As filed with the Securities and Exchange Commission on September 15, 2008

Registration No. 333-150227

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 8 TO

Form S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

FLUIDIGM CORPORATION

(Exact name of Registrant as specified in its charter)

Delaware	**3826**	**77-0513190**
(State or other jurisdiction of incorporation or organization)	*(Primary Standard Industrial Classification Code Number)*	*(I.R.S. Employer Identification Number)*

7000 Shoreline Court, Suite 100
South San Francisco, CA 94080
(650) 266-6000
(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Gajus V. Worthington
President and Chief Executive Officer
7000 Shoreline Court, Suite 100
South San Francisco, CA 94080
(650) 266-6000
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

David J. Segre **Robert F. Kornegay** **Asaf H. Kharal** **Wilson Sonsini Goodrich & Rosati P.C.** **650 Page Mill Road** **Palo Alto, CA 94304** **Telephone: (650) 493-9300** **Telecopy: (650) 493-6811**	**William M. Smith** **Vice President, Legal Affairs and General Counsel** **7000 Shoreline Court, Suite 100** **South San Francisco, CA 94080** **Telephone: (650) 266-6000** **Telecopy: (650) 871-7152**	**Charles K. Ruck** **B. Shayne Kennedy** **Latham & Watkins LLP** **650 Town Center Drive, 20th Floor** **Costa Mesa, CA 92626** **Telephone: (714) 540-1235** **Telecopy: (714) 755-8290**

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, as amended, check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

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 Ruler 12b-2 of the Exchange Act. (Check one):

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

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to such Section 8(a), may determine.

EXPLANATORY NOTE

Fluidigm Corporation has prepared this Amendment No. 8 to the Registration Statement on Form S-1 (File No. 333-150227) for the purpose of refiling Exhibits 4.2, 4.4, 4.5A, 10.8, 10.9, 10.10, 10.11, 10.12 and 10.18 to the Registration Statement and filing Exhibits 1.1, 4.1, 5.1 and 10.19 to the Registration Statement with the Securities and Exchange Commission. This Amendment No. 8 does not modify any provision of the prospectus that forms a part of the Registration Statement, and accordingly such prospectus has not been included herein.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. ***Other Expenses of Issuance and Distribution.***

The following table sets forth all expenses to be paid by the registrant, other than estimated underwriting discounts and commissions, in connection with this offering. All amounts shown are estimates except for the SEC registration fee, the NASD filing fee and the NASDAQ Global Market listing fee.

SEC registration fee	$	3,593
NASD filing fee		9,700
NASDAQ Global Market listing fee		105,000
Printing and engraving		390,000
Legal fees and expenses		1,700,000
Accounting fees and expenses		850,000
Blue sky fees and expenses (including legal fees)		10,000
Transfer agent and registrar fees		2,500
Miscellaneous		29,207
Total	$	3,100,000

Item 14. ***Indemnification of Directors and Officers.***

Section 145 of the Delaware General Corporation Law authorizes a corporation's board of directors to grant, and authorizes a court to award, indemnity to officers, directors and other corporate agents.

As permitted by Section 102(b)(7) of the Delaware General Corporation Law, the registrant's certificate of incorporation includes provisions that eliminate the personal liability of its directors and officers for monetary damages for breach of their fiduciary duty as directors and officers.

In addition, as permitted by Section 145 of the Delaware General Corporation Law, the bylaws of the registrant provide that:

- The registrant shall indemnify its directors and officers for serving the registrant in those capacities or for serving other business enterprises at the registrant's request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful.
- The registrant may, in its discretion, indemnify employees and agents in those circumstances where indemnification is not required by law.
- The registrant is required to advance expenses, as incurred, to its directors and officers in connection with defending a proceeding, except that such director or officer shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- The registrant will not be obligated pursuant to the bylaws to indemnify a person with respect to proceedings initiated by that person, except with respect to proceedings authorized by the registrant's Board of Directors or brought to enforce a right to indemnification.
- The rights conferred in the bylaws are not exclusive, and the registrant is authorized to enter into indemnification agreements with its directors, officers, employees and agents and to obtain insurance to indemnify such persons.

- The registrant may not retroactively amend the bylaw provisions to reduce its indemnification obligations to directors, officers, employees and agents.

The registrant's policy is to enter into separate indemnification agreements with each of its directors and officers that provide the maximum indemnity allowed to directors and executive officers by Section 145 of the Delaware General Corporation Law and also provides for certain additional procedural protections. The registrant also maintains directors and officers insurance to insure such persons against certain liabilities.

These indemnification provisions and the indemnification agreements entered into between the registrant and its officers and directors may be sufficiently broad to permit indemnification of the registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

The underwriting agreement filed as Exhibit 1.1 to this registration statement provides for indemnification by the underwriters of the registrant and its officers and directors for certain liabilities arising under the Securities Act and otherwise.

Item 15. ***Recent Sales of Unregistered Securities.***

In the three years prior to the filing of this registration statement, the registrant has issued the following unregistered securities:

(a) From March 2005 through July 17, 2007, Fluidigm Corporation, a California corporation, issued and sold an aggregate of 134,561 shares of its common stock upon the exercise of options issued to certain employees, directors and consultants under the registrant's 1999 Stock Option Plan, as amended, at exercise prices ranging from $1.05 to $2.90, for aggregate consideration of $188,442. From July 18, 2007 through May 22, 2008, the registrant issued and sold an aggregate of 71,634 shares of its common stock upon the exercise of options issued to certain employees, directors and consultants under the registrant's 1999 Stock Option Plan, as amended, at exercise prices ranging from $1.05 to $4.76 per share, for aggregate consideration of $123,346.

(b) From March 2005 through July 17, 2007, Fluidigm Corporation, a California corporation, granted to certain of its employees, directors and consultants under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 1,138,869 shares of its common stock at exercise prices ranging from $1.05 to $4.76 per share. From July 18, 2007 through May 22, 2008, the registrant granted to certain of its employees, directors and consultants under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 129,200 shares of the registrant's common stock at exercise prices ranging from $4.83 to $8.40 per share.

(c) In March and December 2005, Fluidigm Corporation, a California corporation, pursuant to a loan and security agreement, issued and sold warrants to purchase 106,122 shares of its Series D Preferred Stock to one accredited investor at an exercise price of $9.80 per share. In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the warrant was converted into a warrant to purchase an equal number of shares of the registrant's Series D Preferred Stock.

(d) In November 2005, Fluidigm Corporation, a California corporation, issued and sold 20,000 shares of its common stock to one accredited investor at an issuance price of $1.96 per share for aggregate monetary consideration of $39,200, which amount was deemed paid by the transfer of certain rights granted to registrant pursuant to the terms of a licensing agreement.

(e) In December 2005, Fluidigm Corporation, a California corporation, issued 237,895 shares of its Series D Preferred Stock to one accredited investor in connection with the conversion of a convertible promissory note at a conversion price per share of $9.80.

(f) In June 2006, Fluidigm Corporation, a California corporation, issued to one accredited investor a convertible promissory notes in an aggregate principal amount of $3,000,000 convertible into shares of its Series D Preferred Stock. In July 2007, the notes were converted into 330,612 shares of Series D Preferred Stock at a conversion price per share of $9.80.

(g) In April 2006, Fluidigm Corporation, a California corporation, issued 61,224 shares of its Series D Preferred Stock to three accredited investors at an issuance price of $9.80 per share, for aggregate monetary consideration of $599,998, which amount was deemed paid by the transfer of certain rights granted to registrant pursuant to the terms of a licensing agreement and the achievement of certain milestones thereunder.

(h) In June 2006, Fluidigm Corporation, a California corporation, issued 76,530 shares of its Series D Preferred Stock to one accredited investor in connection with the exercise of a warrant to purchase shares of its Series D Preferred Stock at an exercise price per share of $9.80.

(i) From August 2006 through April 2007, Fluidigm Corporation, a California corporation, issued three convertible promissory notes to one accredited investor in an aggregate principal amount of $15,000,000, all of which were convertible into shares of its Series E Preferred Stock. In March 2007, two of the notes were converted into an aggregate of 844,095 shares of the Series E Preferred Stock of Fluidigm Corporation, a California corporation. In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the remaining outstanding convertible promissory note was made convertible into shares of the registrant's Series E Preferred Stock.

(j) In March 2007, Fluidigm Corporation, a California corporation, issued 28,571 shares of its common stock to one accredited investor at an issuance price of $2.90 per share, for aggregate monetary consideration of $83,000, which amount was deemed paid by the transfer of certain rights granted to registrant pursuant to the terms of a licensing agreement.

(k) In May 2007, Fluidigm Corporation, a California corporation, granted to seven of its employees and directors under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 219,142 shares of its common stock at an exercise price of $4.76 per share.

(l) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 2,770,285 shares of common stock to a total of 128 stockholders in exchange for the outstanding shares of common stock Fluidigm Corporation, a California corporation.

(m) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 779,220 shares of the registrant's Series A Preferred Stock to a total of 41 investors in exchange for the outstanding shares of Series A Preferred Stock of Fluidigm Corporation, a California corporation.

(n) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 1,845,907 shares of the registrant's Series B Preferred Stock to a total of 35 investors in exchange for the outstanding shares of Series B Preferred Stock of Fluidigm Corporation, a California corporation.

(o) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 4,675,666 shares of the registrant's Series C Preferred Stock to a total of 62 investors in exchange for the outstanding shares of Series C Preferred Stock of Fluidigm Corporation, a California corporation.

(p) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 3,484,626 shares of the registrant's Series D Preferred Stock to a total of 52 investors in exchange for the outstanding shares of Series D Preferred Stock of Fluidigm Corporation, a California corporation.

(q) In connection with the registrant's reincorporation into the State of Delaware on July 18, 2007, the registrant issued an aggregate of 2,562,810 shares of the registrant's Series E Preferred Stock to a total of 35 investors in exchange for the outstanding shares of Series E Preferred Stock of Fluidigm Corporation, a California corporation.

(r) From October 2007 through December 2007, the registrant issued and sold an aggregate of 2,512,841 shares of Series E Preferred Stock to a total of seven investors at $14.00 per share, for aggregate proceeds of $35,179,780.

(s) In December 2007, the registrant issued 1,714 shares of its common stock to one accredited investor at an issuance price of $4.76 per share for aggregate monetary consideration of $8,160, which amount was deemed paid by the transfer of certain rights granted to registrant pursuant to the terms of a licensing agreement.

(t) In December 2007, the registrant granted to one of its directors under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 28,571 shares of the registrant's common stock at an exercise price of $8.40 per share.

(u) In February and June 2008, the registrant issued a warrant to purchase 28,572 and 57,142 shares of the registrant's Series E Preferred Stock to one accredited investor at an exercise price of $14.00 per share.

(v) In February 2008, the registrant granted to one of its executive officers under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 171,427 shares of the registrant's common stock at an exercise price of $8.40 per share.

(w) In April 2008, the registrant granted to 110 of its employees, consultants and directors under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 546,711 shares of its common stock at an exercise price of $11.16 per share.

(x) On May 12, 2008, the registrant issued 4,692 shares of its Series C Preferred Stock to Imperial Bank pursuant to Imperial Bank's net exercise of its warrant to purchase up to 11,795 shares of Series C Preferred Stock. The remainder of the warrant was cancelled pursuant to the terms of the net exercise.

(y) In June 2008, the registrant granted to seven of its employees and consultants under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 24,426 shares of its common stock at an exercise price of $11.97 per share.

(z) In August 2008, the registrant granted to eight of its employees under the registrant's 1999 Stock Option Plan, as amended, options to purchase an aggregate of 18,426 shares of its common stock at an exercise price of $12.71 per share.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions, or any public offering, and the registrant believes that each transaction was exempt from the registration requirements of the Securities Act in reliance on the following exemptions:

- with respect to the transactions described in paragraphs (a) and (b), Rule 701 promulgated under the Securities Act as transactions pursuant to a compensatory benefit plan approved by the registrant's Board of Directors;
- with respect to the transactions described in paragraphs (1) through (q), Rule 145(a)(2) promulgated under the Securities Act as transactions pursuant to a plan or agreement for statutory merger or similar plan or acquisition in which securities of the registrant were exchanged for the securities of Fluidigm Corporation, a California corporation, the sole purpose of which was to change the registrant's domicile solely within the United States, and a Permit granted pursuant to Section 25121 of the California Corporations Code; and
- with respect to the transactions described in paragraphs (c) through (k) and paragraphs (r) through (z), Section 4(2) of the Securities Act, or Rule 506 of Regulation D promulgated thereunder, as transactions by an issuer not involving a public offering. Each recipient of the securities in this transaction represented his or her intention to acquire the securities for investment only and not with a view to, or for resale in connection with, any distribution thereof, and appropriate legends were affixed to the share certificates issued in each such transaction. In each case, the recipient received adequate information about the registrant or had adequate access, through his or her relationship with the registrant, to information about the registrant.

Item 16. ***Exhibits and Financial Statement Schedules.***

(a) *Exhibits.* The following exhibits are included herein or incorporated herein by reference:

Exhibit Number	Description
1.1	Form of Underwriting Agreement.
3.1(3)	Certificate of Incorporation of the Registrant, as currently in effect.

Exhibit Number	Description
3.2[3]	Form of Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.
3.3[3]	Bylaws of the Registrant.
3.4[3]	Form of Amended and Restated Bylaws of the Registrant, to be in effect upon completion of this offering.
4.1	Specimen Common Stock Certificate of the Registrant.
4.2	Series E Preferred Stock Purchase Agreement dated June 13, 2006 through December 31, 2007 between the Registrant and the Purchasers set forth therein, as amended.
4.3[3]	Eighth Amended and Restated Investor Rights Agreement between the Registrant and certain holders of the Registrant's common stock named therein, including amendments No. 1 and No. 2.
4.4[2]	Loan and Security Agreement No. 4561 between the Registrant and Lighthouse Capital Partners V, L.P. dated March 29, 2005, including amendments Nos. 1 through 4.
4.4A[3]	Preferred Stock Purchase Warrant issued to Lighthouse Capital Partners V, L.P. effective March 29, 2005.
4.4B[3]	Negative Pledge Agreement by and between the Registrant and Lighthouse Capital Partners V, L.P. dated March 29, 2005.
4.5[3]	Convertible Note Purchase Agreement by and between Biomedical Sciences Investment Fund Pte Ltd and the Registrant dated August 7, 2006.
4.5A	Convertible Promissory Note issued to Biomedical Sciences Investment Fund Pte Ltd dated April 19, 2007, as amended.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
10.1[3]	Form of Indemnification Agreement between the Registrant and its directors and officers.
10.2[3]	1999 Stock Plan of the Registrant, as amended April 24, 2008.
10.2A[3]	Forms of agreements under the 1999 Stock Plan.
10.3[3]	2008 Equity Incentive Plan.
10.3A[3]	Forms of agreements under the 2008 Equity Incentive Plan.
10.4[2][3]	Second Amended and Restated License Agreement by and between California Institute of Technology and the Registrant effective as of May 1, 2004.
10.4A[2][3]	First Addendum, effective as of March 29, 2007, to Second Amended and Restated License Agreement by and between California Institute of Technology and the Registrant effective as of May 1, 2004.
10.5[2][3]	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.5A[2][3]	First Amendment to Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.6[2][3]	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.7[2][3]	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.8[2]	Patent License Agreement by and between Gyros AB and the Registrant dated January 9, 2003.
10.8A[2][3]	Amendment No. 1 dated January 9, 2005 to Patent License Agreement by and between Gyros AB and the Registrant dated January 9, 2003.
10.9[2]	Master Closing Agreement by and between UAB Research Foundation, Oculus Pharmaceuticals, Inc. and the Registrant dated March 7, 2003.
10.9A[2][3]	License Agreement by and between UAB Research Foundation and the Registrant dated March 7, 2003.
10.10[2]	Amended and Restated Letter Agreement Regarding Application for Incentives Under the Research Incentive Scheme for Companies (RISC) dated March 27, 2008 (originally dated October 7, 2005), by and between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.

Exhibit Number	Description
10.10A(2)(3)	Supplement Dated January 11, 2006 to Letter Agreement Relating to Application for Incentives under the Research Incentive Scheme for Companies (RISC), dated October 7, 2005 between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.
10.11(2)	Amended and Restated Letter Agreement Regarding Application for Incentives Under the Research Incentive Scheme for Companies (RISC) dated March 27, 2008 (originally dated February 12, 2007), by and between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.
10.12(2)	Distribution Agreement by and between Eppendorf AG and the Registrant effective as of April 1, 2005.
10.12A(3)	First Amendment, effective as of December 1, 2007, to the Distribution Agreement by and between Eppendorf AG and the Registrant effective as of April 1, 2005.
10.13(3)	Form of Employment and Severance Agreement between the Registrant and each of its executive officers.
10.14(3)	Consulting Agreement by and between the Registrant and Richard DeLateur dated February 29, 2008.
10.15(3)	Employee Loan Agreement with Gajus Worthington dated January 20, 2004.
10.15A(3)	Stock Repurchase Agreement between the Registrant and Gajus V. Worthington dated April 10, 2008.
10.16(3)	Offer Letter to Vikram Jog dated January 29, 2008.
10.17(3)	Settlement Agreement and General Release of all Claims by and between Michael Ybarra Lucero and the Registrant dated March 20, 2008.
10.18(2)	Letter Agreement between President and Fellows of Harvard College and the Registrant dated December 22, 2004.
10.19	Sublease, dated March 25, 2004, between Genome Therapeutics Corporation as Sublessor and Fluidigm Corporation as Sublessee and amendment thereto, and related master lease agreements and amendments thereto.
21.1(3)	List of subsidiaries of Registrant.
23.1(3)	Consent of Independent Registered Public Accounting Firm.
23.2	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).
24.1(3)	Power of Attorney.

(1) To be filed by amendment.
(2) Confidential treatment has been requested with respect to certain portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission.
(3) Previously filed.

(b) *Financial Statement Schedules.*

All schedules have been omitted because the information required to be presented in them is not applicable or is shown in the consolidated financial statements or related notes.

Item 17. ***Undertakings.***

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post effective amendment that contains a form of prospectus 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) For the purpose of determining liability under the Securities Act of 1933 to any purchaser, if the registrant is subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness; provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) For the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser to the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchasers and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Amendment No. 8 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of South San Francisco, State of California, on the 15th day of September 2008.

FLUIDIGM CORPORATION

By: /s/ GAJUS V. WORTHINGTON
Gajus V. Worthington
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 8 to the registration statement has been signed by the following persons in the capacities indicated on the 15th day of September 2008.

Signature	Title	Date
/s/ GAJUS V. WORTHINGTON Gajus V. Worthington	President, Chief Executive Officer and Director (Principal Executive Officer)	September 15, 2008
/s/ VIKRAM JOG Vikram Jog	Chief Financial Officer (Principal Accounting and Financial Officer)	September 15, 2008
* Samuel Colella	Director	September 15, 2008
* Michael W. Hunkapiller	Director	September 15, 2008
* Elaine V. Jones	Director	September 15, 2008
* Kenneth Nussbacher	Director	September 15, 2008
* John A. Young	Director	September 15, 2008

*By: /s/ GAJUS V. WORTHINGTON
Gajus V. Worthington
Attorney-in-Fact

EXHIBIT INDEX

Exhibit Number	Description
1.1	Form of Underwriting Agreement.
3.1(3)	Certificate of Incorporation of the Registrant, as currently in effect.
3.2(3)	Form of Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.
3.3(3)	Bylaws of the Registrant.
3.4(3)	Form of Amended and Restated Bylaws of the Registrant, to be in effect upon completion of this offering.
4.1	Specimen Common Stock Certificate of the Registrant.
4.2	Series E Preferred Stock Purchase Agreement dated June 13, 2006 through December 31, 2007 between the Registrant and the Purchasers set forth therein, as amended.
4.3(3)	Eighth Amended and Restated Investor Rights Agreement between the Registrant and certain holders of the Registrant's common stock named therein, including amendments No. 1 and No. 2.
4.4(2)	Loan and Security Agreement No. 4561 between the Registrant and Lighthouse Capital Partners V, L.P. dated March 29, 2005, including amendments Nos. 1 through 4.
4.4A(3)	Preferred Stock Purchase Warrant issued to Lighthouse Capital Partners V, L.P. effective March 29, 2005.
4.4B(3)	Negative Pledge Agreement by and between the Registrant and Lighthouse Capital Partners V, L.P. dated March 29, 2005.
4.5(3)	Convertible Note Purchase Agreement by and between Biomedical Sciences Investment Fund Pte Ltd and the Registrant dated August 7, 2006.
4.5A	Convertible Promissory Note issued to Biomedical Sciences Investment Fund Pte Ltd dated April 19, 2007, as amended.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
10.1(3)	Form of Indemnification Agreement between the Registrant and its directors and officers.
10.2(3)	1999 Stock Plan of the Registrant, as amended April 24, 2008.
10.2A(3)	Forms of agreements under the 1999 Stock Plan.
10.3(3)	2008 Equity Incentive Plan.
10.3A(3)	Forms of agreements under the 2008 Equity Incentive Plan.
10.4(2)(3)	Second Amended and Restated License Agreement by and between California Institute of Technology and the Registrant effective as of May 1, 2004.
10.4A(2)(3)	First Addendum, effective as of March 29, 2007, to Second Amended and Restated License Agreement by and between California Institute of Technology and the Registrant effective as of May 1, 2004.
10.5(2)(3)	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.5A(2)(3)	First Amendment to Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.6(2)(3)	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.7(2)(3)	Co-Exclusive License Agreement between President and Fellows of Harvard College and the Registrant effective as of October 15, 2000.
10.8(2)	Patent License Agreement by and between Gyros AB and the Registrant dated January 9, 2003.
10.8A(2)(3)	Amendment No. 1 dated January 9, 2005 to Patent License Agreement by and between Gyros AB and the Registrant dated January 9, 2003.

Exhibit Number	Description
10.9(2)	Master Closing Agreement by and between UAB Research Foundation, Oculus Pharmaceuticals, Inc. and the Registrant dated March 7, 2003.
10.9A(2)(3)	License Agreement by and between UAB Research Foundation and the Registrant dated March 7, 2003.
10.10(2)	Amended and Restated Letter Agreement Regarding Application for Incentives Under the Research Incentive Scheme for Companies (RISC) dated March 27, 2008 (originally dated October 7, 2005), by and between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.
10.10A(2)(3)	Supplement Dated January 11, 2006 to Letter Agreement Relating to Application for Incentives under the Research Incentive Scheme for Companies (RISC), dated October 7, 2005 between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.
10.11(2)	Amended and Restated Letter Agreement Regarding Application for Incentives Under the Research Incentive Scheme for Companies (RISC) dated March 27, 2008 (originally dated February 12, 2007), by and between Singapore Economic Development Board and Fluidigm Singapore Pte. Ltd.
10.12(2)	Distribution Agreement by and between Eppendorf AG and the Registrant effective as of April 1, 2005.
10.12A(3)	First Amendment, effective as of December 1, 2007, to the Distribution Agreement by and between Eppendorf AG and the Registrant effective as of April 1, 2005.
10.13(3)	Form of Employment and Severance Agreement between the Registrant and each of its executive officers.
10.14(3)	Consulting Agreement by and between the Registrant and Richard DeLateur dated February 29, 2008.
10.15(3)	Employee Loan Agreement with Gajus Worthington dated January 20, 2004.
10.15A(3)	Stock Repurchase Agreement between the Registrant and Gajus V. Worthington dated April 10, 2008.
10.16(3)	Offer Letter to Vikram Jog dated January 29, 2008.
10.17(3)	Settlement Agreement and General Release of all Claims by and between Michael Ybarra Lucero and the Registrant dated March 20, 2008.
10.18(2)	Letter Agreement between President and Fellows of Harvard College and the Registrant dated December 22, 2004.
10.19	Sublease, dated March 25, 2004, between Genome Therapeutics Corporation as Sublessor and Fluidigm Corporation as Sublessee and amendment thereto, and related master lease agreements and amendments thereto.
21.1(3)	List of subsidiaries of Registrant.
23.1(3)	Consent of Independent Registered Public Accounting Firm.
23.2	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).
24.1(3)	Power of Attorney.

(1) To be filed by amendment.
(2) Confidential treatment has been requested with respect to certain portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission.
(3) Previously filed.

Exhibit 1.1

5,300,000 SHARES

FLUIDIGM CORPORATION

COMMON STOCK, PAR VALUE $0.001 PER SHARE

UNDERWRITING AGREEMENT

September [__], 2008

September [__], 2008

Morgan Stanley & Co. Incorporated
UBS Securities LLC
Leerink Swan LLC
Pacific Growth Equities LLC

c/o Morgan Stanley & Co. Incorporated
1585 Broadway
New York, New York 10036

Ladies and Gentlemen:

Fluidigm Corporation, a Delaware corporation (the "**Company**"), proposes to issue and sell to the several Underwriters named in Schedule I hereto (the "**Underwriters**") 5,300,000 shares of its common stock, par value $0.001 per share (the "**Firm Shares**"). The Company also proposes to issue and sell to the several Underwriters not more than an additional 795,000 shares of its common stock, par value $0.001 per share (the "**Additional Shares**") if and to the extent that you, as Manager of the offering, shall have determined to exercise, on behalf of the Underwriters, the right to purchase such shares of common stock granted to the Underwriters in Section 2 hereof. The Firm Shares and the Additional Shares are hereinafter collectively referred to as the "**Shares**." The shares of common stock, par value $0.001 per share, of the Company to be outstanding after giving effect to the sales contemplated hereby are hereinafter referred to as the "**Common Stock**."

The Company has filed with the Securities and Exchange Commission (the "**Commission**") a registration statement, including a prospectus, relating to the Shares. The registration statement as amended at the time it becomes effective, including the information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A under the Securities Act of 1933, as amended (the "**Securities Act**"), is hereinafter referred to as the "**Registration Statement**"; the prospectus in the form first used to confirm sales of Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the "**Prospectus**." If the Company has filed an abbreviated registration statement to register additional shares of Common Stock pursuant to Rule 462(b) under the Securities Act (the "**Rule 462 Registration Statement**"), then any reference herein to the term "**Registration Statement**" shall be deemed to include such Rule 462 Registration Statement.

For purposes of this Agreement, "**free writing prospectus**" has the meaning set forth in Rule 405 under the Securities Act, "**Time of Sale Prospectus**" means the preliminary prospectus together with the free writing prospectuses, if any, each identified in Schedule II hereto, and "**broadly available road show**" means a "bona fide electronic road show" as defined in Rule 433(h)(5) under the Securities Act that has been made available without restriction to any person. As used herein, the terms "Registration Statement," "preliminary prospectus," "Time of Sale

Prospectus" and "Prospectus" shall include the documents, if any, incorporated by reference therein.

1. *Representations and Warranties*. The Company represents and warrants to and agrees with each of the Underwriters that:

(a) The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose are pending before or, to the Company's knowledge, threatened by the Commission.

(b) (i) The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, will comply in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder, (iii) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 4), the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (iv) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (v) the Prospectus does not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in the Registration Statement, the Time of Sale Prospectus or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you expressly for use therein.

(c) Any statistical and market-related data included in the Registration Statement, the Time of Sale Prospectus and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate, and is consistent with the sources from which they are derived.

(d) The Company is not an "ineligible issuer" in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Except for the free writing

prospectuses, if any, identified in Schedule II hereto, and electronic road shows, if any, furnished to you before first use, the Company has not prepared, used or referred to, and will not, without your prior consent, prepare, use or refer to, any free writing prospectus.

(e) The Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has the corporate power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(f) Each subsidiary of the Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has the corporate power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction, to the extent that the concept of "good standing" is applicable under the laws of such jurisdiction, in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a material adverse effect on the Company and its subsidiaries, taken as a whole; all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly by the Company, free and clear of all liens, encumbrances, equities or claims.

(g) This Agreement has been duly authorized, executed and delivered by the Company.

(h) The authorized capital stock of the Company conforms as to legal matters to the description thereof contained in the Section entitled "Description of Capital Stock" in each of the Time of Sale Prospectus and the Prospectus.

(i) The shares of Common Stock outstanding prior to the issuance of the Shares have been duly authorized and are validly issued, fully paid and non-assessable.

(j) The Shares have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable, and the issuance of such Shares will not be subject to any preemptive or similar rights which have not otherwise been waived.

(k) The execution and delivery by the Company of, and the performance by the Company of its obligations under, this Agreement will not contravene any provision of (i) applicable law; (ii) the certificate of incorporation or bylaws of the Company; (iii) any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries, taken as a whole; or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Company or any subsidiary, except that in the case of clause (iii) as would not have a material adverse effect on the Company and its subsidiaries, taken as a whole, or on the power or ability of the Company to perform its

obligations under this Agreement, and no consent, approval, authorization or order of, or qualification with, any governmental body or agency is required for the performance by the Company of its obligations under this Agreement, except such as may be required by the securities or Blue Sky laws of the various states or the rules and regulations of the Financial Industry Regulatory Authority ("**FINRA**") in connection with the offer and sale of the Shares.

(l) There has not occurred any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company and its subsidiaries, taken as a whole, from that set forth in the Time of Sale Prospectus.

(m) There are no legal or governmental proceedings pending or to the Company's knowledge threatened to which the Company or any of its subsidiaries is a party or to which any of the properties of the Company or any of its subsidiaries is subject (i) other than proceedings accurately described in all material respects in the Time of Sale Prospectus and proceedings that would not have a material adverse effect on the Company and its subsidiaries, taken as a whole, or on the power or ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by the Time of Sale Prospectus or (ii) that are required to be described in the Registration Statement or the Prospectus and are not so described; and there are no statutes, regulations, contracts or other documents that are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement that are not described or filed as required.

(n) Each preliminary prospectus filed as part of the registration statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 under the Securities Act, complied as to form when so filed in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder.

(o) The Company is not, and after giving effect to the offering and sale of the Shares and the application of the proceeds thereof as described in the Prospectus will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(p) The Company and its subsidiaries (i) are in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("**Environmental Laws**"), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals would not, singly or in the aggregate, be reasonably likely to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(q) There are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any

related constraints on operating activities and any potential liabilities to third parties) which would, singly or in the aggregate, be reasonably likely to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(r) The accountants who certified the financial statements and supporting schedules included in the Registration Statement are independent public accountants with respect to the Company as required by the Securities Act and the applicable rules and regulations of the Commission thereunder.

(s) The financial statements of the Company filed with the Commission as a part of the Registration Statement and included in each of the Time of Sale Prospectus and the Prospectus present fairly in all material respects the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the results of their statement of operations, stockholders' equity and cash flows for the periods specified. Such financial statements have been prepared in conformity with generally accepted accounting principles as applied in the United States ("**GAAP**") applied on a consistent basis throughout the periods involved. The financial data set forth in the Prospectus under the captions "Prospectus Summary — Summary Consolidated Financial Data," "Selected Consolidated Financial Data" and "Capitalization" present fairly in all material respects the information set forth therein on a basis consistent with that of the audited financial statements contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(t) Except as described in the Time of Sale Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company or to require the Company to include such securities with the Shares registered pursuant to the Registration Statement, except as otherwise have been waived in connection with the issuance and sale of the Shares contemplated hereby.

(u) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, representative, employee or affiliate of the Company or of any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "**FCPA**"), including, without limitation, taking any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gift or anything else of value, directly or indirectly, to any "foreign official" (as such term is defined in the FCPA) or to any foreign political party or official thereof or any candidate for foreign political office in contravention of the FCPA.

(v) The operations of the Company and those of its subsidiaries are, and have been conducted, in compliance with (i) all applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act of 1970 and Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) except where noncompliance would not, singly or in the aggregate, be reasonably likely to have a material adverse effect on the Company and its subsidiaries, taken as a whole, and (ii) to the best of the Company's knowledge, all other applicable anti-money laundering statutes of all jurisdictions, the rules and regulations

thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (the "**Anti-Money Laundering Laws**"). No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to (i) the Bank Secrecy Act of 1970 and Title III of the USA PATRIOT Act or (ii) the Anti-Money Laundering Laws is pending or, to the best of the Company's knowledge, threatened.

(w) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is an individual or entity ("**Person**") that is currently the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC-administered sanctions**"); and the Company will not directly or indirectly use the proceeds of the offering of Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund activities of or business with any Person, or in any country or territory, that is the subject of OFAC-administered sanctions, or in a manner that would otherwise cause any Person (including any Person involved in or facilitating the offering of the Shares, whether as underwriter, advisor, or otherwise) to violate any OFAC-administered sanctions.

(x) Subsequent to the respective dates as of which information is given in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, (i) the Company and its subsidiaries have not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction; (ii) the Company has not purchased any of its outstanding capital stock other than capital stock from its employees or other service providers in connection with the termination of their service pursuant to employee benefit plans disclosed in the Registration Statement or agreements to provide employment or consulting services to the Company, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock other than ordinary and customary dividends; and (iii) there has not been any material change in the capital stock, short-term debt or long-term debt of the Company and its subsidiaries, except in each case as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, respectively.

(y) Neither the Company nor its subsidiaries own any real property. The Company and its subsidiaries have good and marketable title to all personal property owned by them which is material to the business of the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances and defects of title except such as are described in the Time of Sale Prospectus or do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries, in each case except as described in the Time of Sale Prospectus.

(z) Except as described in the Registration Statement, Time of Sale Prospectus, and the Prospectus: (i) the Company owns, or possesses, or has rights to, or can acquire on reasonable terms all Intellectual Property reasonably necessary to conduct the business of the

Company as described in the Registration Statement, Time of Sale Prospectus, and the Prospectus ("**Company Intellectual Property**"), except where the failure to own or possess or the inability to acquire on reasonable terms any of the foregoing would not, individually or in the aggregate, have a material adverse effect on the Company and its susidiaries taken as a whole; (ii) to the Company's knowledge, there is no infringement, misappropriation, or violation by third parties of any Company Intellectual Property, which individually or in the aggregate would have a material adverse effect of the Company and its subsidiaries taken as a whole; (iii) neither the Company nor any of its subsidiaries has received any written threat or notice of action, suit, proceeding, or claim by others challenging the Company's rights in or to the Company Intellectual Property, nor is there any such action or proceeding currently pending; (iv) neither the Company nor any of its subsidiaries have received any written threat or notice of action, suit, proceeding, or claim by others claiming the invalidity or unenforceability of the Company Intellectual Property, nor is there any such action or proceeding currently pending and (v) neither the Company nor any of its subsidiaries has received any written threat or notice of infringement of or conflict with asserted rights of others with respect to any Intellectual Property which, with respect to (iii) through (v), individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the Company and its subsidiaries taken as a whole. The term "**Intellectual Property"** as used in this section means all material, valid, and enforceable patents, patent applications, trade and service marks, trade and service mark registrations, trade names, copyrights, licenses, inventions, trade secrets, technology, and know-how.

(aa) No material labor dispute with the employees of the Company or any of its subsidiaries exists, except as described in the Time of Sale Prospectus, or, to the knowledge of the Company, is imminent; and the Company is not aware of any existing, threatened or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers or contractors that would be reasonably likely to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(bb) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; neither the Company nor any of its subsidiaries has been refused any insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not be reasonably likely to have a material adverse effect on the Company and its subsidiaries, taken as a whole, except as described in the Time of Sale Prospectus.

(cc) The Company and its subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, except where the failure to obtain such certificates, authorizations, or permits would not, individually or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole, and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on

the Company and its subsidiaries, taken as a whole, except as described in the Time of Sale Prospectus.

(dd) All United States federal income tax returns of the Company and its subsidiaries required by law to be filed have been filed and all taxes shown by such returns or otherwise assessed, which are due and payable, have been paid, except assessments against which appeals have been or will be promptly taken and as to which adequate reserves have been provided. The Company and its subsidiaries have filed all other tax returns that are required to have been filed by them pursuant to applicable foreign, state, local or other law except insofar as the failure to file such returns would not, singly or in the aggregate, result in a material adverse effect on the Company and its subsidiaries taken as a whole, and has paid all taxes due pursuant to such returns or pursuant to any assessment received by the Company and its subsidiaries, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided.

(ee) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Time of Sale Prospectus, since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(ff) The Company has taken all necessary actions to ensure that, upon the effectiveness of the Registration Statement, it will be in compliance in all material respects with all provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder or implementing the provisions thereof (the "**Sarbanes-Oxley Act**") that are then in effect and which the Company is required to comply with as of the effectiveness of the Registration Statement, and is actively taking steps to ensure that it will be in compliance with other provisions of the Sarbanes-Oxley Act which the Company is not required to comply with, upon the applicability of such provisions to the Company, at all times after the effectiveness of the Registration Statement.

(gg) Except with respect to any such failure to comply that has been corrected by the date of this Agreement, or would not, individually or in the aggregate, have a material adverse effect on the Company, (i) all stock option awards granted by the Company have been duly authorized by all necessary corporate action, including, as applicable, approval by the board of directors of the Company or a duly authorized committee thereof, including approval of the exercise or purchase price or the methodology for determining the exercise or purchase price and the substantive terms of the stock options awards, and any required stockholder approval by the necessary number of votes or written consents; and (ii) no stock option awards granted by the

Company have been retroactively granted, or the exercise or purchase price of any stock option award determined retroactively; there is no action, suit, proceeding, formal inquiry or formal investigation before or brought by any court or governmental agency or body, domestic or foreign, or the Nasdaq Global Market or any self regulatory organization, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company in connection with any stock option awards granted by the Company.

(hh) Except as described in the Time of Sale Prospectus, the Company has not sold, issued or distributed any shares of Common Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or S of, the Securities Act, other than shares issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants.

2. *Agreements to Sell and Purchase.* The Company hereby agrees to sell to the several Underwriters, and each Underwriter, upon the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agrees, severally and not jointly, to purchase from the Company the respective numbers of Firm Shares set forth in Schedule I hereto opposite its name at $ a share (the "**Purchase Price**").

On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to sell to the Underwriters the Additional Shares, and the Underwriters shall have the right to purchase, severally and not jointly, up to 795,000 Additional Shares at the Purchase Price. You may exercise this right on behalf of the Underwriters in whole or from time to time in part by giving written notice not later than 30 days after the date of this Agreement. Any exercise notice shall specify the number of Additional Shares to be purchased by the Underwriters and the date on which such shares are to be purchased. Each purchase date must be at least one business day after the written notice is given and may not be earlier than the closing date for the Firm Shares nor later than ten business days after the date of such notice. Additional Shares may be purchased as provided in Section 4 hereof solely for the purpose of covering over-allotments made in connection with the offering of the Firm Shares. On each day, if any, that Additional Shares are to be purchased (an "**Option Closing Date**"), each Underwriter agrees, severally and not jointly, to purchase the number of Additional Shares (subject to such adjustments to eliminate fractional shares as you may determine) that bears the same proportion to the total number of Additional Shares to be purchased on such Option Closing Date as the number of Firm Shares set forth in Schedule I hereto opposite the name of such Underwriter bears to the total number of Firm Shares.

3. *Terms of Public Offering*. The Company is advised by you that the Underwriters propose to make a public offering of their respective portions of the Shares as soon after the Registration Statement and this Agreement have become effective as in your judgment is advisable. The Company is further advised by you that the Shares are to be offered to the public initially at $ a share (the "**Public Offering Price**") and to certain dealers selected by you at a price that represents a concession not in excess of $ a share under the Public Offering Price, and that any Underwriter may allow, and such dealers may reallow, a concession, not in excess of $ a share, to any Underwriter or to certain other dealers.

4. *Payment and Delivery.* Payment for the Firm Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Firm Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on _____, 2008, or at such other time on the same or such other date, not later than _____, 2008, as shall be designated in writing by you. The time and date of such payment are hereinafter referred to as the "**Closing Date**."

Payment for any Additional Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Additional Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on the date specified in the corresponding notice described in Section 2 or at such other time on the same or on such other date, in any event not later than _____, 2008, as shall be designated in writing by you.

The Firm Shares and Additional Shares shall be registered in such names and in such denominations as you shall request in writing not later than one full business day prior to the Closing Date or the applicable Option Closing Date, as the case may be. The Firm Shares and Additional Shares shall be delivered to you on the Closing Date or an Option Closing Date, as the case may be, for the respective accounts of the several Underwriters, with any transfer taxes payable in connection with the transfer of the Shares to the Underwriters duly paid, against payment of the Purchase Price therefor.

5. *Conditions to the Underwriters' Obligations*. The obligations of the Company to sell the Shares to the Underwriters and the several obligations of the Underwriters to purchase and pay for the Shares on the Closing Date are subject to the condition that the Registration Statement shall have become effective not later than (New York City time) on the date hereof.

The several obligations of the Underwriters are subject to the following further conditions:

(a) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date:

(i) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any of the securities of the Company or any of its subsidiaries by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act; and

(ii) there shall not have occurred any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company and its subsidiaries, taken as a whole, from that set forth in the Time of Sale Prospectus as of the date of this Agreement that, in your judgment, is material and adverse and that makes it, in your judgment, impracticable to market the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus.

(b) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed by an executive officer of the Company, to the effect set forth in Section 5(a)(i) above and to the effect that the representations and warranties of the Company contained in this Agreement are true and correct as of the Closing Date and that the Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied hereunder on or before the Closing Date.

The officer signing and delivering such certificate may rely upon the best of his or her knowledge as to proceedings threatened.

(c) The Underwriters shall have received on the Closing Date an opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation, outside counsel for the Company, dated the Closing Date, in a form reasonably agreed to by the Underwriters, which shall be rendered to the Underwriters at the request of the Company and shall so state therein.

(d) The Underwriters shall have received on the Closing Date an opinion of Townsend and Townsend and Crew LLP, outside intellectual property counsel for the Company, dated the Closing Date, in a form reasonably agreed to by the Underwriters.

(e) The Underwriters shall have received on the Closing Date an opinion of Latham & Watkins LLP, counsel for the Underwriters, dated the Closing Date, with respect to such matters as the Underwriters may reasonably request.

(f) The Underwriters shall have received, on each of the date hereof and the Closing Date, a letter dated the date hereof or the Closing Date, as the case may be, in form and substance satisfactory to the Underwriters, from Ernst & Young LLP, independent public accountants, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus; *provided* that the letter delivered on the Closing Date shall use a "cut-off date" not earlier than the date hereof.

(g) The "lock-up" agreements, in a form reasonably agreed to by the Company and the Underwriters, between you and all stockholders, optionholders, officers and directors of the Company other than those persons listed on Schedule III attached hereto relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to you on or before the date hereof, shall be in full force and effect on the Closing Date.

The several obligations of the Underwriters to purchase Additional Shares hereunder are subject to the delivery to you on the applicable Option Closing Date of such documents as you may reasonably request with respect to the good standing of the Company, the due authorization and issuance of the Additional Shares to be sold on such Option Closing Date and other matters related to the issuance of such Additional Shares.

6. *Covenants of the Company*. The Company covenants with each Underwriter as follows:

(a) To furnish to you, without charge, five signed copies of the Registration Statement (including exhibits thereto) and for delivery to each other Underwriter a conformed copy of the Registration Statement (without exhibits thereto) and to furnish to you in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period mentioned in Section 6(e) or 6(f) below, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as you may reasonably request.

(b) Before amending or supplementing the Registration Statement, the Time of Sale Prospectus or the Prospectus, to furnish to you a copy of each such proposed amendment or supplement and not to file any such proposed amendment or supplement to which you reasonably object, and to file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) To furnish to you a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and not to use or refer to any proposed free writing prospectus to which you reasonably object.

(d) Not to take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Underwriter that the Underwriter otherwise would not have been required to file thereunder.

(e) If the Time of Sale Prospectus is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement then on file, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances under which they were made when the Time of Sale Prospectus is delivered to a prospective purchaser, be misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(f) If, during such period after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is required by law to be delivered in connection with sales by an Underwriter or dealer, any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is delivered to a purchaser, not misleading, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Prospectus to

comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses you will furnish to the Company) to which Shares may have been sold by you on behalf of the Underwriters and to any other dealers upon request, either amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law.

(g) To endeavor to qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as you shall reasonably request, other than in jurisdictions which would require the Company as a condition thereto to qualify to do business or to file a general consent to service of process in any such jurisdiction.

(h) To make generally available to the Company's security holders and to you as soon as practicable an earning statement covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the date of this Agreement which shall satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

(i) Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, to pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including: (i) the fees, disbursements and expenses of the Company's counsel and the Company's accountants in connection with the registration and delivery of the Shares under the Securities Act and all other fees or expenses in connection with the preparation and filing of the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company and amendments and supplements to any of the foregoing, including all printing costs associated therewith, and the mailing and delivering of copies thereof to the Underwriters and dealers, in the quantities hereinabove specified, (ii) all costs and expenses related to the transfer and delivery of the Shares to the Underwriters, including any transfer or other taxes payable thereon, (iii) the cost of printing or producing any Blue Sky or Legal Investment memorandum in connection with the offer and sale of the Shares under state securities laws and all expenses in connection with the qualification of the Shares for offer and sale under state securities laws as provided in Section 6(g) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky or Legal Investment memorandum, (iv) all filing fees and the reasonable fees and disbursements of counsel to the Underwriters incurred in connection with the review and qualification of the offering of the Shares by the FINRA, (v) all fees and expenses in connection with the preparation and filing of the registration statement on Form 8-A relating to the Common Stock and all costs and expenses incident to listing the Shares on the NASDAQ Global Market, (vi) the cost of printing certificates representing the Shares, (vii) the costs and charges of any transfer agent, registrar or depositary, (viii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the offering of the Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any

consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and one-half of the cost of any aircraft chartered in connection with the road show, (ix) the document production charges and expenses associated with printing this Agreement and (x) all other costs and expenses incident to the performance of the obligations of the Company hereunder for which provision is not otherwise made in this Section. It is understood, however, that except as provided in this Section, Section 8 entitled "Indemnity and Contribution" and the last paragraph of Section 10 below, the Underwriters will pay all of their costs and expenses, including fees and disbursements of their counsel, stock transfer taxes payable on resale of any of the Shares by them and one-half of the cost of chartering any aircraft in connection with any road show presentation.

