or comes into the possession of FOUNTAIN through  
 new partnerships.  
  
ARTICLE 6 - PAYMENTS TO FOUNTAIN  
  
1. QUINODERM shall pay FOUNTAIN the sum of 8% royalty on NET SALES of  
 PRODUCTS. Payments will be due on a quarterly basis (1st day of January,  
 April, July and October) and will be payable within 30 days. QUINODERM  
 shall pay FOUNTAIN in United States Dollars.  
  
2. The currency exchange rate used to convert to $USD will be the market rate  
 on the payment due dates (1st day of January, April, July and October) or  
 the next following business day if that day is not a normal business day.  
  
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3. QUINODERM shall have the following performance royalties targets according  
 to the following schedule:  
  
 MINIMUM PERFORMANCE  
  
 Year $USD Royalty Target  
 ---- -------------------  
  
 2001 $ 20,000  
 2002 $ 40,000  
 2003 $ 60,000  
 2004 $ 80,000  
 2005-2010 $100,000  
  
 If QUINODERM exceeds the minimum in any given year, the amount over the  
 minimum will be counted for the following year (i.e. if in 2003 royalties  
 total $70,000, then $10,000 ($70,000 less $60,000) will be counted towards  
 fulfillment of 2004 royalties).  
  
4. If these target royalties are not met, FOUNTAIN reserves the right to  
 renegotiate the terms of the AGREEMENT.  
  
5. FOUNTAIN shall sell ethanolic stock to QUINODERM at a price of USD$15 per  
 liter. QUINODERM shall request ethanolic stock using standard purchase  
 order procedures. If FOUNTAIN is unable to supply ethanolic stock to  
 QUINODERM, then QUINODERM is entitled to source this from an alternative  
 supplier without action being taken by FOUNTAIN for patent infringement  
 either against QUINODERM or the supplier of the material.  
  
ARTICLE 7 - WARRANTIES/LIABILITY  
  
1. FOUNTAIN hereby represents, warrants and covenants QUINODERM as follows:  
  
2. To the best knowledge of FOUNTAIN the granting of the rights to QUINODERM  
 and/or their sublicensees under this AGREEMENT does not and will not  
 infringe any patent rights, including pending patents or other proprietary  
 rights of any third party.  
  
3. FOUNTAIN has not knowledge of any pending claims or any dispute that may  
 lead to a claim that their technology used for the PRODUCTS it employs  
 infringes the patent rights or other proprietary rights of any third party.  
  
4. FOUNTAIN will indemnify QUINODERM from all damage claims or demands of  
 third parties based on actual or alleged damages resulting from or in  
 connection with the use of the PRODUCTS by consumers as far as the cause of  
 damage claims or demands are caused by the SMDC system and in accordance  
 with the legislation of the country involved.  
  
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ARTICLE 8 - REGISTRATION  
  
1. QUINODERM will undertake the application for registration of the PRODUCTS  
 in its TERRITORIES.  
  
2. FOUNTAIN will assist QUINODERM to prepare the registration by giving those  
 information that are necessary, reasonable and available. If scientific  
 data or documents still have to be generated by FOUNTAIN, FOUNTAIN and  
 QUINODERM will have to agree on a cost-sharing in advance.  
  
ARTICLE 9 - MANUFACTURING THROUGH QUINODERM  
  
1. QUINODERM assures that production of PRODUCTS follows in accordance with  
 the applicable GMP's (good manufacturing procedures) or its equivalent  
 (i.e. ISO9000).  
  
2. QUINODERM is free to choose other places or partners to manufacture the  
 PRODUCTS for the TERRITORY if there is an economic or capacity reason to do  
 so. The product quality and the terms under confidentiality (Article 10)  
 have to be guaranteed.  
  
ARTICLE 10 - CONFIDENTIALITY  
  
1. QUINODERM and FOUNTAIN shall use their best efforts, while this AGREEMENT  
 is in effect and for a period of 5 (five) years thereafter, to prevent the  
 disclosure to others of information received by either from the other  
 party, and to keep such confidential except as follows:  
  
 a) With the written consent of an officer of FOUNTAIN or QUINODERM as the  
 case may be; or  
  
 b) To the extent that such information was known to QUINODERM or FOUNTAIN  
 prior to its receipt from the other party; or  
  
 c) To the extent that information was, at the time of such receipt, or to  
 the extent that it shall thereafter become published or public  
 knowledge; or  
  
 d) To the extent of information received at any time lawfully by  
 QUINODERM or FOUNTAIN from any third party; or  
  
 e) Was independently discovered and/or developed by QUINODERM and/or  
 FOUNTAIN as evidenced by written documentation thereof, as the case  
 may be; or  
  
 f) To the extent necessary to any cooperator or consultant other than  
 public officials and public institutions engaged by QUINODERM to and  
 in the commercialization of PRODUCTS; or  
  
 g) To the extent necessary to governmental officials in obtaining  
 government approvals, if any, required in connection with the  
 marketing and/or sales of PRODUCTS.  
  