The Company also covenants with each Underwriter that, without the prior written consent of Morgan Stanley & Co. Incorporated on behalf of the Underwriters, it will not, during the period ending 180 days after the date of the Prospectus, (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise or (3) file any registration statement with the Commission relating to the offering of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock.

The restrictions contained in the preceding paragraph shall not apply to (a) the Shares to be sold hereunder, (b) the issuance of shares of, or options to purchase shares of, Common Stock to employees, officers, directors, advisors or consultants of the Company pursuant to employee benefit plans disclosed in the Prospectus or an employee benefit plan assumed by the Company in a merger or acquisition transaction, (c) the filing of a registration statement on Form S-8 for the registration of shares of Common Stock issued pursuant to employee benefit plans disclosed in the Prospectus or an employee benefit plan assumed by the Company in a merger or acquisition transaction, or (d) the issuance of shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock in an amount having an aggregate value (determined as of the date of issuance) equal to $ in connection with a merger or acquisition transaction; provided prior to any issuance pursuant to clauses (b) or (d), the Company shall cause each recipient of such shares or options to execute and deliver to you a "lock-up" agreement substantially in the form of Exhibit C hereto.

Notwithstanding the foregoing, if (1) during the last 17 days of the 180-day restricted period the Company issues an earnings release or material news or a material event relating to the Company occurs; or (2) prior to the expiration of the 180-day restricted period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the 180-day period, the restrictions imposed by this agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. The Company shall promptly notify Morgan Stanley & Co.

Incorporated of any earnings release, news or event that may give rise to an extension of the initial 180-day restricted period.

7. *Covenants of the Underwriters*. Each Underwriter severally covenants with the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not be required to be filed by the Company thereunder, but for the action of the Underwriter.

8. *Indemnity and Contribution.* (a) The Company agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, or the Prospectus or any amendment or supplement thereto, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you expressly for use therein.

(b) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company to such Underwriter, but only with reference to information relating to such Underwriter furnished to the Company in writing by such Underwriter through you expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus or the Prospectus or any amendment or supplement thereto.

(c) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to Section 8(a) or 8(b), such person (the "**indemnified party**") shall promptly notify the person against whom such indemnity may be sought (the "**indemnifying party**") in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the reasonably incurred fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed in writing to the retention of such counsel or

(ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in respect of the legal expenses of any indemnified party in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all such indemnified parties and that all such fees and expenses shall be reimbursed as they are incurred. Such firm shall be designated in writing by Morgan Stanley & Co. Incorporated, in the case of parties indemnified pursuant to Section 8(a), and by the Company, in the case of parties indemnified pursuant to Section 8(b). The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into, and (iii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding.

(d) To the extent the indemnification provided for in Section 8(a) or 8(b) is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other hand from the offering of the Shares or (ii) if the allocation provided by clause 8(d)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 8(d)(i) above but also the relative fault of the Company on the one hand and of the Underwriters on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other hand in connection with the offering of the Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Shares (before deducting expenses) received by the Company and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate Public Offering Price of the Shares. The relative fault of the Company on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether the untrue or

alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Underwriters' respective obligations to contribute pursuant to this Section 8 are several in proportion to the respective number of Shares they have purchased hereunder, and not joint.

(e) The Company and the Underwriters agree that it would not be just or equitable if contribution pursuant to this Section 8 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in Section 8(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in Section 8(d) shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in this Section 8 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(f) The indemnity and contribution provisions contained in this Section 8 and the representations, warranties and other statements of the Company contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Underwriter, any person controlling any Underwriter or any affiliate of any Underwriter or by or on behalf of the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Shares.

9. *Termination*. The Underwriters may terminate this Agreement by notice given by you to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Market, the Chicago Board of Options Exchange, the Chicago Mercantile Exchange or the Chicago Board of Trade (ii) trading of any securities of the Company shall have been suspended on any exchange or in any over-the-counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) any moratorium on commercial banking activities shall have been declared by Federal or New York State authorities or (v) there shall have occurred any outbreak or escalation of hostilities, or any change in financial markets or any calamity or crisis that, in your judgment, is material and adverse and which, singly or together with any other event specified in this clause (v), makes it, in your judgment, impracticable or inadvisable to proceed with the offer, sale or delivery of the

Shares on the terms and in the manner contemplated in the Time of Sale Prospectus or the Prospectus.

10. *Effectiveness; Defaulting Underwriters*. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

If, on the Closing Date or an Option Closing Date, as the case may be, any one or more of the Underwriters shall fail or refuse to purchase Shares that it has or they have agreed to purchase hereunder on such date, and the aggregate number of Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the aggregate number of the Shares to be purchased on such date, the other Underwriters shall be obligated severally in the proportions that the number of Firm Shares set forth opposite their respective names in Schedule I bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as you may specify, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; *provided* that in no event shall the number of Shares that any Underwriter has agreed to purchase pursuant to this Agreement be increased pursuant to this Section 10 by an amount in excess of one-ninth of such number of Shares without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Firm Shares and the aggregate number of Firm Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Firm Shares to be purchased on such date, and arrangements satisfactory to you and the Company for the purchase of such Firm Shares are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter or the Company. In any such case either you or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement, in the Time of Sale Prospectus, in the Prospectus or in any other documents or arrangements may be effected. If, on an Option Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Additional Shares and the aggregate number of Additional Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Additional Shares to be purchased on such Option Closing Date, the non-defaulting Underwriters shall have the option to (i) terminate their obligation hereunder to purchase the Additional Shares to be sold on such Option Closing Date or (ii) purchase not less than the number of Additional Shares that such non-defaulting Underwriters would have been obligated to purchase in the absence of such default. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company shall be unable to perform its obligations under this Agreement, the Company will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the fees and disbursements of their counsel) reasonably incurred by such Underwriters in connection with this Agreement or the offering contemplated hereunder.

11. *Entire Agreement.* (a) This Agreement, together with any contemporaneous written agreements and any prior written agreements (to the extent not superseded by this Agreement) that relate to the offering of the Shares, represents the entire agreement between the Company and the Underwriters with respect to the preparation of any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

(b) The Company acknowledges that in connection with the offering of the Shares: (i) the Underwriters have acted at arms length, are not agents of, and owe no fiduciary duties to, the Company or any other person, (ii) the Underwriters owe the Company only those duties and obligations set forth in this Agreement and prior written agreements (to the extent not superseded by this Agreement), if any, and (iii) the Underwriters may have interests that differ from those of the Company. The Company waives to the full extent permitted by applicable law any claims it may have against the Underwriters arising from an alleged breach of fiduciary duty in connection with the offering of the Shares.

12. *Counterparts*. This Agreement may be signed in two or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

13. *Applicable Law*. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

14. *Headings*. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

15. *Notices.* All communications hereunder shall be in writing and effective only upon receipt and if to the Underwriters shall be delivered, mailed or sent to you in care of Morgan Stanley & Co. Incorporated, 1585 Broadway, New York, New York 10036, Attention: Equity Syndicate Desk, with a copy to the Legal Department and Latham & Watkins LLP, 650 Town Center Drive 20th Floor, Costa Mesa, California 92626, Attention: Charles K. Ruck; and if to the Company shall be delivered, mailed or sent to 7000 Shoreline Court, Suite 100, South San Francisco, California 94080, Attention: Chief Executive Officer with a copy to Wilson Sonsini Goodrich & Rosati, P.C., 950 Page Mill Road, Palo Alto, California 94304, Attention: David J. Segre and Robert F. Kornegay.

Very truly yours,

FLUIDIGM CORPORATION

By: _____
Name:
Title:

Accepted as of the date hereof

Morgan Stanley & Co. Incorporated
UBS Securities LLC
Leerink Swan LLC
Pacific Growth Equities, LLC

Acting severally on behalf of themselves
and the several Underwriters
named in Schedule I hereto.

By: Morgan Stanley & Co. Incorporated

By:_____
Name:
Title:

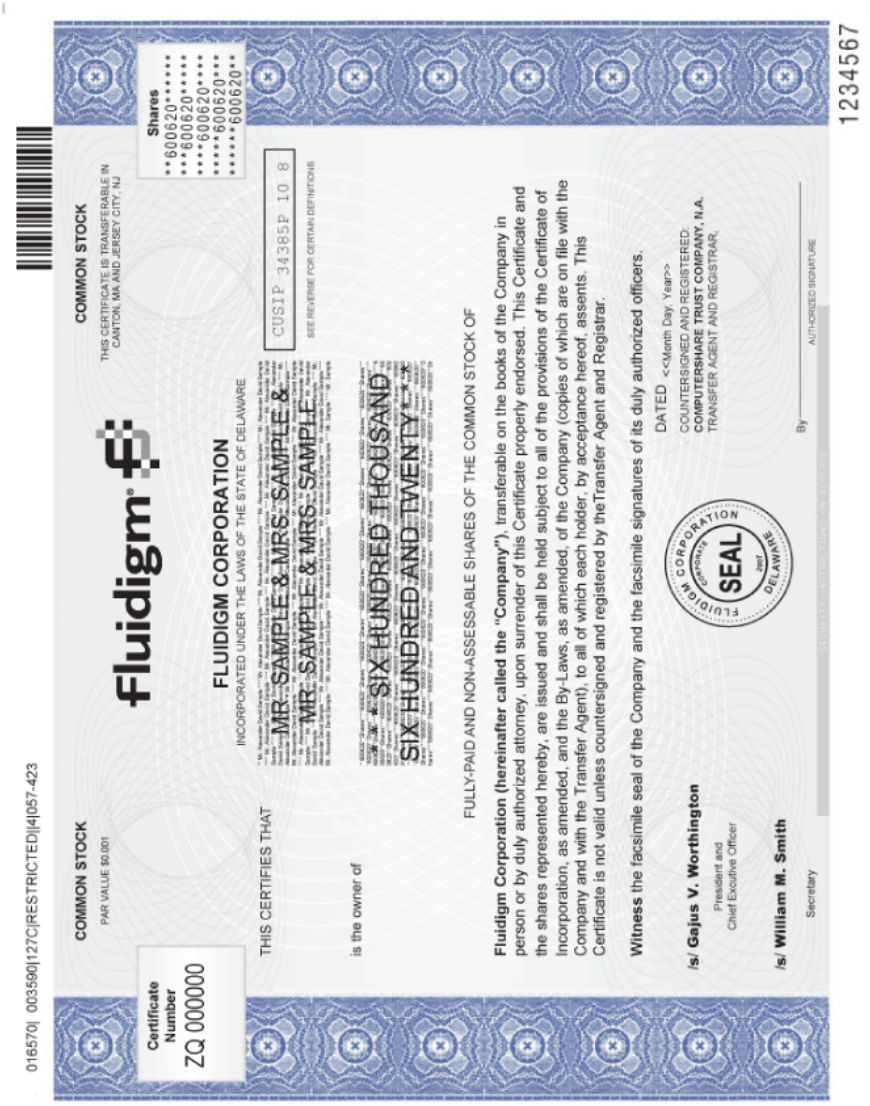
SCHEDULE I

Underwriter	Number of Firm Shares To Be Purchased
Morgan Stanley & Co. Incorporated	
UBS Securities LLC	
Leerink Swan LLC	
Pacific Growth Equities, LLC	
Total:	

SCHEDULE II

Time of Sale Prospectus

1. Preliminary Prospectus issued September 5, 2008.
2. [identify all free writing prospectuses filed by the Company under Rule 433(d) of the Securities Act]
3. [free writing prospectus containing a description of terms that does not reflect final terms, if the Time of Sale Prospectus does not include a final term sheet]
4. [orally communicated pricing information to be included on Schedule II if a final term sheet is not used] [to be discussed]



Fluidigm

PO BOX 43004, Providence, RI 02940-3004

MR A SAMPLE
DESIGNATION (IF ANY)
ADD 1
ADD 2
ADD 3
ADD 4

CUSIP			XXXXXX XX X
Holder ID			XXXXXXXXXX
Insurance Value			1,000,000.00
Number of Shares			123456
DTC		12345678	123456789012345

Certificate Numbers	Num/No.	Denom.	Total
1234567890/1234567890	1	1	1
1234567890/1234567890	2	2	2
1234567890/1234567890	3	3	3
1234567890/1234567890	4	4	4
1234567890/1234567890	5	5	5
1234567890/1234567890	6	6	6
Total Transaction			7

FLUIDIGM CORPORATION

THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS, A SUMMARY OF THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OF THE COMPANY AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND RIGHTS, AND THE VARIATIONS IN RIGHTS, PREFERENCES AND LIMITATIONS DETERMINED FOR EACH SERIES, WHICH ARE FIXED BY THE CERTIFICATE OF INCORPORATION OF THE COMPANY, AS AMENDED, AND THE RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE COMPANY, AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO DETERMINE VARIATIONS FOR FUTURE SERIES. SUCH REQUEST MAY BE MADE TO THE OFFICE OF THE SECRETARY OF THE COMPANY OR TO THE TRANSFER AGENT. THE BOARD OF DIRECTORS MAY REQUIRE THE OWNER OF A LOST OR DESTROYED STOCK CERTIFICATE, OR HIS LEGAL REPRESENTATIVES, TO GIVE THE COMPANY A BOND TO INDEMNIFY IT AND ITS TRANSFER AGENTS AND REGISTRARS AGAINST ANY CLAIM THAT MAY BE MADE AGAINST THEM ON ACCOUNT OF THE ALLEGED LOSS OR DESTRUCTION OF ANY SUCH CERTIFICATE.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	-	as tenants in common	UNIF GIFT MIN ACT-	_____ (Cust) Custodian	_____ (Minor)
TEN ENT	-	as tenants by the entireties		under Uniform Gifts to Minors Act	_____ (State)
JT TEN	-	as joint tenants with right of survivorship and not as tenants in common	UNIF TRF MIN ACT	_____ (Cust) Custodian (until age)	_____ (Minor)
				under Uniform Transfers to Minors Act	_____ (State)

Additional abbreviations may also be used though not in the above list.

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

For value received, _____ hereby sell, assign and transfer unto

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING POSTAL ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares

of the common stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.

Dated: _____ 20_____

Signature: _____

Signature: _____

Notice: The signature to this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Signature(s) Guaranteed: Medallion Guarantee Stamp

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15

Exhibit 4.2

FLUIDIGM CORPORATION

SERIES E PREFERRED STOCK PURCHASE AGREEMENT

First Closing: June 13, 2006
Second Closing: December 22, 2006
Third Closing: March 30, 2007
Fourth Extended Closing: October 10, 2007
Fifth Extended Closing: October 26, 2007
Sixth Extended Closing: December 31, 2007

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

EXHIBITS

SERIES E PREFERRED STOCK PURCHASE AGREEMENT

THIS SERIES E PREFERRED STOCK PURCHASE AGREEMENT is made as of June 13, 2006, by and among Fluidigm Corporation, a California corporation (the "**Company**"), and the purchasers listed on the Schedule of Purchasers attached hereto as EXHIBIT A (the "**Schedule of Purchasers**"). The persons or entities listed thereon are hereinafter referred to collectively as the "**Purchasers**" and individually as a "**Purchaser**."

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Purchase and Sale of Preferred Stock.

1.1 Authorization of the Shares. The Company will on or before the Closing (as defined below) authorize the sale and issuance pursuant to this Agreement of up to 5,000,000 shares (the "**Shares**") of its Series E Preferred Stock (the "**Series E Preferred**"), having the rights, preferences and privileges as set forth in the Amended and Restated Articles of Incorporation attached hereto as EXHIBIT B (the "**Restated Articles**").

1.2 Purchase and Sale of the Shares. Subject to the terms and conditions hereof and in reliance upon the representations, warranties and agreements contained herein, the Company will issue and sell to each Purchaser, severally and not jointly, and each Purchaser will purchase from the Company, severally and not jointly, at the Closing, the number of Shares set forth opposite the Purchaser's name on the Schedule of Purchasers, at a purchase price of Four Dollars ($4.00) per Share. The Company shall be entitled to sell any unpurchased Shares to any Purchaser or to a person who is not a Purchaser and to amend the Schedule of Purchasers to include the information relating to such sales, and such purchasers shall be considered "Purchasers" and parties to this Agreement; provided that (i) such sales are made pursuant to this Agreement or an agreement identical to this one except for the Closing Date and exhibits, and (ii) such sales are completed within 120 days of the Initial Closing (as defined below). The Company's agreement with each Purchaser is a separate agreement, and the sale of the Shares to each Purchaser is a separate sale.

1.3 Closing Date. The first closing of the purchase and sale of the Shares hereunder (the "**Initial Closing**") shall be held at the offices of Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304 on June 13, 2006 (the "**Closing Date**") or such other date as the Company and a majority-in-interest of the Purchasers may agree. Subject to Section 1.2 above, subsequent closings under this Agreement may be held from time to time after the Initial Closing at such time and place as the Company and the relevant Purchasers agree ("**Subsequent Closings**"). For the purposes of this Agreement, the term "**Closing**" and "**Closing Date**" unless otherwise indicated, refers to the closing or date of closing of the purchase and sale of the Shares with respect to a particular Purchaser or group of Purchasers, whether such closing occurs at the Initial Closing or at a Subsequent Closing.

1.4 Delivery. At Closing, the Company shall deliver to each Purchaser a certificate, in such denomination and registered in Purchaser's name as set forth on the Schedule of Purchasers, representing the number of Shares which Purchaser is purchasing from the Company

against delivery to the Company of a check or wire transfer payable to the order of the Company in the amount of the purchase price of the Shares to be purchased by such Purchaser.

2. Representations and Warranties of the Company. The Company hereby represents and warrants to Purchaser that, except as set forth in the Schedule of Exceptions attached hereto as EXHIBIT C (the "**Schedule of Exceptions**"), which has been delivered to each Purchaser prior to Purchaser's execution hereof, each of the representations, warranties and statements contained in this Section 2 is true and correct as of the date of this Agreement and will be true and correct on and as of the Closing Date. For all purposes of this Agreement, the statements contained in the Schedule of Exceptions shall also be deemed to be representations and warranties made and given by Company under this Agreement.

2.1 Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all requisite corporate power and authority to carry on its business as currently conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify, individually or in the aggregate, would have a material adverse effect on its business (as now conducted), properties, or financial condition.

2.2 Corporate Power. The Company will have at the Closing all requisite legal and corporate power and authority to (i) execute and deliver this Agreement; (ii) sell and issue the Shares hereunder; (iii) issue the Common Stock issuable upon conversion of the Shares (the "**Conversion Shares**"); and (iv) carry out and perform its obligations under the terms of this Agreement.

2.3 Subsidiaries. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, association, or other business entity.

2.4 Capitalization. The authorized capital stock of the Company consists, or immediately prior to the Initial Closing will consist, of 77,857,144 shares of Common Stock ("**Common Stock**"), of which 9,274,356 shares are issued and outstanding immediately prior to the Initial Closing and 51,687,948 shares of Preferred Stock ("**Preferred Stock**"), 2,727,273 of which are designated Series A Preferred Stock of which 2,727,273 are outstanding immediately prior to the Initial Closing; 6,460,675 of which are designated Series B Preferred Stock of which 6,460,675 are outstanding immediately prior to the Initial Closing; 17,000,000 of which are designated Series C Preferred Stock, 16,364,832 of which are issued and outstanding immediately prior to the Initial Closing; and 15,500,000 of which are designated Series D Preferred Stock, 11,714,048 of which are issued and outstanding immediately prior to the Initial Closing; and 10,000,000 of which are designated Series E Preferred Stock, none of which will be outstanding immediately prior to the Initial Closing. All such issued and outstanding shares have been duly authorized and validly issued in compliance with applicable laws, and are fully paid and nonassessable.

The Company has reserved: (i) 5,000,000 shares of Series E Preferred for issuance hereunder and 5,000,000 shares of Common Stock for issuance upon conversion of such shares of Series E Preferred; (ii) 11,714,048 shares of Common Stock for issuance upon conversion of the outstanding

shares of Series D Preferred; (iii) 916,335 shares of Series D Preferred for issuance upon exercise of outstanding warrants and 916,335 shares of Common Stock for issuance upon conversion of such Series D Preferred; (iv) 16,364,832 shares of Common Stock for issuance upon conversion of the outstanding shares of Series C Preferred Stock; (v) 294,868 shares of Series C Preferred Stock for issuance upon exercise of outstanding warrants and 294,868 shares of Common Stock for issuance upon conversion of such Series C Preferred Stock; (vi) 6,460,675 shares of Common Stock for issuance upon conversion of the outstanding Series B Preferred Stock; (vii) 2,727,273 shares of Common Stock for issuance upon conversion of the outstanding Series A Preferred Stock; and (viii) an aggregate of 10,800,000 shares of Common Stock for issuance to employees and consultants of the Company pursuant to the Company's 1999 Stock Option Plan, pursuant to which options to purchase 5,597,763 shares are granted and outstanding and 1,554,643 shares are available for future grant. Other than with respect to the shares reserved for issuance in the preceding sentence, or as set forth in the Ancillary Agreements (as defined below), there are no outstanding rights, options, warrants, conversion rights, preemptive rights, rights of first refusal or similar rights for the purchase or acquisition from the Company of any securities of the Company. There are no outstanding obligations of the Company to repurchase or redeem any of its securities.

Except as contemplated in the Investor Rights Agreement (as defined below), the Company has not granted or agreed to grant any registration rights, including piggyback rights, to any person or entity. Except as contemplated in the Second Amended and Restated Voting Agreement dated as of August 16, 2005, the Company is not a party or subject to any agreement or understanding, and to the Company's knowledge, there is no agreement or understanding between any person or entities, which relates to the voting or the giving of written consents with respect to any security of the Company or by a director of the Company.

2.5 Authorization. All corporate action on the part of the Company, its officers, directors and shareholders necessary for the authorization, execution and delivery of this Agreement, the Eighth Amended and Restated Investor Rights Agreement in the form attached hereto as EXHIBIT D (the "**Investor Rights Agreement**"), the performance of all obligations of the Company under this Agreement and the Investor Rights Agreement (other than those registration obligations contained in Section 1 of the Investor Rights Agreement), and any other agreements to which the Company is a party, the execution and delivery of which is a contemplated hereby (the "**Ancillary Agreements**") and the authorization, issuance (or reservation for issuance), sale and delivery of the Shares and the Conversion Shares has been taken or will be taken prior to the Closing. This Agreement and the Investor Rights Agreement constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies; (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights; and (iii) limitations on the enforceability of the indemnification provisions of the Investor Rights Agreement.

2.6 Valid Issuance of Preferred and Common Stock. The Shares that are being purchased by the Purchasers hereunder, when issued, sold and delivered in accordance with the

terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid, and nonassessable, and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and the Investor Rights Agreement and under applicable state and federal securities laws. The Conversion Shares have been duly and validly reserved for issuance, and, upon issuance in accordance with the terms of the Restated Articles, will be duly and validly issued, fully paid, and nonassessable and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and the Investor Rights Agreement and under applicable state and federal securities laws. The Conversion Shares may be issued without any registration or qualification under state and federal securities laws as such laws are currently in effect.

2.7 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the offer, sale or issuance of the Shares or the Conversion Shares or the consummation of any other transaction contemplated hereby, except for (a) the filing of the Restated Articles with the Secretary of State of the State of California prior to the Closing and (b) filings required pursuant to applicable federal and state securities laws and blue sky laws, which filings, the Company covenants to complete within the required statutory period.

2.8 Litigation. There is no action, suit, proceeding or investigation pending or, to the Company's knowledge, currently threatened against the Company before any court, administrative agency or other governmental body which questions the validity of this Agreement or the Investor Rights Agreement or the right of the Company to enter into any of them, or to consummate the transactions contemplated hereby or thereby, or which could result, either individually or in the aggregate, in any material adverse change in the condition (financial or otherwise), business, property, assets or liabilities of the Company, nor is the Company aware that there is any basis for the foregoing. The Company is not a party or subject to, and none of its assets is bound by, the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by or involving the Company currently pending or that the Company intends to initiate.

2.9 Employees. Each employee of the Company has executed a proprietary information and invention assignment agreement substantially in the form or forms made available to the Purchasers. To the Company's knowledge, no officer or key employee is in violation of any prior employee contract or proprietary information agreement. No employees of the Company are represented by any labor union or covered by any collective bargaining agreement. There is no pending or, to the Company's knowledge, threatened labor dispute involving the Company and any group of its employees. The Company is not aware that any officer or key employee intends to terminate his or her employment with the Company within the six months after Closing. The Company does not have a present intention to terminate the employment of any officer or key employee. Each officer and key employee is devoting 100% of his or her business time to the conduct of the business of the Company. The Company is not aware that any officer or key employee intends to work less than full time during the six months after Closing. Subject to general

principles related to wrongful termination of employees, the employment of each officer and employee of the Company is terminable at will.

2.10 Patents and Other Intangible Assets.

(a) The Company owns, or is licensed or otherwise has the legally enforceable right to use, all copyrights, domain names, maskworks, applications for the issuance or registration of any of the foregoing, trade secrets, confidential or proprietary know-how, data and information, ideas, inventions, designs, developments, algorithms, processes, schematics, techniques, computer programs, applications and other software, works of authorship, creative effort and, to the Company's knowledge after such investigation as the Company deemed reasonable, patents, patent applications, trademarks (including service marks and design marks) and applications therefor, tradenames (all of the foregoing generically, "**Intellectual Property Rights**") utilized in, or necessary for, its business as now conducted (collectively, the "**Company Intellectual Property**") without infringing upon the right of any person, corporation or other entity.

(b) Section 2.10 of the Schedule of Exceptions lists (i) all patents and patent applications and all registered and unregistered trademarks, trade names, copyrights and maskworks and registered domain names included in the Company Intellectual Property, including the jurisdictions in which each such intellectual property right has been issued or registered or in which any application for such issuance or registration has been filed, (ii) all licenses, sublicenses, collaborations and other agreements (or options for any of the foregoing) to which the Company is a party and pursuant to which any person, corporation or other entity is authorized to use any of the Company Intellectual Property, and (iii) all licenses, sublicenses, collaborations and other agreements (or options for any of the foregoing) to which the Company is a party and pursuant to which the Company is authorized to use any Intellectual Property Right of any third party (other than standard licenses for commercially available software). Each of the agreements in (ii) and (iii) above remain in full force and effect and, to the Company's knowledge, no party to any such agreement is in material breach or default under such agreement, and the Company is not aware of any act or failure to act by a party which would constitute a material breach or default under any such agreement, give rise to a right of the licensor to terminate any such agreement or otherwise result in termination of, or suspension or loss of exclusive rights under, any such agreement.

(c) To the Company's knowledge, the Company has not infringed or misappropriated any Intellectual Property Right of any other person, corporation or other entity. The Company has not received any communication or otherwise received any information alleging any such conduct by the Company or asserting a claim by any third party to the ownership of, or right to use, any of the Company Intellectual Property, and the Company does not know of any basis for any such claim. The Company is not aware of any action, suit, proceeding or investigation pending or currently threatened against the Company (or any third party owner or licensor of rights to the Company of any of the Company Intellectual Property) which would have a material impact on the Company's ownership of or exclusive or co-exclusive rights to use, the Company Intellectual Property.

(d) The Company is not aware that any of its employees is obligated under any agreement, or subject to any judgment, decree or order of any court or administrative agency, that would materially interfere with his or her ability to fully and freely perform their duties to the Company or that would conflict with the Company's business. To the Company's knowledge, neither the filing of the Restated Articles nor the execution and delivery of this Agreement or the Investor Rights Agreement, nor the carrying on of the Company's business by the employees of the Company, will conflict with or result in a material breach of the terms, conditions, or provisions of, or constitute a default under, any agreement under which any such employee is now obligated. The Company does not utilize, and will not be required to utilize, any invention, development or work of authorship of any of its employees (or persons it currently intends to hire) made prior to their employment by the Company.

(e) Except as described in Schedule 2.10, (i) the Company is not obligated, or under any liability whatsoever to make any payments by way of royalties, fees or otherwise, to any owner or licensor of, or other claimant to, any Company Intellectual Property, and (ii) the Company is not a party to any agreement concerning the Company Intellectual Property or any other Intellectual Property Right used or to be used by the Company in its business as conducted. No founder, director, officer or employee of the Company, or, to the Company's knowledge, no shareholder of the Company has any interest in the Company Intellectual Property.

(f) Except with respect to any rights granted under the agreements described in Schedule 2.10, the Company owns exclusively all rights arising from or associated with the research and development efforts of the Company, its founders, employees and independent contractors relating to the Company's business as now conducted, and all such rights form part of the Company Intellectual Property. The Company has secured valid written assignments from all employees and independent contractors who contributed to the creation or development of any of the Company Intellectual Property of the rights to such contributions that the Company does not already own by operation of law. The Company has not received notice of any claim being asserted by any current or former employee, independent contractor or other third party to the ownership, of or right to use, any of the Company Intellectual Property, or challenging or questioning the validity of any of the Company Intellectual Property, and the Company is not aware of any basis for any such claim.

(g) The Company has taken reasonable steps to protect and preserve the confidentiality of all material trade secrets included in Company Intellectual Property not otherwise protected by patents or copyright ("**Confidential Information**"). All disclosure of Confidential Information to a third party has been pursuant to the terms of a written confidentiality or non-disclosure agreement between the Company and such third party.

(h) The Company hereby represents and warrants that the data, written and oral reports and other representations and information that the Company provided to its investors (or their counsel) pertaining to the Company Intellectual Property, when taken as a whole, were truthful and, to the Company's knowledge, accurate in all material respects, and there was no omission therefrom which made such information misleading, or incomplete in any material way**.**

2.11 Compliance with Other Instruments. The Company is not in violation or default of any provision of its Articles of Incorporation or Bylaws, each as amended and in effect on and as of the Closing. The Company is not in violation or default of any material provision of any instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation to which it is a party or by which it or any of its properties or assets are bound or, to the best of its knowledge, of any provision of any federal, state or local statute, rule or governmental regulation. The execution, delivery and performance of and compliance with this Agreement and the Investor Rights Agreement, and the issuance and sale of the Shares, will not result in any such violation, be in conflict with or constitute, with or without the passage of time or giving of notice, a default under any such provision, license, indenture, instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation; or require any consent or waiver under any such provision, license, indenture, instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation (other than any consents or waivers that have been obtained); or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of the Company pursuant to any such provision, license, indenture, instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation.

2.12 Permits. The Company has all franchises, permits, licenses, and any similar authority necessary for the conduct of its business as now being conducted by it. The Company is not in default in any material respect under any of such franchises, permits, licenses, or other similar authority.

2.13 Environmental and Safety Laws. To its knowledge, the Company is not in violation of any applicable statute, law, or regulation relating to the environment or occupational health and safety, and to its knowledge, no material expenditures by the Company are or will be required in order to comply with any such existing statute, law, or regulation.

2.14 Title to Property and Assets. The Company has good and marketable title to all of its properties and assets free and clear of all pledges, mortgages, liens security interests, charges and encumbrances, except liens for current taxes and assessments not yet due and possible minor liens and encumbrances which do not, in any case, individually or in the aggregate, materially detract from the value of the property subject thereto or materially impair the ownership or use of said property or assets, or the operations of the Company. With respect to the property and assets it leases, the Company is in compliance with such leases and, to the best of its knowledge, holds a valid leasehold interest free of all liens, claims or encumbrances. The Company's properties and assets are in good condition and repair in all material respects.

2.15 Agreements; Action.

(a) Except for agreements contemplated by this Agreement, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, affiliates, or any affiliate thereof other than standard option grants and stock purchase agreements entered into prior to the date of this Agreement.

(b) There are no agreements, understandings, instruments, contracts, proposed transactions, judgments, orders, writs or decrees to which the Company is a party or by which it is bound that may involve (i) obligations (contingent or otherwise) of, or payments by the Company in excess of, $100,000, other than in the ordinary course of business, (ii) the license of any patent, copyright, trade secret or other proprietary right to or from the Company other than standard commercial software licenses, (iii) provisions restricting or adversely affecting the development, manufacture or distribution of the Company's products or services, or (iv) indemnification by the Company with respect to infringements of proprietary rights other than indemnifications entered into in the ordinary course of business.

(c) For the purposes of subsection (b) above, all indebtedness, liabilities, agreements, understandings, instruments, contracts and proposed transactions involving the same person or entity (including persons or entities the Company has reason to believe are affiliated therewith) shall be aggregated for the purpose of meeting the individual minimum dollar amounts of such subsection.

(d) The Company is not a party to and is not bound by any contract, agreement or instrument, or subject to any restriction under its Restated Articles or its Bylaws that adversely affects its business as now conducted, its properties or its financial condition.

(e) The Company is not a guarantor or indemnitor of any indebtedness of any other person or entity.

(f) The Company has not engaged in the past three months in any discussion (i) with any representative of any entity or entities regarding the merger of the Company with or into any such entity or entities or any affiliate thereof, (ii) with any representative of any entity or any individual regarding the sale, conveyance or disposition of all or substantially all of the assets of the Company or a transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company would be disposed of, or (iii) regarding any other form of liquidation, dissolution or winding up of the Company.

2.16 Financial Statements. The Company has made available to each Purchaser its unaudited balance sheet dated as of December 31, 2005 and the unaudited statement of operations for the fiscal year then ended, its unaudited balance sheet as of March 31, 2006, and its unaudited statement of operations and cash flow statement covering the three month period then ended (collectively, the "**Financial Statements**"). The Financial Statements are complete and correct in all material respects and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated. The Financial Statements accurately set out and describe the financial condition and operating results of the Company as of the date, and during the periods, indicated therein. Except as set forth in the Financial Statements, the Company has no material liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to March 31, 2006 and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under generally accepted accounting principles to be reflected in the Financial Statements, which, in both cases, individually or in the aggregate are not material to the financial condition or operating results of the Company.

2.17 Changes. Since March 31 2006:

(a) the Company has not (i) declared or paid any dividends or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or any other liabilities outside the ordinary course of its business individually in excess of $100,000 or, in the case of indebtedness and/or liabilities individually less than $100,000, in excess of $200,000 in the aggregate, (iii) made any loans or advances to any person, other than ordinary advances for reimbursable businesses expenses, (iv) sold, exchanged, assigned, transferred, licensed or otherwise disposed of any of its assets or rights (including Company Intellectual Property), other than the sale of its inventory in the ordinary course of business, (v) waived or compromised a valuable right or a material debt owed to it, (vi) materially changed any compensation arrangement or agreement with any employee, officer, director or shareholder, or (vii) arranged or committed to do any of the things described in this subsection (a); and

(b) there has not been (i) a loss of, or a material order cancellation by, any major customer of the Company, (ii) any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the business, properties, or financial condition of the Company, (iii) any change in the assets, liabilities, financial condition or operating results of the Company from that reflected in the Financial Statements, except changes in the ordinary course of business that have not been, in the aggregate, materially adverse, (iv) any resignation or termination of any officer or key employee of the Company, and the Company is not aware of the impending resignation or termination of employment of any such officer, or (v) to the best of the Company's knowledge, any other event or condition of any character that would materially and adversely affect the business, properties, or financial condition of the Company.

2.18 Brokers or Finders. The Company has not agreed to incur, directly or indirectly, any liability for brokerage or finders' fees, agents' commissions or other similar charges in connection with this Agreement or any of the transactions contemplated hereby.

2.19 Qualified Small Business Stock.

(a) As of and immediately following the Closing, the Shares will meet each of the requirements for qualification as "qualified small business stock" set forth in Section 1202(c) of the Internal Revenue Code of 1986, as amended (the "**Code**"), including without limitation the following: (i) the Company will be a domestic C corporation, (ii) the Company will not have made any purchases of its own stock described in Code Section 1202(c)(3)(B) during the one-year period preceding the Closing, and (iii) the Company's (and any predecessor's) aggregate gross assets, as defined by Code Section 1202(d)(2), at no time from the date of incorporation of the Company and through the Closing have exceeded or will exceed $50 million, taking into account the assets of any corporations required to be aggregated with the Company in accordance with Code Section 1202(d)(3).

(b) As of the Closing, at least 80% (by value) of the assets of the Company are used by it in the active conduct of one or more qualified trades or businesses, as defined by Code

Section 1202(e)(3), and the Company is an eligible corporation, as defined by Code Section 1202(e)(4).

2.20 Employee Benefit Plans. The Company does not have any Employee Benefit Plan as defined in the Employee Retirement Income Security Act of 1974 other than the Company's 401(k) Plan. The Company is in material compliance with the terms of the Company's 401(k) Plan and has not received notice of any material increase in the costs of such plans.

2.21 Tax Matters. The Company has filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and other assessments due. The Company has not elected pursuant to the Code, to be treated as a Subchapter S corporation or a collapsible corporation pursuant to Section 1362(a) or Section 341(f) of the Code, nor has it made any other elections pursuant to the Code (other than elections that relate solely to methods of accounting, depreciation or amortization) that would have a material effect on the business, properties or condition (financial or otherwise) of the Company. None of the Company's tax returns have ever been audited by any governmental authorities. The Company has withheld or collected from each payment made to its employees the amount of all taxes (including without limitation, federal income taxes, Federal Insurance Contribution Act taxes and Federal Unemployment Tax Act taxes) required to be withheld or collected therefrom, and has paid the same to the proper tax receiving officers or authorized depositories.

2.22 Insurance. The Company has in full force and effect fire and casualty insurance policies, with extended coverage, sufficient in amount (subject to reasonable deductibles) to allow it to replace any of its properties that might be damaged or destroyed. The Company has obtained term life insurance payable to the Company on the lives of Stephen Quake and Gajus Worthington in the amount of $500,000. The Company has in full force and effect directors and officers liability insurance, covering all of its directors, with aggregate coverage in the amount of $2,000,000.

2.23 Corporate Documents. The Restated Articles and Bylaws of the Company are in the form made available to the Purchasers. The copy of the minute books of the Company made available to the Purchasers' counsel contains true and correct minutes of all meetings of directors (including any committees thereof) and shareholders and all actions by written consent taken without a meeting by the directors and shareholders since December 18, 2003.

2.24 Disclosure. The Company has fully provided each Purchaser with all the information which such Purchaser has requested in connection with the purchase of the Shares hereunder, as well as all information which the Company in its judgment believes is reasonably necessary to enable such Purchaser to make a decision as to whether to invest in the Company. Neither this Agreement with the Exhibits hereto, nor any other statements, certificates or documents made or delivered in connection herewith or therewith, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading in light of the circumstances under which they were made. The financial projections made available to the Purchasers (the "**Projections**") were prepared in good faith and based upon assumptions that the Company believes are reasonable, and represent the Company's good faith

estimate of its future plans and results; provided however that the Company does not represent or warrant that it will achieve any of the Projections.

2.25 Offering. Subject in part to the truth and accuracy of each Purchaser's representations set forth in this Agreement, the offer, sale and issuance of the Shares as contemplated by this Agreement is exempt from the registration requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), and from the registration or qualification requirements of applicable state securities laws or blue sky laws, and neither the Company nor any authorized agent acting on its behalf will take any action hereafter that would cause the loss of such exemption.

2.26 Returns and Complaints. The Company has not received customer complaints concerning alleged defects in the design of its products that, if true, would have, individually or in the aggregate, a material adverse effect on its business, properties, or financial condition.

3. Representations and Warranties of the Purchasers. Each Purchaser, individually and not jointly, hereby represents and warrants as of the Closing Date that:

3.1 Experience. Such Purchaser is experienced in evaluating start-up companies such as the Company, is able to evaluate and represent its own interests in transactions such as the one contemplated by this Agreement, has such knowledge and experience in financial and business matters such that Purchaser is capable of evaluating the merits and risks of Purchaser's prospective investment in the Company, and has the ability to bear the economic risks of its investment.

3.2 Investment. Such Purchaser is acquiring the Shares, and the Conversion Shares, for investment for such Purchaser's own account and not with the view to, or for resale in connection with, any distribution thereof. Such Purchaser understands that the Shares, and the Conversion Shares have not been registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. Such Purchaser further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares, or the Conversion Shares, other than a transfer not involving a change of beneficial ownership. Such Purchaser understands and acknowledges that the offering of the Shares pursuant to this Agreement will not be registered under the Securities Act on the ground that the sale provided for in this Agreement is exempt from the registration requirements of the Securities Act.

3.3 Rule 144. Such Purchaser acknowledges that the Shares and the Conversion Shares must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. Such Purchaser is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions. Such Purchaser covenants that, in the absence of an effective registration statement covering the stock in question, such Purchaser will sell, transfer, or otherwise dispose of the Shares or the Conversion Shares only in a manner consistent with applicable securities laws and such Purchaser's representations and covenants set forth in this Section 3. In connection therewith, such Purchaser acknowledges that the Company

will make a notation on its stock books regarding the restrictions on transfers set forth in this Section 3 and will transfer securities on the books of the Company only to the extent not inconsistent therewith.

3.4 Legends. Purchaser understands and acknowledges that the certificate evidencing its Shares and the Conversion Shares will be imprinted with legends in the form set forth in Section 1.3 of the Investor Rights Agreement.

3.5 No Public Market. Such Purchaser understands that no public market now exists for any of the securities issued by the Company, and that the Company has made no assurances that a public market will ever exist for the Shares or the Conversion Shares.

3.6 Access to Data. Such Purchaser has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management and to review the Company's facilities. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Purchasers to rely thereon.

3.7 Authorization. This Agreement when executed and delivered by such Purchaser will constitute a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to: (i) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief, and other equitable remedies; (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights; and (iii) limitations on the enforceability of the indemnification provisions of the Investor Rights Agreement.

3.8 Accredited Investor. Such Purchaser acknowledges that it is an "accredited investor" as defined in Rule 501 of Regulation D as promulgated by the Securities and Exchange Commission under the Securities Act and shall submit to the Company such further assurances of such status as may be reasonably requested by the Company. The principal address of such Purchaser is as set forth on the Schedule of Purchasers.

3.9 Public Solicitation. Purchaser knows of no public solicitation or advertisement of an offer in connection with the proposed issuance and sale of the Shares.

3.10 Tax Advisors. Purchaser has reviewed with Purchaser's own tax advisors the federal, state and local tax consequences of this investment, where applicable, and the transactions contemplated by this Agreement. Each Purchaser is relying solely on such advisors and not on any statements or representations of the Company or any of its agents and understands that each Purchaser (and not the Company) shall be responsible for the Purchaser's own tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement.

3.11 Purchaser Counsel. Purchaser acknowledges that it has had the opportunity to review this Agreement, the exhibits and the schedules attached hereto and the transactions contemplated by this Agreement with Purchaser's own legal counsel. Each Purchaser is relying

solely on such counsel and not on any statements or representations of the Company or any of its agents for legal advice with respect to this investment or the transactions contemplated by this Agreement.

3.12 Brokers or Finders. The Company has not incurred and will not incur, directly or indirectly, as a result of any action taken by such Purchaser, any liability for brokerage or finders' fees or agents' commissions or any similar changes in connection with this Agreement.

3.13 Non-United States Persons. If Purchaser is not a United States person, such Purchaser hereby represents that such Purchaser is satisfied as to the full observance of the laws of such Purchaser's jurisdiction in connection with any invitation to subscribe for the Shares and the Conversion Shares or any use of this Agreement, the Investor Rights Agreement and the Voting Agreement, including (i) the legal requirements within such Purchaser's jurisdiction for the purchase of Shares and the Conversion Shares, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of such securities. Such Purchaser's subscription and payment for, and such Purchaser's continued beneficial ownership of, the Shares and the Conversion Shares will not violate any applicable securities or other laws of such Purchaser's jurisdiction.

4. Conditions of Purchaser's Obligations at Closing. The obligations of each Purchaser under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, the waiver of which shall not be effective against any Purchaser who does not consent in writing thereto:

4.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the date of the Closing.

4.2 Performance. The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

4.3 Compliance Certificate. The President of the Company shall deliver to each Purchaser at the Closing a certificate stating that the conditions specified in Sections 4.1 and 4.2 have been fulfilled and stating that as of the Closing there shall have been no adverse change in the business, affairs, operations, properties, assets or condition of the Company.

4.4 Blue Sky. The Company shall have obtained all necessary permits and qualifications, if any, or secured an exemption therefrom, required by any state or country prior to the offer and sale of the Shares.

4.5 Opinion of Company Counsel. Each Purchaser in the Initial Closing shall have received from Wilson Sonsini Goodrich & Rosati, Professional Corporation, counsel for the Company, an opinion, dated as of the Initial Closing, in the form attached hereto as EXHIBIT E.

4.6 Investor Rights Agreement. The Company and each Purchaser shall have entered into the Investor Rights Agreement.

4.7 Restated Articles. The Restated Articles shall have been accepted for filing by the California Secretary of State and shall be in full force and effect as of the Closing Date.

4.8 Corporate Proceedings; Waivers and Consents. All corporate and other proceedings to be taken and all waivers, consents and permits necessary or appropriate for the consummation of the transactions contemplated by this Agreement will have been taken or obtained.

5. Conditions of the Company's Obligations at Closing. The obligations of the Company to each Purchaser under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by that Purchaser:

5.1 Representations and Warranties. The representations and warranties of the Purchasers contained in Section 3 shall be true on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

5.2 Payment of Purchase Price. Each Purchaser shall have delivered the purchase price against delivery of the Shares as set forth in Section 1.4 by the Company to such Purchaser.

5.3 Blue Sky. The Company shall have obtained all necessary permits and qualifications, if any, or secured an exemption therefrom, required by any state or country for the offer and sale of the Shares.

5.4 Investor Rights Agreements. The Company and each Purchaser shall have entered into the Investor Rights Agreement.

5.5 Restated Articles . The Restated Articles shall have been accepted for filing by the California Secretary of State and shall be in full force and effect as of the Closing Date.

5.6 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closing hereby, and all documents and instruments incident to these transactions, shall be reasonably satisfactory in substance to the Company and its counsel.

6. Miscellaneous.

6.1 Governing Law; Jurisdiction. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed in all respects by the laws of the State of California, without regard to any provisions thereof relating to conflicts of laws among different jurisdictions. The parties hereto agree to submit to the exclusive jurisdiction of the federal and state courts of San Mateo County, California with respect to the breach or interpretation of this Agreement or the enforcement of any and all rights, duties, liabilities, obligations, powers, and other relations between the parties arising under this Agreement.

6.2 Indemnification. The Company shall indemnify, defend and hold each Purchaser harmless against all liability, loss or damage (collectively, "**Losses**" and individually, a "**Loss**") arising from any litigation, proceeding or dispute arising from such Purchaser's status as a shareholder of the Company other than Losses arising from such Purchaser's gross negligence or willful misconduct, provided that such indemnification shall apply only to litigation, proceedings or disputes arising prior to the Company's Initial Public Offering (as defined in the Investor Rights Agreement) and the Company's obligation to indemnify any Purchaser shall be limited in amount to the amount paid by such Purchaser for the purchase of such Purchaser's Shares as set forth on EXHIBIT A. The foregoing indemnity is not intended to supercede or replace the indemnification obligations of the parties set forth in Section 1.10 of the Investor Rights Agreement nor shall it be construed to limit any other rights and remedies of the Purchasers under this Agreement or any other indemnification to which such Purchaser may be entitled under any other agreement of the Company. The foregoing indemnification rights are transferable only to Affiliates (as defined in the Investor Rights Agreement) of a Purchaser.

6.3 Survival. The representations, warranties, covenants and agreements made herein shall survive any investigation made by any Purchaser or the Company and the Closing of the transactions contemplated hereby; provided, however, that such representations and warranties are only made as of the date of such execution and delivery and as of such Closing.

6.4 Successors and Assigns. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto; provided, however, that the rights of a Purchaser to purchase Shares at the Closing shall not be assignable without the consent of the Company.

6.5 Entire Agreement; Amendment. This Agreement and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof relating to the purchase of the Shares. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument signed by the Company and the holder or holders of greater than fifty percent (50%) of the then-outstanding Shares or the Conversion Shares. Notwithstanding the foregoing, any additional purchaser pursuant to Section 1.2 may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and such purchaser shall be deemed a Purchaser hereunder. The parties agree that the Schedule of Purchasers attached hereto as Exhibit A shall be updated automatically without any formal amendment to reflect the addition of any such additional Purchaser. Any amendment or waiver effected in accordance with this Section 6.5 shall be binding upon the Purchasers and each transferee of the Shares (or the Common Stock issuable upon conversion thereof), each future holder of all such securities, and the Company.

6.6 Notices, Etc. All notices and other communications required or permitted hereunder, shall be in writing and shall be personally delivered, sent by facsimile, mailed by registered or certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier, addressed (a) if to a Purchaser, at such Purchaser's address or

facsimile number set forth on the Schedule of Purchasers, or at such other address or facsimile number as such Purchaser shall have furnished to the Company in writing, or (b) if to the Company, at its address or facsimile number set forth on the signature page to this Agreement addressed to the attention of the Corporate Secretary, or at such other address or facsimile number as the Company shall have furnished to the Purchasers. Any such notice or communication shall be deemed to have been received (A) in the case of personal delivery or delivery by telecopier, on the date of such delivery, (B) in the case of a commercial overnight courier, on the next business day after the date when sent and (C) in the case of mailing, on the fifth business day following that on which the piece of mail containing such communication is posted.

6.7 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any holder of any Shares upon any breach or default of the Company under this Agreement shall impair any such right, power or remedy of such holder, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any holder of any breach or default under this Agreement, or any waiver on the part of any holder of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing or as provided in this Agreement. All remedies, either under this Agreement or by law or otherwise afforded to any holder, shall be cumulative and not alternative.

6.8 California Corporate Securities Law. THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM THE QUALIFICATION BY SECTION 25100, 25102, OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

6.9 Finder's Fee. The Company and each Purchaser shall each indemnify and hold the other harmless from any liability for any commission or compensation in the nature of a finder's fee (including the costs, expenses and legal fees of defending against such liability) for which the Company or the Purchasers, or any of their respective partners, employees, or representatives, as the case may be, is responsible.

6.10 Expenses. The Company and each Purchaser shall bear its own expenses and legal fees incurred on its behalf with respect to this Agreement and the transactions contemplated hereby.

6.11 Waiver of Conflict. Each of the Purchasers and the Company acknowledges that Wilson Sonsini Goodrich & Rosati, Professional Corporation ("**WSGR**") may have represented and may currently represent Purchasers. In the course of such representation, WSGR may have

come into possession of confidential information relating to such Purchasers. Each of the Purchasers and the Company acknowledges that WSGR is representing only the Company in this transaction. Pursuant to Rule 3-310 of the Rules of Professional Conduct promulgated by the State Bar of California, an attorney must avoid representations in which the attorney has or had a relationship with another party interested in the representation without the informed written consent of all parties affected. By executing this Agreement, each of the Purchasers and the Company hereby waives any actual or potential conflict of interest that may arise in this financing as a result of WSGR's representation of such persons or entities, WSGR's possession of such confidential information and the participation by WSGR's affiliate in the financing. Each of the Purchasers and the Company represents that it has had the opportunity to consult with independent counsel concerning the giving of this waiver.

6.12 Severability. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to any party.

6.13 Counterparts; Facsimile. This Agreement may be executed in any number of counterparts, each of which may be executed by less than all Purchasers, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument. This Agreement may be executed by facsimile signature.

6.14 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

6.15 Exculpation Among Purchasers. Each Purchaser acknowledges that it is not relying upon any person, firm or corporation (including without limitation any other Purchaser), other than the Company and its officers and directors (acting in their capacity as representatives of the Company), in deciding to invest and in making its investment in the Company. Each Purchaser agrees that no other Purchaser nor the respective controlling persons, officers, directors, partners, agents or employees of any other Purchaser shall be liable to such Purchaser for any losses incurred by such Purchaser in connection with its investment in the Company.

6.16 Like Treatment of Holders. The Company shall not directly or indirectly pay or cause to be paid any consideration, whether by way of interest, fee, payment for the redemption or exchange of Preferred Stock, or otherwise to any holder of Preferred Stock for or as inducement to, any consent, waiver or amendment of any term or provision of the Preferred Stock, this Agreement or the Investor Rights Agreement unless equivalent consideration is offered on equivalent terms and conditions to all Purchasers of Preferred Stock under this Agreement bound by such consent, waiver or amendment.

6.17 Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FLUIDIGM CORPORATION

By: /s/ Gajus Worthington
Gajus Worthington
President and Chief Executive Officer

7100 Shoreline Court
South San Francisco, CA 94080
FAX: (650) 871-7195

PURCHASER:

AllianceBernstein L.P.

By: /s/ Adam Spilka

Name: Adam Spilka

Title: SVP, Counsel, Secretary

EXHIBIT A

SCHEDULE OF PURCHASERS

Name and Address	Shares of Series E		Purchase Price
AllianceBernstein L.P.	1,250,000	$	5,000,000.00
TOTALS	**1,250,000**	**$**	**5,000,000.00**

FLUIDIGM CORPORATION

AMENDMENT NO. 1 TO
SERIES E PREFERRED STOCK PURCHASE AGREEMENT

This Amendment No. 1 (the "**Amendment**") to that certain Series E Preferred Stock Purchase Agreement, dated as of June 13, 2006 (the "**Purchase Agreement**"), is made and entered into effective as of December 22, 2006 (the "**Effective Date**") by and among Fluidigm Corporation, a California corporation (the "**Company**"), and the Purchasers named therein. Capitalized terms used in this Amendment that are not otherwise defined herein shall have the respective meanings assigned to them in the Purchase Agreement.

RECITALS

WHEREAS, the Company previously sold and issued an aggregate of 1,250,000 shares of Series E Preferred Stock of the Company (the "**Series E Preferred**") pursuant to the terms of the Purchase Agreement at the Initial Closing held on June 13, 2006;

WHEREAS, the Company and the Purchaser now desire to amend the terms of the Purchase Agreement to provide that the Company may sell and issue additional shares of Series E Preferred pursuant to the Purchase Agreement, at one or more additional Subsequent Closings, provided that any such additional Subsequent Closings shall take place no later than March 31, 2007.

WHEREAS, pursuant to Section 6.5 of the Purchase Agreement, the terms of the Purchase Agreement may be amended upon the written consent of the Company and the holder or holders of greater than fifty percent (50%) of the outstanding Shares or the Conversion Shares; and

WHEREAS, the Purchaser who has signed below holds greater than fifty percent (50%) of the outstanding Shares purchased under the Purchase Agreement as of the Effective Date and consents to the changes as set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

AGREEMENT

1. Amendment to Section 1.1. Section 1.1 (Authorization of the Shares) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"1.1 Authorization of the Shares. The Company will on or before the Closing (as defined below) authorize the sale and issuance pursuant to this Agreement of up to 6,318,333 shares (the "**Shares**") of its

Series E Preferred Stock (the "**Series E Preferred**"), having the rights, preferences and privileges as set forth in the Amended and Restated Articles of Incorporation attached hereto as EXHIBIT B (the "**Restated Articles**")."

2. Amendment to Section 1.2. Section 1.2 (Purchase and Sale of the Shares) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"1.2 Purchase and Sale of the Shares. Subject to the terms and conditions hereof and in reliance upon the representations, warranties and agreements contained herein, the Company will issue and sell to each Purchaser, severally and not jointly, and each Purchaser will purchase from the Company, severally and not jointly, at the Closing, the number of Shares set forth opposite the Purchaser's name on the Schedule of Purchasers, at a purchase price of Four Dollars ($4.00) per Share. The Company shall be entitled to sell any unpurchased Shares to any Purchaser or to a person who is not a Purchaser and to amend the Schedule of Purchasers to include the information relating to such sales, and such purchasers shall be considered "Purchasers" and parties to this Agreement; provided that (i) such sales are made pursuant to this Agreement or an agreement identical to this one except for the Closing Date and exhibits, and (ii) such sales are completed on or prior to March 31, 2007. The Company's agreement with each Purchaser is a separate agreement, and the sale of the Shares to each Purchaser is a separate sale."

3. Governing Law. This Amendment shall be governed in all respects by the laws of the State of California, without regard to any provisions thereof relating to conflicts of laws among different jurisdictions.

4. Purchase Agreement. Wherever necessary, all other terms of the Purchase Agreement are hereby amended to be consistent with the terms of this Amendment. Except as specifically set forth herein, the Purchase Agreement shall remain in full force and effect.

5. Counterparts; Facsimile. This Amendment may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one instrument. Executed signatures transmitted via facsimile will be accepted and considered duly executed.

6. Effect of Execution of Amendment by Certain Purchaser. This Amendment, when executed and delivered by the Company and a Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof, shall also constitute and shall be deemed a counterpart signature page to the Purchase Agreement. Consequently, each undersigned Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof acknowledges and agrees that he, she or it is bound by the terms and

conditions contained in the Purchase Agreement, as amended by this Amendment, with respect to the purchase of such shares.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

COMPANY:

FLUIDIGM CORPORATION
a California corporation

By: /s/ Gajus Worthington
Gajus Worthington,
President and Chief Executive Officer

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

CROSS CREEK CAPITAL, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

CROSS CREEK CAPITAL EMPLOYEES' FUND, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

WASATCH FUNDS, INC.
Wasatch Small Cap Growth Fund

By: Wasatch Advisors, Inc.
Its: Investment Adviser

By: /s/ Dan Thurber
Name: Dan Thurber
Title: Vice President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

SMALLCAP WORLD FUND, INC.

By: Capital Research and Management Company, its, investment adviser

By: /s/ Michael Downer

Name: Michael Downer

Title:

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

AllianceBernstein Venture Fund I, L.P.

By: AllianceBernstein ESG Venture Management, L.P., its general partner

By: AllianceBernstein Global Derivatives Corporation, its general partner

By: /s/ James D. Kiggen

Name: James D. Kiggen

Title: Senior Vice President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

VERSANT AFFILIATES FUND 1-A, L.P.
VERSANT AFFILIATES FUND 1-B, L.P.
VERSANT SIDE FUND I, L.P.
VERSANT VENTURE CAPITAL I, L.P.

By: Versant Ventures I, LLC
its General Partner

By: /s/ Samuel D. Colella

Name: Samuel D. Colella

Title: Managing Director

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

LEHMAN BROTHERS HEALTHCARE VENTURE CAPITAL L.P.

By: Lehman Brothers HealthCare Venture Capital Associates L.P.,
its General Partner
By: LB I Group Inc., its General Partner

By: /s/ Michael Odrich
Name: Michael Odrich
Its: Senior Vice President

LEHMAN BROTHERS P.A. LLC

By: /s/ Michael Odrich
Name: Michael Odrich
Its: Senior Vice President

LEHMAN BROTHERS PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Group Inc., its General Partner

By: /s/ Michael Odrich
Name: Michael Odrich
Its: Senior Vice President

LEHMAN BROTHERS OFFSHORE PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Offshore Partners Group Ltd., its General Partner

By: /s/ Michael Odrich
Name: Michael Odrich
Its: Senior Vice President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

EUCLIDSR PARTNERS, L.P.

By: EuclidSR Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

EUCLIDSR BIOTECHNOLOGY PARTNERS, L.P.

By: EuclidSR Biotechnology Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

INTERWEST PARTNERS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

INTERWEST INVESTORS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

LILLY BIOVENTURES, ELI LILLY & COMPANY

By: /s/ Thomas W. Grein

Name: Thomas W. Grein

Title: Vice President and Treasurer

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

ALLOY VENTURES 2005, L.P.

By: Alloy Ventures 2005, LLC
its General Partner

By: /s/ Tony DiBona

Name: Toni DiBona

Title: Managing Member of Alloy Ventures 2005 LLC

ALLOY VENTURES 2002, L.P.
ALLOY PARTNERS 2002, L.P.

By: Alloy Ventures 2002, LLC
its General Partner

By: /s/ Tony DiBona

Name: Tony DiBona

Title: Managing Member of Alloy Ventures 2002, LLC, the general partner of Alloy Partners 2002, L.P. and Alloy Ventures 2002, L.P.

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

SIGHTLINE HEALTHCARE FUND III, L.P.

By: /s/ Kenneth E. Higgins

Name: Kenneth E. Higgins

Title: Managing Director of Sightline Partners LLC, general partner of its general partner

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASER:

/s/ Bruce Burrows
BRUCE BURROWS

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

/s/ John M. Harland

JOHN M. HARLAND

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

FERGUSON/EGAN FAMILY TRUST DATED 6/28/99

By: /s/ Rodney A. Ferguson
Name: Rodney A. Ferguson
Title: Trustee

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

HEALTH CARE ADMINISTRATION COMPANY

By: /s/ Gary L. Bowers
Name: Gary L. Bowers
Title: President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

THE CONDON FAMILY TRUST

By: /s/ Thomas J. Condon
Name: Thomas J. Condon
Title: Trustee

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

IN-Q-TEL, INC.

By: /s/ Scott G. Yancey
Name: Scott G. Yancey
Title: Executive Vice President

IN-Q-TEL EMPLOYEE FUND, LLC

By: /s/ Scott G. Yancey
Name: Scott G. Yancey
Title: EVP of In-Q-Tel, Inc., the manager of the fund

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

THE V FOUNDATION FOR CANCER RESEARCH

By: /s/ Nicholas Valvano
Name: Nicholas Valvano
Title: Chief Executive Officer

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

/s/ Fredrick H. Stern

FREDRICK H. STERN

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

/s/ Alfred J. Mandel

ALFRED J. MANDEL

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

/s/ Pauline E. van Ysendoorn

PAULINE E. VAN YSENDOORN

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

/s/ Rhett E. Brown

RHETT E. BROWN

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 1 to Series E Preferred Stock Purchase Agreement as of the 30th day of March, 2007.

PURCHASER:

SMALLCAP WORLD FUND, INC.

By: Capital Research and Management Company, its investment adviser

By: /s/ Timothy D. Amour
Name: Timothy D. Armour
Title: President

[Signature Page to Amendment No. 1 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

EXHIBIT A
SCHEDULE OF PURCHASERS
SERIES E PREFERED STOCK FINANCING
DECEMBER 22, 2006

Name	Shares of Series E Preferred Stock	Purchase Price
CLIPPERBAY & CO.		
SMALLCAP World Fund, Inc.	1,875,000	$7,500,000.00
PACO c/o 80-16-200-1037662		
Cross Creek Capital, L.P.	569,074	$2,276,296.00
PACO c/o 80-16-200-1037670	55,926	$ 223,704.00
CLEARMOON & CO.	625,000	$2,500,000.00
ALLIANCEBERNSTEIN VENTURE FUND I, L.P.	62,500	$ 250,000.00
ALLOY VENTURES 2005, L.P.	80,625	$ 322,500.00
ALLOY VENTURES 2002, L.P.	78,505	$ 314,020.00
ALLOY PARTNERS 2002, L.P.	2,120	$ 8,480.00
INTERWEST INVESTORS VII, L.P.	2,285	$ 9,140.00
INTERWEST PARTNERS VII, L.P.	47,715	$ 190,860.00
EUCLIDSR BIOTECHNOLOGY PARTNERS, L.P.	105,875	$ 423,500.00
EUCLIDSR PARTNERS, L.P.	105,875	$ 423,500.00
VERSANT AFFLIATES FUND 1-A, L.P.	5,000	$ 20,000.00
VERSANT AFFLIATES FUND 1-B, L.P.	10,500	$ 42,000.00

EXHIBIT A
SCHEDULE OF PURCHASERS
SERIES E PREFERED STOCK FINANCING
DECEMBER 22, 2006

Name	Shares of Series E Preferred Stock	Purchase Price
VERSANT SIDE FUND I, L.P.	4,500	$ 18,000.00
VERSANT VENTURE CAPITAL I, L.P.	230,000	$ 920,000.00
LILLY BIO VENTURES, ELI LILLY AND COMPANY	89,750	$ 359,000.00
SIGHTLINE HEALTHCARE FUND III, L.P.	30,000	$ 120,000.00
BRUCE BURROWS	144,750	$ 579,000.00
LEHMAN BROTHERS HEALTHCARE VENTURE CAPITAL, L.P.	39,937	$ 159,748.00
LEHMAN BROTHERS OFFSHORE PARTNERSHIP ACCOUNT 2000/2001, L.P.	8,932	$ 35,728.00
LEHMAN BROTHERS P.A., LLC	76,440	$ 305,760.00
LEHMAN BROTHERS PARTNERSHIP ACCOUNT 2000/2001, L.P.	34,440	$ 137,760.00
TOTALS	4,284,749	$17,138,996.00

EXHIBIT A
SCHEDULE OF PURCHASERS
SERIES E PREFERED STOCK FINANCING
MARCH 30, 2007

Name	Shares of Series E Preferred Stock	Purchase Price
JOHN M. HARLAND	5,000	$ 20,000.00
FERGUSON/EGAN FAMILY TRUST DATED 6/28/99	15,000	$ 60,000.00
HEALTH CARE ADMINISTRATION COMPANY	25,000	$ 100,000.00
THE CONDON FAMILY TRUST	12,500	$ 50,000.00
IN-Q-TEL, INC.	10,125	$ 40,500.00
IN-Q-TEL EMPLOYEE FUND, LLC	3,375	$ 13,500.00
THE V FOUNDATION FOR CANCER RESEARCH	6,250	$ 25,000.00
FREDRICK H. STERN	37,500	$ 150,000.00
ALFRED J. MANDEL	1,000	$ 4,000.00
PAULINE E. VAN YSENDOORN	2,500	$ 10,000.00
RHETT E. BROWN	12,500	$ 50,000.00
CLIPPERBAY & CO.	350,000	$1,400,000.00
TOTALS	**480,750**	**$1,923,000.00**

FLUIDIGM CORPORATION

AMENDMENT NO. 2 TO
SERIES E PREFERRED STOCK PURCHASE AGREEMENT

This Amendment No. 2 (the "**Amendment**") to that certain Series E Preferred Stock Purchase Agreement, dated as of June 13, 2006, as amended December 22, 2006, by and among Fluidigm Corporation, a California corporation ("**Fluidigm California**") and the Purchasers named therein (the "**Purchase Agreement**"), is made and entered into effective as of October 10, 2007 (the "**Effective Date**") by and among Fluidigm Corporation, a Delaware corporation (the "**Company**"), and the Purchasers named herein. Capitalized terms used in this Amendment that are not otherwise defined herein shall have the respective meanings assigned to them in the Purchase Agreement.

RECITALS

WHEREAS, Fluidigm California previously sold and issued an aggregate of 1,250,000 shares of Series E Preferred Stock (the "**Series E Preferred**") pursuant to the terms of the Purchase Agreement at the Initial Closing held on June 13, 2006 and an additional 6,015,499 shares of Series E Preferred at Subsequent Closings held on December 22, 2006 and March 30, 2007;

WHEREAS, on July 18, 2007, Fluidigm California was merged with and into the Company, with the Company being the surviving corporation such that the Company succeeded to all of Fluidigm California's rights and obligations under the Purchase Agreement and all outstanding shares of Series E Preferred of Fluidigm California were exchanged on a one for one basis for shares of Series E Preferred of the Company;

WHEREAS, the Company and the Purchasers now desire to amend the terms of the Purchase Agreement to provide that the Company may sell and issue up to 7,375,000 additional shares of Series E Preferred (the "**Additional Shares**") pursuant to the Purchase Agreement, at one or more additional Subsequent Closings, provided that any such additional Subsequent Closings shall take place no later than December 31, 2007.

WHEREAS, pursuant to Section 6.5 of the Purchase Agreement, the terms of the Purchase Agreement may be amended upon the written consent of the Company and the holder or holders of greater than fifty percent (50%) of the outstanding Shares or the Conversion Shares;

WHEREAS, the Purchasers who have signed below hold greater than fifty percent (50%) of the outstanding Shares purchased under the Purchase Agreement as of the Effective Date and consent to the changes as set forth in this Amendment;

WHEREAS, in connection with the execution of this Amendment, the Company is amending the Amended and Restated Certificate of Incorporation of the Company to increase the

number of authorized shares of capital stock of the Company to facilitate the sale of the Additional Shares.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

AGREEMENT

1. Amendment to Section 1.1. Section 1.1 (Authorization of the Shares) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"1.1 Authorization of the Shares. The Company will on or before the Closing (as defined below) authorize the sale and issuance pursuant to this Agreement of up to 17,956,252 shares (the "**Shares**") of its Series E Preferred Stock (the "**Series E Preferred**"), having the rights, preferences and privileges as set forth in the Amended and Restated Certificate of Incorporation, as amended by Amendment No. 1 to Amended and Restated Certificate of Incorporation and Amendment No. 2 to Amended and Restated Certificate of Incorporation, as attached hereto as EXHIBITS B-1 AND B-2, respectively (together for purposes of this Agreement, the "**Restated Certificate**")."

2. Amendment to Section 1.2. Section 1.2 (Purchase and Sale of the Shares) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"1.2 Purchase and Sale of the Shares. Subject to the terms and conditions hereof and in reliance upon the representations, warranties and agreements contained herein, the Company will issue and sell to each Purchaser, severally and not jointly, and each Purchaser will purchase from the Company, severally and not jointly, at the applicable Closing, the number of Shares set forth opposite the Purchaser's name on the Schedule of Purchasers, at a purchase price of Four Dollars ($4.00) per Share. The Company shall be entitled to sell any unpurchased Shares to any Purchaser or to a person who is not a Purchaser and to amend the Schedule of Purchasers to include the information relating to such sales, and such purchasers shall be considered "Purchasers" and parties to this Agreement; provided that (i) such sales are made pursuant to this Agreement or an agreement identical to this one except for the Closing Date and exhibits, and (ii) such sales are completed on or prior to December 31, 2007. The Company's agreement with each Purchaser is a separate agreement, and the sale of the Shares to each Purchaser is a separate sale."

3. Amendment to Section 2. Section 2 (Representations and Warranties of the Company) of the Purchase Agreement is hereby amended to add the following sentence to the end of the paragraph which reads in its entirety as follows:

"At each Subsequent Closing, the Company shall provide an updated Schedule of Exceptions and EXHIBIT C shall be concurrently amended and restated for purposes of such Subsequent Closing."

4. Amendment to Section 2.4. Solely in connection with the sale of Additional Shares pursuant to this Amendment, Section 2.4 (Capitalization) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"The authorized capital stock of the Company consists, or immediately prior to the Closing will consist, of 85,232,144 shares of Common Stock ("**Common Stock**"), of which 9,760,848 shares are issued and outstanding immediately prior to the Closing and 57,961,085 shares of Preferred Stock ("**Preferred Stock**"), 2,727,273 of which are designated Series A Preferred Stock of which 2,727,273 are outstanding immediately prior to the Closing; 6,460,675 of which are designated Series B Preferred Stock of which 6,460,675 are outstanding immediately prior to the Closing; 16,854,624 of which are designated Series C Preferred Stock, 16,364,832 of which are issued and outstanding immediately prior to the Closing; and 13,962,261 of which are designated Series D Preferred Stock, 13,353,333 of which are issued and outstanding immediately prior to the Closing; and 17,956,252 of which are designated Series E Preferred Stock, 8,969,836 of which are issued and outstanding immediately prior to the Closing. All such issued and outstanding shares have been duly authorized and validly issued in compliance with applicable laws, and are fully paid and nonassessable.

The Company has reserved: (i) 17,956,252 shares of Series E Preferred for issuance hereunder and 17,956,252 shares of Common Stock for issuance upon conversion of such shares of Series E Preferred; (ii) 13,353,333 shares of Common Stock for issuance upon conversion of the outstanding shares of Series D Preferred; (iii) 408,928 shares of Series D Preferred for issuance upon exercise of outstanding warrants and 408,928 shares of Common Stock for issuance upon conversion of such Series D Preferred; (iv) 16,364,832 shares of Common Stock for issuance upon conversion of the outstanding shares of Series C Preferred Stock; (v) 289,792shares of Series C Preferred Stock for issuance upon exercise of outstanding warrants and 289,792 shares of Common Stock for issuance upon conversion of such Series C Preferred Stock; (vi) 6,460,675 shares of Common Stock for issuance upon conversion of the outstanding Series B Preferred Stock; (vii) 2,727,273 shares of Common Stock for issuance upon conversion of the outstanding Series A Preferred Stock; and (viii) an aggregate of 12,800,000 shares of Common Stock for issuance to

employees and consultants of the Company pursuant to the Company's 1999 Stock Option Plan, pursuant to which options to purchase 7,247,691 shares are granted and outstanding and 1,518,223 shares are available for future grant. As of the date hereof and after giving effect to the purchase of Shares hereunder, each share of each series of the Company's Preferred Stock is convertible into one share of the Company's Common Stock. Other than with respect to the shares reserved for issuance in this paragraph, or as set forth in the Ancillary Agreements (as defined below), there are no outstanding rights, options, warrants, conversion rights, preemptive rights, rights of first refusal or similar rights for the purchase or acquisition from the Company of any securities of the Company. There are no outstanding obligations of the Company to repurchase or redeem any of its securities."

5. Amendment to Section 2.16. Solely in connection with the sale of Additional Shares pursuant to this Amendment, Section 2.16 (Financial Statements) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"The Company has made available to each Purchaser its audited balance sheet dated as of December 31, 2004. The Company has also made available to each Purchaser unaudited balance sheets dated December 31, 2005 and December 31, 2006 and the unaudited statements of operations for the fiscal years then ended (collectively, the "**Financial Statements**"). The Financial Statements are complete and correct in all material respects and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated. The Financial Statements accurately set out and describe the financial condition and operating results of the Company as of the date, and during the periods, indicated therein. Except as set forth in the Financial Statements, the Company has no material liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to December 31, 2006 and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under generally accepted accounting principles to be reflected in the Financial Statements, which, in both cases, individually or in the aggregate are not material to the financial condition or operating results of the Company."

6. Deletion of Sections 6.9 and 6.11. Solely in connection with the sale of Additional Shares pursuant to this Amendment, the Purchase Agreement is hereby amended to delete Section 6.9 (Finder's Fee) and Section 6.11 (Waiver of Conflict), each in its entirety.

7. Amendment to Section 6.10. Solely in connection with the sale of Additional Shares pursuant to this Amendment, Section 6.10 of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

"6.10 Expenses. The Company and each Purchaser shall bear its own expenses and legal fees incurred on its behalf with respect to this Agreement and the transactions contemplated hereby, *provided*, *however*, that if a Closing is effected, the Company shall reimburse the reasonable documented fees of one counsel for the Purchasers, such amount not to exceed $25,000, by wire transfer at such Closing."

8. Addition of Section 6.17. The Purchase Agreement is hereby amended to add the following Section 6.17 which reads in its entirety as follows:

"6.17 Reincorporation. Each Purchaser hereunder acknowledges that the Company completed a reincorporation into the State of Delaware on July 18, 2007 and each Purchaser hereby consents to the assignment of this Agreement to Fluidigm Corporation, a Delaware corporation effective as of July 18, 2007."

9. Restated Certificate. All references in the Purchase Agreement to the term "Restated Articles" are hereby deleted and replaced with the term "Restated Certificate."

10. Governing Law. This Amendment shall be governed in all respects by the laws of the State of California, without regard to any provisions thereof relating to conflicts of laws among different jurisdictions.

11. Purchase Agreement. Wherever necessary, all other terms of the Purchase Agreement are hereby amended to be consistent with the terms of this Amendment. Except as specifically set forth herein, the Purchase Agreement shall remain in full force and effect.

12. Counterparts; Facsimile. This Amendment may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one instrument. Executed signatures transmitted via facsimile will be accepted and considered duly executed.

13. Effect of Execution of Amendment by Certain Purchasers. This Amendment, when executed and delivered by the Company and a Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof, shall also constitute and shall be deemed a counterpart signature page to the Purchase Agreement. Consequently, each undersigned Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof acknowledges and agrees that he, she or it is bound by the terms and conditions contained in the Purchase Agreement, as amended by this Amendment, with respect to the purchase of such shares.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

COMPANY:

FLUIDIGM CORPORATION
a Delaware corporation

By: /s/ Gajus Worthington
Gajus Worthington,
President and Chief Executive Officer

[Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

FIDELITY CONTRAFUND:
FIDELITY ADVISOR NEW INSIGHTS FUND

By: /s/ Gary Ryan

Name: Gary Ryan

Title: Assistant Treasurer

FIDELITY CONTRAFUND: FIDELITY CONTRAFUND

By: /s/ Gary Ryan

Name: Gary Ryan

Title: Assistant Treasurer

VARIABLE INSURANCE PRODUCTS FUND II:
CONTRAFUND PORTFOLIO

By: /s/ Gary Ryan

Name: Gary Ryan

Title: Assistant Treasurer

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LEERINK SWANN HOLDINGS, LLC

By: /s/ Jeffrey A. Leerink

Name: Jeffrey A. Leerink

Title: Chief Executive Officer

LEERINK SWANN HOLDINGS, LLC
CO-INVESTMENT FUND, LLC

By: /s/ Donald D. Notman, Jr.

Name: Donald D. Notman, Jr.

Title: Managing Director

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

Cross Creek Capital, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

Cross Creek Capital Employees' Fund, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

WASATCH FUNDS, INC.

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Dan Thurber

Name: Dan Thurber

Title: Vice President

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

SMALLCAP World Fund, Inc.

By: Capital Research and Management Company, its, investment adviser

By: /s/ Michael Downer

Name: Michael Downer

Title:

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

ALLIANCEBERNSTEIN VENTURE FUND I, L.P.

By: AllianceBernstein ESG Venture Management, L.P., its general partner

By: AllianceBernstein Global Derivatives Corporation, its general partner

By: /s/ James D. Kiggen

Name: James D. Kiggen

Title: Senior Vice President

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

VERSANT AFFILIATES FUND 1-A, L.P.
VERSANT AFFILIATES FUND1-B, L.P.
VERSANT SIDE FUND I, L.P.
VERSANT VENTURE CAPITAL I, L.P.

By: Versant Ventures I, LLC
its General Partner

By: /s/ Samuel D. Colella

Name: Samuel D. Colella

Title: Managing Director

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LEHMAN BROTHERS HEALTHCARE VENTURE CAPITAL L.P.

By: Lehman Brothers HealthCare Venture Capital Associates L.P.,
its General Partner
By: LB I Group Inc., its General Partner

By: /s/ Steven Berkenfeld
Name: Steven Berkenfeld
Its: Senior Vice President

LEHMAN BROTHERS P.A. LLC

By: /s/ Steven Berkenfeld
Name: Steven Berkenfeld
Its: Senior Vice President

LEHMAN BROTHERS PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Group Inc., its General Partner

By: /s/ Steven Berkenfeld
Name: Steven Berkenfeld
Its: Senior Vice President

LEHMAN BROTHERS OFFSHORE PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Offshore Partners Group Ltd., its General Partner

By: /s/ Steven Berkenfeld
Name: Steven Berkenfeld
Its: Senior Vice President

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

EUCLIDSR PARTNERS, L.P.

By: EuclidSR Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

EUCLIDSR BIOTECHNOLOGY PARTNERS, L.P.

By: EuclidSR Biotechnology Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

INTERWEST PARTNERS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

INTERWEST INVESTORS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LILLY BIOVENTURES, ELI LILLY & COMPANY

By: /s/ Darren J. Carroll

Name: Darren J. Carroll

Title: Executive Director

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

/s/ Bruce Burrows

BRUCE BURROWS

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

BIOMEDICAL SCIENCES INVESTMENT FUND PTE LTD

By: /s/ Chu Swee Yeok

Name: Chu Swee Yeok

Title: Director

SINGAPORE BIO-INNOVATIONS PTE LTD

By: /s/ Sim Sze Kuan

Name: Sim Sze Kuan

Title: Director

[*Signature Page to Amendment No. 2 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 2 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

INVUS, L.P.

By: Invus Advisors LLC
General Partner of Invus LP

By: /s/ Aflalo Guimaraes

Name: Aflalo Guimaraes

Title: Managing Director

EXHIBIT A
SCHEDULE OF PURCHASERS
SERIES E PREFERED STOCK FINANCING
OCTOBER 10, 2007

Name	Shares of Series E Preferred Stock	Purchase Price
FIDELITY CONTRAFUND:		
FIDELITY ADVISOR NEW INSIGHTS FUND	481,170	$ 1,924,679.00
FIDELITY CONTRAFUND: FIDELITY CONTRAFUND	4,389,865	$ 17,559,461.00
VARIABLE INSURANCE PRODUCTS FUND II:		
CONTRAFUND PORTFOLIO	1,378,965	$ 5,515,860.00
LEERICK SWANN HOLDINGS, LLC	62,500	$ 250,000.00
LEERICK SWANN CO-INVESTMENT FUND, LLC	78,750	$ 315,000.00
TOTALS	**6,391,250**	**$ 25,565,000.00**

FLUIDIGM CORPORATION

AMENDMENT NO. 3 TO
SERIES E PREFERRED STOCK PURCHASE AGREEMENT

This Amendment No. 3 (the "**Amendment**") to that certain Series E Preferred Stock Purchase Agreement, dated as of June 13, 2006, as amended December 22, 2006 and further amended October 10, 2007, by and among Fluidigm Corporation, a California corporation ("**Fluidigm California**") and the Purchasers named therein (the "**Purchase Agreement**"), is made and entered into effective as of October 26, 2007 (the "**Effective Date**") by and among Fluidigm Corporation, a Delaware corporation (the "**Company**"), and the Purchasers named herein. Capitalized terms used in this Amendment that are not otherwise defined herein shall have the respective meanings assigned to them in the Purchase Agreement.

RECITALS

WHEREAS, Fluidigm California previously sold and issued an aggregate of 1,250,000 shares of Series E Preferred Stock (the "**Series E Preferred**") pursuant to the terms of the Purchase Agreement at the Initial Closing held on June 13, 2006, an additional 4,284,749 shares of Series E Preferred at a Subsequent Closing held on December 22, 2006, an additional 480,750 shares of Series E Preferred at a Subsequent Closing held on March 30, 2007, and an additional 6,391,250 shares of Series E Preferred at a Subsequent Closing held on October 10, 2007;

WHEREAS, on July 18, 2007, Fluidigm California was merged with and into the Company, with the Company being the surviving corporation such that the Company succeeded to all of Fluidigm California's rights and obligations under the Purchase Agreement and all outstanding shares of Series E Preferred of Fluidigm California were exchanged on a one for one basis for shares of Series E Preferred of the Company;

WHEREAS, the Company and the Purchasers now desire to amend the terms of the Purchase Agreement to provide that the Company may sell and issue up to 2,153,695 additional shares of Series E Preferred (the "**Additional Shares**") pursuant to the Purchase Agreement, at one or more additional Subsequent Closings, provided that any such additional Subsequent Closings shall take place no later than December 31, 2007.

WHEREAS, pursuant to Section 6.5 of the Purchase Agreement, the terms of the Purchase Agreement may be amended upon the written consent of the Company and the holder or holders of greater than fifty percent (50%) of the outstanding Shares or the Conversion Shares;

WHEREAS, the Purchasers who have signed below hold greater than fifty percent (50%) of the outstanding Shares purchased under the Purchase Agreement as of the Effective Date and consent to the changes as set forth in this Amendment;

WHEREAS, in connection with the execution of this Amendment, the Company is amending the Amended and Restated Certificate of Incorporation of the Company to increase the number of authorized shares of capital stock of the Company to facilitate the sale of the Additional Shares.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

AGREEMENT

1. Amendment to Section 1.1. Section 1.1 (Authorization of the Shares) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"1.1 Authorization of the Shares. The Company will on or before the Closing (as defined below) authorize the sale and issuance pursuant to this Agreement of up to 18,498,531 shares (the "**Shares**") of its Series E Preferred Stock (the "**Series E Preferred**"), having the rights, preferences and privileges as set forth in the Amended and Restated Certificate of Incorporation, as amended by a Certificate of Amendment to Amended and Restated Certificate of Incorporation dated October 10, 2007 and a Certificate of Amendment to Amended and Restated Certificate of Incorporation dated October 26, 2007, as attached hereto as EXHIBITS B-1 AND B-2, respectively (together for purposes of this Agreement, the "**Restated Certificate**")."

2. Amendment to Section 2.4. Solely in connection with the sale of Additional Shares pursuant to this Amendment, Section 2.4 (Capitalization) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"The authorized capital stock of the Company consists, or immediately prior to the Closing will consist, of 87,385,839 shares of Common Stock ("**Common Stock**"), of which 9,760,848 shares are issued and outstanding immediately prior to the Closing and 60,114,780 shares of Preferred Stock ("**Preferred Stock**"), 2,727,273 of which are designated Series A Preferred Stock of which 2,727,273 are outstanding immediately prior to the Closing; 6,460,675 of which are designated Series B Preferred Stock of which 6,460,675 are outstanding immediately prior to the Closing; 16,854,624 of which are designated Series C Preferred Stock, 16,364,832 of which are issued and outstanding immediately prior to the Closing; and 13,962,261 of which are designated Series D Preferred Stock, 13,353,333 of which are issued and outstanding immediately prior to the Closing; and 20,109,947 of which are designated Series E Preferred Stock, 15,361,086 of which are issued and outstanding immediately prior to the Closing. All such issued and outstanding shares have been duly

authorized and validly issued in compliance with applicable laws, and are fully paid and nonassessable.

The Company has reserved: (i) 18,498,531 shares of Series E Preferred for issuance hereunder and 20,109,947 shares of Common Stock for issuance upon conversion of all shares of Series E Preferred; (ii) 13,353,333 shares of Common Stock for issuance upon conversion of the outstanding shares of Series D Preferred; (iii) 408,928 shares of Series D Preferred for issuance upon exercise of outstanding warrants and 408,928 shares of Common Stock for issuance upon conversion of such Series D Preferred; (iv) 16,364,832 shares of Common Stock for issuance upon conversion of the outstanding shares of Series C Preferred Stock; (v) 289,792 shares of Series C Preferred Stock for issuance upon exercise of outstanding warrants and 289,792 shares of Common Stock for issuance upon conversion of such Series C Preferred Stock; (vi) 6,460,675 shares of Common Stock for issuance upon conversion of the outstanding Series B Preferred Stock; (vii) 2,727,273 shares of Common Stock for issuance upon conversion of the outstanding Series A Preferred Stock; and (viii) an aggregate of 12,800,000 shares of Common Stock for issuance to employees and consultants of the Company pursuant to the Company's 1999 Stock Option Plan, pursuant to which options to purchase 7,247,691 shares are granted and outstanding and 1,518,223 shares are available for future grant. As of the date hereof and after giving effect to the purchase of Shares hereunder, each share of each series of the Company's Preferred Stock is convertible into one share of the Company's Common Stock. Other than with respect to the shares reserved for issuance in this paragraph, or as set forth in the Ancillary Agreements (as defined below), there are no outstanding rights, options, warrants, conversion rights, preemptive rights, rights of first refusal or similar rights for the purchase or acquisition from the Company of any securities of the Company. There are no outstanding obligations of the Company to repurchase or redeem any of its securities."

3. Amendment to Section 2.16. Solely in connection with the sale of Additional Shares pursuant to this Amendment, Section 2.16 (Financial Statements) of the Purchase Agreement is hereby amended and restated in its entirety as follows:

"The Company has made available to each Purchaser its audited balance sheet dated as of December 31, 2004. The Company has also made available to each Purchaser unaudited balance sheets dated December 31, 2005 and December 31, 2006 and the unaudited statements of operations for the fiscal years then ended (collectively, the "**Financial Statements**"). The Financial Statements are complete and correct in all material respects and have been prepared in accordance with generally

accepted accounting principles applied on a consistent basis throughout the periods indicated. The Financial Statements accurately set out and describe the financial condition and operating results of the Company as of the date, and during the periods, indicated therein. Except as set forth in the Financial Statements, the Company has no material liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to December 31, 2006 and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under generally accepted accounting principles to be reflected in the Financial Statements, which, in both cases, individually or in the aggregate are not material to the financial condition or operating results of the Company."

4. Governing Law. This Amendment shall be governed in all respects by the laws of the State of California, without regard to any provisions thereof relating to conflicts of laws among different jurisdictions.

5. Purchase Agreement. Wherever necessary, all other terms of the Purchase Agreement are hereby amended to be consistent with the terms of this Amendment. Except as specifically set forth herein, the Purchase Agreement shall remain in full force and effect.

6. Counterparts; Facsimile. This Amendment may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one instrument. Executed signatures transmitted via facsimile will be accepted and considered duly executed.

7. Effect of Execution of Amendment by Certain Purchasers. This Amendment, when executed and delivered by the Company and a Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof, shall also constitute and shall be deemed a counterpart signature page to the Purchase Agreement. Consequently, each undersigned Purchaser purchasing shares of Series E Preferred at a Subsequent Closing held on or after the date hereof acknowledges and agrees that he, she or it is bound by the terms and conditions contained in the Purchase Agreement, as amended by this Amendment, with respect to the purchase of such shares.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

COMPANY:

FLUIDIGM CORPORATION
a Delaware corporation

By: /s/ Gajus Worthington
Gajus Worthington,
President and Chief Executive Officer

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

FIDELITY CONTRAFUND:
FIDELITY ADVISOR NEW INSIGHTS FUND

By: /s/ Peter Lydecker

Name: Peter Lydecker

Title: Assistant Treasurer

FIDELITY CONTRAFUND: FIDELITY CONTRAFUND

By: /s/ Peter Lydecker

Name: Peter Lydecker

Title: Assistant Treasurer

VARIABLE INSURANCE PRODUCTS FUND II:
CONTRAFUND PORTFOLIO

By: /s/ Peter Lydecker

Name: Peter Lydecker

Title: Assistant Treasurer

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LEERINK SWANN HOLDINGS, LLC

By: /s/ Jeffrey Leerink

Name: Jeffrey Leerink

Title: Chairman

LEERINK SWANN HOLDINGS, LLC
CO-INVESTMENT FUND, LLC

By: /s/ Donald D. Notman, Jr.

Name: Donald D. Notman, Jr.

Title: Managing Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

Cross Creek Capital, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

Cross Creek Capital Employees' Fund, L.P.

By: Cross Creek Capital GP, L.P.
Its Sole General Partner

By: Cross Creek Capital, LLC
Its Sole General Partner

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Karey Barker

Name: Karey Barker

Title: Vice President

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

WASATCH FUNDS, INC.

By: Wasatch Advisors, Inc.
Its Sole Member

By: /s/ Venice Edwards

Name: Venice Edwards

Title: Secretary

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

SMALLCAP WORLD FUND, INC.

By: **Capital Research and Management Company, its, investment adviser**

By: /s/ Paul Haaga

Name: Paul Haaga

Title:

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

ALLIANCEBERNSTEIN VENTURE FUND I, L.P.

By: **AllianceBernstein ESG Venture Management, L.P., its general partner**

By: **AllianceBernstein Global Derivatives Corporation, its general partner**

By: /s/ James D. Kiggen

Name: James D. Kiggen

Title: Senior Vice President

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

VERSANT AFFILIATES FUND 1-A, L.P.
VERSANT AFFILIATES FUND1-B, L.P.
VERSANT SIDE FUND I, L.P.
VERSANT VENTURE CAPITAL I, L.P.
By: Versant Ventures I, LLC
its General Partner

By: /s/ Samuel D. Colella

Name: Samuel D. Colella

Title: Managing Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LEHMAN BROTHERS HEALTHCARE VENTURE CAPITAL L.P.

By: Lehman Brothers HealthCare Venture Capital Associates L.P., its General Partner
By: LB I Group Inc., its General Partner

By: /s/ Ashvin Rao
Name: Ashvin Rao
Its: Vice President

LEHMAN BROTHERS P.A. LLC

By: /s/ Deborah Nordell
Name: Deborah Nordell
Its: Vice President

LEHMAN BROTHERS PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Group Inc., its General Partner

By: /s/ Ashvin Rao
Name: Ashvin Rao
Its: Vice President

LEHMAN BROTHERS OFFSHORE PARTNERSHIP ACCOUNT 2000/2001, L.P.

By: LB I Offshore Partners Group Ltd., its General Partner

By: /s/ Ashvin Rao
Name: Ashvin Rao
Its: Vice President

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

EUCLIDSR PARTNERS, L.P.

By: EuclidSR Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

EUCLIDSR BIOTECHNOLOGY PARTNERS, L.P.