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2. QUINODERM shall obligate any engaged party referred to above in exceptions  
 (f) and (g) to confirm in substance to the confidentiality provisions of  
 this paragraph. Notwithstanding the foregoing, QUINODERM may disclose  
 information to its sublicensees or potential sublicensees hereunder,  
 provided that they are obligated to conform in substance to such  
 nondisclosure provisions.  
  
3. The confidentiality provisions of the present AGREEMENT shall survive the  
 termination of all or any portion of this AGREEMENT.  
  
ARTICLE 11 - SCIENTIFIC INFORMATION  
  
1. SCIENTIFIC INFORMATION developed by QUINODERM or FOUNTAIN and its licensees  
 or sublicensees or offered to QUINODERM or FOUNTAIN by a third independent  
 party will be shared with each other within one month after they have  
 received or generated a final version. This sharing of information is  
 subject to Article 5.  
  
2. FOUNTAIN and QUINODERM have the right to use the above mentioned  
 information for scientific and/or commercial purposes upon their own  
 judgment.  
  
3. Scientific data generated as part of a dossier to be used to apply for  
 registration as a medical preparation or for the requirement of authorities  
 will be designated "FOR REGISTRATION".  
  
4. QUINODERM/FOUNTAIN will indicate in writing which studies and/or  
 investigations are planned and that will be designated "FOR REGISTRATION".  
 FOUNTAIN will make available the final version of these studies and/or  
 investigations not later than one month after the information is in the  
 final format.  
  
5. If QUINODERM/FOUNTAIN decides that they are not interested in using the  
 information from 11.3, the information will become subject to the secrecy  
 provisions under this AGREEMENT.  
  
ARTICLE 12 - FORCE MAJEURE  
  
1. Failure of a party to fulfill its obligations hereunder because of a case  
 of force majeure shall not constitute a default of such party and  
 consequently shall not give rise to liability to the other party. A case of  
 force majeure shall include, without limitation, an event due to or action  
 taken by any government or administrative authority, fire, flood, act of  
 God, embargo, war insurrection, general strike, as well as any event  
 resulting in an impossibility to obtain raw material for the production of  
 PRODUCTS.  
  
ARTICLE 13 - LEGAL SUCCESSOR/ASSIGNMENT  
  
1. This agreement shall survive any change of ownership of Fountain,  
 assignment by Fountain or license by Fountain.  
  
2. Quinoderm can assign this agreement to another party upon written notice to  
 FOUNTAIN and written approval from FOUNTAIN.  
  
3. This agreement shall survive a change of ownership of Quinoderm.  
  
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ARTICLE 14 - TERMS AND TERMINATION  
  
1. This AGREEMENT shall continue in full force and effect unless sooner  
 terminated as provided herein; this means until five years after the  
 EFFECTIVE DATE of this agreement. Thereafter this AGREEMENT shall  
 automatically be renewed for successive periods of one (1) year each,  
 provided this AGREEMENT has not been terminated by either party at least  
 six (6) months prior to the expiration of this AGREEMENT or said successive  
 one (1) year periods, whichever is applicable.  
  
2. This AGREEMENT shall terminate immediately upon written notice from  
 QUINODERM or FOUNTAIN, as the case may be, if;  
  
 a) FOUNTAIN or QUINODERM violates any of the covenants or obligations  
 contained in this AGREEMENT and such default continues uncured or  
 unremedied for a period of sixty (60) days after written notice  
 thereof to FOUNTAIN by QUINODERM or to QUINODERM by FOUNTAIN as the  
 case may be.  
  
3. Termination of this AGREEMENT shall be without prejudice to QUINODERM's  
 obligation to Payments on sales of PRODUCTS in the TERRITORY contracted  
 prior to the date of such expiration or termination, nor terminate the  
 secrecy obligations of both parties under this AGREEMENT.  
  
4. After the date of termination of this AGREEMENT, QUINODERM shall be allowed  
 to sell its stock of PRODUCTS where FOUNTAIN shall be paid according to  
 Article 6.1.  
  
5. After the date of termination of this AGREEMENT, there will be no further  
 claims by FOUNTAIN OR QUINODERM.  
  
ARTICLE 15 - PAYMENTS AND ACCOUNTING  
  
1. Payments - for products that fall under the NET SALES clause (Article 6.1)  
 - will be due on a quarterly basis (for sales in the previous 3 months) on  
 January 1st, April 1st, July 1st and October 1st, and to be paid within  
 thirty (30) days of that date.  
  