By: EuclidSR Biotechnology Associates, L.P.
its General Partner

By: /s/ Elaine V. Jones

Name: Elaine V. Jones

Title: General Partner

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

INTERWEST PARTNERS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

INTERWEST INVESTORS VII, L.P.

By: InterWest Management Partners VII, LLC
its General Partner

By: /s/ Michael Sweeney

Name: Michael Sweeney

Title: As agent for the general partner

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

LILLY BIOVENTURES, ELI LILLY & COMPANY

By: /s/ Darren J. Carroll

Name: Darren J. Carroll

Title: Executive Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

ALLOY VENTURES 2005, L.P.

By: Alloy Ventures 2005, LLC
its General Partner

By: /s/ Tony DiBona

Name: Toni DiBona

Title: Managing Member of Alloy Ventures 2005 LLC

ALLOY VENTURES 2002, L.P.
ALLOY PARTNERS 2002, L.P.

By: Alloy Ventures 2002, LLC
its General Partner

By: /s/ Tony DiBona

Name: Tony DiBona

Title: Managing Member of Alloy Ventures 2002, LLC, the general partner of Alloy Partners 2002, L.P. and Alloy Ventures 2002, L.P.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

/s/ Bruce Burrows

BRUCE BURROWS

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

SIGHTLINE HEALTHCARE FUND III, L.P.

By: /s/ Maureen Harder

Name: Maureen Harder

Title: Managing Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

BIOMEDICAL SCIENCES INVESTMENT FUND PTE LTD

By: /s/ Chu Swee Yeok

Name: Chu Swee Yeok

Title: Director

SINGAPORE BIO-INNOVATIONS PTE LTD

By: /s/ Sim Sze Kuan

Name: Sim Sze Kuan

Title: Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the Effective Date.

PURCHASERS:

INVUS, L.P.

By: Invus Advisors LLC
General Partner of Invus LP

By: /s/ Aflalo Guimaraes

Name: Aflalo Guimaraes

Title: Managing Director

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

EXHIBIT A
SCHEDULE OF PURCHASERS
SERIES E PREFERRED STOCK FINANCING – SECOND EXTENDED CLOSING
OCTOBER 26, 2007

Name	Shares of Series E Preferred Stock	Purchase Price
CLIPPERBAY & CO.		
SMALLCAP World Fund, Inc.	2,153,695	$8,614,780.00
TOTALS	**2,153,695**	**$8,614,780.00**

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the 31st day of December, 2007.

COMPANY:

FLUIDIGM CORPORATION
a Delaware corporation

By: /s/ Gajus Worthington
Gajus Worthington,
President and Chief Executive Officer

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Amendment No. 3 to Series E Preferred Stock Purchase Agreement as of the 31st day of December, 2007.

PURCHASER:

/s/ Bruce Burrows

Bruce Burrows

[Signature Page to Amendment No. 3 to Fluidigm Corporation Series E Preferred Stock Purchase Agreement]

EXHIBIT A
SCHEDULE OF PURCHASER
SERIES E PREFERRED STOCK FINANCING – THIRD EXTENDED CLOSING
DECEMBER 31, 2007

Name	Shares of Series E Preferred Stock	Purchase Price
BRUCE BURROWS	250,000	$1,000,000.00
TOTALS	**250,000**	**$1,000,000.00**

EXHIBIT B

FORM OF AMENDED AND RESTATED ARTICLES OF INCORPORATION

FORM OF AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

Gajus V. Worthington and William Smith each certify that:

1. They are the President and Secretary, respectively, of Fluidigm Corporation, a California corporation (the "**Corporation**").

2. The Amended and Restated Articles of Incorporation of the Corporation are hereby amended and restated in full to read as set forth in EXHIBIT A attached hereto, which is incorporated by reference as if fully set forth herein.

3. Said Amended and Restated Articles of Incorporation have been duly approved by the Corporation's Board of Directors.

4. Said Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the corporation is 9,274,356 shares of Common Stock, 2,727,273 shares of Series A Preferred Stock, 6,460,675 shares of Series B Preferred Stock, 16,364,832 shares of Series C Preferred Stock, and 11,714,048 shares of Series D Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding Common Stock, voting as a single class; more than 50% of the outstanding Series A Preferred Stock, voting as a single class; at least 66$^{2}/_{3}$% of the outstanding Series B Preferred Stock, voting as a single class; at least 66$^{2}/_{3}$% of the outstanding Series C Preferred Stock, voting as a single class; at least 60% of the outstanding Series D Preferred Stock, voting as a single class; more than 66$^{2}/_{3}$% of the outstanding Preferred Stock, voting as a single class; and more than 50% of the outstanding Common Stock and Preferred Stock, voting together as a single class.

I further declare under penalty of perjury that the matters set forth in the foregoing certificate are true and correct of my own knowledge.

Executed at Palo Alto, California, this ___ day of June 2006.

Gajus V. Worthington
President

William M. Smith
Secretary

Exhibit A

FORM OF AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

ARTICLE I

The name of the corporation is Fluidigm Corporation.

ARTICLE II

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated under the California Corporations Code.

ARTICLE III

The total number of shares of stock that the corporation shall have authority to issue is One Hundred Twenty-Nine Million Five Hundred Forty-Five Thousand Ninety-Two (129,545,092) consisting of Seventy-Seven Million Eight Hundred Fifty-Seven Thousand One Hundred Forty-Four (77,857,144) shares of Common Stock, $0.001 par value per share, and Fifty-One Million Six Hundred Eighty-Seven Thousand Nine Hundred Forty-Eight (51,687,948) shares of Preferred Stock, $0.001 par value per share. The first series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of Two Million Seven Hundred Twenty—Seven Thousand Two Hundred Seventy—Three (2,727,273) shares. The second series of Preferred Stock shall be designated "Series B Preferred Stock" and shall consist of Six Million Four Hundred Sixty Thousand Six Hundred Seventy-Five (6,460,675) shares. The third series of Preferred Stock shall be designated "Series C Preferred Stock" and shall consist of Seventeen Million (17,000,000) shares. The fourth series of Preferred Stock shall be designated "Series D Preferred Stock" and shall consist of Fifteen Million Five Hundred Thousand (15,500,000) shares. The fifth series of Preferred Stock shall be designated "Series E Preferred Stock" and shall consist of Ten Million (10,000,000) shares.

ARTICLE IV

The terms and provisions of the Common Stock and Preferred Stock are as follows:

1. Definitions. For purposes of this Article IV, the following definitions shall apply:

(a) "Conversion Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock, $2.58 per share for the Series C Preferred

Stock, $2.80 per share for the Series D Preferred Stock, and $4.00 for the Series E Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(b) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities (other than shares of Common Stock) convertible into or exchangeable for Common Stock.

(c) "Corporation" shall mean Fluidigm Corporation.

(d) "Dividend Rate" shall mean an annual rate of $0.11 per share for the Series A Preferred Stock, an annual rate of $0.18 for the Series B Preferred Stock, an annual rate of $0.26 per share for the Series C Preferred Stock, an annual rate of $0.30 per share for the Series D Preferred Stock, and an annual rate of $0.43 per share for the Series E Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(e) "Liquidation Preference" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock, $2.58 per share for the Series C Preferred Stock, $2.80 per share for the Series D Preferred Stock, and $4.00 per share for the Series E Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(f) "Options" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(g) "Original Issue Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 for the Series B Preferred Stock, $2.58 per share for the Series C Preferred Stock, $2.80 per share for the Series D Preferred Stock, and $4.00 per share for the Series E Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(h) "Preferred Stock" shall mean the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, and the Series E Preferred Stock.

2. Dividends.

(a) Series D and Series E Preferred Stock. The holders of outstanding shares of Series D Preferred Stock and the holders of outstanding shares of Series E Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rates specified for such shares of Preferred Stock, payable in preference and priority to any declaration or payment of any distribution on Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Common Stock (collectively, the "**Junior Stock**") of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Junior Stock during any fiscal year of the Corporation, other than dividends on the Common Stock payable solely in Common Stock, until all dividends at the applicable Dividend Rate on the Series E Preferred Stock and Series D Preferred Stock have been declared and paid or set apart for payment to the holders of Series E Preferred Stock and the holders of Series D Preferred Stock. Payment of any dividends to the holders of the Series E Preferred Stock and the Series D Preferred Stock shall be on a pro rata, pari passu basis in proportion to the Dividend Rates for the Series E Preferred Stock and Series D Preferred Stock, as applicable.

The right to receive dividends on shares of Series E Preferred Stock and Series D Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series E Preferred Stock and Series D Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(b) Series C Preferred Stock. The holders of outstanding shares of Series C Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Series A Preferred Stock, Series B Preferred Stock or Common Stock of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Series A Preferred Stock, Series B Preferred Stock or Common Stock during any fiscal year of the Corporation, other than dividends on the Common Stock payable solely in Common Stock, until all dividends at the applicable Dividend Rate on the Series C Preferred Stock have been declared and paid or set apart for payment to the holders of Series C Preferred Stock. The right to receive dividends on shares of Series C Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series C Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(c) Series A Preferred Stock and Series B Preferred Stock. The holders of outstanding shares of Series A Preferred Stock and the holders of outstanding shares of Series B Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Common Stock of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Common Stock, other than dividends payable solely in Common Stock, until all dividends at the applicable Dividend Rate on the Preferred Stock have been declared and paid or set apart for payment to the Preferred Stock holders. Payment of any dividends to the holders of the Series A Preferred Stock and Series B Preferred Stock shall be on a pro rata, pari passu basis in proportion to the Dividend Rates for the Series A Preferred Stock and Series B Preferred Stock, as applicable. The right to receive dividends on shares of Series A Preferred Stock and Series B Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series A Preferred Stock or Series B Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(d) Distribution. For purposes of this Section 2, unless the context otherwise requires, a "**distribution**" shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, payable other than in Common Stock, or the purchase or redemption of shares of the Corporation other than (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors; and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors; and (iii) any other repurchase or redemption of capital stock of the corporation unanimously approved by the Board of Directors and approved by the holders of the majority of the

Common Stock and the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock, voting as separate classes.

(e) Common Stock. Dividends may be paid on the Common Stock as and when declared by the Board of Directors, subject to the prior dividend rights of the Preferred Stock and Section 6 below.

(f) Non-Cash Distributions. Whenever a distribution provided for in this Section 2 shall be payable in property other than cash, the value of such distribution shall be deemed to be the fair market value of such property as determined in good faith by the Board of Directors.

(g) Consent to Certain Repurchases. As authorized by Section 402.5(c) of the California Corporations Code, Sections 502 and 503 of the California Corporations Code shall not apply with respect to payments made by the Corporation in connection with (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors, and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors, and (iii) any other repurchase or redemption of Common Stock unanimously approved by the Board of Directors and approved by the holders of more than two-thirds (2/3) of the outstanding shares of Preferred Stock voting together as a single class.

3. Liquidation Rights.

In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, distribution of the assets of the Corporation legally available for distribution to the Corporation's shareholders shall be made in the following manner:

(a) Series E Liquidation Preference. The holders of the Series E Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, or the Series D Preferred Stock, by reason of their ownership of such stock, an amount per share for each share of Series E Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series E Preferred Stock. If the assets of the Corporation legally available for distribution to the holders of the Series E Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(a), then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series E Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(a).

(b) Series D Liquidation Preference. After payment to the holders of Series E Preferred Stock of the full amounts specified in Section 3(a) above, the holders of the Series D Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the

assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock, the Series B Preferred Stock or the Series C Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series D Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series D Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of Series D Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(b), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series D Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(b).

(c) Series C Liquidation Preference. After payment to the holders of Series E Preferred Stock and to the holders of Series D Preferred Stock of the full amounts specified in Sections 3(a) and 3(b) above, the holders of the Series C Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock or the Series B Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series C Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series C Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series C Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(c), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series C Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(c).

(d) Series B Liquidation Preference. After the payment to the holders of Series E Preferred Stock, the holders of Series D Preferred Stock, and the holders of Series C Preferred Stock of the full amounts specified in Sections 3(a), 3(b), and 3(c) above, the holders of the Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock or Series A Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series B Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series B Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series B Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(d), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series B Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(d).

(e) Series A Liquidation Preference. After the payment to the holders of Series E Preferred Stock, the holders of Series D Preferred Stock, the holders of Series C Preferred Stock, and the holders of Series B Preferred Stock of the full amounts specified in Sections 3(a), 3(b), 3(c) and 3(d) above, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount per share for each share of

Series A Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series A Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series A Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(e), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series A Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(e).

(f) Remaining Assets. After the payment to the holders of Preferred Stock of the full amounts specified in Sections 3(a), 3(b), 3(c), 3(d) and 3(e) above, the entire remaining assets of the Corporation legally available for distribution shall be distributed pro rata to holders of the Common Stock of the Corporation in proportion to the number of shares of Common Stock held by them.

(g) Shares Not Treated as Both Preferred Stock and Common Stock in Any Distribution. Shares of Preferred Stock shall not be entitled to be converted into shares of Common Stock in order to participate in any distribution, or series of distributions, as shares of Common Stock, without first foregoing participation in the distribution, or series of distributions, as shares of Preferred Stock.

(h) Reorganization. For purposes of this Section 3, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any merger effected exclusively for the purpose of changing the domicile of the Corporation) other than a transaction or series of transactions in which the holders of the voting securities of the Corporation outstanding immediately prior to such transaction or series of transactions continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Corporation held by such holders prior to such transaction, at least fifty percent (50%) of the total voting power represented by the voting securities of the Corporation or such surviving entity outstanding immediately after such transaction or series of transactions; or (ii) a sale, transfer, lease or other conveyance of all or substantially all of the assets of the Corporation.

(i) Valuation of Non-Cash Consideration. If any assets of the Corporation distributed to shareholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, except that any securities to be distributed to shareholders in a liquidation, dissolution, or winding up of the Corporation shall be valued as follows:

(i) If the securities are then traded on a national securities exchange or the Nasdaq Stock Market System (or a similar national quotation system), then the value of the securities shall be deemed to be to the average of the closing prices of the securities on such exchange or system over the ten (10) trading day period ending five (5) trading days prior to the distribution;

(ii) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the distribution; or

(iii) if there is no active public market for the securities, then the value of the securities shall be deemed to be the fair market value thereof as determined in good faith by the Board of Directors which determination shall include consideration of the illiquidity of the securities.

In the event of a merger or other acquisition of the Corporation by another entity, the distribution date shall be deemed to the date such transaction closes.

For the purposes of this Section 3(i), "**trading day**" shall mean any day on which the exchange or system on which the securities to be distributed are traded is open, and "closing prices" or "closing bid prices" shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or Nasdaq, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the "regular hours" trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

4. Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

(a) Right to Convert. Subject to Section 4(c), each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the Corporation or any transfer agent for the Preferred Stock, into that number of fully-paid, nonassessable shares of Common Stock determined by dividing the Original Issue Price for the relevant series by the Conversion Price for such series. (The number of shares of Common Stock into which each share of Preferred Stock of a series may be converted is hereinafter referred to as the "**Conversion Rate**" for each such series.) Upon any decrease or increase in the Conversion Price for any series of Preferred Stock, as described in this Section 4, the Conversion Rate for such series shall be appropriately increased or decreased.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share (i) immediately prior to the closing of a firm commitment underwritten initial public offering on Form S-1 (or successor form) filed under the Securities Act of 1933, as amended (the "**Securities Act**"), covering the offer and sale of the Corporation's Common Stock, provided that the offering price per share is not less than $5.69 (as adjusted for subdivisions and combinations of the Common Stock and changes in the Common Stock as set forth in Sections 4(e) and 4(g)) and the aggregate gross proceeds to the Corporation are not less than $25,000,000, or (ii) upon the receipt by the Corporation of a written consent or request for such conversion from the holders of two-thirds of the shares of Preferred Stock then outstanding, or, if later, the effective date for

conversion specified in such requests (each of the events referred to in (i) and (ii) being hereinafter referred to as an "**Automatic Conversion Event**").

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of a share of Common Stock as determined by the Board of Directors. For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, and to receive certificates therefor, he shall either surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock, or notify the Corporation or its transfer agent that such certificate or certificates have been lost, stolen or destroyed and execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificate or certificates, and shall give written notice to the Corporation at such office that he elects to convert the same; provided, however, that on the date of an Automatic Conversion Event, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided further, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such Automatic Conversion Event unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of an Automatic Conversion Event, each holder of record of shares of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

The Corporation shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; provided, however, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the

Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of the sale of such securities.

(d) Adjustments to Conversion Price for Diluting Issues.

(i) Special Definition. For purposes of this Section 4(d), "**Additional Shares of Common**" shall mean all shares of Common Stock issued (or, pursuant to Section 4(d)(iii), deemed to be issued) by the Corporation after the filing of these Articles of Incorporation, other than:

(1) [omitted];

(2) shares of Common Stock issued or issuable to officers, directors and employees of, or consultants and other service providers to, the Corporation pursuant to stock grants, option plans, purchase plans or other employee stock incentive programs or arrangements approved by the Board of Directors or upon exercise of options or warrants granted to such parties pursuant to any such plan, program or arrangement;

(3) shares of Common Stock issued upon the exercise or conversion of Options or Convertible Securities outstanding as of the date of the filing of these Articles of Incorporation;

(4) shares of Common Stock issued or issuable as a dividend or distribution on Preferred Stock or pursuant to any event for which adjustment is made pursuant to Section 4(e), 4(f) or 4(g) hereof;

(5) shares of Common Stock issued in a registered public offering under the Securities Act pursuant to which all outstanding shares of Preferred Stock are automatically converted into Common Stock pursuant to an Automatic Conversion Event;

(6) shares of Common Stock issued or issuable pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided, that such issuances are unanimously approved by the Board of Directors;

(7) shares of Common Stock issued or issuable to banks, equipment lessors or other financial institutions pursuant to a commercial leasing or debt financing transaction approved by the Board of Directors;

(8) shares of Common Stock issued or issuable in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements, or strategic partnerships or relationships, if the issuance is approved by the Board of Directors; and

(9) shares of Common Stock issued or issuable upon conversion of up to $18 million in aggregate principal amount (plus interest) of convertible promissory notes originally issued or issuable to Biomedical Sciences Investment Fund Pte Ltd. or its affiliates ("BMSIF") and upon conversion of up to $3 million in aggregate principal amount (plus interest) of convertible promissory notes originally issued or issuable to Invus, L.P. or its affiliates, *provided*

that with respect to any shares of Common Stock issued or issuable upon conversion of convertible promissory notes issued or issuable to BMSIF after the filing of these Articles of Incorporation with an aggregate principal amount in excess of $3.0 million, such shares of Common Stock shall only be excluded from the definition of Additional Shares of Common pursuant to this section if and to the extent the applicable conversion price for such shares equals or exceeds $3.60 (as adjusted for stock splits, subdivisions, combinations or stock dividends).

(ii) No Adjustment of Conversion Price. No adjustment in the Conversion Price of a particular series of Preferred Stock shall be made in respect of the issuance of Additional Shares of Common unless the consideration per share (as determined pursuant to Section 4(d)(vii)) for an Additional Share of Common issued or deemed to be issued by the Corporation is less than the Conversion Price in effect on the date of, and immediately prior to such issue, for such series of Preferred Stock.

(iii) Deemed Issue of Additional Shares of Common. In the event the Corporation at any time or from time to time after the date of the filing of these Articles of Incorporation shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities or, in the case of Options for Convertible Securities, the exercise of such Options and the conversion or exchange of the underlying securities, shall be deemed to have been issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which shares are deemed to be issued:

(1) no further adjustment in the Conversion Price of the Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock in connection with the exercise of such Options or conversion or exchange of such Convertible Securities pursuant to the terms of such Options or Convertible Securities;

(2) if no adjustment in the Conversion Price of the Preferred Stock was made upon the original issue of (or upon the occurrence of a record date with respect to) such Options or Convertible Securities and such Options or Convertible Securities are revised to provide, or by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, or any increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, then such Options or Convertible Securities as so revised (and the Additional Shares of Common subject thereto) shall be deemed to have been issued effective upon such increase or decrease becoming effective;

(3) if such Options or Convertible Securities are revised to provide, or by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, or any increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price of the Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon,

shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(4) no readjustment pursuant to clause (3) above shall have the effect of increasing the Conversion Price of the Preferred Stock to an amount which exceeds the lower of (i) the Conversion Price of the Preferred Stock on the original adjustment date, or (ii) the Conversion Price of the Preferred Stock that would have resulted from any issuance of Additional Shares of Common between the original adjustment date and such readjustment date;

(5) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

(A) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of such exercised Options plus the consideration actually received by the Corporation upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange, and

(B) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common deemed to have been then issued was the consideration actually received by the Corporation for the issue of such exercised Options, plus the consideration deemed to have been received by the Corporation (determined pursuant to Section 4(d)(vii)) upon the issue of the Convertible Securities with respect to which such Options were actually exercised; and

(6) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Conversion Price which became effective on such record date shall be canceled as of the close of business on such record date, and thereafter the Conversion Price shall be adjusted pursuant to this Section 4(d)(iii) as of the actual date of their issuance.

(iv) Adjustment of Conversion Price of Series E Preferred Stock Upon Issuance of Additional Shares of Common.

(1) For so long as the Conversion Price of the Series E Preferred Stock is greater than $2.58 (as adjusted for subdivisions and combinations of the Common Stock and changes in the Common Stock as set forth in Sections 4(e) and 4(g)) (the "**Series D/E Ratchet Amount**"), in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) for a consideration

per share less than the applicable Conversion Price of the Series E Preferred Stock in effect on the date of and immediately prior to such issue, but for a consideration per share equal to or greater than the Series D/E Ratchet Amount, then the Conversion Price of the Series E Preferred Stock shall be reduced concurrently with such issue to a price (calculated to the nearest cent) equal to the per share price of the Additional Shares of Common.

(2) In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than the Series D/E Ratchet Amount, then the Conversion Price of the Series E Preferred Stock immediately prior to such issue shall be deemed to be equal to the Series D/E Ratchet Amount (the "**Series E Adjusted Conversion Price**"), and such Series E Adjusted Conversion Price shall be further reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Series E Adjusted Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Adjusted Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(iv)(2), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding. Section 4(d)(iv)(3) shall govern adjustments to the Conversion Price of the Series E Preferred Stock after the first adjustment to the Conversion Price of the Series E Preferred Stock pursuant to this Section 4(d)(iv)(2).

(3) After any adjustment to the Conversion Price of the Series E Preferred Stock pursuant to Section 4(d)(iv)(2), in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than Conversion Price of the Series E Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Series E Preferred Stock shall be reduced concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(iv)(3), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding.

(v) Adjustment of Conversion Price of Series D Preferred Stock Upon Issuance of Additional Shares of Common.

(1) For so long as the Conversion Price of the Series D Preferred Stock is greater than the Series D/E Ratchet Amount, in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) for a consideration per share less than the applicable Conversion Price of the Series D Preferred Stock in effect on the date of and immediately prior to such issue, but for a consideration per share equal to or greater than the Series D/E Ratchet Amount, then the Conversion Price of the Series D Preferred Stock shall be reduced concurrently with such issue to a price (calculated to the nearest cent) equal to the per share price of the Additional Shares of Common.

(2) In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than the Series D/E Ratchet Amount, then the Conversion Price of the Series D Preferred Stock immediately prior to such issue shall be deemed to be equal to the Series D/E Ratchet Amount (the "**Series D Adjusted Conversion Price**"), and such Series D Adjusted Conversion Price shall be further reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Series D Adjusted Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Series D Adjusted Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(v)(2), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding. Section 4(d)(v)(3) shall govern adjustments to the Conversion Price of the Series D Preferred Stock after the first adjustment to the Conversion Price of the Series D Preferred Stock pursuant to this Section 4(d)(v)(2).

(3) After any adjustment to the Conversion Price of the Series D Preferred Stock pursuant to Section 4(d)(v)(2), in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than Conversion Price of the Series D Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Series D Preferred Stock shall be reduced concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(v)(3), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible

Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding.

(vi) Adjustment of Conversion Price of Series A, B and C Preferred Stock. In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than the applicable Conversion Price of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock (if affected) shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(vi), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding.

(vii) Determination of Consideration. For purposes of this Section 4(d), the consideration received by the Corporation for the issue (or deemed issue) of any Additional Shares of Common shall be computed as follows:

(1) Cash and Property. Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation before deducting reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with such issue (or deemed issue);

(B) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as reasonably determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common deemed to have been issued pursuant to Section 4(d)(iii) shall be determined by dividing

(X) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating

thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

(Y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(e) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price of each series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Common Stock, the Conversion Prices in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(f) Adjustments for Subdivisions or Combinations of Preferred Stock. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(g) Adjustments for Reclassification, Exchange and Substitution. Subject to Section 3 above ("**Liquidation Rights**"), if the Common Stock issuable upon conversion of the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), then, in any such event, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, each holder of such Preferred Stock shall have the right thereafter to convert such shares of Preferred Stock into a number of shares of such other class or classes of stock which a holder of the number of shares of Common Stock deliverable upon conversion of such series of Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(h) No Impairment. The Corporation will not through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek

to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment. Notwithstanding the foregoing, nothing in this Section 4(h) shall prohibit the Corporation from amending its Articles of Incorporation with the requisite consent of its shareholders and the board of directors.

(i) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(j) Notices of Record Date. In the event that this Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iii) to voluntarily liquidate or dissolve or to enter into any transaction deemed to be a liquidation, dissolution or winding up of the corporation pursuant to Section 3(f);

then, in connection with each such event, this Corporation shall send to the holders of the Preferred Stock at least 14 days' prior written notice of the date on which a record shall be taken for such dividend or distribution (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (ii) and (iii) above.

Each such written notice shall be given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of this Corporation.

The right of the holders of the Preferred Stock to notice hereunder may be waived by the holders of more than two-thirds (⅔) of the outstanding shares of the Preferred Stock voting together as a single class.

(k) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely

for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(l) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Preferred Stock may be waived by the consent or vote of the holders of more than two-thirds (2/3) of the outstanding shares of such series. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Voting.

(a) Restricted Class Voting. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

(b) No Series Voting. Other than as provided herein or required by law, there shall be no series voting.

(c) Preferred Stock. Each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock held by such holder could be converted as of the record date. The holders of shares of the Preferred Stock shall be entitled to vote on all matters on which the Common Stock shall be entitled to vote. Holders of Preferred Stock shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(d) Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

(e) Election of Directors. So long as at least 2,000,000 shares of Series D Preferred Stock (as adjusted for stock splits, subdivisions, combinations or stock dividends with respect to such shares) remain outstanding, the holders of the Series D Preferred Stock, voting as a separate class, shall be entitled to elect two (2) members of the Corporation's Board of Directors at each meeting or pursuant to each consent of the Corporation's shareholders for the election of directors. So long as at least 2,000,000 shares of Series C Preferred Stock (as adjusted for stock splits, subdivisions, combinations or stock dividends with respect to such shares) remain outstanding, the holders of Series C Preferred Stock, voting as a separate class, shall be entitled to elect three (3) members of the Corporation's Board of Directors at each meeting or pursuant to each consent of the Corporation's shareholders for the election of directors. Any additional members of the Corporation's Board of Directors shall be elected by the holders of Common Stock, Series A

Preferred Stock, Series B Preferred Stock, and Series E Preferred Stock, voting together as a single class.

6. Amendments and Changes Requiring Approval of Preferred Stock. As long as any of the Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class:

(a) amend, alter or repeal any provision of the Articles of Incorporation or By-laws of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Preferred Stock or any series thereof;

(b) enter into any transaction or series of related transactions deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to Section 3(f) above;

(c) voluntarily liquidate or dissolve;

(d) declare or pay any distribution (as defined in Section 2(d) except for distributions upon a liquidation or dissolution) with respect to the Common Stock of the Corporation;

(e) permit any subsidiary of the Corporation to sell securities to a third party (other than directors' qualifying shares in the case of subsidiaries outside the United States);

(f) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Preferred Stock;

(g) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, liquidation, redemption, conversion or other rights senior to or on a parity with any series of Preferred Stock or with respect to voting senior to any series of Preferred Stock;

(h) increase or decrease the authorized number of directors of the Corporation; or

(i) amend this Section 6.

7. Amendments and Changes Requiring the Approval of the Series E Preferred Stock.

(a) As long as any of the Series E Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least 60% of the outstanding shares of the Series E Preferred Stock:

(i) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series E Preferred Stock in a manner different from any other series of Preferred Stock; or

(ii) amend this Section 7(a).

(b) As long as any of the Series E Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least a majority of the outstanding shares of the Series E Preferred Stock:

(i) declare or pay any distribution (as defined in Section 2(d) except for distributions upon a liquidation or dissolution) with respect to the Common Stock or Preferred Stock of the Corporation; or

(ii) amend this Section 7(b).

(c) As long as any of the Series E Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least 66 2/3% of the outstanding shares of the Series D Preferred Stock and Series E Preferred Stock voting together as a single class on an as converted to Common Stock basis:

(i) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series E Preferred Stock;

(ii) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series E Preferred Stock or with respect to voting senior to the Series E Preferred Stock; or

(iii) amend this Section 7(c).

8. Amendments and Changes Requiring the Approval of the Series D Preferred Stock.

(a) As long as any of the Series D Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least 60% of the outstanding shares of the Series D Preferred Stock:

(i) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series D Preferred Stock in a manner different from any other series of Preferred Stock; or

(ii) amend this Section 8(a).

(b) As long as any of the Series D Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least a majority of the outstanding shares of the Series D Preferred Stock:

(i) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series D Preferred Stock;

(ii) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series D Preferred Stock or with respect to voting senior to the Series D Preferred Stock;

(iii) declare or pay any distribution (as defined in Section 2(d) except for distributions upon a liquidation or dissolution) with respect to the Common Stock or Preferred Stock of the Corporation;

(iv) increase the authorized number of directors of the Corporation above eleven (11); or

(v) amend this Section 8(b).

9. Amendments and Changes Requiring the Approval of the Series C Preferred Stock. As long as any of the Series C Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least two-thirds (⅔) of the outstanding shares of the Series C Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series C Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series C Preferred Stock;

(c) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series C Preferred Stock or with respect to voting senior to the Series C Preferred Stock;

(d) declare or pay any distribution (as defined in Section 2(d) except for distributions upon a liquidation or dissolution) with respect to the Common Stock or Preferred Stock of the Corporation;

(e) increase the authorized number of directors of the Corporation above eleven (11); or

(f) amend this Section 9.

10. Amendments and Changes Requiring the Approval of the Series B Preferred Stock. As long as any of the Series B Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of at least two-thirds of the outstanding shares of the Series B Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series B Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series B Preferred Stock; or

(c) amend this Section 10.

11. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Article 4 hereof, then the shares so converted shall be cancelled and shall not be issuable by the Corporation. The Articles of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

12. Notices. Any notice required by the provisions of this Article IV to be given to the holders of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

ARTICLE V

1. Limitation of Directors' Liability. The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

2. Indemnification of Corporate Agents. This Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, votes of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to this Corporation and its shareholders.

3. Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article V shall not adversely affect any right of indemnification or limitation of liability permitted under California law relating to acts or omissions occurring prior to such repeal or modification.

EXHIBIT C

SCHEDULE OF EXCEPTIONS

FLUIDIGM CORPORATION

SERIES E PREFERRED STOCK PURCHASE AGREEMENT

UPDATED SCHEDULE OF EXCEPTIONS

October 26, 2007

FLUIDIGM CORPORATION, a Delaware corporation (the "**Company**"), hereby makes the following exceptions and additional disclosure to the representations and warranties set forth in Section 2 of the Series E Preferred Stock Purchase Agreement dated as of June 13, 2007 between the Company and the Purchasers thereunder, as amended by that certain Amendment No.1 dated December 22, 2006, and further amended by Amendment No. 2 dated October 10, 2007 and Amendment No. 3 dated October 26, 2007 (as amended, the "**Agreement**"). Except as otherwise defined herein, all capitalized terms used herein shall have the meanings given them in the Agreement. The section numbers below correspond to the section numbers of the representations and warranties in the Agreement; provided that any information disclosed herein under any section number shall be deemed to be disclosed and incorporated under any other section number under the Agreement where such disclosure would be appropriate.

Nothing in this Schedule of Exceptions is intended to broaden the scope of any representation or warranty contained in the Agreement or to create any covenant. Inclusion of any item in this Schedule of Exceptions (1) does not represent a determination that such item is material or establish a standard of materiality, (2) does not represent a determination that such item did not arise in the ordinary course of business, (3) does not represent a determination that the transactions contemplated by the Agreement require the consent of third parties, and (4) shall not constitute, or be deemed to be, an admission to any third party concerning such item. This Schedule of Exceptions includes brief descriptions or summaries of certain agreements and instruments, copies of which are available upon reasonable request. Such descriptions do not purport to be comprehensive, and are qualified in their entirety by reference to the text of the documents described.

This Schedule of Exceptions reflects exceptions and additional disclosure to the representations and warranties made by the Company set forth in Section 2 of the Agreement as of October 26, 2007, and has not been updated for Subsequent Closings. The Purchaser acknowledges that there may be changes to such exceptions and additional disclosure since October 26, 2007, and accepts the Schedule of Exceptions as of October 26, 2007.

2.1 Organization, Good Standing and Qualification

On July 18, 2007, Fluidigm Corporation, a California corporation ("Fluidigm California") was merged with and into the Company, with the Company being the surviving corporation such that the Company succeeded to all of Fluidigm California's rights and obligations, including those under the Purchase Agreement.

2.3 Subsidiaries

The Company has a wholly-owned subsidiary in Singapore, Fluidigm Singapore Pte. Ltd.

The Company has a wholly-owned subsidiary in the Netherlands, Fluidigm Europe, B.V., which has a wholly-owned subsidiary in France, Fluidigm France, S.A.R.L.

The Company has a wholly-owned subsidiary in Japan, Fluidigm Japan K.K.

2.4 Capitalization

The Company has extended offers of option grants for up to approximately 200,000 shares of Common Stock to certain of the Company's employees and consultants in addition to the options that are currently outstanding. In addition, the Company is currently negotiating or has entered into agreements with consultants and employees for the issuance of options to purchase shares of the Company's Common Stock under the Company's 1999 Stock Option Plan.

In connection with a Development Collaboration and License Agreement (the "**Collaboration Agreement**") entered into on September 22, 2003 between the Company and Glaxo Group Limited ("**Glaxo**") and SmithKline Beecham Corporation ("**SKB**"), the Company issued warrants to purchase 90,000 shares of Series C Preferred Stock and 90,000 shares of Series C Preferred Stock to Glaxo and warrants to purchase 110,000 and 110,000 shares of Series C Preferred Stock to SKB. One of the warrants to purchase 90,000 shares of Series C Preferred Stock issued to Glaxo and one of the warrants to purchase 110,000 shares of Series C Preferred Stock issued to SKB expired pursuant to their terms and are not shown as outstanding in the Agreement.

The Company entered into various agreements with Lighthouse Capital Partners V, L.P. ("Lighthouse") as described in Section 2.14 below. In connection with these transactions, the Company borrowed $13,000,000 under the loan and security agreement and issued a warrant to Lighthouse to purchase 371,428 shares of the Company's Series D Preferred Stock. As of September 30, 2007, the Company owed approximately $9,601,037 under the notes.

The Company is a party to a License Agreement between the Company and the California Institute of Technology ("**Caltech**") dated May 1, 2000, which was amended and restated in June 2002 effective as of May 1, 2002, further amended in June 2003, with a restatement date of May 1, 2004, as further amended March 29, 2007 (collectively, the "**Caltech License Agreement**"). Pursuant to the Caltech License Agreement, the Company was obligated on an annual basis to issue to Caltech 50,000 shares of the Company's Common Stock on each occasion that the Company determined to add patent rights to the license.

The Company and Biomedical Sciences Investment Fund Pte Ltd. ("**BMSIF**") are parties to a Convertible Note Purchase Agreement dated as of December 18, 2003, as amended by Amendment No. 1 to Convertible Note Purchase Agreement dated December 17, 2004 and as further amended by a letter agreement dated June 30, 2005 (collectively, the "**CNPA**"). Pursuant to the CNPA, the Company issued a Convertible Promissory Note, as amended by Amendment to Convertible Promissory Note dated December 17, 2004, and as further amended by Amendment No. 2 to Convertible Promissory Note dated June 30, 2005 (collectively, the "**Note**") to BMSIF in exchange for $2,000,000. In December 2005, upon the successful completion of certain specified milestones by the Company, the principal amount of and the accrued interest under the Note were converted into 832,635 shares of Series D Preferred Stock at a conversion price per share of $2.80.

In addition, as a result of the Company's achieving of such specified milestones, the Company has required BMSIF to purchase an additional convertible promissory note (the "**Supplemental Note**") in the aggregate principal amount of $3,000,000 on June 20, 2006.

The principal amount of and interest on the Supplemental Note was convertible into shares of Series D Preferred Stock of the Company at a conversion price of $2.80 per share (subject to adjustment) upon the earlier of an initial public offering in connection with which the Company's

Preferred Stock has converted into Common Stock or the satisfaction of certain specified milestones. In addition, BMSIF may electively convert the Supplemental Note into shares of Series D Preferred Stock at any time. The principal amount and interest under the Supplemental Note could not be prepaid except under limited circumstances. In July, 2007 upon completion of certain specified milestones by the Company, the principal amount of and the accrued interest under the Supplemental Note were converted into 1,157,142 shares of Series D Preferred Stock at a conversion price per share of $2.80.

The Company and Invus, L.P. are parties to a Convertible Note Agreement dated December 18, 2003, as amended by Amendment No. 1 to Convertible Note Agreement executed in November 2005 (the "**CNA**"). The CNA provides that in the event the Company issues to BMSIF Supplemental Notes in the aggregate principal amount of $3,000,000 upon the happening of certain events, Invus has the right to purchase a convertible promissory note in the principal amount of $3,000,000 (the "**Invus Note**") from the Company. Recently, Invus, L.P. and the Company decided not to issue the Invus Note.

The Company and BMSIF entered into a Convertible Note Purchase Agreement, dated as of August 7, 2006, as amended by that certain Letter Agreement dated November 15, 2006 and as further amended by that certain Letter Agreement dated January 31, 2007 (as amended, the **"2006 CNPA**"). The 2006 CNPA permits the Company to borrow up to $15 million in three $5 million tranches, subject to availability based on the achievement of specified milestones. The Company has sold and issued to BMSIF all three convertible promissory notes, each in the principal amount of $5 million. The initial two convertible promissory notes converted into 1,460,730 and 1,493,607 shares of Series E Preferred Stock on March 31, 2007. Upon conversion of the second convertible promissory note, BMSIF purchased the third (and final) convertible promissory note in the principal amount of $5 million.

In March 2003, the Company entered into (i) a Master Closing Agreement (the "**Master Closing Agreement**") with Oculus Pharmaceuticals, Inc. ("**Oculus**") and the University of Alabama Research Foundation ("**UABRF**"); (ii) a License Agreement with UABRF; and (iii) a Sponsored Research Agreement with UABRF. The Company is obligated to issue up to $2,100,000 of additional shares of its stock to UABRF in connection with the satisfaction of certain milestones. If the Company is a private Company at the time a milestone is achieved, upon achievement of a milestone, the Company is to issue shares of the series of Preferred Stock that was issued in the Company's most recent financing and the shares are to be valued at the price the shares were sold in such financing. If the Company is a public company at the time a milestone is achieved, upon achievement of a milestone, the Company is to issue shares of Common stock valued at the average closing price of the Company's Common Stock over the five trading days preceding the achievement of the milestone. In February 2005, UABRF sent a letter to the Company requesting issuance of the shares in relation to the milestones. The Company replied in writing that the milestones had not been satisfied and that it had no obligation to issue the shares at that time. The Company achieved a milestone in 2006 and as a result issued $600,000 worth of shares of its Series D Preferred Stock to UABRF and other designated parties. Following the satisfaction of the milestone, the parties have been negotiating the Company's continuing obligations, if any, under the agreements identified above, which may include an obligation on the part of the Company to issue additional shares of its stock to UABRF.

The Company is party to an offer letter with Richard DeLateur, the Company's Chief Financial Officer, which provides that in the event of a Change of Control (as defined in the offer letter) 50% of the shares subject to the option granted to Mr. DeLateur in connection with his acceptance of

employment with the Company that are unvested at the time of such Change of Control shall become immediately vested.

The Company has approved an issuance of 6,000 shares of the Company's Common Stock to Stanford University. Such issuance has not been completed.

See Section 2.10(f) regarding Dr. Stephen R. Quake.

2.7 Government Consents

The Company makes no representation or warranty with respect to any consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with any foreign governmental entity and has assumed for purposes of the Agreement that none of the foregoing is required.

2.8 Litigation

See Section 2.10(a).

The Company has received a letter from a supplier of certain materials used in the Company's Topaz and certain other products requesting that the Company cease and desist using a lid with the materials or obtain a license from the supplier for using the design of the lid. Upon investigation, the Company determined that it had developed the lid design independently from the supplier and also began developing alternates to the materials, which are currently approved for manufacturing. The Company wrote a letter explaining these opinions to the supplier and the parties have been in negotiations regarding this matter resulting in the supplier providing a proposed settlement agreement with a $55,000 buy-out option for the Company and the Company replied with a revised draft settlement agreement. The Company is currently waiting for the supplier to comment on the revised draft settlement agreement.

2.9 Employees

William Smith, the Company's general counsel, is currently working for the Company and also remains a partner at Townsend and Townsend and Crew LLP. Mr. Smith serves on the Board of Directors of two private companies, Theracos Corporation and Arbor Vita Corporation.

Richard DeLateur, the Company's Chief Financial Officer, currently works four days a week and it is anticipated that Mr. DeLateur's service will decrease and his employment with the Company will terminate. Mr. DeLateur and the Company do not have a schedule for the eventual termination of Mr. DeLateur's employment.

2.10 Patents and Other Intangible Assets

2.10(a)

The Company has rights to the patents, trademarks and applications listed on Schedule 2.10 attached hereto, although some of the patent rights listed may not currently be being utilized by the Company in, and may not be necessary for, the Company's business as now conducted. The Company's registered domain names are fluidigm.com, fluidigm.net, fluidigm.biz, fluidigm.info and mycometrix.com.

The Company currently is selling two product lines: (i) the Topaz crystallization microprocessors (also referred to as Integrated Fluidic Circuits or IFCs) and certain associated apparatuses; and (ii) the BioMark System, including certain IFCs, such as Dynamic Array chips, Digital Array chips (also referred to as DID chips) and ImmunoMatrix chips, as well as certain associated apparatuses. The Company has not completed investigations with respect to the Intellectual Property Rights required for the BioMark System product line or for additional applications of the Company's technology. In conjunction with this analysis, the Company has sought and will continue to seek opinions from counsel with respect to potentially relevant third party patent rights directed to, e.g., certain RealTime PCR and other PCR reagents and instruments, such as assigned to Roche Molecular Systems and/or Applied BioSystems, an Applera Corporation Business. The Company, therefore, may need to acquire additional Intellectual Property Rights to pursue those lines of business, particularly with respect to microfluidic devices for PCR and other assays, although the Company has not presently determined that blocking Intellectual Property Rights of others exist in this regard.

The Company has entered into a Collaboration Agreement dated January 24, 2005 (the "**CTI Collaboration Agreement**") with CTI Molecular Imaging, Inc. (subsequently acquired by Siemens) ("**CTI**"), under which the parties are to develop microfluidic chips and associated apparatuses for use in positron emission tomography ("**PET**"). Under the CTI Collaboration Agreement, both CTI and the Company have granted licenses to the other as necessary to conduct the research and development program contemplated by the CTI Collaboration Agreement. The Company has also granted CTI an option under certain of the Company's intellectual property to manufacture chips developed during the collaboration. The Company also has rights to intellectual property developed under the Collaboration Agreement, subject to certain restrictions under which CTI and certain other collaborating entities have specified rights in the defined PET and associated fields. Recently, Siemens notified the Company that it does not intend to exercise the option or continue the research and development program. Discussions are underway relating to the early termination of the Collaboration Agreement, and for the Company to obtain all rights to intellectual property developed under the CTI Collaboration Agreement, including intellectual property rights arising from (i) a patent application filed by Siemens and Caltech in which the Company believes that certain Company scientists should have been named as co-inventors; (ii) additional patent applications in the PET field allegedly filed by or on behalf of Siemens potentially with Caltech inventors; and (iii) CTI activities with third parties. The Company and Siemens have agreed starting in 2007 to not engage in further funded research under the CTI Collaboration Agreement.

The Company is licensee under a series of agreements with the President and Fellows of Harvard College, under which the Company pays royalties to Harvard. The Company renegotiated the terms of its agreements with Harvard and reduced the number of licenses from five to three, effective in January 2005. The Company and Harvard will be discussing potential royalty obligations of the Company to Harvard relating to transactions where the Company has received revenue but has not directly charged for product transfers, such as for certain microfluidic chips.

In January 2003, the Company entered into a Patent License Agreement with Gyros pursuant to which the Company received a non-exclusive license to certain patents from Gyros relating to the Company's products. In exchange for the license, the Company has made certain payments to Gyros. In January 2004, the Company exercised an option to add an additional field of use to the scope of the license agreement in exchange for a cash payment. In January 2007, the Company did not elect or pay for another additional field for, e.g., ImmunoMatrix chips, for which the Company has conducted and is continuing to conduct research and development activities. The Company and Gyros have had discussions regarding the extension of the field and Gyros has offered such extension pursuant to the terms of the Patent License Agreement. In addition, the Company is obligated to make royalty

payments on certain Company products incorporating the technology licensed from Gyros. The amounts otherwise paid by the Company may be used as a credit with respect to the royalty payments. The agreement provides for certain indemnity obligations of the Company.

With respect to certain patent filings then-controlled by Oculus Pharmaceuticals with overlapping claims to the Syrrx patent referred to in the paragraph below, the Company entered into in March 2003 (i) the Master Closing Agreement; (ii) a License Agreement with UABRF (the "**UABRF License Agreement**"); and (iii) a Sponsored Research Agreement with UABRF. The license is an exclusive license, subject to certain exceptions (including rights UABRF may have previously granted Diversified Scientific, Inc. so that Diversified Scientific could perform research obligations under grants). UABRF and affiliated entities have the right to internal use of the intellectual property rights and to fulfill obligations under a National Institutes of Health grant. Pursuant to the Master Closing Agreement, the Company made an up-front payment to UABRF and granted UABRF shares of the Company's Series C Preferred Stock. The Company is obligated to issue additional shares of its stock to UABRF in the event certain milestones are achieved as described in Section 2.4 hereof. In connection with the satisfaction of a milestone, the Company may become obligated to enter into a non-transferable site license so that an entity will have the right to use the technology licensed to the Company for internal drug discovery efforts. Pursuant to the Sponsored Research Agreement, the Company agreed to support a UABRF research program. The Sponsored Research Program Agreement contains certain terms relating to the license of intellectual property rights arising out of the program. The Company has certain indemnification obligations pursuant to the agreements referred to in this paragraph.

In conjunction with the development of the Company's protein crystallization microprocessor prototype, the Company became aware of U.S. Patent no. 6,296,673, issued to the Regents of the University of California (the "**Regents**") and apparently exclusively licensed to Syrrx Corporation (note: Sam Colella of Versant Ventures, Chairman of the Company's Board of Directors, used to be Chairman of Syrrx, which has been acquired by Takeda Pharmaceutical Company Limited). Based on Syrrx's contentions of infringement with respect to the patent, related patent applications and the Company's products, the Company has sought and obtained a patent opinion from counsel with respect to the patent and entered into license negotiations with Syrrx for a license/sublicense to the patent and other patent filings assigned to the Regents and Syrrx. In December 2003, the Company entered into a license agreement with Syrrx (the "**Syrrx License Agreement**"), pursuant to which, in exchange for a field restricted and nonexclusive license under intellectual property owned or controlled by Syrrx, the Company issued Syrrx shares of the Company's Common Stock, made an up-front payment and annual minimum payments. In addition, the Company is obligated to pay a royalty in connection with the sale of certain products of the Company that incorporate the intellectual property licensed and is obligated to indemnify Syrrx for matters relating to the practice by the Company of any license or sublicense under the agreement. In January 2006, an interference was declared by the USPTO between a patent application licensed to the Company under the UABRF License Agreement and the above-identified patent and other related patents. While the interference was ongoing, the Company, Syrrx, UABRF and Athersys, Inc. (a company that allegedly acquired certain rights from Oculus) were in negotiations to settle the interference and modify the parties' obligations under the Syrrx License Agreement, the Master Closing Agreement, and the UABRF License Agreement. Recently, in an appealable decision, the USPTO invalidated all claims of both parties in the interference, and Syrrx decided not to appeal. Due to this decision and these negotiations, the Company may decide not to maintain the Syrrx License Agreement in 2008.

The Company is aware of patents and patent applications controlled by Micronics Corporation and Diversified Scientific, Inc. that potentially relate to the Company's protein crystallization product

line. The Company has sought and obtained opinions from patent counsel regarding such patents and has conducted preliminary discussions with each of these entities regarding the possibility of obtaining a license to the relevant intellectual property. The necessity of obtaining a license from each and the outcome of such negotiations remain uncertain although in certain Micronics patent applications watched by the Company, the claims have been amended to not cover the Company's protein crystallization product line. In February 2005, Diversified Scientific announced a plan to auction its recently broadened (by USPTO re-examination) patent and other intellectual property related to crystal image analysis. The Company indicated interest to Diversified Scientific in submitting a bid. Diversified Scientific replied that it would respond to the Company and additional interested bidders after checking with their counsel on certain legal issues relating to the apparently improper broadening of patents by re-examination. The Company has not received a further response from Diversified Scientific.

With respect to the patents and patent filings described in the foregoing paragraph, those relating to the BioMark System described above and those not subject to the CTI Collaboration Agreement, there can be no assurance that the Company will be able to obtain licenses on terms acceptable to the Company. In addition, there can be no assurance that the holders of such patents or patent filings will not initiate and prevail in litigation against the Company with respect to the patents or patent filings.

The Company routinely investigates patents held by third parties to determine whether there may be any conflict with the Company Intellectual Property Rights. While such investigations are ongoing, the Company is not currently aware of any conflict except as disclosed herein.

With respect to certain microfluidics protein crystallization technology licensed to the Company from Caltech, a University of California scientist, Dr. James Berger, is a co-inventor of this technology along with certain Caltech scientists. Therefore, the Regents of the University of California own certain rights in the invention which the Company understands have been licensed to Caltech. The Company has sublicensed these rights from Caltech. As the Company is a sublicensee, if Caltech's license from the Regents were to be revoked or terminated for any reason, the Company's ability to practice and license this technology internationally would be subject to certain limitations.

See also the discussion of the possible new collaboration agreement in Section 2.17 below, the Company's license agreement with Caltech in Section 2.10(b) below and the discussion of the Company's letter from a supplier in Section 2.8 above.

2.10(b)

See Section 2.10(a) above and Schedule 2.10 attached hereto. In addition, in connection with sales of the Company's products, the Company's standard terms and conditions include limited licenses to use the Company's products, including licenses to the Company's software. The Company also has entered into (i) several prototype and other evaluation agreements and material transfer agreements with third parties, which agreements provide for the third party's use of the Company's products for a limited period of time typically in return for grant-back licenses to the Company of improvements, and (ii) material transfer agreements in which the parties may assign to each other certain intellectual property rights. The Company has sold BioMark System prototypes and products and is entering into agreements with respect to additional sales, evaluations and development agreements relating to the BioMark System. The Company typically negotiates either standstill, grant-back or other rights to certain inventions made by the Company or third parties using the prototypes. The Company intends to continue to negotiate collaboration or other agreements with third parties.

The Exclusive Patent License Agreement dated November 2, 2000 with the Regents listed in Schedule 2.10 requires the Company to make efforts to commercialize products relating to the technology licensed to the Company. The Regents sent the Company a notice of termination of the agreement in part due to the alleged failure of the Company to make such efforts. The Regents rescinded the notice of termination and the Company intended to renegotiate the agreement to modify the requirement that the Company make efforts to commercialize the technology. The Company has received a request from the Regents for reports and diligence relating to the agreement. The Company and Regents agreed to terminate the agreement with no further obligations of either party.

In connection with entering into the most recent amendment to the Caltech License Agreement, and in response to a request from Caltech, the Company terminated its license of certain patent rights that it deemed not material to the Company's business as currently conducted in exchange for a cash payment from Caltech and a reduction in the Company's potential obligation to issue stock to Caltech. The Company understands that Caltech has licensed these patent rights to another entity, Helicos Biosciences Corporation. Dr. Steve Quake, a former director of and former consultant to the Company, co-founded Helicos, and Versant Ventures, a significant investor in the Company, is also a significant investor in Helicos. The Company believes that a conflict could exist between the license Caltech granted to Helicos and Caltech's license of patent rights to the Company, if Caltech's license with Helicos does not specifically exclude the patent rights granted to the Company. The patent rights licensed from Caltech to Helicos include a cross-reference to, and disclosure relating to, the patent rights the Company licenses from Caltech. Effective April 23, 2007, as amended May 11, 2007, the Company executed an Intellectual Property Agreement with Caltech and Helicos.

2.10(c)

See discussions in Sections 2.10(a) and (b) above.

2.10(d)

The Company utilizes certain inventions developed by Steve Quake (See discussions in Section 2.10(f) below) prior to the formation of the Company and the inventions of certain employees developed while they were working or studying at Caltech. The Company has rights to these inventions pursuant to its license agreements with Caltech described in Schedule 2.10 attached hereto.

See discussion in Section 2.9 relating to William Smith. Townsend and Townsend and Crew LLP from time to time provides legal services to Caltech and other parties with whom the Company has business relationships.

2.10(e)

See discussion in Section 2.10(b).

Steve Quake and certain employees of the Company who previously worked at or studied at Caltech have a right, pursuant to their agreements with Caltech, to receive a portion of the royalties Caltech receives under its license agreements with the Company described in Schedule 2.10 attached hereto.

The Company has license agreements with shareholders of the Company. Those license agreements are listed on Schedule 2.10 attached hereto.

The Company's employees have executed proprietary information and invention assignment agreements in favor of the Company. The Company has executed consulting agreements with its consultants and non-disclosure agreements with third parties.

From time to time university collaborators may be on the Company's premises conducting research with the Company's chips. The Company typically does not enter into agreements relating to these arrangements. The Company has entered into an agreement with a collaborator from Regents.

2.10(f)

See discussion in Sections 2.10(a), 2.10(b) and Section 2.10(e).

The Company's rights with respects to the research and development efforts of Steve Quake are limited to those rights it has obtained through its licenses with Caltech described in Schedule 2.10 attached hereto and its consulting agreement with Steve Quake. As Dr. Quake has transferred to Stanford University effective in early 2005, the Company negotiated with Caltech to modify the Company's right to receive license rights from the Quake laboratory at Caltech. The Company also has negotiated a Material Transfer Agreement with Stanford University to obtain, for a limited term, license rights to certain inventions made by the Quake laboratory at Stanford University and is in negotiations for additional such agreements. Dr. Quake has been appointed an investigator by the Howard Hughes Medical Institute ("**HHMI**"). In connection with such appointment, Dr. Quake's affiliation with the Company (including, without limitation, stock ownership and status as a member of the Board of Directors of the Company) and the Company's rights to inventions from the Quake laboratory at Stanford University and Caltech have been eliminated or substantially curtailed. The Company has negotiated a new consulting agreement with Dr. Quake in accordance with HHMI guidelines; such consulting agreement provides for certain guaranteed payments over a multi-year time period. In addition, Dr. Quake has resigned from the Company's Board of Directors and on June 5, 2006 the Company has repurchased 123,974 shares of Dr. Quake's Common Stock holding in the Company to comport with HHMI guidelines.

2.10(h)

The Company notes that it has given the opportunity to the Purchasers to conduct any due diligence investigation that such Purchasers deemed necessary and has provided each Purchaser with all of the information that such Purchaser has requested.

2.11 Compliance with Other Instruments

See discussions in Section 2.10(a) regarding the Syrrx License Agreement and in Section 2.10(b).

2.12 Permits

The Company's subsidiary in Singapore has applied for various permits relating to the conduct of business in Singapore, some of which may not been granted.

2.13 Environmental and Safety Laws

The Company has received the following environmental reports pertaining to property that the Company leases.

1. ENVIRONMENTAL DUE DILIGENCE REVIEW OF THE SIERRA POINT ASSOCIATES TWO PROPERTIES BRISBANE AND SOUTH SAN FRANCISCO, CALIFORNIA, dated February 4, 1998, prepared by ENVIRON Corporation, Emeryville, California
2. UPDATE OF ENVIRONMENTAL DUE DILIGENCE REVIEW, PARCEL 10, SHORELINE COURT, SIERRA POINT, SOUTH SAN FRANCISCO, CALIFORNIA, dated December 14, 1998, prepared by Harding Lawson Associates, Novato, California
3. FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND ENVIRONMENTAL RESTRICTIONS RELATING TO ENVIRONMENTAL COMPLIANCE FOR SIERRA POINT, dated August 5, 1999, recorded by Luce, Forward, Hamilton and Scripps, San Diego, California
4. SUPPLEMENTAL ENVIRONMENTAL DUE DILIGENCE, PARCEL 10, SHORELINE COURT, SIERRA POINT, SOUTH SAN FRANCISCO, CALIFORNIA, dated August 24, 1999, prepared by Harding Lawson Associates, Novato, California

Each of the reports has been made available to the Purchasers. The Company has not investigated any of the matters contained in the reports.

2.14 Title to Property and Assets

The Company and General Electric Capital Corporation ("**GECC**") entered into a Master Security Agreement (which was amended in February 2004), pursuant to which the Company has borrowed an aggregate principal amount of $6,230,152 (out of an aggregate available under the Master Security Agreement of $11,000,000) from GECC pursuant to the terms of the Master Security Agreement and series of promissory notes. The loans relate to purchases of the Company of certain equipment and software (subject to certain restrictions). The notes bear interest at rates between 8% and 9% per annum and are repaid in periodic monthly installments over 42 months from the date of issuance of each respective promissory note (except with respect to loans relating to computer equipment and software, which must be paid over 36 months). The Company's obligations under the notes and Master Security Agreement are secured by a lien on fixed assets financed with the loans. In addition, Comerica Bank has issued a letter of credit in the amount of $500,000 for the benefit of GECC as security for the loans, which is secured by a $500,000 cash account of the Company's at Comerica Bank. As of September 30, 2007, the Company owed approximately $1,340,433 under the notes.

In March 2005, the Company and Lighthouse entered into a Loan and Security Agreement, a Management Rights letter agreement, a Negative Pledge Agreement and certain other agreements (collectively, the "**Lighthouse Agreements**"). Pursuant to the Lighthouse Agreements, the Company has borrowed $13,000,000 from Lighthouse, $9,601,037 of which was outstanding as of September 30, 2007. The amounts loaned bear interest at the prime rate plus 2.5% and are to be repaid in 48 monthly installments from the execution date of March 2005. Pursuant to the Loan and Security Agreement, the Company granted Lighthouse a lien on and security interest in all of the Company's assets (subject to certain limited exceptions and excluding intellectual property rights (but not proceeds from the sale thereof) as set forth in the Lighthouse Agreements). Pursuant to the Negative Pledge Agreement, the Company is generally prohibited from transferring or encumbering intellectual property and certain other assets. The Lighthouse Agreements contain various affirmative and negative covenants of the

Company. In connection with the Lighthouse Agreements, the Company issued to Lighthouse a warrant as described in Section 2.4 hereof. The Company's ability to pay amounts that may arise under convertible promissory notes issued, or that may be issued, to BMSIF and Invus is limited under the Lighthouse Agreements, and BMSIF and Invus entered into a Subordination Agreement with Lighthouse (which limits their right to receive payment on the convertible promissory notes).

The Company has issued letters of credit of $250,000 and $137,527 for security deposits under the subleases for its headquarters facility in South San Francisco, California (see Section 2.15(b)). In addition, the Company has issued a letter of credit for the benefit of GECC in the amount of $500,000. These letters of credit are secured by cash accounts of the Company in those amounts.

2.15 Agreements; Actions

2.15(a)

The Company has been a party to consulting agreements with Lincoln McBride, the Company's former Chief Technology Officer and vice president of engineering, and Paul Wyatt, the Company's former vice president of Topaz development and operations.

See 2.10(f) regarding Dr. Steve Quake's consulting agreements.

The Company has entered or intends to enter into indemnification agreements with each of the Company's existing officers and directors.

The Company is a party to offer letters with each of its officers.

The Company has entered into agreements relating to confidentiality and assignment of inventions with employees and enters into various agreements with employees of its subsidiaries (including, without limitation, employment agreements) customary in the jurisdiction of incorporation of the subsidiary.

The Company and/or a subsidiary of the Company have entered into agreements with third parties relating to their service on the Board of Directors of subsidiaries of the Company (due to requirements that a citizen of the place of incorporation of the subsidiary be a member of the subsidiary's Board of Directors). Among other things, such agreements contain provisions relating to indemnification.

The Company has entered into a letter agreement with Marc Unger, an employee, regarding Mr. Unger's ownership of shares and options to purchase shares of the Company's Common Stock.

In connection with the October 2001 Series C Preferred Stock financing, the Company entered into letter agreements with GE Equity Capital Investments, Inc., containing certain confidentiality and indemnification provisions and with Piper Jaffray Healthcare Venture Fund III, L. P. providing for certain matters with regard to the Small Business Investment Act.

In January 2004, the Company lent Gajus V. Worthington, the Company's Chief Executive Officer, $250,000 to be used in connection with Mr. Worthington's purchase of a residence. The loan bears interest at a rate of 3.52% per annum and the principal and interest are not due and payable for 7 years after the date of the loan (or earlier upon the happening of certain events). The loan is secured by 833,334 shares of the Company's Common Stock, which are the only recourse of the Company in the event of a default under the loan. The number of shares of Common Stock that secure the loan is

subject to reduction at Mr. Worthington's election in the event that fair market value of the Company's Common Stock (as determined by the Company's Board of Directors) exceeds the outstanding principal and interest due under the loan.

See Sections 2.4 and 2.15(b) below relating to agreements with BMSIF.

2.15(b)

See Schedule 2.10 attached hereto and discussion in Section 2.10. Each of the agreements described or listed on Schedule 2.10 or in Section 2.10 may involve payments or obligations in excess of $100,000 and/or the license of proprietary rights.

See Section 2.14 regarding the GECC and Lighthouse loans.

In March 2004, the Company entered into a new sublease agreement with Genome Therapeutics Corporation (now Oscient Pharmaceuticals) relating to a portion of the Company's headquarters in South San Francisco, California. The term of the sublease expires in December 2007. The monthly rental payments were approximately $70,000 per month between March 2004 through September 2004. The monthly payments thereafter decreased to approximately $44,000 per month and increased approximately 3.5% annually beginning January 2006. In addition to these amounts, the Company is obligated to pay its share of common area maintenance and other costs and taxes.

In addition to the sublease agreement with Genome Therapeutics, the Company entered into a second sublease in March 2004 with MJ Research, Inc. (subsequently assigned to Are-San Francisco No. 17, LLC) relating to an additional portion of the Company's headquarters in South San Francisco, California. The term of the sublease expires in December 2007. The monthly rental payments were approximately $56,000 between April 2004 through December 2004. The monthly payments thereafter increased to approximately $58,000 per month and further increase annually by approximately 3.5% beginning in April 2005. In addition to these amounts, the Company is obligated to pay its share of common area maintenance and other costs and taxes.

The Company has entered into negotiations to extend each of the above leases from January 2008 to February 2011.

The Company has entered into leases or subleases relating to its subsidiaries in Osaka, Japan, Tokyo, Japan, Singapore and Hamburg, Germany, the last of which has terminated.

See Section 2.4, in particular with respect to the Company and BMSIF in conjunction with the convertible notes.

In certain instances, the Company has agreed to indemnify purchasers of the Company's products and certain of the Company's suppliers (such as Eppendorf AG) with respect to infringements of proprietary rights.

2.15(e)

A limited number of the Company's employees hold corporate purchasing credit cards. The Company is liable to the credit card company for the amounts charged.

2.15(f)

The Company has from time to time had discussions regarding mergers, acquisitions and sales of all or substantially all of the assets of the Company.

2.16 Financial Statements

The Company has made available unaudited Financial Statements for the periods ended December 31, 2005 and December 31, 2006.

The unaudited Financial Statements do not contain the footnotes required by generally accepted accounting principles and are subject to year-end audit adjustments.

2.17 Changes

Changes are reflected since December 31, 2007.

See Section 2.10 and Schedule 2.10 attached hereto.

The Company has entered into licenses of its intellectual property in the ordinary course of business.

The Company may enter into a collaboration agreement related to the development of certain specialized Dynamic Array chips for a third party that may involve revenue and liabilities in excess of $100,000, such as for indemnification.

2.18 Brokers or Finders

The Company entered into an engagement letter with Leerink Swann & Company, dated August 13, 2007.

In June 2006, Fluidigm was the recipient of a Small Technology Transfer Innovation Research (STTR) grant from the National Institutes of Health in the amount of $1,000,000 over two years. Under the grant, the Company will perform research and development activities to design a diffraction capable Topaz screening chip.

2.19 Qualified Small Business Stock

With respect to the qualification of the Shares as “qualified small business stock” under Section 1202(c) of the Code, the Company makes the following representations, each as of the date hereof: (a) the Company is a domestic C corporation, provided that the Company wholly owns non-U.S. corporate subsidiaries; (b) the Company’s gross assets have not exceeded $50 million in value at any time through the time immediately following the issuance of the Shares within the meaning of Section 1202(d); (c) the Company has not made any purchases of its own stock during the one-year period preceding the Closing with an aggregate value exceeding 5% of the aggregate value of all its stock as of the beginning of such period, disregarding de minimus redemptions within the meaning of Treasury Regulation Section 1.1202-2(b)(2); (d) the Company is engaged in a qualified trade or business as defined in Section 1202(e); and (e) 80% of the Company’s assets are used in the active conduct of that qualified trade or business.

2.20 Employee Benefit Plans

The Company offers health, vision and dental benefits, paid time off and sick leave.

The Company's subsidiaries are subject to certain statutory requirements in their jurisdiction of incorporation relating to employee benefits. Such requirements differ from requirements in the United States.

2.21 Tax Matters

The Company's subsidiaries in the Netherlands and Singapore have received extensions to file tax returns in the respective countries.

2.24 Disclosure

The Company notes that it has given the opportunity to the Purchasers to conduct any due diligence investigation that such Purchasers deemed necessary.

The Company has provided projections to certain Purchasers at their request. For purposes of these projections, the Company has assumed, among other things, that the Company is granted tax incentives and research and development grants in Singapore that are acceptable to the Company and that the workforce to be employed at the Company's subsidiary in Singapore is capable of delivering upon the Company's plans in Singapore. In addition, the Company's revenues were lower than the Company's plan/forecasts. Moreover, actuals provided are currently under audit and subject to revision. The Company is unable to predict with any certainty its revenue for any future period, including the present quarter, and its ability to generate revenue is subject to risks and uncertainties.

EXHIBIT D

FORM OF EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

FLUIDIGM CORPORATION

FORM OF

EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

June 13, 2006

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT (the "**Agreement**") is entered into as of June , 2006 by and among Fluidigm Corporation, a California corporation (the "**Company**"), the persons set forth on EXHIBIT A hereto (the "**New Investors**"), the persons set forth on the Schedule of Founders attached hereto as EXHIBIT B (the "**Founders**"), and the persons set forth on EXHIBIT C hereto (the "**Prior Investors**"). The Prior Investors and the New Investors are referred to herein collectively as the "**Investors**."

RECITALS

WHEREAS, the Company and the New Investors have entered into a Series E Preferred Stock Purchase Agreement of even date herewith (the "**Purchase Agreement**") pursuant to which the Company shall sell, and the New Investors shall acquire, shares of the Company's Series E Preferred Stock;

WHEREAS, the Company has granted certain registration rights and other rights to the Founders and the Prior Investors pursuant to that certain Seventh Amended and Restated Investor Rights Agreement dated August 16, 2005 (the "**Prior Agreement**"); and

WHEREAS, as an inducement to the New Investors to purchase shares of the Company's Series E Preferred Stock pursuant to the Purchase Agreement, the Company, the Prior Investors and the Founders desire to amend and restate the Prior Agreement to allow the New Investors to become a party to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties agree as follows:

SECTION 1

Restrictions on Transferability; Registration Rights

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

"**Affiliate**" shall have the meaning set forth in Rule 405 of the Securities Act; provided that for AllianceBernstein L.P. and its permitted transferees, the definition of "Affiliate" shall also include (i) any general partner, officer or director of such person, (ii) any private equity or venture capital fund now or hereafter existing (a "**Fund**") for which such person or an Affiliate of such person is a general partner or management company, and (iii) if such person is a Fund, any other Fund that is directly or indirectly controlled by or under common control with one or more general partners of such person, or that shares the same management company with such person or an Affiliated management company.

"**Commission**" shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

"**Eligible Securities**" shall mean (i) the Series A Preferred Stock issued pursuant to the Series A Preferred Stock Purchase Agreement dated December 1, 1999; (ii) the Series B Preferred Stock issued pursuant to the Series B Preferred Stock Purchase Agreement dated July 5, 2000; (iii) the Series C Preferred Stock issued pursuant to the Series C Preferred Stock Purchase Agreement dated October 23, 2001; (iv) the Series C Preferred Stock issued pursuant to the Series C Preferred Stock Purchase Agreement dated November 1, 2002; (v) the Series C Preferred Stock issued pursuant to the Series C Preferred Stock and Warrant Purchase Agreement dated September 22, 2003; (vi) the Series D Preferred Stock issued pursuant to the Series D Preferred Stock Purchase Agreement dated December 18, 2003; (vii) the Series D Preferred Stock issued pursuant to the Series D Preferred Stock Purchase Agreement dated August 16, 2005; (viii) the Series D Preferred Stock issued upon conversion of convertible promissory note(s) issued pursuant to the Convertible Promissory Note Purchase Agreement (the "**CNPA**") dated December 18, 2003, as amended by Amendment No. 1 to Convertible Note Purchase Agreement dated December 17, 2004, between the Company and Biomedical Sciences Investment Fund Pte Ltd (the "**BMSIF**"); (ix) the Series D Preferred Stock issued upon conversion of convertible promissory note(s) issued in connection with the Convertible Note Agreement (the "**CNA**") dated December 18, 2003, between the Company and Invus, L.P. (the "**Invus**"); (x) the Series E Preferred Stock issued pursuant to the Purchase Agreement; (xi) all Securities acquired by any Investor pursuant to the rights of first offer described in Sections 3 or 4 of this Agreement; and (xii) any Securities issued with respect to the foregoing upon any stock split, stock dividend, recapitalization, or similar event or upon any exercise or conversion, as applicable.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, or any similar federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"**Founders Shares**" shall mean the shares of Common Stock of the Company issued to the Founders as of the date of this Agreement or at any time in the future.

"**Holder**" shall mean (i) any Investor and any person to whom registration rights under this Agreement have been transferred in accordance with Section 1.13 hereof, (ii) for the purposes of Section 1.6 (and other portions of this Section 1, to the extent they relate to rights of registration under Section 1.6), any Founder or holder of Other Shares and (iii) for the purposes of Sections 1.5, 1.6 and 1.7 (and other portions of this Section 1, to the extent they relate to rights of registration under Sections 1.5, 1.6 and 1.7), Warrantholders.

"**Initial Public Offering**" shall mean the first sale of Securities of the Company pursuant to an effective registration statement under the Securities Act.

"**Initiating Holders**" shall mean Holders who in the aggregate hold a majority of the Registrable Securities then held by Holders assuming conversion or exercise, as applicable, of all Eligible Securities.

"**Lighthouse Preferred Warrant**" shall mean the Preferred Stock Purchase Warrant dated March 29, 2005, pursuant to which Lighthouse Capital Partners V, L.P. ("**Lighthouse**") may purchase shares of the Company's authorized Series D Preferred Stock.

"**Other Shares**" shall mean the shares of Common Stock of the Company issued pursuant to the Common Stock Purchase Agreements dated July 17, 2001 and February 2005 by and between the Company and President and Fellows of Harvard College.

"**Permitted Transferee**" shall mean (i) any general partner or retired general partner of any Holder which is a partnership; (ii) any family member of a Holder or trust for the benefit of any individual Holder; (iii) any Investor; (iv) an Affiliate of an Investor; or (v) any transferee who acquires at least 40,000 shares of Eligible Securities.

The terms "**register**," "**registered**" and "**registration**" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement.

"**Registration Expenses**" shall mean all expenses incurred by the Company in complying with Sections 1.5, 1.6 and 1.7 hereof, including, without limitation, all registration, qualification, stock exchange and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company and accountants and other persons retained by or for the Company (including the fees of one counsel for the Holders, not to exceed $25,000), blue sky fees and expenses, accounting fees and the expense of any special audits incident to or required by any such registration (but excluding the compensation of regular employees of the Company which shall be paid in any event by the Company).

"**Registrable Securities**" means (i) any shares of Common Stock which are Eligible Securities, (ii) any shares of Common Stock issuable upon the exercise or conversion, as applicable, of Eligible Securities, (iii) for the purposes of Section 1.6 (and other portions of this Section 1, to the extent they relate to rights of registration under Section 1.6) any shares of Common Stock which are Founder Shares or Other Shares, and (iv) for the purposes of Sections 1.5, 1.6 and 1.7 (and other portions of this Section 1, to the extent they relate to rights of registration under Sections 1.5, 1.6 and 1.7) any shares of Common Stock which are Warrant Shares; provided, however, that shares of Common Stock shall be treated as Registrable Securities only if and so long as they have not been (A) sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction, (B) sold in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act under Section 4(1) thereof so that all transfer restrictions and restrictive legends with respect thereto are removed upon the consummation of such sale or (C) sold in a transaction in which the rights granted under this Section 1 are not assigned in accordance with this Agreement.

"**Restricted Securities**" shall mean the securities of the Company required to bear the legends set forth in Section 1.3 hereof.

"**Securities**" shall mean shares of, or securities convertible into or exercisable for any shares of, any class of capital stock of the Company.

"**Securities Act**" shall mean the Securities Act of 1933, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"**Selling Expenses**" shall mean all underwriting discounts and selling commissions and applicable to the securities registered by the Holders and any fees and disbursements of counsel for the Holders not included in the definition of Registration Expenses.

"**Voting Agreement**" shall mean the Second Amended and Restated Voting Agreement dated August 16, 2005 among the Company and certain stockholders of the Company.

"**Warrant Shares**" shall mean the shares of Common Stock of the Company issued or issuable upon conversion of the (i) Series C Preferred Stock issued or issuable upon exercise or conversion of (A) the warrant to purchase up to 17,500 shares of Series C Preferred Stock issued to TBCC Funding Trust II ("**TBCC**") pursuant to the Master Loan and Security Agreement dated March 27, 2002 by and between the Company and Transamerica Technology Finance Corporation; (B) the warrant to purchase up to 31,008 shares of Series C Preferred Stock issued to General Electric Capital Corporation ("**GE Capital**") in connection with the Master Security Agreement dated as of November 8, 2002, as amended (the "**Master Security Agreement**") by and between the Company and GE Capital; (C) the warrants to purchase an aggregate of up to 90,000 shares of Series C Preferred Stock issued to Glaxo Group Limited ("**GGL**") in connection with the Development Collaboration and License Agreement dated September 22, 2003 (the "**License Agreement**"); and (D) the warrants to purchase an aggregate of up to 110,000 shares of Series C Preferred Stock issued to SmithKline Beecham Corporation ("**SBC**") in connection with the License Agreement; and (ii) the Series D Preferred Stock issued or issuable upon exercise or conversion of (A) the warrant to purchase up to 37,500 shares of Series D Preferred Stock dated March 18, 2004 and issued to GE Capital in connection with extensions of credit to the Company; (B) the warrant to purchase up to 380,556 shares of Series D Preferred Stock dated June 30, 2004 and issued to In-Q-Tel, Inc. ("**In-Q-Tel**"); (C) the Lighthouse Preferred Warrant; and (D) the warrant to purchase up to 126,851 shares of Series D Preferred Stock dated June 30, 2004 and issued to In-Q-Tel Employee Fund, LLC ("**Employee Fund**") . GGL, SBC, TBCC, GE Capital, In-Q-Tel, Employee Fund, and Lighthouse are collectively referred to herein as "**Warrantholders**."

"**Worthington Shares**" shall mean the Founder Shares issued to Gajus Worthington.

1.2 Restrictions. No Restricted Securities shall be sold, assigned, transferred or pledged except upon the conditions specified in this Agreement. Each Holder will cause any proposed purchaser, assignee, transferee or pledgee of its Restricted Securities to agree in writing to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement, including, without limitation, Section 1.14, except where such Restricted Securities would cease to be Restricted Securities in connection with such proposed purchase, assignment, transfer or pledge.

1.3 Restrictive Legend. Each certificate representing Registrable Securities shall (unless otherwise permitted by the provisions of Section 1.4 below) be stamped or otherwise imprinted with a legend in the following form (in addition to any legend required under applicable state securities laws):

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). SUCH SHARES MAY NOT BE SOLD, TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL (WHICH MAY BE COUNSEL FOR THE COMPANY), OR OTHER EVIDENCE, REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE SECURITIES ACT."

"THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE SHAREHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY."

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STAND-OFF AGREEMENT IN THE EVENT OF A PUBLIC OFFERING, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY."

Each Holder consents to the Company making a notation on its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer established in this Section 1.

1.4 Notice of Proposed Transfers. Each Holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the restrictions on transfer contained in Sections 1.2, 1.3, 1.4 and 1.14 of this Agreement. Solely for purposes of the foregoing sentence and for the sake of clarification, the term "Holder" shall also include and the term "Restricted Securities" shall also apply to any Founder, holder of Other Shares or Warrantholders. Prior to any proposed sale, assignment, transfer or pledge of any Restricted Securities (other than any transfer not involving a change in beneficial ownership), unless there is in effect a registration statement under the Securities Act covering the proposed transfer, the Holder thereof shall give written notice to the Company of such Holder's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall be, reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transfer of the Restricted Securities may be effected without registration under the Securities Act and applicable state securities laws, or (ii) a "no action" letter from the Commission

to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, or (iii) any other evidence reasonably satisfactory to counsel to the Company, whereupon the Holder of such Restricted Securities shall be entitled to transfer such Restricted Securities in accordance with the terms of the notice delivered by the Holder to the Company; provided, however, that no such legal opinion, "no action" letter or other evidence shall be required with respect to a transfer to an Affiliate. Each certificate evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to Rule 144, the appropriate restrictive legend set forth in Section 1.3 above, except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and reasonably acceptable to the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act or this Agreement.

1.5 Requested Registration.

(a) Request for Registration. In case the Company shall receive from Initiating Holders a written request that the Company effect any registration with respect to a public offering of at least 50% of the Registrable Securities, the reasonably anticipated aggregate price to the public of which, net of underwriting discounts and commissions, would exceed $20,000,000, the Company will:

(i) promptly give written notice of the proposed registration to all other Holders; and

(ii) use its best efforts to effect as soon as practicable such registration (including, without limitation, the execution of an undertaking to file post-effective amendments, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within 15 days after receipt of the written notice from the Company; provided, however, that the Company shall not be obligated to take any action to effect any such registration pursuant to this Section 1.5:

(1) Prior to six months following the closing of the Company's Initial Public Offering;

(2) During the period starting with the date 60 days prior to the Company's estimated date of filing of, and ending on the date three months immediately following the effective date of, any registration statement (other than a registration of Securities in a Rule 145 transaction or with respect to an employee benefit plan) pertaining to Securities of the Company (subject to Section 1.6(a) hereof), provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to be filed and become effective and that the Company provides the Initiating Holders written notice of its intent to file such

registration statement within 30 days of receiving the request for registration from the Initiating Holders and provided further, however, that the Company may not utilize this right more than once in any 12-month period.

(3) After the Company has effected two registrations pursuant to this Section 1.5; or

(4) If the Company shall furnish to such Holders a certificate, signed by the President of the Company, stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company or its shareholders for a registration statement to be filed in the near future, in which case the Company's obligation to use its best efforts to register under this Section 1.5 shall be deferred for a period not to exceed 90 days from the date of receipt of written request from the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any 12-month period.

(b) Underwriting. If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as part of their request made under Section 1.5(a), and the Company shall so advise the Holders as part of the notice given pursuant to Section 1.5(a)(i). The right of any Holder to registration pursuant to Section 1.5 shall be conditioned upon such Holder's participation in the underwriting arrangements required by this Section 1.5 and the inclusion of such Holder's Registrable Securities in the underwriting, to the extent requested and provided herein.

The Company shall (together with all Holders proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by the Company and a majority of the Holders. Notwithstanding any other provision of this Section 1.5, if the managing underwriter advises the Company in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities who indicated their intent to participate in the registration in a timely manner, and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated among such Holders in proportion, as nearly as practicable, to the respective number of Registrable Securities held by such Holders at the time of filing the registration statement, provided, however, that the number of shares of Registrable Securities to be included in such underwriting shall not be reduced unless all Worthington Shares, all Other Shares and all other Securities that are not Registrable Securities (other than Securities to be sold for the account of the Company) are first entirely excluded from the underwriting. No Registrable Securities excluded from the underwriting by reason of the underwriter's marketing limitation shall be included in such registration. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares.

If any Holder of Registrable Securities disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the managing underwriter and the Initiating Holders. The Registrable Securities so withdrawn shall also be withdrawn from registration.

1.6 Company Registration.

(a) Notice of Registration. If at any time or from time to time, the Company shall determine to register any Common Stock, either for its own account or the account of a security holder or holders other than (i) a registration relating to employee benefit plans, (ii) a registration relating to the offer and sale of debt securities, (iii) a registration relating to a Commission Rule 145 transaction, or (iv) a registration pursuant to Sections 1.5 or 1.7 hereof, the Company will:

(i) promptly give to each Holder written notice thereof; and

(ii) include in such registration (and any related qualification under blue sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests made within 15 days after receipt of such written notice from the Company by any Holder.

(b) Underwriting. If the registration of which the Company gives notice is for a registered public offering involving an underwriting, the Company shall so advise the Holders in a written notice given pursuant to this Section 1.6. In such event, the right of any Holder to registration pursuant to this Section 1.6 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of Registrable Securities in the underwriting to the extent provided herein.

All Holders proposing to distribute their securities through such underwriting shall (together with the Company and the other holders distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by the Company. Notwithstanding any other provision of this Section 1.6, if the managing underwriter advises the Company in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated among all Holders thereof in proportion, as nearly as practicable, to the respective number of Registrable Securities held by such Holders at the time of filing the registration statement; provided, however, that, no Registrable Securities shall be excluded until all Worthington Shares, all Other Shares and all other Securities that are not Registrable Securities (other than Securities to be sold for the account of the Company) are first excluded, and provided further, that, except in the case of the Company's Initial Public Offering (where Registrable Securities may be excluded entirely), the number of Registrable Securities included in such underwriting shall not be reduced below 25% of the total number of shares in the underwriting. No Registrable Securities excluded from the underwriting by reason of the underwriter's marketing limitation shall be included in such registration. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares. The Company may include shares of Common Stock held by shareholders other than Holders in a registration statement pursuant to this Section 1.6 to the extent that the amount of Registrable Securities otherwise includible in such registration statement would not thereby be diminished.

If any Holder or other holder disapproves of the terms of any such underwriting, he or she may elect to withdraw therefrom by written notice to the Company and the managing underwriter. The Registrable Securities so withdrawn shall also be withdrawn from such registration and, in the case of the Company's Initial Public Offering, shall be subject to Section 1.14.

(c) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 1.6 prior to the effectiveness of such registration, whether or not any Holder has elected to include securities in such registration.

1.7 Registration on Form S-3.

(a) If any Holder or Holders request that the Company file a registration statement on Form S-3 (or any successor form to Form S-3) for a public offering of Registrable Securities, the reasonably anticipated aggregate price to the public of which, net of underwriting discounts and commissions, would exceed $2,000,000, and the Company is then entitled to use Form S-3 under applicable Commission rules to register the Registrable Securities for such an offering, the Company will:

(i) promptly give written notice of the proposed registration to all other Holders; and

(ii) use its best efforts to effect as soon as practicable such registration (including, without limitation, the execution of an undertaking to file post-effective amendments, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within 15 days after receipt of the written notice from the Company; provided, however, that the Company shall not be obligated to take any action to effect any such registration pursuant to this Section 1.7:

(1) if the Company, within ten (10) days of the receipt of the request for registration pursuant to this Section 1.7, gives notice of its bona fide intention to effect the filing of a registration statement with the Commission within ninety (90) days of receipt of such request (other than with respect to a registration statement relating to a Rule 145 transaction or an employee benefit plan or any other registration which is not appropriate for the registration of Registrable Securities);

(2) during the period starting with the date sixty (60) days prior to the Company's estimated date of filing of, and ending on the date three months immediately following, the effective date of any registration statement pertaining to Securities of the Company (other than with respect to a registration statement relating to a Rule 145 transaction or an employee benefit plan), provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to be filed and become effective; or

(3) if the Company shall furnish to such Holder or Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company or its shareholders for registration statements to be filed in the near future, then the Company's obligation to use its best efforts to file a registration statement shall be deferred for a period not to exceed 90 days from the receipt of the request to file such registration by such Holder or Holders; provided further, however, that the Company may not utilize the rights provided for in subsections (1) and (2) above and this subsection (3) more than once in total in any twelve month period. For the avoidance of doubt, if the Company utilizes any of the rights provided for in subsections (1), (2) and (3), it shall not have the right to utilize the same right again; nor shall it have the right to utilize any of the other rights provided in subsections (1), (2) and (3) for twelve months.

(b) Underwriting. If the Holders requesting registration intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as part of their request made under Section 1.7(a), and the Company shall so advise the Holders as part of the notice given pursuant to Section 1.7(a)(i). The substantive provisions of Section 1.5(b) shall otherwise apply to such registration.

1.8 Expenses of Registration. All Registration Expenses incurred in connection with any registration pursuant to Sections 1.5, 1.6 and 1.7 shall be borne by the Company. If a registration proceeding is begun upon the request of Holders pursuant to Section 1.5 or 1.7, but such request is subsequently withdrawn at the request of the Holders, then the Holders of Registrable Securities to have been registered may either: (i) bear all Registration Expenses of such proceeding, pro rata on the basis of the number of shares to have been registered, in which case the Company shall be deemed not to have effected a registration pursuant to Section 1.5(a) or 1.7(a) of this Agreement as applicable; provided, however, that the Company, and not the Holders, shall be required to pay for the Registration Expenses if the Holders learn of a materially adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request and have withdrawn the request promptly following discovery of such material adverse change; or (ii) if the registration is being effected pursuant to Section 1.5, require the Company to bear all Registration Expenses of such proceeding, in which case the Company shall be deemed to have effected a registration pursuant to Section 1.5(a). Unless otherwise stated, all other Selling Expenses relating to securities registered on behalf of the Holders shall be borne by the Holders of the registered securities included in such registration pro rata on the basis of the number of shares so registered, provided that to the extent a Holder elects to retain its own counsel (an "**Additional Counsel**") separate from the counsel for all the Holders permitted pursuant to the definition of "Registration Expenses" under Section 1.1, then such Holder shall exclusively bear the costs of such Additional Counsel.

1.9 Registration Procedures. In the case of each registration, qualification or compliance effected by the Company pursuant to this Section 1, the Company will keep each Holder advised in writing as to the initiation of each registration, qualification and compliance and as to the completion thereof. At its expense the Company will, as expeditiously as reasonably possible:

(a) Prepare and file with the Commission a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a period of up to one hundred twenty (120) days or until the distribution described in the registration statement has been completed; provided, however, that such 120-day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of an underwriter of Common Stock (or other securities) of the Company.

(b) Prepare and file with the Commission, in consultation with the Holders, such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement.

(c) Furnish to the Holders participating in such registration and to the underwriters of the securities being registered such reasonable number of copies of the registration statement, preliminary prospectus, final prospectus and such other documents as such underwriters may reasonably request in order to facilitate the public offering of such securities.

(d) Use its best efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders; provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in light of the circumstances then existing, and at the request of any such Holder, prepare and furnish to such Holder a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such shares, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in the light of the circumstances then existing.

(g) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange, or quoted in a U.S. automated inter-dealer quotation system, as the case may be, on which similar securities issued by the Company are then listed or quoted.

(h) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(i) In the event of any underwritten public offering, cooperate with the selling Holders, the underwriters participating in the offering and their counsel in any due diligence investigation reasonably requested by the selling Holders or the underwriters in connection therewith, and participate, to the extent reasonably requested by the managing underwriter for the offering or the selling Holder, in efforts to sell the Registrable Securities under the offering (including, without limitation, participating in "roadshow" meetings with prospective investors) that would be customary for underwritten primary offerings of a comparable amount of equity securities by the Company.

1.10 Indemnification.

(a) The Company will indemnify and defend each Holder, each of its officers and directors and partners, and each person controlling such Holder within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance is being effected pursuant to this Section 1, and each underwriter, if any, and each person who controls any underwriter within the meaning of Section 15 of the Securities Act, against all expenses, claims, losses, damages or liabilities (or actions in respect thereof), including any of the foregoing incurred in settlement of any litigation, commenced or threatened, arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, preliminary prospectus, offering circular or other document, or any amendment or supplement thereto, incident to any such registration, qualification or compliance, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, or any violation or any alleged violation by the Company of the Securities Act or the Exchange Act or any state securities law, or any rule or regulation promulgated thereunder, applicable to the Company in connection with any such registration, qualification or compliance, and the Company will reimburse each such Holder, each of its officers and directors, and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred in connection with investigating, preparing or defending any such claim, loss, damage, liability or action, as such expenses are incurred, provided that the Company will not be liable in any such case to the extent that any such claim, loss, damage, liability or expense arises out of or is based on any untrue statement or omission or alleged untrue statement or omission, made in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder, controlling person or underwriter and stated to be specifically for use therein.

(b) Each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify the Company, each of its directors and officers, each underwriter, if any, of the Company's securities covered by such a registration statement, each person who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, and each other such Holder, each of its officers and directors and each person controlling such Holder within the meaning of Section 15 of the Securities Act, against all claims, losses, damages and liabilities (or actions in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any such registration statement, prospectus, offering circular or other document, or any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company, such Holders, such directors, officers, persons, underwriters or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, as such expenses are incurred, in each case to the extent, but only if and to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder and stated to be specifically for use therein; provided, however, that the liability of any Holder shall be limited to the net proceeds received by such Holder from the sale of Securities pursuant to such registration.

(c) Each party entitled to indemnification under this Section 1.10 (the "**Indemnified Party**") shall give notice to the party required to provide indemnification (the "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom, provided that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld), and the Indemnified Party may participate in such defense at such party's expense; provided, however, that an Indemnified Party (together with all other Indemnified Parties which may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the Indemnifying Party, if representation of such Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between such Indemnified Party and any other party represented by such counsel in such proceeding. The failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 1 unless, and only to the extent that, the failure to give such notice is materially prejudicial to an Indemnifying Party's ability to defend such action. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation.

(d) If the indemnification provided for in this Section 1.10 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any loss,

liability, claim, damage, or expense referred to therein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage, or expense as well as any other relevant equitable considerations (except to the extent that contribution is not permitted under Section 11(f) of the Securities Act); provided, however, that, no Holder will be required to pay any amount under this subsection 1.10(d) in excess of the net proceeds from the sale of all Registrable Securities offered and sold by such Holder pursuant to such registration statement. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control with respect to the rights and obligations of each of the parties to such underwriting agreement.

(f) The obligations of the Company and Holders under this Section 1.10 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1, and otherwise.

1.11 Information by Holder. The Holder or Holders of Registrable Securities included in any registration shall furnish to the Company such information regarding such Holder or Holders, the Securities held by them and the distribution proposed by such Holder or Holders as the Company may reasonably request in writing and as shall be required in connection with any registration referred to in this Section 1.