2. The parties to the contract will mutually support each other in the  
 fulfillment of all obligations and formalities relating to taxes and levies  
 connected with the performance of this agreement.  
  
3. QUINODERM must keep accurate accounts on the manufacturing of PRODUCTS and  
 the NET SALES of the contract products which fall under Article 6.1, the  
 name and address of the customers, delivery dates, number of items and  
 price of the contract products sold are to be listed in the latter case.  
 The books of account must be available for inspection by FOUNTAIN on  
 request. FOUNTAIN may in addition demand information on all circumstances  
 which are relevant to the payments, its due date and its calculation.  
  
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4. If presentation of the books of account is refused, or if there are  
 justified doubts about the correctness or the completeness of the account  
 or the books, then FOUNTAIN can demand that an independent auditor, to be  
 appointed by both of the contracting parties, shall be allowed to inspect  
 the company books or other documents, so far as is necessary for  
 establishing the correctness of the account or the books. If the licensee's  
 account shows no discrepancies, or only minor ones, then FOUNTAIN shall  
 bear the auditor's charges, otherwise the licensee is obliged to pay the  
 charge.  
  
5. QUINODERM payments to FOUNTAIN, as covered under Article 6, shall be made  
 in the currency of US Dollars.  
  
ARTICLE 16 - MISCELLANEOUS  
  
1. This AGREEMENT constitutes the entire AGREEMENT and supersedes all prior  
 AGREEMENTS and understandings, between the parties hereto with respect to  
 the subject matter hereof. The rights and obligations of each party under  
 this AGREEMENT shall not be assignable or otherwise transferable without  
 the prior written consent of the other which consent will not unreasonably  
 be withheld.  
  
2. The validity, construction, performance and interpretation of this  
 AGREEMENT and the legal realizations of the parties to it shall be governed  
 by the law of the state of Florida except with regards to matters of patent  
 law which shall be determined with reference to the laws of the country  
 involved.  
  
3. In the event that any part of this AGREEMENT shall be determined to be in  
 violation of any statute, rule of law, governmental regulations or decree  
 of court of competent jurisdiction, such part shall be void and of no  
 effect but the remainder of this AGREEMENT shall continue in full force and  
 effect.  
  
4. The parties hereto are independent contractors and have and shall have no  
 power, nor will either of the parties represent that either has any power,  
 to bind the other party or to assume or to create any obligation or  
 responsibility, express or implied, on behalf of the other party in the  
 other party's name.  
  
 This AGREEMENT shall not be construed as constituting FOUNTAIN and  
 QUINODERM to be partners or to create any other form of legal association  
 which would impose liability upon one party for the act or failure to act  
 of the other party.  
  
5. The headings in this AGREEMENT are for convenience only and not intended to  
 be used in determining the construction or interpretation to be given to  
 any provision of this AGREEMENT.  
  
6. The Appendixes attached to this AGREEMENT will be regularly updated and  
 subsequently put into effect by being signed by both parties.  
  
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7. The addresses of the parties hereto are as follows but either party may  
 change its address for the purpose of this AGREEMENT by notice in writing  
 to the other party:  
  
 QUINODERM:  
  
 QUINODERM Ltd. Pharmaceutical Manufacturers  
 Xxxxxxxxxx Xxxx  
 Xxxxxxxxxx Xxxxxx  
 Xxxxxxxxxx Xxxxxxx XX0 0XX  
  
 FOUNTAIN  
  
 FOUNTAIN Pharmaceuticals, Inc.  
 0000 Xxxxx Xxxxx Xxxx  
 Xxxxx, Xxxxxxx 00000, XXX  
  
8. No waiver, amendment or modification of any provision with respect to this  
 AGREEMENT shall be effective unless in writing and signed by the party  
 against whom such waiver, amendment or modification is sought to be  
 enforced. No failure by either party to exercise and no delay by either  
 party in exercising any right, power or remedy secured hereunder shall  
 operate as a waiver of any such right, power or remedy.  
  
IN WITNESS THEREOF, the partners hereto, intending to be bound hereby have  
caused the AGREEMENT to be executed as of the date and year as hereby set forth.  
  
  
Place/Date: Largo, Florida USA 9/th/ October 2000  
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FOUNTAIN PHARMACEUTICALS, INC. /s/ Xxxxxxxxxxx X. Xxxxxxxx  
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 Vice President of Operations  
  
  
  
  
  
Place/Date Oldham, England 2/nd/ October 2000  
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QUINODERM, LTD. /s/ A.G.W. Xxxxxx  
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