1.12 Reports Under Securities Exchange Act of 1934. With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the Commission that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to use its best efforts to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act, at all times after the effective date that the Company becomes subject to the reporting requirements of the Securities Act or the Exchange Act;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements);

(c) register its Common Stock under Section 12 of the Exchange Act at such time as it is required to do so pursuant to the Exchange Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information in the possession of or reasonably obtainable by the Company as may be reasonably requested in availing any Holder of any rule or regulation of the Commission which permits the selling of any such securities without registration or pursuant to such form.

1.13 Transfer of Registration Rights. The rights to cause the Company to register Registrable Securities granted to the Investors under Sections 1.5, 1.6 and 1.7 may be assigned to a transferee or assignee in connection with any transfer or assignment of Eligible Securities by an Investor; provided that (a) such transfer may otherwise be effected in accordance with applicable securities laws, (b) notice of such assignment is given to the Company, (c) such transferee is a Permitted Transferee and (d) such transferee or assignee agrees to be bound by and subject to the terms and conditions of this Agreement.

1.14 Standoff Agreement.

(a) Each Holder agrees in connection with the first sale of the Company's Common Stock in a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, upon notice by the Company or the underwriters managing such public offering, not to sell, make any short sale of, loan, pledge (or otherwise encumber or hypothecate), grant any option for the purchase of, or otherwise directly or indirectly dispose of any Securities (other than those included in the registration) without the prior written consent of the Company and such managing underwriters for such period of time as the Board of Directors establishes pursuant to its good faith negotiations with such managing underwriters; provided, however that:

(i) such agreement shall not exceed one hundred eighty (180) days;

(ii) such agreement shall not apply to transfers to an Affiliate, provided that such Affiliate agrees to be bound by the terms of such agreement, to the same extent as if such transferee were the original party thereunder;

(iii) a Holder shall not be subject to such agreement unless (A) all executive officers and directors of the Company, (B), all shareholders of the Company holding more than 1% of the Company's outstanding capital stock; and (C) all other Holders and holders of other registration rights, are subject to or obligated to enter into similar agreements; and

(iv) if and when any person identified in clause (iii) is released, in whole or in part, from such agreement (whether or not such release is contemplated at the time of the offering) or if any such agreement is terminated, the Holder shall be concurrently released on a pro rata basis based on the number of shares held by such person and the Holder.

(b) Each Holder agrees that prior to the Initial Public Offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 1.14; provided that this Section 1.14(b) shall not apply to transfers pursuant to a registration statement.

(c) Each Holder hereby consents to the placement of stop transfer orders with the Company's transfer agent in order to enforce the foregoing provision and agrees to execute a market standoff agreement with said underwriters in customary form consistent with the provisions of this Section 1.14.

1.15 No Right to Delay Registration. No holder shall restrain, enjoin, or otherwise delay any registration hereunder, notwithstanding any controversy that might arise with respect to the interpretation or implementation of this Agreement.

1.16 Termination of Rights. No Holder shall be entitled to exercise any right provided for in this Section 1 after the earlier of (i) five (5) years following the consummation of the Initial Public Offering, and (ii) that date following the Initial Public Offering upon which each Holder holds less than 1% of the then issued and outstanding shares of capital stock of the Company and all such shares may be sold under Section 5 of the Securities Act whether pursuant to Rule 144 or another applicable exemption during any 90 day period. All other provisions hereof relating to registration rights shall continue to be effective despite any termination of such registration rights pursuant to this section.

1.17 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not enter into any agreement granting any holder or prospective holder of any securities of the Company registration rights with respect to such securities unless (i) such new registration rights, are subordinate to the registration rights granted Holders hereunder and include similar market stand-off obligations or (ii) such new registration rights are approved by the Holders of 50% of the Registrable Securities then held by Holders (assuming exercise or conversion of all outstanding Eligible Securities); provided, however, that Warrantholders may enter into this Agreement by executing and delivering a counterpart signature page to this Agreement.

SECTION 2

Affirmative Covenants of the Company

The Company hereby covenants and agrees as follows:

2.1 Delivery of Financial Statements. The Company will furnish to each Investor who holds at least 40,000 shares of Eligible Securities (as adjusted for stock splits and combinations):

(a) as soon as reasonably practicable, an income statement for such fiscal year, a balance sheet of the Company and statement of shareholder's equity as of the end of such year, and a cash flow statement for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles ("**GAAP**"), and audited and certified by independent public accountants of nationally recognized standing selected by the Company; and

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, an unaudited income statement, cash flow statement for such fiscal quarter and an unaudited balance sheet as of the end of such fiscal quarter.

2.2 Additional Information Rights.

(a) Budget and Operating Plan. The Company will furnish to each Investor who holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations) as soon as practicable upon approval or adoption by the Company's Board of Directors, and in any event within 15 days prior to the start of a fiscal year, the Company's budget and operating plan for such fiscal year.

(b) Other Information. The Company will furnish to each Investor who holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations) such other information relating to the financial condition, business, prospects or corporate affairs of the Company as such Investor may from time to time request; provided, however, that the Company shall not be obligated under this subsection (b) or any other subsection of Section 2.2 to provide information which it deems in good faith to be a trade secret or similar confidential information.

(c) Inspection. The Company shall permit each Investor who holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations), at such Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times and during normal working hours as may be requested by such Investor; provided, however, that the Company shall not be obligated under this subsection (c) or any other subsection of Section 2.2 to provide access to information which it deems in good faith to be a trade secret or similar confidential information.

(d) Monthly Financial Statements. The Company will furnish to each Investor who holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations), upon the request of such Investors, within thirty (30) days of the end of each month,

an unaudited income statement and cash flow statement and unaudited balance sheet for and as of the end of such month, in reasonable detail.

2.3 Confidentiality. Each Investor agrees to use commercially reasonable efforts to maintain the confidentiality of information obtained pursuant to this Section 2, provided that such obligation shall not apply to (i) information previously in possession or independently developed by Investor, (ii) information publicly available other than as a result of breach of this provision (iii) information required to be disclosed by statute, regulation or court or administrative order.

2.4 Visitation Rights. One representative chosen collectively by LB I Group Inc., Lehman Brothers P.A. LLC, Lehman Brothers Partnership Account 2000/2001, L.P. and Lehman Brothers Offshore Partnership Account 2000/2001, L.P. (collectively, "**Lehman**"), one representative chosen collectively by EuclidSR Partners, L.P. and EuclidSR Biotechnology Partners, L.P. (collectively, "**EuclidSR**"), one representative chosen by Piper Jaffray Healthcare Fund III, L.P. ("**Piper Jaffray**"), one representative chosen by GE Capital Equity Investments, Inc. ("**GE Capital**"), one representative chosen collectively by Interwest Investors VII, L. P. and Interwest Partners VII, L.P. (collectively, "**Interwest**"), one representative chosen by AllianceBernstein L.P. ("**Alliance**"), and one representative chosen by BMSIF shall have the right to attend all meetings of the Board of Directors, including meetings of any committee of the Board and including the right to participate in any telephonic board meetings, so long as such Investor holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations and the like). Said representative(s) shall be provided with notice of the meetings in the same manner at the same time as the members of the Board of Directors and shall be provided with any materials distributed to the Board of Directors in connection with board meetings. The foregoing visitation rights may be limited by the Board of Directors if (i), upon the advice of counsel, the Board of Directors determines that exclusion is required by third party confidentiality agreements, (ii) the Board is discussing engaging Investor or an affiliate of Investor as a financial advisor or underwriter; or (iii) the Board is discussing a material transaction with an entity in which Investor or a private equity fund affiliated with Investor is a 5% or greater shareholder, or (iv) the Board determines in good faith upon advice of counsel that limitations are required to maintain attorney-client privilege.

2.5 Stock Option Vesting. Unless otherwise decided by the Board of Directors, all option grants to employees shall vest over a four-year period with 25% of the shares subject to each option vesting a year after commencement of employment and the remainder of the shares vesting in equal amounts on a monthly basis thereafter.

2.6 Insurance. The Company shall, subject to the approval of the Board of Directors, maintain such fire, casualty and general liability insurance with coverages and in amounts as shall be determined by the Board of Directors. The Company agrees to maintain in full force and effect directors and officers liability insurance with coverage in the aggregate amount of amount of $2 million covering all of its directors. The Company will maintain coverage for the Series C Directors (as defined in the Voting Agreement) and the Series D Directors (as defined in the Voting Agreement) under such directors and officers liability insurance at all times commencing upon the Closing (as defined in the Purchase Agreement).

2.7 Proprietary Information Agreements. Unless otherwise determined by the Board of Directors, all future employees and consultants of the Company shall be required to execute and deliver a proprietary information and invention assignment agreement.

2.8 Invention Assignments. The Company agrees to use commercially reasonable efforts to obtain from each of the individual contributing inventors for each invention that forms any part of any patent or patent application owned by or licensed to the Company, executed invention assignments in favor of the Company or the appropriate third party licensor, as the case may be.

2.9 Key-Man Life Insurance. The Company shall obtain and maintain key-man life insurance in such amount as is determined by the Company's Board of Directors, on Gajus Worthington. Such policy shall name the Company as loss payee and shall not be cancelable by the Company without prior unanimous approval of the Board of Directors.

2.10 Compliance with Laws. The Company shall use its best efforts to comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority, where noncompliance would have a material adverse effect on the Company's business and financial condition.

2.11 Termination of Covenants. The covenants set forth in Section 2 shall terminate on, and be of no further force or effect after, the closing of the Company's Initial Public Offering. The rights granted pursuant to this Section 2 are not transferable other than to Affiliates of Holders.

SECTION 3

Right of First Offer For Company Securities

3.1 Right of First Offer. Subject to the terms and conditions specified in this Section 3, the Company hereby grants to each Investor a right of first offer with respect to future sales by the Company of its Securities. An Investor shall be entitled to apportion the right of first offer hereby granted among itself and its partners and Affiliates in such proportions as it deems appropriate.

Each time the Company proposes to offer any Securities in a Financing (as defined below), the Company shall first make an offering of such Securities to each Investor in accordance with the following provisions:

(a) The Company shall deliver a notice ("**Notice**") to each Investor stating (i) its intention to offer such Securities for sale, (ii) the number of such Securities to be offered (the "**Offered Securities**"), (iii) the price, if any, for which it proposes to offer such Securities, (iv) the terms of such offer and (v) the Offer Amount (as defined below).

(b) Within fifteen (15) calendar days after receipt of the Notice, each Investor may elect to purchase, at the price and on the terms specified in the Notice, such Securities in an amount up to the Offer Amount by providing the Company with written notice of its election.

(c) An election by an Investor pursuant to Section 3.1(b) to purchase Offered Securities shall not be considered a binding commitment on the Investor unless and until the Company receives binding commitments to purchase on the terms and conditions contained in the Notice substantially all of the Offered Securities which the Investors have not elected to purchase.

Notwithstanding the foregoing, the Company and each of the Investors acknowledge and agree that Lighthouse shall have the opportunity to invest not less than $250,000 in connection with the first Financing completed after the date of this Agreement that involves the sale and issuance by the Company of shares of the Company's convertible preferred stock with aggregate gross proceeds to the Company of at least $3 million. In the event that Lighthouse's right to purchase Offered Securities as otherwise set forth in this Section 3.1 would not permit such $250,000 investment, then each of the Investors agrees that its respective right to purchase Offered Securities pursuant to this Section 3.1 may be cut-back (proportionately with all other Investors based on the number of shares of Eligible Securities held by the Investors) in such amounts as may be necessary to permit the exercise of Lighthouse's rights as set forth herein.

3.2 Sale of Securities by Company. Within 60 days of the expiration of the period described in Section 3.1(b), any Offered Securities which the Investors have not elected to purchase may be sold by the Company to any person or persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Notice. If the Company does not complete the sale of all such Offered Securities within said 60-day period, the rights of the Investors with respect to any such unsold Offered Securities shall be deemed to be revived.

3.3 Offer Amount. The "**Offer Amount**" shall equal that percentage of the Offered Securities equal to the number of shares of Eligible Securities held by an Investor which are Registrable Securities divided by the total number of outstanding shares of Common Stock of the Company. For the purposes of the foregoing calculations, all outstanding options and warrants shall be deemed to be exercised and all Preferred Stock shall be deemed to have been converted into Common Stock at the prevailing conversion rate.

3.4 Financing. "**Financing**" shall mean an offering or series of related offerings of Securities by the Company for purposes of raising working capital in a minimum amount of $250,000. Financing shall not include (i) the issuance or sale of shares of Common Stock or options to purchase Common stock to employees, officers, directors or consultants for the primary purpose of soliciting or retaining their services in such amount as shall have been approved by the Board of Directors, (ii) the issuance or sale of Securities to leasing entities or financial institutions in connection with commercial leasing or borrowing transactions approved by the Board of Directors, (iii) the issuance or sale of Securities to third party providers of goods or services in connection with transactions approved by the Board of Directors; (iv) the sale of Securities in a registered public offering, (v) any issuances of Securities in connection with any stock split, stock dividend or recapitalization by the Company, (vi) the issuance of Securities at a price (on an as converted to

Common Stock basis) below the original issue price of the Company's Series E Preferred Stock (as adjusted for stock splits, recapitalizations and like events) in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or any joint venture or strategic alliance, if such issuance is approved unanimously by the Board of Directors, provided that the issuance of the Company's Series E Preferred Stock to BMSIF or any Affiliate thereof or any related entity to the Singapore Economic Development Board pursuant to Section 3.4(xii) below at a price below the original issue price of the Company's Series E Preferred Stock (as adjusted for stock splits, recapitalizations and like events) shall also not be a Financing hereunder, (vii) the issuance of Securities at a price (on an as converted to Common Stock basis) at or above the original issue price of the Company's Series E Preferred Stock (as adjusted for stock splits, recapitalizations and like events) in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or any joint venture or strategic alliance, if such issuance is approved by the Board of Directors, (viii) the issuance of Securities at a price (on an as converted to Common Stock basis) below the original issue price of the Company's Series E Preferred Stock (as adjusted for stock splits, recapitalizations and like events) in connection with the acquisition of another corporation by the Company by merger, consolidation, or purchase of all or substantially all of the assets or shares of such corporation unanimously approved by the Board of Directors, (ix) the issuance of Securities at a price (on an as converted to Common Stock basis) at or above the original issue price of the Company's Series E Preferred Stock (as adjusted for stock splits, recapitalizations and like events) in connection with the acquisition of another corporation by the Company by merger, consolidation, or purchase of all or substantially all of the assets or shares of such corporation approved by the Board of Directors; (x) shares of Series E Preferred Stock issued pursuant to the terms of the Purchase Agreement; (xi) interest-bearing convertible promissory notes in the aggregate principal amount of $8 million issued or issuable pursuant to the CNPA and/or the CNA and any Securities issued on conversion thereof; and (xii) additional interest-bearing convertible promissory notes to be issued after the date hereof in the aggregate principal amount of up to $15 million to BMSIF or any Affiliate thereof or any related entity to the Singapore Economic Development Board, and any Securities issued on conversion thereof.

3.5 Termination of Right of First Offer. The right of first offer contained in this section shall not apply to and shall terminate upon the closing of an Initial Public Offering. The right of first offer granted under this Section 3 is transferable to transferees of at least 750,000 shares of Registrable Securities (as adjusted for stock splits, combinations and the like) or to Affiliates.

SECTION 4

Right of First Offer with Respect to Founder Shares

4.1 Notice of Sales. Should a Founder (a "**Seller**") propose to accept one or more bona fide offers (collectively, the "**Purchase Offer**") from any persons ("**Purchasers**") to purchase Founders Shares from such Seller (other than as set forth 4.2(d) hereof), then such Seller shall, promptly after exercise or termination of any rights of first refusal held by the Company, deliver a notice (the "**Notice**") to the Company and all Investors holding more than 750,000 shares of Eligible Securities ("**Eligible Investors**").

4.2 Purchase Right. Each Eligible Investor shall have the right, exercisable upon written notice to such Seller within ten (10) business days after receipt of the Notice, to purchase Founders Shares on the terms and conditions specified in the Purchase Offer. To the extent an Eligible Investor exercises its right to purchase such shares in accordance with the terms and conditions set forth below, the number of shares of stock which such Seller may sell to the Purchasers pursuant to the Purchase Offer shall be correspondingly reduced. The purchase right of each Eligible Investor shall be subject to the following terms and conditions:

(a) Calculation of Shares. Each Eligible Investor may purchase all or any part of that number of Founder Shares equal to the number obtained by multiplying (i) the aggregate number of Founders Shares covered by the Purchase Offer by (ii) a fraction, the numerator of which is the number of shares of Common Stock of the Company at the time owned by such Eligible Investor and the denominator of which is the number of shares of Common Stock of the Company then outstanding. For the purposes of the foregoing calculations, all outstanding options and warrants shall be deemed to be exercised and all Preferred Stock shall be deemed to have been converted into Common Stock at the prevailing conversion rate.

(b) Delivery of Consideration. Each Eligible Investor may effect its purchase right by promptly delivering to such Seller a written notice and a check or wire transfer equal to the purchase price specified in the Purchase Offer for the number of shares the Eligible Investor desires to purchase pursuant to this Section 4.2.

(c) Certificate. Within ten (10) business days of receipt of Eligible Investor's funds pursuant to Section 4.2(c), Seller shall deliver to such Eligible Investor a certificate or certificates representing the shares of Founder Shares purchased by such Eligible Investor.

(d) Permitted Transactions. The participation rights in this Section 4 shall not pertain or apply to:

(i) Any transfer to a revocable grantor trust with respect to which the Founder and members of his family are the sole beneficiaries;

(ii) Any repurchase of Founders Shares by the Company;

(iii) Any exercise by the Company of a right or remedy under the terms of any loan, security or stock pledge agreement where the Founders Shares serve as security for a loan made by the Company;

(iv) Any transfer to any ancestors or descendants or spouse of a Founder or to a trustee for their benefit or to a custodian for the benefit of a Founders' issue; or

(v) Any bona fide gift;

provided, however, that such Founder shall inform the Eligible Investors of such transfer or gift (other than a transfer pursuant to clause (ii) or (iii)) prior to effecting it and the transferee or donee (if other than the Company) shall furnish the Company and the Eligible Investors with a written agreement to be bound by and comply with all applicable provisions of this Agreement.

4.3 Sale of Securities by Founder. Within 60 days of the expiration of the period described in the first paragraph of Section 4.2, any Founders Shares covered by the Purchase Offer which the Eligible Investors have not elected to purchase may be sold by the Seller to the Purchasers on the terms and conditions of the Purchase Offer. If the Seller does not complete the sale of all Founders Shares covered by the Purchase Offer within such period, the rights of the Eligible Investors with respect to any such unsold Founders Shares shall be deemed to be revived.

4.4 Termination and Transfer. The restrictions imposed and rights granted by this Section 4 shall not apply to and shall terminate immediately prior to the closing of the Company's Initial Public Offering. Securities received pursuant to any stock dividend, stock split, recapitalization, or exercise of a conversion right shall be subject to this Section 4 to the same extent as the shares of the Company with respect to which they were issued. The right of first offer granted under this Section 4 is transferable to transferees of at least 750,000 shares of Registrable Securities (as adjusted for stock splits, combinations and the like) or to Affiliates.

4.5 Prohibited Transfer. Any attempt by a Founder to transfer Founders Shares in violation of Section 4 hereof shall be void and the Company agrees it will not effect such a transfer nor will it treat any alleged transferee(s) as the holder of such shares, without the written consent of two-thirds (2/3) in interest of the Eligible Investors.

SECTION 5

Right of Co-Sale

5.1 Notice of Sales. Should a Founder (a "**Seller**") propose to accept one or more bona fide offers (collectively, the "**Purchase Offer**") from any persons ("**Purchasers**") to purchase Founders Shares from such Seller (other than as set forth 5.2(d)), then such Seller shall, promptly after exercise or termination of any rights of first refusal held by the Company or the Eligible Investors, deliver a notice (the "**Notice**") to the Company and all Eligible Investors describing the terms and conditions of the Purchase Offer.

5.2 Participation Right. Each Eligible Investor shall have the right, exercisable upon written notice to such Seller within fifteen (15) business days after receipt of the Notice, to participate in such Seller's sale of stock pursuant to the specified terms and conditions of such Purchase Offer. To the extent an Eligible Investor exercises such right of participation in accordance with the terms and conditions set forth below, the number of shares of stock which such Seller may sell pursuant to such Purchase Offer shall be correspondingly reduced. The right of participation of each Eligible Investor shall be subject to the following terms and conditions:

(a) Calculation of Shares. Each Eligible Investor may sell all or any part of that number of shares of Common Stock of the Company equal to the number obtained by multiplying (i) the aggregate number of Founders Shares covered by the Purchase Offer by (ii) a fraction, the numerator of which is the number of shares of Common Stock of the Company at the time owned by such Eligible Investor and the denominator of which is the number of shares of Common Stock of the Company then outstanding. For the purposes of the foregoing calculations, all outstanding options and warrants shall be deemed to be exercised and all Preferred Stock shall be deemed to have been converted into Common Stock at the prevailing conversion rate.

(b) Delivery of Certificates. Each Eligible Investor may effect its participation in the sale by delivering to such Seller for transfer to the Purchaser(s) one or more certificates, properly endorsed for transfer, which represent at least the number of shares of Common Stock which such Eligible Investor elects to sell pursuant to this Section 5.2.

(c) Transfer. The stock certificate or certificates which the Eligible Investor delivers to such Seller pursuant to Section 5.2 shall be delivered by the Seller to the Purchaser(s) in consummation of the sale of the Securities pursuant to the terms and conditions specified in the Notice, and such Seller shall promptly thereafter remit to such Eligible Investor that portion of the sale proceeds to which such Eligible Investor is entitled by reason of its participation in such sale.

(d) Permitted Transactions. The participation rights in this Section 5 shall not pertain or apply to:

(i) Any transfer to a revocable grantor trust with respect to which the Seller and members of his family are the sole beneficiaries;

(ii) Any repurchase of Founders Shares by the Company;

(iii) Any exercise by the Company of a right or remedy under the terms of any loan, security or stock pledge agreement where the Founders Shares serve as security for a loan made by the Company;

(iv) Any transfer to any ancestors or descendants or spouse of a Founder or to a trustee for their benefit or to a custodian for the benefit of a Founders' issue; or

(v) Any bona fide gift;

provided, however, that such Founder shall inform the Eligible Investors of such transfer or gift (other than a transfer pursuant to clause (ii) or (iii)) prior to effecting it and the transferee or donee (if other than the Company) shall furnish the Company and the Eligible Investors with a written agreement to be bound by and comply with all applicable provisions of this Agreement.

5.3 Sale of Securities by Founder. Within 45 days of the expiration of the period described in the first paragraph of Section 5.2, any Founders Shares covered by the Purchase Offer which the Eligible Investors have not elected to purchase may be sold by the Seller to the Purchasers on the terms and conditions of the Purchase Offer. If the Seller does not complete the sale of all Founders Shares covered by the Purchase Offer within such period, the rights of the Eligible Investors with respect to any such unsold Founders Shares shall be deemed to be revived.

5.4 Termination and Transfer. The restrictions imposed and rights granted by this Section 5 shall not apply to and shall terminate immediately prior to the closing of the Company's Initial Public Offering. Securities received pursuant to any stock dividend, stock split, recapitalization, or exercise of a conversion right shall be subject to this Section 5 to the same extent as the shares of the Company with respect to which they were issued. The co-sale right granted under this Section 5 is transferable to transferees of at least 750,000 shares of Registrable Securities (as adjusted for stock splits, combinations and the like) or to Affiliates.

5.5 Prohibited Transfers.

(a) In the event any Founder should sell any Founders Shares in contravention of the co-sale rights of the Investors under Section 5 (a "**Prohibited Transfer**"), the Investors, in addition to such other remedies as may be available at law, in equity or hereunder, shall have the put option provided below, and the Founder shall be bound by the applicable provisions of such option.

(b) In the event of a Prohibited Transfer, each Eligible Investor shall have the right to sell to the Founder the type and number of shares of Common Stock equal to the number of shares that such Eligible Investor would have been entitled to transfer to the third-party transferee(s) under Section 5.2 hereof had the Prohibited Transfer been effected pursuant to and in compliance with the terms thereof. Such sale shall be made on the following terms and conditions:

(i) The price per share at which the shares are to be sold to the Founder shall be equal to the price per share paid by the third-party transferee(s) to the Founder in the Prohibited Transfer. Such price per share shall be paid to the Eligible Investor in cash if the Founder received cash for his shares. If the Founder did not receive cash but received other property instead, the price per share to be paid to the Eligible Investor shall be paid (A) in the form of the property received by the Founder for his shares, or (B) in cash equal to the fair market value of the property received by such Founder as determined in good faith by the Company's Board of Directors, at the option of the Eligible Investor. The Founder shall also reimburse each Eligible Investor for any and all fees and expense, including legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the Eligible Investor's rights under Section 5.

(ii) Within thirty (30) days after the later of the dates on which the Eligible Investor (A) received notice of the Prohibited Transfer or (B) otherwise became aware of the Prohibited Transfer, each Eligible Investor shall, if exercising the option created hereby, deliver to the Founder the certificate or certificates representing shares to be sold, each certificate to be properly endorsed for transfer.

(iii) The Founder shall, upon receipt of the certificate or certificates for the shares to be sold by an Eligible Investor pursuant to this Section 5, pay the aggregate purchase price therefor and the amount of reimbursable fees and expenses, as specified in subparagraph 5.5(b)(i), in cash or by other means acceptable to the Eligible Investor.

(c) Notwithstanding the foregoing, any attempt by a Founder to transfer Founders Shares in violation of Section 5 hereof shall be void and the Company agrees it will not effect such a transfer nor will it treat any alleged transferee(s) as the holder of such shares, without the written consent of two-thirds (2/3) in interest of the Eligible Investors.

SECTION 6

Miscellaneous

6.1 Governing Law; Jurisdiction. This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the State of California, as applied to agreements entered into, and to be performed entirely in such state, between residents of such state.

The parties hereto agree to submit to the jurisdiction of the federal and state courts of San Mateo County, California with respect to the breach or interpretation of this Agreement or the enforcement of any and all rights, duties, liabilities, obligations, powers, and other relations between the parties arising under this Agreement.

6.2 Successors and Assigns. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

6.3 Notices, Etc. All notices and other communications required or permitted hereunder, shall be in writing and shall be sent by facsimile personally delivered, mailed by registered or certified mail, postage prepaid, return receipt requested, or otherwise delivered by a nationally-recognized overnight courier, addressed (a) if to an Investor, at Investor's facsimile number or address as set forth in the records of the Company or (b) if to any other holder of any Eligible Securities, at such address as such holder shall have furnished the Company in writing, or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder of such Eligible Securities who has so furnished an address or facsimile number to the Company, or (c) if to a Founder, at such Founder's facsimile number or address set forth on EXHIBIT B hereto, or a such other address as such Founder shall have furnished to the Company in writing, or (d) if to the Company, at its facsimile number or address set forth on the signature page hereto addressed to the attention of the Corporate Secretary, or at such other address as the Company

shall have furnished to the Investors. Any such notice or communication shall be deemed to have been received (A) in the case of personal delivery, on the date of such delivery, (B) in the case of a nationally-recognized overnight courier, on the next business day after the date when sent, (C) in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted and (D) in the case of delivery via facsimile, one (1) business day after the date of transmission provided that said transmission is confirmed telephonically on the date of transmission.

6.4 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any holder of any Eligible Securities upon any breach or default of the Company under this Agreement shall impair any such right, power or remedy of such holder, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any holder of any breach or default under this Agreement, or any waiver on the part of any holder of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing or as provided in this Agreement. All remedies, either under this Agreement or by law or otherwise afforded to any holder, shall be cumulative and not alternative.

6.5 Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto, and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, portions of such provisions, or such provisions in their entirety, to the extent necessary, shall be severed from this Agreement, and the balance of this Agreement shall be enforceable in accordance with its terms.

6.7 Amendment and Waiver. Any provision of this Agreement may be amended or waived with the written consent of the Company and the Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities); provided, however, (i) that in the event such amendment or waiver adversely affects the rights and/or obligations of the Founders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require written consent of the Founders holding a majority of the then outstanding Founders Shares, (ii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest, Alliance, and BMSIF under Section 2.4 of this Agreement, such amendment or waiver shall not be effective as to Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest or BMSIF, as the case may be, without the written consent of such party, and (iii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Warrantholders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require the written consent of Warrantholders holding a

majority of the then outstanding Warrant Shares. Notwithstanding the foregoing, any purchaser of Series E Preferred Stock pursuant to the Purchase Agreement may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and such purchaser shall be deemed a Holder and an Investor hereunder. The parties agree that Exhibit A shall be updated automatically without any formal amendment to reflect the addition of any such additional party. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each Holder, the Founders, the holder of the Other Shares, Warrantholders and the Company. In addition, the Company may waive performance of any obligation owing to it, as to some or all of the Holders, or agree to accept alternatives to such performance, without obtaining the consent of any other Holder. In the event that an underwriting agreement is entered into between the Company and any Holder, and such underwriting agreement contains terms differing from this Agreement, as to any such Holder the terms of such underwriting agreement shall govern.

6.8 Rights of Holders. Each Holder shall have the absolute right to exercise or refrain from exercising any right or rights that such holder may have by reason of this Agreement, including, without limitation, the right to consent to the waiver or modification of any obligation under this Agreement, and such holder shall not incur any liability to any other holder of any Securities as a result of exercising or refraining from exercising any such right or rights.

6.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument.

6.10 Titles and Subtitles. The titles of the paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

6.11 Amendment and Restatement of Prior Agreement. The undersigned Prior Investors who in the aggregate hold at least two-thirds of the outstanding Registrable Securities (as defined in the Prior Agreement) and the undersigned Founders hereby amend and restate the Prior Agreement pursuant to Section 6.7 thereof.

6.12 Waiver of Right of First Offer. The undersigned Prior Investors who in the aggregate hold at least two-thirds of the outstanding Registrable Securities (as defined in the Prior Agreement) hereby waive on behalf of all Prior Investors any rights of participation or notice under Section 3 of this Agreement and the Prior Agreement with respect to the securities sold pursuant to the Purchase Agreement. By its execution below, Lighthouse waives any right of participation or notice under Section 3 of this Agreement and Section 3 of the Prior Agreement with respect to securities sold under the Purchase Agreement.

6.13 Aggregation of Stock. All shares of Eligible Securities held or acquired by Affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

6.14 Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT.

[Remainder of Page Left Blank Intentionally]

FLUIDIGM CORPORATION
FORM OF
AMENDMENT NO. 1 TO
EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS AMENDMENT NO. 1 (this "**Amendment**") to that certain Eighth Amended and Restated Investor Rights Agreement, dated as of June 13, 2006 (the "**Rights Agreement**"), by and among Fluidigm Corporation, a California corporation (the "**Company**"), and the Investors and Founders named therein is entered into this 22nd day of December, 2006 by and among the Company and the undersigned, collectively the Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities). Capitalized terms not defined herein have the meanings set forth in the Rights Agreement.

RECITALS

A. It is contemplated that the Company will sell and issue additional shares of the Company's Series E Preferred Stock ("**Series E Preferred Stock**") pursuant to that certain Series E Preferred Stock Purchase Agreement, dated as of June 13, 2006 (the "**Purchase Agreement**"), by and among the Company and the Purchasers named therein.

B. In connection with the sale of additional shares of Series E Preferred Stock, the Company and the Investors desire to (i) provide that the standoff agreement in Section 1.14 of the Rights Agreement shall not apply to securities of the Company purchased by certain Holders in the Initial Public Offering or in the public market for the Company's securities following the Initial Public Offering, and (ii) grant visitation rights pursuant to Section 2.4 of the Rights Agreement collectively to Cross Creek Capital, L.P., Cross Creek Capital Employees' Fund, L.P. and Wasatch Small Cap Growth.

C. The Company and the undersigned Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities) have agreed to amend the Rights Agreement to provide for the foregoing changes to the standoff agreement in Section 1.14 and the visitation rights in Section 2.4.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all of the parties hereto mutually agree as follows:

SECTION 7 Amendment to Section 1.14. Section 1.14 (Standoff Agreement) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"1.14 Standoff Agreement.

(a) Each Holder agrees in connection with the first sale of the Company's Common Stock in a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, upon notice by the Company or the underwriters managing such public offering, not to sell, make any short sale of, loan, pledge (or otherwise encumber or hypothecate), grant any option for the purchase of, or otherwise directly or indirectly dispose of any Securities (other than those included in the registration) without the prior written consent of the Company and such managing underwriters for such period of time as the Board of Directors establishes pursuant to its good faith negotiations with such managing underwriters; provided, however that:

(i) such agreement shall not exceed one hundred eighty (180) days;

(ii) such agreement shall not apply to transfers to an Affiliate, provided that such Affiliate agrees to be bound by the terms of such agreement, to the same extent as if such transferee were the original party thereunder;

(iii) such agreement shall not apply to securities of the Company purchased by AllianceBernstein Venture Fund I, L.P., SmallCap World Fund, Inc., Cross Creek Capital, L.P., Cross Creek Capital Employees' Fund, L.P. or Wasatch Small Cap Growth or their respective Affiliates in the Initial Public Offering or in the public market for the Company's securities following the Initial Public Offering;

(iv) a Holder shall not be subject to such agreement unless (A) all executive officers and directors of the Company, (B), all shareholders of the Company holding more than 1% of the Company's outstanding capital stock; and (C) all other Holders and holders of other registration rights, are subject to or obligated to enter into similar agreements; and

(v) if and when any person identified in clause (iv) is released, in whole or in part, from such agreement (whether or not such release is contemplated at the time of the offering) or if any such agreement is terminated, the Holder shall be concurrently released on a pro rata basis based on the number of shares held by such person and the Holder.

(b) Each Holder agrees that prior to the Initial Public Offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 1.14; provided that this Section 1.14(b) shall not apply to transfers pursuant to a registration statement.

(c) Each Holder hereby consents to the placement of stop transfer orders with the Company's transfer agent in order to enforce the foregoing provision and agrees to execute a market standoff agreement with said

underwriters in customary form consistent with the provisions of this Section 1.14.

SECTION 8 Amendment to Section 2.4. Section 2.4 (Visitation Rights) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"2.4 Visitation Rights. One representative chosen collectively by LB I Group Inc., Lehman Brothers P.A. LLC, Lehman Brothers Partnership Account 2000/2001, L.P. and Lehman Brothers Offshore Partnership Account 2000/2001, L.P. (collectively, "**Lehman**"), one representative chosen collectively by EuclidSR Partners, L.P. and EuclidSR Biotechnology Partners, L.P. (collectively, "**EuclidSR**"), one representative chosen by Piper Jaffray Healthcare Fund III, L.P. ("**Piper Jaffray**"), one representative chosen by GE Capital Equity Investments, Inc. ("**GE Capital**"), one representative chosen collectively by Interwest Investors VII, L. P. and Interwest Partners VII, L.P. (collectively, "**Interwest**"), one representative chosen by AllianceBernstein Venture Fund I, L.P. ("**Alliance**"), one representative chosen collectively by Cross Creek Capital, L.P., Cross Creek Capital Employees' Fund, L.P. and Wasatch Small Cap Growth (collectively, "**Wasatch**"), and one representative chosen by BMSIF shall have the right to attend all meetings of the Board of Directors, including meetings of any committee of the Board and including the right to participate in any telephonic board meetings, so long as such Investor holds at least 750,000 shares of Eligible Securities (as adjusted for stock splits and combinations and the like). Said representative(s) shall be provided with notice of the meetings in the same manner at the same time as the members of the Board of Directors and shall be provided with any materials distributed to the Board of Directors in connection with board meetings. The foregoing visitation rights may be limited by the Board of Directors if (i), upon the advice of counsel, the Board of Directors determines that exclusion is required by third party confidentiality agreements, (ii) the Board is discussing engaging Investor or an affiliate of Investor as a financial advisor or underwriter; or (iii) the Board is discussing a material transaction with an entity in which Investor or a private equity fund affiliated with Investor is a 5% or greater shareholder, or (iv) the Board determines in good faith upon advice of counsel that limitations are required to maintain attorney-client privilege."

SECTION 9 Amendment to Section 6.7. Section 6.7 (Amendment and Waiver) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"6.7 Amendment and Waiver. Any provision of this Agreement may be amended or waived with the written consent of the Company and the Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities); provided, however, (i) that in the event such amendment or waiver adversely affects the rights and/or obligations of the Founders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require written consent of the Founders holding a majority of the

then outstanding Founders Shares, (ii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest, Alliance, Wasatch or BMSIF under Section 2.4 of this Agreement, such amendment or waiver shall not be effective as to Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest, Alliance, Wasatch or BMSIF, as the case may be, without the written consent of such party, and (iii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Warrantholders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require the written consent of Warrantholders holding a majority of the then outstanding Warrant Shares. Notwithstanding the foregoing, any purchaser of Series E Preferred Stock pursuant to the Purchase Agreement may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and such purchaser shall be deemed a Holder and an Investor hereunder. The parties agree that Exhibit A shall be updated automatically without any formal amendment to reflect the addition of any such additional party. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each Holder, the Founders, the holder of the Other Shares, Warrantholders and the Company. In addition, the Company may waive performance of any obligation owing to it, as to some or all of the Holders, or agree to accept alternatives to such performance, without obtaining the consent of any other Holder. In the event that an underwriting agreement is entered into between the Company and any Holder, and such underwriting agreement contains terms differing from this Agreement, as to any such Holder the terms of such underwriting agreement shall govern."

SECTION 10 Governing Law. This Amendment shall be construed in accordance with, and governed in all respects by, the laws of the State of California, as applied to agreements entered into, and to be performed entirely in such state, between residents of such state.

SECTION 11 Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument.

[*Remainder of Page Intentionally Blank*]

FLUIDIGM CORPORATION

AMENDMENT NO. 2 TO
EIGHTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS AMENDMENT NO. 2 (this "**Amendment**") to that certain Eighth Amended and Restated Investor Rights Agreement, dated as of June 13, 2006, as amended December 22, 2006 (the "**Rights Agreement**"), by and among Fluidigm Corporation, a California corporation ("**Fluidigm California**"), and the Investors and Founders named therein is entered into effective as of October 10, 2007 by and among Fluidigm Corporation, a Delaware corporation (the "**Company**"), the undersigned Investors, and the undersigned Holders, collectively the Holders of at least two-thirds of the outstanding shares of the Registrable Securities held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities). Capitalized terms not defined herein have the meanings set forth in the Rights Agreement.

RECITALS

WHEREAS, on July 18, 2007, Fluidigm California was merged with and into the Company, with the Company being the surviving corporation such that the Company succeeded to all of Fluidigm California's rights and obligations under the Rights Agreement;

WHEREAS, it is contemplated that the Company will sell and issue additional shares of the Company's Series E Preferred Stock ("**Series E Preferred Stock**") pursuant to that certain Series E Preferred Stock Purchase Agreement, dated as of June 13, 2006, as amended December 22, 2006 and further amended on the date hereof (the "**Purchase Agreement**"), by and among the Company and the Purchasers named therein;

WHEREAS, in connection with the sale of additional shares of Series E Preferred Stock, the Company and the Holders desire to amend the Rights Agreement to include the additional shares of Series E Preferred Stock to be issued pursuant to the Purchase Agreement and make certain other changes as set forth herein; and

WHEREAS, pursuant to Section 6.7 of the Rights Agreement, the Rights Agreement may be amended with the written consent of the Company and Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities) and the Company and the undersigned Holders have agreed to amend the Rights Agreement to provide for the foregoing changes.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all of the parties hereto mutually agree as follows:

AGREEMENT

SECTION 12 Amendment to Recital. The first Recital of the Rights Agreement is hereby amended and restated in its entirety as follows:

"WHEREAS, the Company and the New Investors have entered into a Series E Preferred Stock Purchase Agreement of even date herewith, as amended from time to time (such agreement, as amended from time to time, the "**Purchase Agreement**"), pursuant to which the Company shall sell, and the New Investors shall acquire, shares of the Company's Series E Preferred Stock;"

SECTION 13 Amendment to Section 1.14. Subsection (a)(i) of Section 1.14 (Standoff Agreement) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"(i) such agreement shall not exceed one hundred and eighty (180) days (or such greater period, not to exceed 17 days, as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto);"

SECTION 14 Deletion of Section 1.15. The Rights Agreement is hereby amended to delete Section 1.15 (No Right to Delay Registration) in its entirety.

SECTION 15 Amendment to Section 2.4. Section 2.4 (Visitation Rights) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"2.4 Visitation Rights. One representative chosen collectively by LB I Group Inc., Lehman Brothers P.A. LLC, Lehman Brothers Partnership Account 2000/2001, L.P. and Lehman Brothers Offshore Partnership Account 2000/2001, L.P. (collectively, "**Lehman**"), one representative chosen collectively by EuclidSR Partners, L.P. and EuclidSR Biotechnology Partners, L.P. (collectively, "**EuclidSR**"), one representative chosen by Piper Jaffray Healthcare Fund III, L.P. ("**Piper Jaffray**"), one representative chosen by GE Capital Equity Investments, Inc. ("**GE Capital**"), one representative chosen collectively by Interwest Investors VII, L. P. and Interwest Partners VII, L.P. (collectively, "**Interwest**"), one representative chosen by AllianceBernstein Venture Fund I, L.P. ("**Alliance**"), one representative chosen collectively by Cross Creek Capital, L.P., Cross Creek Capital Employees' Fund, L.P. and Wasatch Small Cap Growth (collectively, "**Wasatch**"), one representative chosen by BMSIF, and one representative chosen collectively by the holders of a majority of the Shares purchased under Amendment No. 2 to the Purchase Agreement (collectively, the "**October 2007 Representative**") shall have the right to attend all meetings of the Board of Directors, including meetings of any committee of the Board and including the right to participate in any telephonic board meetings, so long as such Investor or the October 2007 Representative holds at least 750,000 shares of Eligible Securities (as adjusted for stock

splits and combinations and the like). Said representative(s) shall be provided with notice of the meetings in the same manner at the same time as the members of the Board of Directors and shall be provided with any materials distributed to the Board of Directors in connection with board meetings. The foregoing visitation rights may be limited by the Board of Directors if (i), upon the advice of counsel, the Board of Directors determines that exclusion is required by third party confidentiality agreements, (ii) the Board is discussing engaging Investor or an affiliate of Investor as a financial advisor or underwriter; or (iii) the Board is discussing a material transaction with an entity in which Investor or a private equity fund affiliated with Investor is a 5% or greater shareholder, or (iv) the Board determines in good faith upon advice of counsel that limitations are required to maintain attorney-client privilege."

SECTION 16 Amendment to Section 6.7. Section 6.7 (Amendment and Waiver) of the Rights Agreement is hereby amended and restated in its entirety as follows:

"6.7 Amendment and Waiver. Any provision of this Agreement may be amended or waived with the written consent of the Company and the Holders of at least two-thirds of the outstanding shares of the Registrable Securities then held by Holders (assuming the exercise or conversion of all outstanding Eligible Securities); provided, however, (i) that in the event such amendment or waiver adversely affects the rights and/or obligations of the Founders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require written consent of the Founders holding a majority of the then outstanding Founders Shares, (ii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest, Alliance, Wasatch, BMSIF or the October 2007 Representative under Section 2.4 of this Agreement, such amendment or waiver shall not be effective as to Lehman, EuclidSR, Piper Jaffray, GE Capital, Interwest, Alliance, Wasatch, BMSIF or the October 2007 Representative, as the case may be, without the written consent of such party, and (iii) that in the event such amendment or waiver adversely affects the rights and/or obligations of Warrantholders under this Agreement in a different manner than the other Holders, such amendment or waiver shall also require the written consent of Warrantholders holding a majority of the then outstanding Warrant Shares. Notwithstanding the foregoing, any purchaser of Series E Preferred Stock pursuant to the Purchase Agreement may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and such purchaser shall be deemed a Holder and an Investor hereunder. The parties agree that Exhibit A shall be updated automatically without any formal amendment to reflect the addition of any such additional party. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each Holder, the Founders, the holder of the Other Shares, Warrantholders and the Company. In addition, the Company may waive performance of any obligation owing to it, as to some or all of the Holders, or agree to accept alternatives to such performance, without obtaining the consent of any other Holder. In the event that an underwriting agreement is entered into between the Company and any Holder, and such underwriting agreement contains terms

differing from this Agreement, as to any such Holder the terms of such underwriting agreement shall govern."

SECTION 17 Addition of Section 6.15. The Rights Agreement is hereby amended to add the following Section 6.15 which reads in its entirety as follows:

"6.15 Reincorporation. Each Investor and Founder acknowledges that the Company completed a reincorporation into the State of Delaware on July 18, 2007 and each Investor and Founder hereby consents to the assignment of this Agreement to Fluidigm Corporation, a Delaware corporation, effective as of July 18, 2007."

SECTION 18 Governing Law. This Amendment shall be construed in accordance with, and governed in all respects by, the laws of the State of California, as applied to agreements entered into, and to be performed entirely in such state, between residents of such state.

SECTION 19 Rights Agreement. Wherever necessary, all other terms of the Rights Agreement are hereby amended to be consistent with the terms of this Amendment. Except as specifically set forth herein, the Rights Agreement shall remain in full force and effect

SECTION 20 Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument.

SECTION 21 Effect of Execution of Amendment by Investor. This Amendment, when executed and delivered by the Company and an Investor purchasing shares of Series E Preferred pursuant to the Purchase Agreement as contemplated in the Recitals, shall also constitute and shall be deemed a counterpart signature page to the Rights Agreement. Consequently, each undersigned Investor purchasing shares of Series E Preferred acknowledges and agrees that he, she or it is bound by the terms and conditions contained in the Rights Agreement, as amended by this Amendment.

[*Remainder of Page Intentionally Blank*]

FOUNDERS

Gajus V. Worthington

Stephen R. Quake

INVESTORS

Alejandro Berenstein, M.D.

Alfred J. Mandel

Allan Johnson

Allen May, Trustee, Intervivos Trust Dated 5/14/91

AllianceBernstein Venture Fund I, L.P.

Alloy Partners 2002, L.P.

Alloy Ventures 2002, L.P.

Alloy Ventures 2005, L.P.

Analiza, Inc.

Athersys, Inc.

Beveren Company

Biomedical Sciences Investment Fund Pte Ltd

Bradford S. Goodwin and Cathy W. Goodwin As Trustees of the Goodwin Family Trust U/A/D 7/30/97

Bradford W. Baer

Bruce Burrows

Burr & Forman LLP

Burwen Family Trust U/D/T Dated 9/30/88

Charles C. Moore

Charles R. Engles

Clark-Boyd Family Trust

Cross Creek Capital Employees' Fund, L.P.

Cross Creek Capital, L.P.

David S. Frampton and Gaja Roberta Frampton, as Trustees of the Frampton Family Trust Dtd 4/25/03

Dwayne Hardy

Edward R. LeMoure

Erick Vanderburg

Erik T. Engelson, Trustee of the Elisabeth North Kuechler Engelson Trust UTA dated January 17, 2001

Erik T. Engelson, Trustee of the Erik T. Engelson Trust UTD dated March 29, 2000

EuclidSR Biotechnology Partners, L.P.

EuclidSR Partners, L.P.

Ferguson/Egan Family Trust Dated 6/28/99

Fidelity Contrafund: Fidelity Advisor New Insights Fund

Fidelity Contrafund: Fidelity Contrafund

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

Frances H. Arnold

Fred St. Goar

Fredrick Stern

Gary R. Bang

GE Capital Equity Investments, Inc.

General Electric Capital Corporation

George S. Taylor

Glaxo Group Limited

Health Care Administration Company

Heath Lukatch

Henry P. Massey, Jr. TTEE Massey Family Trust U/A DTD 7/06/88

Herbert L. Heyneker

Howard R. Engelson

Howard R. Engelson and Mariam T. Engelson, Ttees Engelson Fam Tr UA DTD 5/26/94

In-Q-Tel Employee Fund, LLC

In-Q-Tel, Inc.

Interwest Investors VII, L.P.

Interwest Partners VII, L.P.

Invus, L.P.

J.F. Shea Co., Inc. As Nominee 1999-114

Jacaranda Partners

James H. Eberwine

James W. Larrick, M.D.

John E. Strobeck, Ph.D., M.D.

John East

John M. Harland

Jonathan S. Hoot and Andrea T. Hoot, Trustees of the Hoot Family Revocable Trust DTD 3/16/99

Joseph M. Jacobson

Kenneth A. Clark

Kiley Revocable Trust

Kristin T. McClanahan Trust

Leerink Swann Co-Investment Fund, LLC

Leerink Swann Holdings, LLC

Lehman Brothers Healthcare Venture Capital L.P.

Lehman Brothers Offshore Partnership Account 2000/2001, L.P.

Lehman Brothers P.A. LLC

Lehman Brothers Partnership Account 2000/2001, L.P.

Leo J. Parry, Jr. and Roberta J. Parry TTEES Parry Family Revocable Trust DTD 01/22/97

Lighthouse Capital Partners V, L.P.

Lilly Bio Ventures, Eli Lilly and Company

Markwell Partners

Matthew Collier

Matthew Frank

Michael H. McKay

Michael J. Reardon Trust Agreement dated June 5, 1996

Needle & Rosenberg PC

Newman Family Investment Partnership

Oculus Pharmaceuticals, Inc.

Pamela East

Pat and Betsy Collins Revocable Trust

Patrick Tenney

Paul Machle

Pauline van Ysendoorn

Peter B. Dervan

Peter S. Heinecke

Rhett E. Brown

Robert D. McCulloch and Kathleen M. McCulloch, Trustee, or their successor(s)

Robert F. Kornegay, Jr. Revocable Trust u/d/t dated May 27, 2004, Robert F. Kornegay, Jr., Trustee

Security Trust Co., Custodian FBO Frank Ruderman IRA/RO

SightLine Healthcare Fund III, L.P.

Singapore Bio-Innovations Pte Ltd.

SMALLCAP World Fund, Inc.

SmithKline Beecham Corporation

Stanley D. Hayden, and his successor(s), as the Trustee of the Stanley D. Hayden Family Trust

Stephen J. Weiss

Stephen J. Weiss and Ursula G. Weiss, Trustees of the Weiss Family 1996 Trust

Stephen L. Parry

Technogen Liquidating Trust

The Condon Family Trust

The Heckmann Family Trust

The UAB Research Foundation

The V Foundation for Cancer Research

Thomas J. Parry

Thomas L. Barton

Tim L. Traff Trust

Timothy P. Lynch

TTC Fund I, LLC

Variable Insurance Products Fund II: Contrafund Portfolio

Versant Affiliates Fund 1-A, L.P.

Versant Affiliates Fund 1-B, L.P.

Versant Side Fund I, L.P.

Versant Venture Capital I, L.P.

Wasatch Funds, Inc.

William L. Caton III, M.D.

William L. Traff Trust

William S. Brown and Barbara G. Brown, or their successors, as Trustees of the Brown FRT DTD 3/10/99

WS Investment Company 2000B

WS Investment Company 99B

WS Investment Company, LLC (2001D)

EXHIBIT E

FORM OF LEGAL OPINION

June , 2006

AllianceBernstein L.P.
1345 Avenue of the Americas
New York, New York 10105

Ladies and Gentlemen:

Reference is made to the Series E Preferred Stock Purchase Agreement dated as of June , 2006 (the "**Agreement**") by and among Fluidigm Corporation, a California corporation (the "**Company**"), and the persons and entities listed in Exhibit A to the Agreement (the "**Investors**"), which provides for the issuance by the Company to the Investors of shares of Series E Preferred Stock of the Company (the "**Shares**"). This opinion is rendered to the Investors in the Initial Closing pursuant to Section 4.5 of the Agreement, and all terms used herein have the meanings defined for them in the Agreement unless otherwise defined herein. Reference in this opinion to the Agreement excludes any schedule or substantive agreement attached as an exhibit to the Agreement, unless otherwise indicated herein.

We have acted as counsel for the Company in connection with the negotiation of the Agreement and the Investor Rights Agreement (collectively, the "**Transaction Documents**") and the issuance of the Shares. As such counsel, we have made such legal and factual examinations and inquiries as we have deemed advisable or necessary for the purpose of rendering this opinion. In addition, we have examined originals or copies of such corporate records of the Company, certificates of public officials and such other documents which we consider necessary or advisable for the purpose of rendering this opinion. In such examination we have assumed the genuineness of all signatures on original documents, the authenticity and completeness of all documents submitted to us as originals, the conformity to original documents of all copies submitted to us and the due execution and delivery of all documents (except as to due execution and delivery by the Company) where due execution and delivery are a prerequisite to the effectiveness thereof.

As used in this opinion, the expression "to our knowledge," "known to us" or similar language with reference to matters of fact refers to the current actual knowledge of attorneys of this firm who have worked on matters for the Company in connection with the Agreement and the transactions contemplated thereby. Except to the extent expressly set forth herein or as we otherwise believe to be necessary to our opinion, we have not undertaken any independent investigation to determine the existence or absence of any fact, and no inference as to our knowledge of the existence or absence of any fact should be drawn from our representation of the Company or the rendering of the opinion set forth below.

For purposes of this opinion, we are assuming that each Investor has all requisite power and authority, and has taken any and all necessary corporate or partnership action, to execute and deliver the Transaction Documents and to effect any and all transactions related to or contemplated thereby. In addition, we are assuming that the Investors have purchased the Shares for value, in good faith and without notice of any adverse claims within the meaning of the California Uniform Commercial Code.

We are members of the Bar of the State of California and we express no opinion as to any matter relating to the laws of any jurisdiction other than the federal laws of the United States of America and the laws of the State of California.

In rendering the opinion in paragraph 6 below, we note that we have not conducted a docket search in any jurisdiction with respect to litigation that may be pending against the Company or any of its officers or directors. We further note the disclosure under Section 2.10 of the Schedule of Exceptions to the Agreement. Please be advised that we have not represented the Company with respect to the matters disclosed in Section 2.10 of the Schedule of Exceptions and express no opinion with respect to any matter discussed therein.

The opinions hereinafter expressed are subject to the following additional qualifications:

(a) We express no opinion as to the effect of applicable bankruptcy, insolvency, reorganization, moratorium or other similar federal or state laws affecting the rights of creditors.

(b) We express no opinion as to the effect or availability of rules of law governing specific performance, injunctive relief or other equitable remedies (regardless of whether any such remedy is considered in a proceeding at law or in equity).

(c) This opinion is qualified by the limitations imposed by statutes and principles of law and equity that provide that certain covenants and provisions of agreements are unenforceable where such covenants or provisions are unconscionable or contrary to public policy or where enforcement of such covenants or provisions under the circumstances would violate the enforcing party's implied covenant of good faith and fair dealing.

(d) Our opinion in the first sentence of paragraph 1 below is based solely on the certificates of public officials and filing officers as to the corporate and tax good standing of the Company in the State of California.

(e) Our opinions set forth in paragraph 3 below relating to the outstanding capital stock of the Company and outstanding options, warrants or similar rights to acquire shares of the Company's capital stock are based solely on (i) our review of a report from eProsper, Inc., the

Company's transfer agent, detailing the holders of securities of the Company and the number and type of securities held by such holders (the "**Transfer Agent Report**") and (ii) a certificate delivered to us by the Company regarding factual matters underlying the opinions set forth herein. Our opinion in paragraph 3 below that the issued and outstanding shares of Common Stock and Preferred Stock of the Company are fully paid and non-assessable is based solely on a certificate of an officer of the Company that the Company received, in payment for such shares, the full consideration required by the resolutions of the Board of Directors of the Company authorizing the issuance of such shares.

(f) For purposes of our opinions in paragraph 2 and paragraph 4 below, we have assumed that the Transfer Agent Report is accurate and complete in all respects.

(g) We express no opinion as to compliance with the anti-fraud provisions of applicable securities laws.

(h) We express no opinion as to the enforceability of any indemnification or contribution provision, including, without limitation, the indemnification and contribution provisions of the Investor Rights Agreement and the indemnification provision in the Agreement, to the extent the provisions thereof may be subject to limitations of public policy and the effect of applicable statutes and judicial decisions.

(i) We express no opinion as to the enforceability of choice of law provisions, waivers of jury trial or provisions relating to venue or jurisdiction.

(j) We have made no inquiry into, and express no opinion with respect to, any federal or state statute, rule, or regulation relating to any tax, antitrust, land use, safety, environmental, hazardous material, patent, copyright, trademark or trade name matter, as to the statutes, regulations, treaties or common laws of any other nation (other than the United States), state or jurisdiction (other than the State of California), or the effect on the transactions contemplated in the Transaction Documents of noncompliance under any such statues, regulations, treaties, or common laws. Without limiting the foregoing, we express no opinion as to the effect of, or compliance with, the Investment Advisors Act of 1940, as amended, or the Employee Retirement Income Security Act of 1974, as amended. We further disclaim any opinion as to any statute, rule, regulation, ordinance, order, or other promulgation of any regional or local governmental body or as to any related judicial or administrative opinion.

(k) Our opinions relate solely to the express written provisions of the Transaction Documents, and we express no opinion as to any other oral or written agreements or understandings between the Company or any of the Investors.

Based upon and subject to the foregoing, and except as set forth in the Schedule of Exceptions to the Agreement, we are of the opinion that:

1. The Company is a corporation duly incorporated and validly existing under, and by virtue of, the laws of the State of California and is in good standing under such laws. The Company has requisite corporate power to own and operate its properties and assets, and to carry on its business as presently conducted.

2. The Company has all requisite legal and corporate power to execute and deliver the Transaction Documents, to sell and issue the Shares under the Agreement, to issue the Common Stock issuable upon conversion of the Shares and to carry out and perform its obligations under the terms of the Transaction Documents.

3. The authorized capital stock of the Company consists of 77,857,144 shares of Common Stock, 9,274,356 shares of which are issued and outstanding, and 51,687,948 shares of Preferred Stock, 2,727,273 of which are designated Series A Preferred Stock, 2,727,273 shares of which are issued and outstanding, 6,460,675 of which are designated Series B Preferred Stock, 6,460,675 shares of which are issued and outstanding, 17,000,000 of which are designated Series C Preferred Stock, 16,364,832 shares of which are issued and outstanding, 15,500,000 shares of Series D Preferred Stock, 11,714,048 of which are issued and outstanding, and 10,000,000 shares of Series E Preferred Stock, none of which has been issued or outstanding immediately prior to the Initial Closing. All such issued and outstanding shares of Common Stock and Preferred Stock have been duly authorized and validly issued and are fully paid and nonassessable. The Company has reserved: (i) 5,000,000 shares of Series E Preferred Stock for issuance pursuant to the Agreement and 5,000,000 shares of Common Stock for issuance upon conversion of such shares of Series E Preferred Stock; (ii) 11,714,048 shares of Common Stock for issuance upon conversion of the Series D Preferred Stock, (iii) 916,335 shares of Series D Preferred Stock for issuance upon exercise of outstanding warrants and 916,335 shares of Common Stock for issuance upon conversion of such Series D Preferred Stock; (iv) 16,364,832 shares of Common Stock for issuance upon conversion of the Series C Preferred Stock; (v) 294,868 shares of Series C Preferred Stock for issuance upon exercise of outstanding warrants and 294,868 shares of Common Stock for issuance upon conversion of such Series C Preferred Stock; (vi) 6,460,675 shares of Common Stock for issuance upon conversion of the Series B Preferred Stock; (vii) 2,727,273 shares of Common Stock for issuance upon conversion of the Series A Preferred Stock; and (viii) an aggregate of 10,800,000 shares of Common Stock for issuance to employees and consultants of the Company pursuant to the Company's 1999 Stock Option Plan (the "**Option Plan)**, pursuant to which options to purchase 5,597,763 shares are granted and outstanding and 1,554,643 shares are available for future grant. The Common Stock issuable upon conversion of the Shares has been duly authorized and duly and validly reserved, and when issued in accordance with the Company's Articles of Incorporation, will

be validly issued, fully paid and nonassessable. The Shares issued under the Agreement are duly authorized, validly issued, fully paid and nonassessable and are free of any liens, encumbrances and preemptive or similar rights contained in the Articles of Incorporation or Bylaws of the Company, or, to our knowledge, in any written agreement to which the Company is a party, except as specifically provided in the Agreement (including its Exhibits) and except for liens or encumbrances created by or imposed upon the Investors; provided, however, that the Shares (and the Common Stock issuable upon conversion thereof) are subject to restrictions on transfer under applicable state and federal securities laws. To our knowledge, except for rights described above, in the Transaction Documents (including the Schedule of Exceptions to the Agreement) or in the Articles of Incorporation of the Company, as of the date of the Agreement, there are no other options, warrants, conversion privileges or other rights in writing presently outstanding to purchase or otherwise acquire any authorized but unissued shares of capital stock or other securities of the Company, or any other written agreements of the Company to issue any such securities or rights; provided, however, we note the Company's intent to comply with Section 3 of the Investor Rights Agreement following the Initial Closing.

4. All corporate action on the part of the Company, its directors and shareholders necessary for the authorization, execution and delivery of the Transaction Documents by the Company, the authorization, sale, issuance and delivery of the Shares (and the Common Stock issuable upon conversion thereof) and the performance by the Company of its obligations under the Transaction Documents (other than those registration obligations contained in Section 1 of the Investor Rights Agreement) has been taken. The Transaction Documents have been duly and validly executed and delivered by the Company and constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with their terms.

5. The execution and delivery by the Company of the Transaction Documents, the performance by the Company of its obligations under the Transaction Documents, and the issuance of the Shares (and the Common Stock issuable upon conversion thereof) do not violate any provision of the Articles of Incorporation or Bylaws, or any provision of any applicable federal or state law, rule or regulation known to us to be customarily applicable to transactions of this nature. The execution and delivery by the Company of the Transaction Documents, the performance by the Company of its obligations under the Transaction Documents, and the issuance of the Shares (and the Common Stock issuable upon conversion thereof) do not violate any judgment or decree known to us that is binding upon the Company.

6. Except as identified in the Agreement (including the Schedule of Exceptions), to our knowledge, there are no actions, suits, proceedings or investigations pending against the Company or its properties before any court or governmental agency nor, to our knowledge, has the Company received any written threat thereof.

7. No consent, approval or authorization of or designation, declaration or filing with any governmental authority on the part of the Company is required in connection with the valid execution and delivery of the Transaction Documents, or the offer, sale or issuance of the Shares (and the Common Stock issuable upon conversion thereof) or the consummation by the Company of any other transaction contemplated by the Transaction Documents, except (a) the filing of the Amended and Restated Articles of Incorporation in the Office of the Secretary of State of the State of California, and (b) subject to the accuracy of the representations and warranties of the Investors in Section 3 of the Agreement, (i) the filing after the Closing of a Form D pursuant to Regulation D, promulgated by the United States Securities and Exchange Commission (the "**SEC**") under the Securities Act of 1933, as amended (the "**Securities Act**"), with the SEC, and (ii) the post-Closing qualification (or the taking of such action post-Closing as may be necessary to secure an exemption from qualification) under applicable state securities laws of the offer and sale of the Shares (and the Common Stock issuable upon conversion thereof). The filing referred to in clause (a) above has been accomplished and is effective. Our opinion herein is otherwise subject to the timely and proper completion of all filings and other actions contemplated herein where such filings and actions are to be undertaken on or after the date hereof.

8. Subject to the accuracy of the Investors' representations in Section 3 of the Agreement, the offer, sale and issuance of the Shares (and the Common Stock issuable upon conversion thereof) in conformity with the terms of the Agreement constitute transactions exempt from the registration requirements of Section 5 of the Securities Act.

This opinion is furnished to the Investors solely for their benefit in connection with the purchase of the Shares, and may not be relied upon by any other person or for any other purpose without our prior written consent. We assume no obligation to inform you of any facts, circumstances, events or changes in the law that may arise or be brought to our attention after the date of this opinion that may alter, affect or modify the opinions expressed herein.

Very truly yours,

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 4.4

LOAN AND SECURITY AGREEMENTS

THIS LOAN AND SECURITY AGREEMENT No. 4561 (this *"Agreement")* is entered into as of March 29, 2005, by and between **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** *("Lender")* and **FLUIDIGM CORPORATION**, a California corporation *("Borrower"* or sometimes referred to herein as *"Debtor")* and sets forth the terms and conditions upon which Lender will lend and Borrower will repay money. In consideration of the mutual covenants herein contained, the parties agree as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions. Initially capitalized terms used and not otherwise defined herein are defined in the California Uniform Commercial Code *("UCC").*

"ACH" means the Automated Clearing House electronic funds transfer system.

"Advance" means a Loan advanced by Lender to Borrower hereunder.

"*Basic Rate"* means a variable *per annum* rate of interest equal to the Index plus the Interest Margin which shall be subject to adjustment as provided in the Loan Agreement and/or the Note. On and after the Loan Commencement Date the Basic Rate shall be fixed and not subject to any further adjustments.

"Borrower's Books" means all of Borrower's books and records, including records concerning Collateral, Borrower's assets, liabilities, business operations or financial condition, on any media, and the equipment containing such information.

"*Change of Management or Board Composition"* means that **(i)** Borrower's senior management shall not include Gajus Worthington; **(ii)** Versant Ventures shall cease to have a representative (currently Samuel Colella) serving on Borrower's Board of Directors; or**(iii)** Lehman Brothers shall cease to have a representative (currently Hingge Hsu) serving on Borrower's Board of Directors;.

"*Collateral"* means: **(i)** all property listed on ***Exhibit A*** attached hereto; and **(ii)** all products and proceeds of the foregoing, including proceeds of insurance and proceeds of proceeds, *provided that*, notwithstanding anything to the contrary contained in this Agreement, the term Collateral shall not include (a) any property that is subject to a Lien that is otherwise permitted pursuant to subsection (v) of the definition of 'Permitted Liens" and Lender agrees to execute any instruments or documents necessary to evidence the intent of the foregoing; (b) more than 65% of the issued and outstanding voting securities of any Subsidiary of Borrower tha is not incorporated or organized in the United States; or (c) any of the Company's Intellectual Property (as defined below).

"*Commitment"* means $13,000,000.

"*Commitment Fee"* means $10,000.

"*Commitment Termination Date"* means the earliest to occur of **(i)** the earlier to occur of (a) June 1, 2005, if Borrower has not borrowed at least $2,000,000 by such date; (b) September 1, 2005, if Borrower has not borrowed an additional $3,000,000 by such date or (c) December 1, 2005; **(ii)** any Default or Event of Default that has not been cured by Borrower or waived in writing by Lender, or **(iii)** Change of Management or Board Composition (unless Lender has waived this condition in writing).

"*Control Agreement"* means an agreement substantially in the form *of* ***Exhibit I*** or otherwise reasonably acceptable to Lender.

"*Default"* means any event that with the passing of time or the giving of notice or both would become an Event of Default.

"*Default Rate"* means the lesser of 5% per annum above the otherwise applicable rate or the highest rate permitted by applicable law.

"*Disclosure Schedule"* means the Disclosure Schedule, dated as of the date hereof, and delivered to Lender in connection with the execution and delivery of this Agreement.

"*Event of Default"* is defined in **Section 8.**

"*Funding Date"* means any date on which an Advance is made to or on account of Borrower hereunder.

"*Indebtedness"* means **(i)** all indebtedness for borrowed money or the deferred purchase of property or services, **(ii)** all obligations evidenced by notes, bonds, debentures or similar instruments, **(iii)** all capital lease obligations, and **(iv)** all contingent obligations, consisting of guaranties of Indebtedness of other persons and obligations of reimbursement with respect to letters of credit.

"*Incumbency Certificate*" means the document in the form *of* ***Exhibit E.***

"*Index*" means the prevailing variable Prime Rate of annual interest as quoted from time to time in the western edition of the Wall Street Journal.

"*Intellectual Property*" means, collectively, all rights, priorities and privileges of the Borrower relating to intellectual property, in any medium, of any kind or nature whatsoever, now or hereafter owned or acquired or received by Borrower, or in which Borrower now holds or hereafter acquires or receives any right or interest, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, any and all property of the Borrower that is subject to, listed in or otherwise described in the Negative Pledge Agreement dated March 29, 2005 between Borrower and Lender, and shall include, in any event, all copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, trade secrets, internet domain names (including any right related to the registration thereof), proprietary or confidential information, mask works, sources object or other programming codes, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know-how, software, data base, data, skill, expertise, recipe, experience, process, models, drawings, materials or records. Notwithstanding the foregoing, Intellectual Property as defined above does not include proceeds or other revenue consisting of accounts, accounts receivable, royalties, licensing fees, or payment intangibles, obtained or owed from or on account of the licensing or other exploitation or disposition of Intellectual Property, and all of which are included as Collateral in the security interest granted by Borrower to Lender.

"*Interest Margin*" means 2.5% per annum.

"*Lender's Expenses*" means all reasonable costs or expenses (including reasonable attorneys' fees and expenses) incurred in connection with the preparation, negotiation, modification, administration, or enforcement of the Loan or Loan Documents, or the exercise or preservation of any rights or remedies by Lender, whether or not suit is brought. Lender will apply deposits (including the Commitment Fee) received by Lender, if any, towards Lender's Expenses.

"*Lien*" means any lien, security interest, pledge, bailment, lease, mortgage, hypothecation, conditional sales and title retention agreement, charge, claim, or other encumbrance.

"*Liquidation Event*" means any of: **(i)** a merger of Borrower with another entity, other than a merger whereby the shareholders of Borrower immediately prior to such merger own at least 50% of the outstanding voting securities of Borrower immediately after such merger; **(ii)** the sale (in one or a series of related transactions) of all or substantially all of Borrower's assets; or **(iii)** any transaction (or series of related transactions) whereby the shareholders of Borrower immediately prior to such transaction(s) own less than 50% of the outstanding voting securities of Borrower immediately after such transaction(s).

"*Loan*" means all of the Advances, however evidenced, and all other amounts due or to become due hereunder.

"*Loan Commencement Date*" means March 1, 2006.

"*Loan Documents*" means, collectively, this Agreement, the Warrant, the Notes, the Financing Statement and Security Agreement in the form attached as ***Exhibit A*** and all other documents, instruments and agreements entered into between Borrower and Lender in connection with the Loan, all as amended or extended from time to time.

"*Negative Pledge Agreement*" means an agreement, dated as of the date hereof, in the form *of* ***Exhibit H.***

"*Note*" means each Secured Promissory Note in the form *of* ***Exhibit B,*** delivered in connection with each Advance.

"*Notice of Borrowing*" means the form attached as ***Exhibit D.***

"*Obligations*" means all Loans, debt, principal, interest, fees, charges, Lender's Expenses and other amounts, obligations, covenants, and duties owing by Borrower to Lender of any kind or description (whether pursuant to the Loan Documents or otherwise (with the exception of the Warrant), and whether or not for the payment of money), whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including any of the same obtained by Lender by assignment or otherwise, and all amounts Borrower is required to pay or reimburse by the Loan Documents, by law, or otherwise.

"*Permitted Indebtedness*" means: **(i)** the Loan; **(ii)** unsecured trade debt incurred in the ordinary course of Borrower's business; **(iii)** Indebtedness secured by clause **(ii)** and **(v)** of Permitted Liens; **(iv)** Subordinated Indebtedness; **(v)** Indebtedness existing as of the date hereof and listed on the Disclosure Schedule; **(vi)** Indebtedness arising from the endorsement of negotiable instruments for deposits or collections or similar transactions in the ordinary course of business; **(vii)** other Indebtedness consisting of letters of credit and

reimbursement obligations in an amount not to exceed $250,000; **(viii)** Indebtedness of (A) Borrower to any Subsidiary that is unsecured, (B) one Subsidiary to another Subsidiary, or (C) any Subsidiary to Borrower in an amount not to exceed $4,500,000 in the aggregate; **(ix)** other Indebtedness in an outstanding principal amount not to exceed $150,000 in the aggregate; and **(x)** Indebtedness incurred in connection with the extension, renewal or refinancing of any Indebtedness of the type described in clauses (i) through (ix) above, provided that the principal amount of such Indebtedness does not increase other than any reasonable premium in connection therewith. Notwithstanding the foregoing, the restrictions on Indebtedness for Subordinated Indebtedness and referenced in clause (v) of the definition of Permitted Liens shall cease at the effective date of a public offering of Borrower's capital stock which results in proceeds of at least $25,000,000.

"Permitted Liens" means: **(i)** Liens in favor of Lender; **(ii)** Liens disclosed in the Disclosure Schedule; **(iii)** Liens for taxes, fees, assessments or other governmental charges or levies not delinquent or being contested in good faith by appropriate proceedings, that do not jeopardize Lender's interest in any Collateral; **(iv)** Liens to secure payment of worker's compensation, employment insurance, old age pensions or other social security obligations of Borrower on which Borrower is current and are in the ordinary course of its business; provided none of the same diminish or impair Lender's rights and remedies respecting the Collateral; and **(v)** Liens upon or in any equipment (including any accessions, attachments, replacements, improvements or proceeds thereto) acquired or held by Borrower to secure the purchase price of such equipment or Indebtedness incurred solely for the purposes of financing such equipment, provided that the aggregate outstanding principal amount of all such financing shall not exceed $5,000,000, **(vi)** license or sublicenses of Intellectual Property granted in the ordinary course of business; **(vii)** banker's Liens, rights of setoff and similar Liens incurred on deposit and securities accounts in the ordinary course of business; **(viii)** Liens arising from judgments in circumstances not constituting and Event of Default; **(ix)** Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of customs duties in connections with the importation of goods; **(x)** Liens on insurance proceeds in favor of insurance companies granted solely as security for financed premiums; **(xi)** carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Liens arising in the ordinary course of business which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings; **(xii)** Liens with respect to cash collateral to secure Indebtedness otherwise permitted pursuant to clause (vii) of the definition of Permitted Indebtedness; and **(xiii)** Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clauses (i) through (xi) above, provided that any extension, renewal, or replacement Lien shall be limited to the collateral securing the existing Lien and the principal amount of such Indebtedness does not increase other than any reasonable premium in connection therewith.

"Regulated Substance" means any substance, material or waste the use, generation, handling, storage, treatment or disposal of which is regulated by any local or state government authority, including any of the same designated by any authority as hazardous, genetic, cloning, fetal, or embryonic.

"Responsible Officer" means each person as authorized by the board of directors of Borrower as set forth on the Incumbency Certificate.

"Subordinated Indebtedness" means Indebtedness of Borrower to Singapore EDB and Invus Group that is subordinated in both security and right of payment to the Obligations on terms and conditions reasonably satisfactory to Lender in an amount not to exceed $6,000,000.

"Subsidiary" shall mean any entity of which a majority of the outstanding equity interests entitled to vote for the election of directors is owned by Borrower.

"Term" means the period from and after the date hereof until the full, final and indefeasible payment and performance of all Obligations.

"Warrant" means the Warrant, dated as of the date hereof, in favor of Lender and its affiliates to purchase securities of Borrower substantially in the form *of* ***Exhibit C.***

1.2 Interpretation. References to "Articles," "Sections," "Exhibits," and "Schedules" are to articles, sections, exhibits and schedules herein and hereto unless otherwise indicated. "Hereof," "herein" and "hereunder" refer to this Agreement as a whole. "Including" is not limiting. All accounting and financial computations shall be computed in accordance with generally accepted accounting principles consistently applied *("GAAP").* "Or" is not necessarily exclusive. All interest computation interest shall be based on a 360-day year and actual days elapsed.

2. The Loans

2.1 Commitment. Subject to the terms hereof, Lender will make Advances to Borrower up to the principal amount of the Commitment, before the Commitment Termination Date. Notwithstanding anything in the Loan Documents to the contrary, Lender's obligation to make any Advances or to lend the undisbursed portion of the Commitment shall terminate on the Commitment Termination Date. Repaid principal of the Advances may not be re-borrowed.

2.2 The Advances. A Note setting forth the specific terms of repayment will evidence each Advance. No Advance will be made for less than $1,000,000, unless less than $1,000,000 remains available under the Commitment for borrowing. Absence of a Note evidencing any portion of the Loan shall not impair Borrower's obligation to repay it to Lender.

2.3 Terms of Payment, Repayment.

(a) Repayment. Borrower shall repay the principal and pay interest on each Advance on the terms set forth in the applicable Note. Amounts not paid when due hereunder or under the Note shall bear interest at the Default Rate. If a court of competent jurisdiction determines that Lender has received payments that, if interest, would exceed the maximum lawfully permitted, Lender will instead apply such money to fees and expenses and then to early prepayment of principal (provided that notwithstanding anything contained in any Loan Document, any such prepayment shall not trigger any Prepayment Fees).

(b) ACH. All payments due to Lender must be, at Lender's option, paid to Lender in cash or through ACH. Borrower shall execute and deliver the ACH Authorization Form substantially in the form of ***Exhibit G.*** Lender shall provide Borrower an invoice for any Obligations that are to be transferred by ACH at least 10 days in advance of the date of any ACH funds transfer with respect to Obligations which have become due and payable and are to be transferred by ACH. If the ACH payment arrangement is terminated for any reason, Borrower shall make all payments due to Lender at Lender's address specified in **Section 11.**

(c) Default Rate. While an Event of Default has occurred and is continuing, interest on the Loan shall be increased to the Default Rate. Lender's failure to charge or accrue interest at the Default Rate during the existence of a Default shall not be deemed a waiver by Lender of its right or claim thereto.

(d) Date. Whenever any payment due under the Loan Documents is due on a day other than a business day, such payment shall be made on the next succeeding business day, and such extension of time shall be included in the computation of interest or fees, as the case may be.

2.4 Fees. Borrower shall pay to Lender the following:

(a) Commitment Fee. The Commitment Fee, which has been previously paid by Borrower, and shall be applied by Lender to Lender's Expenses and other Obligations;

(b) Late Fee. On demand, a late charge on any sums due hereunder that are not paid when due, in an amount equal to 2% of the past due amount, payable on demand.

(c) Lender's Expenses. The payment of all Lender's Expenses, which may become due to Lender by Borrower hereunder shall be payable by Borrower as set forth in **Section 2.3(b).** Lender's Expenses not paid when due shall bear interest as principal at the Default Rate.

3. Conditions of Advances; Procedure for Requesting Advances

3.1 Conditions Precedent to any and all Advances. The obligation of Lender to make any Advances is subject to each and every of the following conditions precedent in form and substance satisfactory to Lender in its sole discretion: **(i)** this Agreement, a Note evidencing the Advance, the Warrant, and all other UCC financing statements, and other documents required or as specified herein have been duly authorized, executed and delivered; **(ii)** no Default or Event of Default has occurred and is continuing; **(iii)** delivery of a Notice of Borrowing with respect to the proposed Advance; **(iv)** Lender's security interests in the Collateral are valid and first priority, except for Permitted Liens; and **(v)** all such other items as Lender may reasonably deem necessary or appropriate have been delivered or satisfied. The extension of an Advance prior to the receipt by Lender of any of the foregoing shall not constitute a waiver by Lender of Borrower's obligation to deliver such item.

3.2 Procedure for Making Advances. For any Advance, Borrower shall provide Lender an irrevocable Notice of Borrowing at least 7 business days prior to the desired Funding Date and Lender shall only be required to make Advances hereunder based upon written requests which comply with the terms and exhibits of this Loan Agreement (as the same may be amended from time to time), and which are submitted and signed by a Responsible Officer. Borrower shall execute and deliver to Lender a Note and such other documents and instruments as Lender may reasonably require for each Advance made.

4. Creation of Security Interest

4.1 Grant of Security Interest. Borrower grants to Lender a valid, first priority, continuing security interest in all present and future Collateral in order to secure prompt, full, faithful and timely payment and performance of all Obligations.

4.2 Inspections. Lender shall have the right upon reasonable prior notice to inspect Borrower's Books, including computer files, and to make copies, and to test, inspect and appraise the Collateral, in order to verify any matter relating to Borrower or the Collateral.

4.3 Authorization to File Financing Statements. Borrower irrevocably authorizes Lender at any time and from time to time to file in any jurisdiction any financing statements and amendments that: **(i)** name Collateral as collateral thereunder, regardless of whether any particular Collateral falls within the scope of the UCC; **(ii)** contain any other information required by the UCC for sufficiency or filing office acceptance, including organization identification numbers; and **(iii)** contain such language as Lender determines helpful in protecting or preserving rights against third parties. Borrower ratifies any such filings made prior to the date hereof.

5. Representations and Warranties

Except as set forth on the Disclosure Schedule, Borrower represents and warrants as follows:

5.1 Due Organization and Qualification. Borrower is a corporation duly formed, existing and in good standing under the laws of its state of incorporation and qualified and licensed to do business in, and is in good standing in, any state in which the conduct of its business or its ownership of property requires that it be so qualified or in which the Collateral is located, except to the extent that such non-compliance would not reasonably be expected to result in an adverse effect on Borrower's business.

5.2 Authority. Borrower has all corporate power and authority, and has taken all actions, and has obtained all third party consents necessary to execute, deliver, and perform the Loan Documents.

5.3 Disclosure Schedule. All information on the Disclosure Schedule is true, correct and complete.

5.4 Authorization; Enforceability. The execution and delivery hereof, the granting of the security interest in the Collateral, the incurring of the Obligations, the execution and delivery of all Loan Documents and the consummation of the transactions herein and therein contemplated have been duly authorized by all necessary action by Borrower. The Loan Documents constitute legal, valid and binding obligations of Borrower, enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy or similar laws relating to enforcement of creditors' rights generally.

5.5 Name and Location. Borrower has not done business under any name other than that specified on the signature page hereof. The chief executive office, principal place of business, and the place where Borrower maintains its records concerning the Collateral is set forth in **Section 11.** The Collateral is presently located at the address(es) set forth in **Section 11** and on the Disclosure Schedule or any other location that Borrower has provided Lender with written notice thereof.

5.6 Litigation. All actions or proceedings pending by or against Borrower that could reasonably be expected to result in a material adverse effect on Borrower's business before any court or administrative agency are se forth on the Disclosure Schedule.

5.7 Financial Statements. All financial statements delivered by Borrower to Lender present fairly in all material respects Borrower's financial condition for the periods indicated. All statements respecting Collateral that have been or may hereafter be delivered by Borrower to Lender are true, complete and correct in all material respects for the periods indicated.

5.8 Solvency. Borrower is solvent and able to pay its debts (including trade debts) as they come due.

5.9 Taxes. Borrower has filed and will file all required tax returns, and has paid and will pay all taxes it owes other than where the failure to comply would not reasonably be expected to have a material adverse effect o Borrower.

5.10 Rights; Title to Assets. To Borrower's knowledge, Borrower possesses, owns, or has the right to use all necessary assets, rights, trademarks, trade names, copyrights, patents, patent rights, franchises and licenses which are required to conduct of its business as now operated, except where the failure to possess or own could not reasonably be expected to have a material adverse effect on Borrower's business. Borrower has good title to its assets, free and clear of any Liens, except for Permitted Liens.

5.11 Full Disclosure. No written representation, warranty or other statement made by Borrower in any Loan Document, certificate or statement furnished to Lender contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading (it being recognized by Lender that projections and estimates as to future events are not to be viewed as facts and the actual results during the period or periods covered by any such projections and estimates may differ from projected or estimated results).

5.12 Regulated Substances. Borrower complies and will comply with all laws respecting Regulated Substances, except where the failure to comply could not reasonably be expected to have an adverse effect on Borrower's business.

5.13 Reaffirmation. Each Notice of Borrowing will constitute **(i)** a warranty and representation in favor of Lender that there does not exist any Default and **(ii)** subject to any amended Disclosure Schedule delivered to Lender or any other written disclosure required to be sent to Lender pursuant to the terms hereof, a reaffirmation as of the date thereof of all of the representations and warranties contained in this Agreement and the Loan Documents.

6. Affirmative Covenants

So long as any Obligations (other than inchoate indemnity obligations) remain outstanding, Borrower covenants and agrees that it shall do all of the following:

6.1 Good Standing and Compliance. Borrower shall maintain all governmental licenses, rights and agreements necessary for its operations or business and comply in all respects with all statutes, laws, ordinances and government rules and regulations to which it is subject except where the failure to comply would not reasonably be expected to result in a material adverse effect on Borrower.

6.2 Financial Statements, Reports, Certificates. Borrower shall deliver to Lender: **(i)** as soon as prepared, and no later than 30 days after the end of each calendar month, a balance sheet, income statement and cash flow statement covering Borrower's operations during such period; **(ii)** as soon as prepared, but no later than 90 days after the end of the fiscal year, or such other timeframe formally approved by Borrower's audit committee, audited financial statements prepared in accordance with GAAP, together with an opinion that such financial statements fairly present Borrower's financial condition by an independent public accounting firm reasonably acceptable to Lender; **(iii)** immediately upon notice thereof, a report of any legal or administrative action pending or threatened in writing against Borrower which is likely to result in liability to Borrower in excess of $100,000 (provided that Borrower shall not be required to report notices of possibly relevant third party patents, or proposals or demands to license intellectual property); and **(iv)** such other financial information as Lender may reasonably request from time to time. Financial statements delivered pursuant to subsections **(i)** and **(ii)** above shall be accompanied by a certificate signed by a Responsible Officer (each an *"Officer's Certificate")* in the form ***of Exhibit F.***

6.3 Notice of Defaults. Upon any Default or Event of Default, an Officer's Certificate setting forth the facts relating to or giving rise thereto, and the Borrower's proposed action with respect thereto.

6.4 Use; Maintenance. Borrower, at its expense, shall **(i)** maintain the tangible Collateral in good condition, reasonable wear and tear excepted, and will comply in all material respects with all laws, rules and regulations regarding use and operation of the tangible Collateral and **(ii)** repair or replace any lost or damaged Collateral except to the extent that Borrower in its good faith judgment deems it to be in its best interest not to repair or replace such lost or damaged Collateral, so long as applied to a purchase or acquisition useful to Borrower's business.

6.5 Insurance. Borrower, at its own expense, shall maintain insurance in amounts and coverages reasonably satisfactory to Lender. Each insurance shall: **(i)** name Lender loss payee or additional insured, as appropriate, **(ii)** provide for insurer's waiver of its right of subrogation against Lender and Borrower, **(iii)** provide that such insurance shall not be invalidated by any action of, or breach of warranty by, Borrower and waive set-off, counterclaim or offset against Lender, **(iv)** be primary without a right of contribution of Lender's insurance, if any, or any obligation on the part of Lender to pay premiums of Borrower, and **(v)** require the insurer to give Lender at least 30 days prior written notice of cancellation. Borrower shall furnish all certificates of insurance required by Lender.

6.6 Loss Proceeds. So long as no Event of Default has occurred and is continuing, any proceeds of insurance on or condemnation of Collateral shall, at Borrower's election and so long as Lender's security interest in such proceeds remains first priority, be used either to repair or replace such Collateral or otherwise applied to the purchase or acquisition of property useful to Borrower's business.

6.7 Further Assurances. At any time and from time to time, Borrower shall execute and deliver such further instruments and take such further action as Lender may reasonably request to effect the intent and purposes hereof, to perfect and continue perfected and of first priority Lender's security interests in the Collateral, and to effect and maintain ACH payment arrangements.

7. Negative Covenants

So long as any Obligations (other than inchoate indemnity obligations) remain outstanding, Borrower will not do any of the following:

7.1 Location of Collateral. Change its chief executive office or principal place of business or remove, except in the ordinary course of Borrower's business, the Collateral or Borrower's Books from the premises listed in **Section 11** and the Disclosure Schedule (or otherwise provided to Lender in writing pursuant to this **Section 7.1**) without giving 30 days prior written notice to Lender. Borrower's practice of delivering and maintaining inventory at a customer's location pending testing, validation and/or acceptance of such inventory by such customer shall be deemed to be in the "ordinary course of business" for purposes of this Agreement.

7.2 Extraordinary Transactions. Enter into any transaction not in the ordinary course of Borrower's business, including the sale, lease, license or other disposition of its assets, other than **(i)** sales of inventory in the ordinary course of Borrower's business; and **(ii)** licenses of intellectual property assets entered into in the ordinary course of business (provided that licensing arrangements involving universities, governmental agencies, research institutions and corporate partners shall be deemed in the "ordinary course of business"). The parties hereto agree (a) strategic partnerships, strategic collaborations, sponsored research collaborations and development transactions, (b) transactions otherwise permitted in this **Article 7,** and (c) transactions for fair value involving the sale or exclusive licensing of Intellectual Property, that is outside the scope of Borrower's business in the biotechnology field, that is not being commercialized or monetized by the Borrower; in each case, shall be deemed to be in the "ordinary course of business" for purposes of this Agreement.

7.3 Restructure. Make any material change in Borrower's corporate structure or business other than the business of the type conducted by Borrower as of the date of this Agreement or any business reasonably related or incidental thereto; or suspend operation of Borrower's business.

7.4 Liens. Create, incur, assume or suffer to exist any Lien of any kind with respect to any of its property, whether now owned or hereafter acquired, except for Permitted Liens.

7.5 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness or cause or suffer any Subsidiary to create, incur, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness.

7.6 Distributions. Pay any dividends or distributions, or redeem or purchase, any capital stock, except for **(i)** repurchases of capital stock from employees, consultants or directors, under incentive stock option plans, restricted stock purchase agreements, repurchase agreements or other similar agreements approved by the Borrower's Board of Directors and **(ii)** dividends payable solely in capital stock.

7.7 Transactions with Affiliates. Directly or indirectly enter into any transaction with any affiliate which is on terms less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated entity; *provided*, any such transaction shall not be a breach of this Section 7.7 if **(i)** approved by a disinterested majority of the Borrower's Board of Directors, or **(ii)** such transaction involves sales, licensing or other transfers of property between Borrower and its Subsidiaries, or between Subsidiaries if the consideration for such sale or transfer is not less than cost (or the fair market value of such property, if lower), or **(iii)** such transaction involves intercompany loans that are otherwise permitted by **Section 7.5.**

7.8 Compliance. (i) Become regulated as an "investment company" under the Investment Company Act of 1940 or extend credit to purchase or carry margin stock; **(ii)** fail to meet the minimum funding requirements of ERISA; **(iii)** permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; **(iv)** fail to comply with the Federal Fair Labor Standards Act; or **(v)** violate any other material law or material regulation.

7.9 UCC Effectiveness. Change its name, jurisdiction of organization, or take any other action that could render Lender's financing statements misleading under the Code, without giving Lender 30 days advance written notice.

7.10 Deposit and Securities Accounts. Maintain any deposit accounts or accounts holding securities owned by Borrower except accounts in which Lender has obtained a perfected first priority security interest with the exception of **(i)** account number [***] with Silicon Valley Bank or a successor account with Wells Fargo Bank securing a letter of credit in favor of Borrower's landlord in an amount not to exceed $250,000 in principal amount; **(ii)** account number [***] with Comerica Bank or a successor account with Wells Fargo Bank securing a letter of credit in favor of a lender providing equipment financing to Borrower in an amount not to exceed $500,000 in principal amount; or **(iii)** account number [***] with Wells Fargo Bank securing a letter of credit in favor of Borrower's landlord in an amount not to exceed $137,527 in principal amount; or **(iv)** any other accounts at Silicon Valley Bank or Comerica Bank (other than those specified in clause (i) or (ii) of this **Section 7.10,** provided that such accounts are closed and such funds are move to deposit or securities accounts in which Lender has a perfect first priority security interest, on or before June 30, 2005.

8. Events of Default

Any one or more of the following shall constitute an Event of Default by Borrower hereunder:

8.1 Payment. Borrower fails to pay when due and payable in accordance with the Loan Documents any portion of the Obligations, or cancels an ACH payment or transfer Lender has initiated in conformity with the terms hereof *provided*, *however,* that an Event of Default shall not occur on account of a failure to pay due solely to an administrative or operational error if Borrower had the funds to make the payment when due and makes the payment the business day following Borrower's knowledge of such failure to pay.

8.2 Certain Covenant Defaults. Borrower fails to perform any obligation under **Section 6.5** or **6.6,** or violates any of the covenants contained in **Section 7.**

8.3 Other Covenant Defaults. Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant, or agreement contained in this Agreement, in any of the other Loan Documents, or in any other present or future agreement between Borrower and Lender and has failed to cure such failure within 30 days after its occurrence.

8.4 Attachment. Any material portion of Borrower's assets is attached, seized, subjected to a government levy, lien, writ or distress warrant, or comes into the possession of any trustee or receiver and the same is not returned, removed, waived, stayed, discharged or rescinded within 15 days.

8.5 Other Agreements. There is a default in any agreement to which Borrower is a party resulting in a right by a third party, whether or not exercised, to accelerate the maturity of any Indebtedness, in an amount greater than $ 100,000.

8.6 Judgments. One or more judgments for an aggregate of at least $100,000 is rendered against Borrower and remains unsatisfied and unstayed for more than 30 days.

8.7 Injunction. Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct any material part of its business affairs, or if a judgment or other claim becomes a Lien upon any material portion of Borrower's assets.

8.8 Misrepresentation. Any representation, statement, or report made to Lender by Borrower was false or misleading when made in any material respect.

8.9 Enforceability. Lender's ability to enforce its rights against Borrower or any Collateral is impaired in any material respect, or Borrower asserts that any Loan Document is not a legal, valid and binding obligation of Borrower enforceable in accordance with its terms.

8.10 Involuntary Bankruptcy. An involuntary bankruptcy case remains undismissed or unstayed for 60 days or, if earlier, an order granting the relief sought is entered.

8.11 Voluntary Bankruptcy or Insolvency. Borrower commences a voluntary case under applicable bankruptcy or insolvency law, consents to the entry of an order for relief in an involuntary case under any such law, or consents or is subject to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian or other similar official of Borrower or any substantial part of its property, or makes an assignment for the benefit of creditors, or fails generally or admits in writing to its inability to pay its debts as they become due, or takes any corporate action in furtherance of any of the foregoing.

8.12 Merger without Assumption. Borrower or all or substantially all of Borrower's assets are acquired by or merged into any other business entity where more than 50% of Borrower's voting power is transferred by existing shareholders of Borrower, and such acquirer or resulting entity either: **(i)** does not pay off the Obligations at the closing of the acquisition, merger or sale; or **(ii)** does not provide an unconditional, unlimited guaranty of the Obligations in form and substance satisfactory to Lender and is of a credit quality unacceptable to Lender.

8.13 Liquidation Event. Borrower consummates a Liquidation Event where the acquirer or resulting entity either: **(i)** does not pay off the Obligations at the closing of the acquisition, merger or sale; or **(ii)** does not provide an unconditional, unlimited guaranty of the Obligations in form and substance satisfactory to Lender and is of a credit quality unacceptable to Lender.

8.14 General Electric Capital Corporation Indebtedness. The outstanding principal balance of Borrower owed to General Electric Capital Corporation in connection with any equipment financing shall be greater than $2,500,000 at any time after December 31, 2006.

9. Lender's Rights and Remedies

9.1 Rights and Remedies. Upon the occurrence and continuance of any Event of Default, Lender may, at its election, without notice of election and without demand, do any one or more of the following, all of which are authorized by Borrower: **(i)** accelerate and declare the Loan and all Obligations immediately due and payable; **(ii)** make such payments and do such acts as Lender considers necessary or reasonable to protect its security interest in the Collateral, with such amounts becoming Obligations bearing interest at the Default Rate; **(iii)** exercise any and all other rights and remedies available under the UCC or otherwise; **(iv)** require Borrower to assemble the Collateral at such places as Lender may designate; **(v)** enter premises where any Collateral is located, take, maintain possession of, or render unusable the Collateral or any part of it; **(vi)** without notice to Borrower, set off and recoup against any portion of the Obligations; **(vii)** ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral, in connection with which Borrower hereby grants Lender a license to use without charge Borrower's premises, labels, name, trademarks, and other property necessary to complete, advertise, and sell any Collateral; and **(viii)** sell the Collateral at one or more public or private sales.

9.2 Power of Attorney in Respect of the Collateral. Borrower hereby irrevocably appoints Lender (which appointment is coupled with an interest) its true and lawful attorney in fact with full power of substitution, for it and in its name to, during the existence of an Event of Default: **(i)** ask, demand, collect, receive, sue for, compound and give acquittance for any and all Collateral with full power to settle, adjust or compromise any claim, **(ii)** receive payment of and endorse the name of Borrower on any items of Collateral, **(iii)** make all demands, consents and waivers, or take any other action with respect to, the Collateral, **(iv)** file any claim or take any other action, in Lender's or Borrower's name, which Lender may reasonably deem appropriate to protect its rights in the Collateral, or **(v)** otherwise act with respect to the Collateral as though Lender were its outright owner.

9.3 Charges. If Borrower fails to pay any amounts required hereunder to be paid by Borrower to any third party, Lender may at its option pay any part thereof and any amounts so paid including Lender's Expenses incurred shall become Obligations, immediately due and payable, bearing interest at the Default Rate, and secured by the Collateral. Any such payments by Lender shall not constitute an agreement to make similar payments or a waiver of any Event of Default.

9.4 Remedies Cumulative. Lender's rights and remedies under the Loan Documents and all other agreements with Borrower shall be cumulative. Lender shall have all other rights and remedies as provided under the UCC, by law, or in equity. No exercise by Lender of one right or remedy shall be deemed an election, and no waiver by Lender of any Event of Default shall be deemed a continuing waiver. No delay by Lender shall constitute a waiver, election, or acquiescence.

9.5 Application of Collateral Proceeds. Lender will apply proceeds of sale, to the extent actually received in cash, in the manner and order it determines in its sole discretion, and as prescribed by applicable law.

10. Waivers; Indemnification

10.1 Waivers. Without limiting the generality of the other waivers made by Borrower herein, to the maximum extent permitted under applicable law, Borrower hereby irrevocably waives all of the following: **(i)** any right to assert *against Lender* as a defense, counterclaim, set-off or crossclaim, any defense (legal or equitable), set-off, counterclaim, crossclaim and/or other claim (a) which Borrower may now or at any time hereafter have against any party liable to Lender in any way or manner, or (b) arising directly or indirectly from the present or future lack of perfection, sufficiency, validity and/or enforceability of any Loan Document, or any security interest; **(ii)** notice of presentment, dishonor, notice of intent to accelerate, protest, default, nonpayment, maturity; **(iii)** the benefit of all marshalling, valuation, appraisal and exemption laws; **(iv)** the right, if any, to require Lender to (a) proceed against any person liable for any of the Obligations as a condition to or before proceeding hereunder; or (b) foreclose upon, sell or otherwise realize upon or collect or apply any other property, real or personal, securing any of the Obligations, as a condition to, or before proceeding hereunder; **(v)** any demand for possession before the commencement of any suit or action to recover possession of Collateral; and **(vi)** any requirement that Lender retain possession and not dispose of Collateral until after trial or final judgment.

10.2 Lender's Liability for Collateral. Lender shall not in any way or manner be liable or responsible for: **(i)** the safekeeping of any Collateral (except to the extent mandated by the UCC); **(ii)** any loss or damage thereto occurring or arising in any manner or fashion from any cause; **(iii)** any diminution in the value thereof; or **(iv)** any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person or entity whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower. Lender will have no responsibility for taking any steps to preserve rights against any parties respecting any Collateral. Lender's powers hereunder are conferred solely to protect its interest in the Collateral and do not impose any duty to exercise any such powers. None of Lender or any of its officers, directors, employees, agents or counsel will be liable for any action lawfully taken or omitted to be taken hereunder or in connection herewith (excepting gross negligence or willful misconduct), nor under any circumstances have any liability to Borrower for lost profits or other special, indirect, punitive, or consequential damages. Lender retains any documents delivered by Borrower only for its purposes and for such period as Lender, at its sole discretion, may determine necessary, after which time Lender may destroy such records without notice to or consent from Borrower.

10.3 Indemnification. Borrower shall, on an after tax basis, defend, indemnify, and hold Lender and each of its officers, directors, employees, counsel, partners, agents and attorneys-in-fact (each, an *"Indemnified Person")* harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including Lender's Expenses and reasonable attorney's fees and the allocated cost of in-house counsel) of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement and any other Loan Documents, or the transactions contemplated hereby and thereby, with respect to noncompliance with laws or regulations respecting Regulated Substances, government secrecy or technology export, or any Lien not created by Lender or right of another against any Collateral, even if the Collateral is foreclosed upon or sold pursuant hereto, and with respect to any investigation, litigation or proceeding before any agency, court or other governmental authority relating to this Agreement or the Advances or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the *"Indemnified Liabilities"); provided*, that Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of such Indemnified Person. The obligations in this Section shall survive the Term. At the election of any Indemnified Person, Borrower shall defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person, at the sole cost and expense of Borrower. All amounts owing under this Section shall be paid within 30 days after written demand.

11. Notices

All notices shall be in writing and personally delivered or sent by certified mail, postage prepaid, return receipt requested, or by confirmed facsimile, at the respective addresses set forth below:

If to Borrower:

Fluidigm Corporation
7100 Shoreline Court
South San Francisco, California 94080
Attention: General Counsel,
Director of Finance
FAX: (650)871-7152

If to Lender:

Lighthouse Capital Partners V, LP
500 Drake's Landing Road
Greenbrae, California 94904
Attention: Contract Administrator

FAX: (415)925-3387

12. General Provisions

12.1 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties' respective successors and permitted assigns. Borrower may not assign any rights hereunder without Lender's prior written consent, which consent may be granted or withheld in Lender's sole discretion. Lender shall have the right without the consent of or notice to Borrower to sell, transfer, negotiate, or grant participations in all or any part of any Loan Document, *provided* that Lender shall not sell, transfer, negotiate, or grant participations in all or any part of any Loan Document to any competitor of Borrower.

12.2 Time of Essence. Time is of the essence for the performance of all Obligations.

12.3 Severability of Provisions. Each provision hereof shall be severable from every other provision in determining its legal enforceability.

12.4 Entire Agreement. This Agreement and each of the other Loan Documents dated as of the date hereof, taken together, constitute and contain the entire agreement between Borrower and Lender with respect to their subject matter and supersede any and all prior agreements, negotiations, correspondence, understandings and communications between the parties, whether written or oral. This Agreement is the result of negotiations between and has been reviewed by the Borrower and Lender as of the date hereof and their respective counsel; *accordingly,* this Agreement shall be deemed to be the product of the parties hereto, and no ambiguity shall be construed in favor of or against Borrower or Lender. This Agreement may only be modified with the written consent of Lender. Any waiver or consent with respect to any provision of the Loan Documents shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any one case shall entitle Borrower to any other or further notice or demand in similar or other circumstances.

12.5 Reliance by Lender. All covenants, agreements, representations and warranties made herein by Borrower shall, notwithstanding any investigation by Lender, be deemed to be material to and to have been relied upon by Lender.

12.6 No Set-Offs by Borrower. All sums payable by Borrower pursuant to this Agreement or any of the other Loan Documents shall be payable without notice or demand and shall be payable in United States Dollars without set-off or reduction of any manner whatsoever.

12.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same original instrument.

12.8 Survival. All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations (other than inchoate indemnity obligations) remain outstanding.

12.9 No Original Issue Discount. Borrower and Lender acknowledge and agree that the Warrant is part of an investment unit within the meaning of Section 1273(c)(2) of the Internal Revenue Code, which includes the Loan. Borrower and Lender further agree as between them, that the fair market value of the Warrant is $100 and that, pursuant to Treas. Reg. § 1.1273-2(h), $100 of the issue price of the investment unit will be allocable to the Warrant and the balance shall be allocable to the Loans. Borrower and Lender agree to prepare their federal income tax returns in a manner consistent with the foregoing and, pursuant to Treas. Reg. § 1.1273, the original issue discount on the Loan shall be considered to be zero.

12.10 Relationship of Parties. The relationship between Borrower and Lender is, and at all times shall remain, solely that of a borrower and lender. Lender is not a partner or joint venturer of Borrower; nor shall Lender under any circumstances be deemed to be in a relationship of confidence or trust or have a fiduciary relationship with Borrower or any of its affiliates, or to owe any fiduciary duty to Borrower or any of its affiliates. Lender does not undertake or assume any responsibility or duty to Borrower or any of its affiliates to select, review, inspect, supervise, pass judgment upon or otherwise inform any of them of any matter in connection with its or their property, the Loans, any Collateral or the operations of Borrower or any of its affiliates. Borrower and each of its affiliates shall rely entirely on their own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by Lender in connection with such matters is solely for the protection of Lender and neither Borrower nor any affiliate is entitled to rely thereon.

12.11 Choice of Law and Venue; Jury Trial Waiver. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF BORROWER AND LENDER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA. BORROWER AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.**

12.12 Termination. Upon the full, faithful and indefeasible payment and performance of all Obligations(other than inchoate indemnity obligations) and the termination of any commitment to extend credit under this Agreement, the security interest granted herein and under the other Loan Documents shall terminate and this Agreement and the other Loan Documents (other than the Warrant) shall terminate, except for any inchoate indemnity obligations under **Section 10.3** of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FLUIDIGM CORPORATION

By: /s/ Gajus Worthington
Name: Gajus Worthington
Title: PRESIDENT & CEO

LIGHTHOUSE CAPITAL PARTNERS V, L.P.
By: **LIGHTHOUSE MANAGEMENT PARTNERS V, L.L.C.,**
its general partner

By: /s/ Thomas Conneely
Name: Thomas Conneely
Title: Vice President

Exhibit A Collateral Description
Exhibit B Form of Note
Exhibit C Form of Preferred Stock Warrant
Exhibit D Form of Notice of Borrowing
Exhibit E Form of Incumbency Certificate
Exhibit F Form of Officers Certificate
Exhibit G ACH Authorization
Exhibit H Form of Negative Pledge Agreement
Exhibit I Control Agreement

EXHIBIT A

COLLATERAL

This FINANCING STATEMENT and SECURITY AGREEMENT covers all of Debtor's interests in all of the following types or items of property described on this **Exhibit A** (collectively, the *"Collateral")*, wherever located and whether now owned or hereafter acquired, and Debtor hereby grants Secured Party a security interest therein as collateral for the payment and performance of all present and future indebtedness, liabilities, guarantees and obligations of Debtor to Secured Party, howsoever arising. Debtor agrees that said security interest may be enforced by Secured Party in accordance with the terms of all security and other agreements between Secured Party and Debtor, the California Uniform Commercial Code, or both, and that this document shall be fully effective as a security agreement, even if there is no other security or other agreement between Secured Party or Debtor:

All assets of the Debtor; all personal property of Debtor;

All "accounts", "general intangibles", "chattel paper", "contract rights", "documents", "instruments", "deposit accounts", "inventory", "farm products", "fixtures" and "equipment", as such terms are defined in Division 9 of the California Uniform Commercial Code in effect on the date hereof;

All general intangibles of every kind, including without limitation, federal, state and local tax refunds and claims of all kinds; all rights as a licensee or any kind; all customer lists, telephone numbers, and purchase orders, and all rights to purchase, lease sell, or otherwise acquire or deal with real or personal property and all rights relating thereto;

All returned and repossessed goods and all rights as a seller of goods; all collateral securing any of the foregoing; all deposit accounts, special and general, whether on deposit with Secured Party or others;

All life and other insurance policies, claims in contract, tort or otherwise, and all judgments now or hereafter arising therefrom;

All right, title and interest of Debtor, and all of Debtor's rights, remedies, security and liens, in, to and in respect of all accounts and other collateral, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, and all guarantees and other contracts of suretyship with respect to any accounts and other collateral, and all deposits and other security for any accounts and other collateral, and all credit and other insurance;

All notes, drafts, letters of credit, contract rights, and things in action; all drawings, specifications, blueprints and catalogs; and all raw materials, work in process, materials used or consumed in Debtor's business, goods, finished goods, returned goods and all other goods and inventory of whatsoever land or nature, any and all wrapping, packaging, advertising and shipping materials, and all documents relating thereto, and all labels and other devices, names and marks affixed or to be affixed thereto for purposes of selling or identifying the same or the seller or manufacturer thereof;

All inventory wherever located; all present and future claims against any supplier of any of the foregoing, including claims for defective goods or overpayments to or undershipments by suppliers; all proceeds arising from the lease or rental of any of the foregoing;

All equipment and fixtures, including without limitation all machinery, machine tools, motors, controls, parts, vehicles, workstations, tools, dies, jigs, furniture, furnishings and fixtures; and all attachments, accessories, accessions and property now or hereafter affixed to or used in connection with any of the foregoing, and all substitutions and replacements for any of the foregoing; all warranty and other claims against any vendor or lessor of any of the foregoing;

All investment property;

All books, records, ledger cards, computer data and programs and other property and general intangibles at any time evidencing or relating to any or all of the foregoing; and

All cash and non-cash products and proceeds of any of the foregoing, in whatever form, including proceeds in the form of inventory, equipment or any other form of personal property, including proceeds of proceeds and proceeds of insurance, and all claims by Debtor against third parties for loss or damage to, or destruction of, or otherwise relating to, any or all of the foregoing.

NOTICE — PURSUANT TO AN AGREEMENT BETWEEN DEBTOR AND SECURED PARTY, DEBTOR HAS AGREED NOT TO FURTHER ENCUMBER THE COLLATERAL DESCRIBED HEREIN (EXCEPT AS EXPRESSLY PERMITTED PURSUANT TO SUCH AGREEMENT), THE FURTHER ENCUMBERING OF WHICH MAY CONSTITUTE THE TORTIOUS INTERFERENCE

WITH SECURED PARTY'S RIGHTS BY SUCH ENCUMBRANCER. IN THE EVENT THAT ANY ENTITY IS GRANTED A SECURITY INTEREST IN DEBTOR'S ACCOUNTS, CHATTEL PAPER, GENERAL INTANGIBLES OR OTHER ASSETS CONTRARY TO THE ABOVE, THE SECURED PARTY ASSERTS A CLAIM TO ANY PROCEEDS THEREOF RECEIVED BY SUCH ENTITY.

Notwithstanding any of the foregoing, this Financing Statement and Security Agreement does not cover any of Debtor's interests in, and the Collateral shall not under any circumstance include, and no security interest is granted in, (i) any property that is subject to a Lien that is otherwise permitted pursuant to subsection (v) of the definition of "Permitted Liens" as defined in that certain Loan and Security Agreement, dated as of March 29, 2005, by and between Secured Party and Debtor, and Secured Party agrees to execute any instruments or documents necessary to evidence the intent of the foregoing, (ii) more than 65% of the issued and outstanding voting securities of any subsidiary of Debtor that is not incorporated or organized in the United States, or (iii) Debtor's Intellectual Property, including, without limitation, any and all property of the Debtor that is subject to, listed in or otherwise described in the Negative Pledge Agreement dated March 29, 2005 between the Secured Party and the Debtor. *"Intellectual Property"* means, collectively, all rights, priorities and privileges of the Debtor relating to intellectual property, in any medium, of any kind or nature whatsoever, now or hereafter owned or acquired or received by Debtor, or in which Debtor now holds or hereafter acquires or receives any right or interest, whether arising under United States, multinational or foreign laws or otherwise, and shall include, in any event, all copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, trade secrets, internet domain names (including any right related to the registration thereof), proprietary or confidential information, mask works, sources object or other programming codes, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know-how, software, data base, data, skill, expertise, recipe, experience, process, models, drawings, materials or records. Notwithstanding the foregoing, Intellectual Property as defined above does not include proceeds or other revenue consisting of accounts, accounts receivable, royalties, licensing fees, or payment intangibles obtained or owed from or on account of the licensing or other exploitation or disposition of Intellectual Property, none of which are excluded, and all of which are included as collateral in the security interest granted by Debtor to Secured Party.

"DEBTOR"

FLUIDIGM CORPORATION, a California corporation

By: _____

Name: _____

Title: _____

"SECURED PARTY"

LIGHTHOUSE CAPITAL PARTNERS V, L.P.
BY: LIGHTHOUSE MANAGEMENT PARTNERS V, L.L.C.,
its general partner

By: _____

Name: _____

Title: _____

EXHIBIT B

[_____]

SECURED PROMISSORY NOTE

This SECURED PROMISSORY NOTE (this *"Note")* is made _____, 200_____, by **FLUIDIGM CORPORATION (***"Borrower")* in favor of **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** (collectively with its assigns, *"Lender").* Initially capitalized terms used and not otherwise defined herein are defined in that certain Loan and Security Agreement No. 4561 between Borrower and Lender dated March 29, 2005 (the *"Loan Agreement").*

FOR VALUE RECEIVED, Borrower promises to pay in lawful money of the United States, to the order of Lender, at 500 Drake's Landing Road, Greenbrae, California 94904, or such other place as Lender may from time to time designate *("Lender's Office")*, the principal sum of $_____ (the "Advance"), including interest on the unpaid balance and all other amounts due or to become due hereunder according to the terms hereof and of the Loan Agreement.

"Basic Rate" means a variable *per annum* rate of interest equal to the Index plus the Interest Margin which shall be subject to adjustment as provided herein. On and after the Loan Commencement Date the Basic Rate shall be fixed and not subject to any further adjustments.

"Final Payment" means 9% of the Advance.

"Index" means the prevailing variable Prime Rate of annual interest as quoted from time to time in the western edition of the Wall Street Journal.

"Interest Margin" means 2.5% per annum.

"Loan Commencement Date" means March 1, 2006.

"Maturity Date" means the last day of the Repayment Period, or if earlier, the date of prepayment under the Note.

"Payment Date" means the first day of each calendar month.

"Prepayment Fee" means (i) if prepaid in the calendar year 2006, 3% of the outstanding principal amount being prepaid; (ii) if prepaid in the calendar year 2007, 2% of the outstanding principal amount being prepaid; and (iii) if prepaid in the calendar year 2008 or 2009, 1% of the outstanding principal amount being prepaid.

"Repayment Period" means the period beginning on the Loan Commencement Date and continuing for 36 calendar months.

1. Repayment. Borrower shall pay principal and interest due hereunder from the Funding Date, until this Note is paid in full, on each Payment Date pursuant to the terms of the Loan Agreement and this Note. Prior to the Loan Commencement Date, Borrower shall pay to Lender, monthly in advance on each Payment Date, interest calculated using the Basic Rate prevailing on the first business day of such calendar month. Beginning on the Loan Commencement Date and on each Payment Date thereafter during the Repayment Period, Borrower shall make equal installments of principal and interest in advance, calculated at the Basic Rate. On the Maturity Date, Borrower shall pay, in addition to all unpaid principal and interest outstanding hereunder, the Final Payment.

2. Interest. Interest not paid when due will, to the maximum extent permitted under applicable law, become part of principal, at Lender's option, and thereafter bear like interest as principal. Interest shall be computed on the basis of a 360 day year. All Obligations not paid when due shall bear interest at the Default Rate unless waived in writing by Lender. All amounts paid hereunder will be applied to the Obligations in Lender's discretion and as provided in the Loan Agreement.

3. Voluntary Prepayment. Borrower may prepay the Note if and only if Borrower pays to Lender **(i)** the outstanding principal amount of this Note and any unpaid accrued interest **(ii)** the Final Payment, **(iv)** the Prepayment Fee, and **(v)** all other sums, if any, that shall have become due and payable hereunder with respect to this Note.

4. Collateral. This Note is secured by the Collateral.

5. Waivers. Borrower, and all guarantors and endorsers of this Note, regardless of the time, order or place of signing, hereby waive notice, demand, presentment, protest, and notices of every kind, presentment for the purpose of accelerating maturity, diligence in collection to the fullest extent permitted by law.

6. Choice of Law; Venue. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF BORROWER AND LENDER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA. BORROWER AND LENDER EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

7. Miscellaneous. The Note MAY BE MODIFIED ONLY BY A WRITING SIGNED BY BORROWER AND LENDER. Each provision hereof is severable from every other provision hereof and of the Loan Agreement when determining its legal enforceability. Sections and subsections are titled for convenience, and not for construction. "Hereof," "herein," "hereunder," and similar words refer to this Note in its entirety. "Or" is not necessarily' exclusive. "Including" is not limiting. The terms and conditions hereof inure to the benefit of and are binding upon the parties' respective permitted successors and assigns. This Note is subject to all the terms and conditions of the Loan Agreement.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed by a duly authorized officer as of the day and year first above written.

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

Exhibit C

Warrants

NEITHER THIS WARRANT NOR THE SHARES OF CAPITAL STOCK ISSUABLE UPON EXERCISE HEREOF HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE *"1933 ACT"),* OR ANY APPLICABLE STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE SOLD OR TRANSFERRED UNLESS SUCH SALE OR TRANSFER IS IN ACCORDANCE WITH THE REGISTRATION REQUIREMENTS OF SUCH ACT AND APPLICABLE LAWS OR THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL, REASONABLY ACCEPTABLE TO THE COMPANY, TO THE EFFECT THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT AND APPLICABLE LAWS.

PREFERRED STOCK PURCHASE WARRANT

Warrant No._____

Number of Shares: initially, 185,714
Series D Preferred Stock
subject to increase as set forth below

FLUIDIGM CORPORATION

Effective as of March 29, 2005

Void after March 29, 2012

1. Issuance. This Preferred Stock Purchase Warrant (the *"Warrant")* is issued to **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** by **FLUIDIGM CORPORATION,** a California corporation (hereinafter with its successors called the *"Company").*

2. Purchase Price; Number of Shares.

(a) The registered holder of this Warrant (the *"Holder"),* commencing on the date hereof, is entitled upon surrender of this Warrant with the subscription form annexed hereto duly executed, at the principal office of the Company, to purchase from the Company, at a price per share of $2.80 (the *"Purchase Price"),* 185,714 fully paid and nonassessable shares of the Company's Series D Preferred Stock, (the *"Exercise Quantity"),* $0.001 par value (the *"Preferred Stock").*

(b) On the Commitment Termination Date, the Exercise Quantity shall automatically be increased by such additional number of shares (rounded to the nearest whole share) of Series D Preferred Stock, if any, as is equal to the amount determined by dividing (A) 4% of the Aggregate Advances under the Loan Agreement, if any, by (B) the Purchase Price

In addition to other terms which may be defined herein, the following terms, as used in this Warrant, shall have the following meanings:

(i) "Aggregate Advances" means the aggregate original dollar amount of all Advances made under the Loan Agreement, whether such Advances are outstanding or prepaid, at the time of any scheduled adjustment to the Exercise Quantity.

(ii) "Loan Agreement" means that certain Loan and Security Agreement No. 4561 dated March 29, 2005 between the Company and Lighthouse Capital Partners V, L.P..

Any capitalized term not defined herein shall have the meaning as set forth in the Loan Agreement.

Until such time as this Warrant is exercised in full or expires, the Purchase Price and the securities issuable upon exercise of this Warrant are subject to adjustment as hereinafter provided. The person or persons in whose name or names any certificate representing shares of Preferred Stock is issued hereunder shall be deemed to have become the holder of record of the shares represented thereby as at the close of business on the date this Warrant is exercised with respect to such shares, whether or not the transfer books of the Company shall be closed.

3. Payment of Purchase Price. The Purchase Price may be paid (i) in cash or by check, (ii) by the surrender by the Holder to the Company of any promissory notes or other obligations issued by the Company, with all such notes and obligations so surrendered being credited against the Purchase Price in an amount equal to the principal amount thereof plus accrued interest to the date of surrender, or (iii) by any combination of the foregoing.

4. **Net Issue Election.** The Holder may elect to receive, without the payment by the Holder of any additional consideration, shares of Preferred Stock equal to the value of this Warrant or any portion hereof by the surrender of this Warrant or such portion to the Company, with the net issue election notice annexed hereto duly executed, at the principal office of the Company. Thereupon, the Company shall issue to the Holder such number of fully paid and nonassessable shares of Preferred Stock as is computed using the following formula:

$$X = \frac{Y(A-B)}{A}$$

where: X = the number of shares of Preferred Stock to be issued to the Holder pursuant to this **Section 4.**

Y = the number of shares of Preferred Stock covered by this Warrant in respect of which the net issue election is made pursuant to this **Section 4.**

A = the Fair Market Value (defined below) of one share of Preferred Stock, as determined at the time the net issue election is made pursuant to this **Section 4.**

B = the Purchase Price in effect under this Warrant at the time the net issue election is made pursuant to this **Section 4.**

"Fair *Market Value"* of a share of Preferred Stock (or fully paid and nonassessable shares of the Company's common stock, $0.001 par value (the *"Common Stock")* if the Preferred Stock has been automatically converted into Common Stock) as of the date that the net issue election is made (the *"Determination Date")* shall mean:

(i) If the net issue election is made in connection with and contingent upon the closing of the sale of the Company's Common Stock to the public in a public offering pursuant to a Registration Statement under the Securities Act of 1933, as amended (a *"Public Offering")*, and if the Company's Registration Statement relating to such Public Offering *("Registration Statement")* has been declared effective by the Securities and Exchange Commission, then the initial "Price to Public" specified in the final prospectus with respect to such offering multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible.

(ii) If the net issue election is not made in connection with and contingent upon a Public Offering, then as follows:

(a) If traded on a securities exchange or the Nasdaq National Market, the fair market value of the Common Stock shall be deemed to be the average of the closing or last reported sale prices of the Common Stock on such exchange or market over the five day period ending five trading days prior to the Determination Date, and the fair market value of the Preferred Stock shall be deemed to be such fair market value of the Common Stock multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible;

(b) If otherwise traded in an over-the-counter market, the fair market value of the Common Stock shall be deemed to be the average of the closing ask prices of the Common Stock over the five day period ending five trading days prior to the Determination Date, and the fair market value of the Preferred Stock shall be deemed to be such fair market value of the Common Stock multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible; and

(c) If there is no public market for the Common Stock, then fair market value shall be determined in good faith by the Company's Board of Directors.

5. Partial Exercise. This Warrant may be exercised in part, and the Holder shall be entitled to receive a new warrant, which shall be dated as of the date of this Warrant, covering the number of shares in respect of which this Warrant shall not have been exercised.

6. Fractional Shares. In no event shall any fractional share of Preferred Stock be issued upon any exercise of this Warrant. If, upon exercise of this Warrant in its entirety, the Holder would, except as provided in this **Section 6,** be entitled to receive a fractional share of Preferred Stock, then the Company shall issue the next higher number of full shares of Preferred Stock, issuing a full share with respect to such fractional share.

7. Expiration Date; Automatic Exercise. This Warrant shall expire at the close of business on March 29, 2012, and shall be void thereafter (the *"Expiration Date").* Notwithstanding the term of this Warrant fixed pursuant to this **Section 7,** and provided Holder has received advance written notice of at least twenty (20) days and has not earlier exercised this Warrant, and provided this Warrant has not been assumed by the successor entity (or parent thereof), upon the consummation of a Merger (as defined below), this Warrant shall automatically be exercised pursuant to **Section 4** hereof, without any action by Holder. *"Merger"* means: (i) a sale of all or substantially all of the Company's assets to an Unaffiliated Entity (as defined below), or (ii) the merger, consolidation or acquisition of the Company with, into or by an Unaffiliated Entity (other than a merger or consolidation for the principle purpose of changing the domicile of the Company or a bona fide round of preferred stock equity financing), that results in the Company's shareholders immediately prior to such merger, consolidation, or acquisition holding, immediately thereafter, less than a majority of the outstanding voting securities of the successor corporation or its parent. *"Unaffiliated Entity"* means any entity that is owned or controlled by parties who own less than twenty percent (20%) of the combined voting power of the voting securities of the Company immediately prior to such merger or sale of assets, consolidation or acquisition. Notwithstanding the foregoing, in the event that any outstanding warrants to purchase equity securities of the Company (it being acknowledged and agreed that options to acquire common stock issued to officers, directors, employees and consultants shall not be deemed "warrants") are assumed by the successor entity of a Merger (or parent thereof), this Warrant shall also be similarly assumed and the automatic exercise provision in this **Section 7** shall have no effect. The Company agrees to give the Holder written notice promptly after it has entered into a definitive agreement relating to any proposed Merger and written notice of termination of any definitive agreement relating to any proposed Merger. Notwithstanding anything to the contrary in this Warrant, (i) the Holder may expressly make any voluntary exercise of this Warrant contingent on, and effective immediately prior to, the consummation of such Merger and (ii) any automatic exercise of this Warrant in connection with a Merger shall be conditioned on consummation of such Merger and shall be effective immediately prior thereto.

8. Reserved Shares; Valid Issuance. The Company covenants that it will at all times from and after the date hereof reserve and keep available such number of its authorized shares of Preferred Stock and Common Stock free from all preemptive or similar rights therein, as will be sufficient to permit, respectively, the exercise of this Warrant in full and the conversion into shares of Common Stock of all shares of Preferred Stock receivable upon such exercise. The Company further covenants that such shares as may be issued pursuant to such exercise and/or conversion will, upon issuance, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issuance thereof.

9. Stock Splits and Dividends. If after the date hereof the Company shall subdivide the Preferred Stock, by split-up or otherwise, or combine the Preferred Stock, or issue additional shares of Preferred Stock in payment of a stock dividend on the Preferred Stock, the number of shares of Preferred Stock issuable on the exercise

of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination, and the Purchase Price shall forthwith be proportionately decreased in the case of a subdivision or stock dividend, or proportionately increased in the case of a combination.

10. Adjustments for Diluting Issuances. The antidilution rights applicable to the Series D Preferred Stock of the Company are set forth in the Amended and Restated Articles of Incorporation, as amended from time to time (the *"Articles"),* a true and complete copy in its current form which has been made available to Holder. Such rights shall not be restated, amended or modified in any manner which affects the Holder differently than the holders of outstanding Series D Preferred Stock without such Holder's prior written consent. The Company shall provide the Holder hereof with any restatement, amendment or modification to the Articles promptly after the same has been made.

11. Mergers and Reclassifications. (a) Except as set forth in **Section 7,** If after the date hereof the Company shall enter into any Reorganization (as hereinafter defined), then, as a condition of such Reorganization, lawful provisions shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall thereafter have the right to purchase, at a total price not to exceed that payable upon the exercise of this Warrant in full, the kind and amount of shares of stock and other securities and property receivable upon such Reorganization by a holder of the number of shares of Preferred Stock which might have been purchased by the Holder immediately prior to such Reorganization, and in any such case appropriate provisions shall be made with respect to the rights and interest of the Holder to the end that the provisions hereof (including without limitation, provisions for the adjustment of the Purchase Price and the number of shares issuable hereunder and the provisions relating to the net issue election) shall thereafter be applicable in relation to any shares of stock or other securities and property thereafter deliverable upon exercise hereof. For the purposes of this **Section 11,** the term *"Reorganization"* shall include without limitation any reclassification, capital reorganization or change of the Preferred Stock (other than as a result of a subdivision, combination or stock dividend provided for in **Section 9** hereof), or any consolidation of the Company with, or merger of the Company into, another corporation or other business organization (other than a merger in which the Company is the surviving corporation and which does not result in any reclassification or change of the outstanding Preferred Stock), or any sale or conveyance to another corporation or other business organization of all or substantially all of the assets of the Company.

(b) Notwithstanding any other provision of this Warrant, in the event of an automatic conversion of the Company's outstanding Series D Preferred Stock into Common Stock in accordance with the Company's Articles, as in effect from time to time, this Warrant shall thereafter represent the right to acquire for the aggregate Purchase Price (as then in effect) the number of shares of Common Stock into which the number of shares of Preferred Stock issuable upon exercise of this Warrant would have then been convertible.

12. Certificate of Adjustment. Whenever the Purchase Price is adjusted, as herein provided, the Company shall promptly deliver to the Holder a certificate of the Company's chief financial officer (or other appropriate officer) setting forth the Purchase Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

13. Notices of Record Date, Etc. In the event of:

(a) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase, sell or otherwise acquire or dispose of any shares of stock of any class or any other securities or property, or to receive any other right;

(b) any reclassification of the capital stock of the Company, capital reorganization of the Company, consolidation or merger involving the Company, or sale or conveyance of all or substantially all of its assets; or

(c) any voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then in each such event the Company will provide or cause to be provided to the Holder a written notice thereof. Such notice shall be provided at least twenty (20) business days prior to the date specified in such notice on which any such action is to be taken.

14. Representations, Warranties and Covenants. This Warrant is issued and delivered by the Company and accepted by each Holder on the basis of the following representations, warranties and covenants made by the Company:

(a) The Company has all necessary corporate power and authority to issue, execute and deliver this Warrant and to perform its obligations hereunder. This Warrant has been duly authorized issued, executed and delivered by the Company and is the valid and binding obligation of the Company, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy or similar laws relating to the enforcement of creditors' rights generally.

(b) The shares of Preferred Stock issuable upon the exercise of this Warrant have been duly authorized and reserved for issuance by the Company and, when issued in accordance with the terms hereof, will be validly issued, fully paid and nonassessable.

(c) The issuance, execution and delivery of this Warrant do not, and the issuance of the shares of Preferred Stock upon the exercise of this Warrant in accordance with the terms hereof will not, (i) violate or contravene the Company's Articles or by-laws, or any law, statute, regulation, rule, judgment or order applicable to the Company, (ii) violate, contravene or result in a breach or default under any contract, agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound or (iii) require the consent or approval of or the filing of any notice or registration with any person or entity (other than such notices or filings as may be required under applicable securities laws).

(d) As long as this Warrant is, or any shares of Preferred Stock issued upon exercise of this Warrant or any shares of Common Stock issued upon conversion of such shares of Preferred Stock are, issued and outstanding, the Company will provide to the Holder the financial and other information described in that certain Loan and Security Agreement No. 4561 between the Company and Lighthouse Capital Partners V, L.P. dated as of March 29, 2005.

(e) As of the date hereof, the authorized capital stock of the Company consists of (i) 65,500,000 shares of Common Stock, of which 8,909,357 shares are issued and outstanding and 185,714 shares are reserved for issuance upon the exercise of this Warrant with respect to Common Stock and the conversion of the Preferred Stock into Common Stock if this Warrant is exercised with respect to Preferred Stock, (ii) 2,727,273 shares of Series A Preferred Stock, of which 2,727,273 are issued and outstanding shares, (iii) 6,460,675 shares of Series B Preferred Stock, of which 6,460,675 are issued and outstanding shares, (iv) 20,551,163 shares of Series C Preferred Stock, of which 16,364,832 are issued and outstanding shares, and (v) 13,887,716 shares of Series D Preferred Stock, of which 7,292,127 are issued and outstanding shares. Company has delivered a capitalization table to Holder summarizing the capitalization of the Company. At the request of Holder, not more than once per calendar quarter, the Company will provide Holder with a current capitalization table indicating changes, if any, to the number of outstanding shares of common stock and preferred stock.

15. Registration Rights. The Company grants to the Holder all the rights of a "Holder" [and an "Investor"] under the Company's Amended and Restated Investors' Rights Agreement dated as of December 18, 2003 (the *"Rights Agreement"*), including, without limitation, the registration rights contained therein, and agrees to amend the Rights Agreement so that (i) the shares of Common Stock issuable upon conversion of the shares of Preferred Stock issuable upon exercise of this Warrant shall be *"Registrable Securities,"* and (ii) the Holder shall be a "Holder" [and an "Investor"] for all purposes of such Rights Agreement.

16. Amendment. The terms of this Warrant may be amended, modified or waived only with the written consent of the Holder and the Company.

17. Representations and Covenants of the Holder. This Warrant has been entered into by the Company in reliance upon the following representations and covenants of the Holder, which by its execution hereof the Holder hereby confirms:

(a) Investment Purpose. The right to acquire Preferred Stock or the Preferred Stock issuable upon exercise of the Holder's rights contained herein will be acquired for investment and not with a view to the sale or distribution of any part thereof, and the Holder has no present intention of selling or engaging in any public distribution of the same except pursuant to a registration or exemption.

(b) Accredited Investor. Holder is an "accredited investor" within the meaning of Rule 501 of Regulation D, promulgated under the 1933 Act as presently in effect.

(c) Private Issue. The Holder understands (i) that neither the issuance of this Warrant nor the issuance of any shares of the Company's capital stock issuable upon exercise of the Holder's rights contained herein has been registered under the 1933 Act or qualified under applicable state securities laws on the ground that the issuances contemplated by this Warrant will be exempt from the registration and qualifications requirements thereof, and (ii) that the Company's reliance on such exemption is predicated on the representations of the Holderset forth in this **Section 17.**

(d) Financial Risk. The Holder has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment and has the ability to bear the economic risks of its investment.

18. Notices, Transfers, Etc.

(a) Any notice or written communication required or permitted to be given to the Holder may be given by certified mail or delivered to the Holder at the address most recently provided by the Holder to the Company.

(b) Subject to compliance with applicable federal and state securities laws, this Warrant may be transferred by the Holder with respect to any or all of the shares purchasable hereunder. Upon surrender of this Warrant to the Company, together with the assignment notice annexed hereto duly executed, for transfer of this Warrant as an entirety by the Holder, the Company shall issue a new warrant of the same denomination to the assignee. Upon surrender of this Warrant to the Company, together with the assignment hereof properly endorsed, by the Holder for transfer with respect to a portion of the shares of Preferred Stock purchasable hereunder, the Company shall issue a new warrant to the assignee, in such denomination as shall be requested by the Holder hereof, and shall issue to such Holder a new warrant covering the number of shares in respect of which this Warrant shall not have been transferred.

(c) In case this Warrant shall be mutilated, lost, stolen or destroyed, the Company shall issue a new warrant of like tenor and denomination and deliver the same (i) in exchange and substitution for and upon surrender and cancellation of any mutilated Warrant, or (ii) in lieu of any Warrant lost, stolen or destroyed, upon receipt of an affidavit of the Holder or other evidence reasonably satisfactory to the Company of the loss, theft or destruction of such Warrant.

19. No Impairment. The Company will not, by amendment of its Articles or through any reclassification, capital reorganization, consolidation, merger, sale or conveyance of assets, dissolution, liquidation, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance of performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder. In no event shall any reclassification, capital reorganization, consolidation, merger, sale or conveyance of assets, dissolution, liquidation, issue or sale of securities or any other transaction be deemed an "impairment" for purposes of this Section 18 if the shares of the Company's capital stock issuable upon exercise of this Warrant are affected thereby in the same manner as outstanding shares of such capital stock.

20. Governing Law. The provisions and terms of this Warrant shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to its principles regarding conflicts of laws.

21. Successors and Assigns. This Warrant shall be binding upon the Company's successors and assigns and shall inure to the benefit of the Holder's successors, legal representatives and permitted assigns.

22. Business Days. If the last or appointed day for the taking of any action required or the expiration of any rights granted herein shall be a Saturday or Sunday or a legal holiday in California, then such action may be taken or right may be exercised on the next succeeding day which is not a Saturday or Sunday or such a legal holiday.

23. Value. The Company and the Holder agree that the value of this Warrant on the date of grant is $100.

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

Subscription

To: _____

Date: _____

The undersigned hereby subscribes for _____ shares of Preferred Stock covered by this Warrant. The certificate(s) for such shares shall be issued in the name of the undersigned or as otherwise indicated below:

_____
Signature

_____
Name for Registration

_____
Mailing Address

Net Issue Election Notice

To: _____ Date: _____

The undersigned hereby elects under **Section 4** to surrender the right to purchase shares of Preferred Stock pursuant to this Warrant. The certificate(s) for such shares issuable upon such net issue election shall be issued in the name of the undersigned or as otherwise indicated below:

_____
Signature

_____
Name for Registration

_____
Mailing Address

Assignment

For value received _____ hereby sells, assigns and transfers unto

_____

_____

[Please print or typewrite name and address of Assignee]

_____

the within Warrant, and does hereby irrevocably constitute and appoint _____ its attorney to transfer the within Warrant on the books of the within named Company with full power of substitution on the premises.

Dated: _____

_____

Signature

_____

Name for Registration

In the Presence of:

_____

Exhibit A

Amended and Restated Articles of Incorporation

AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

Gajus V. Worthington and William Smith certify that:

1. They are the President and Secretary, respectively, of Fluidigm Corporation, a California corporation (the "Corporation").

2. The Articles of Incorporation of the Corporation are amended and restated in full to read as set forth in EXHIBIT A attached hereto and incorporated by reference as if fully set forth herein.

3. Said Amended and Restated Articles of Incorporation have been duly approved by the Corporation's Board of Directors.

4. Said Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the corporation is 7,753,917 shares of Common Stock, 2,727,273 shares of Series A Preferred Stock, 6,460,675 shares of Series B Preferred Stock and 14,315,608 shares of Series C Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding Common Stock, voting as a single class, more than 66 2/3% of the outstanding Series C Preferred Stock, voting as a single class, more than 66 2/3% of the outstanding Preferred Stock voting as a single class and more than 50% of the outstanding Common Stock and Preferred Stock, voting together as a single class.

I further declare under penalty of perjury that the matters set forth in the foregoing certificate are true and correct of my own knowledge.

Executed at Palo Alto, California, this ___ day of October, 2002.

_____
Gajus V. Worthington
President

_____
William Smith
Secretary

Exhibit A

AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

ARTICLE I

The name of the corporation is Fluidigm Corporation.

ARTICLE II

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated under the California Corporations Code.

ARTICLE III

The total number of shares of stock that the corporation shall have authority to issue is Seventy-Four Million Three Hundred Ninety Thousand Two Hundred Seventy-Four (74,390,274), consisting of Forty-Four Million Six Hundred Fifty-One Thousand One Hundred Sixty-Three (44,651,163) shares of Common Stock, $0.001 par value per share, and Twenty-Nine Million Seven Hundred Thirty-Nine Thousand One Hundred Eleven (29,739,111) shares of Preferred Stock, $0.001 par value per share. The first series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of Two Million Seven Hundred Twenty–Seven Thousand Two Hundred Seventy–Three (2,727,273) shares. The second series of Preferred Stock shall be designated "Series B Preferred Stock" and shall consist of Six Million Four Hundred Sixty Thousand Six Hundred Seventy-Five (6,460,675) shares. The third series of Preferred Stock shall be designated "Series C Preferred Stock" and shall consist of Twenty Million Five Hundred Fifty-One Thousand One Hundred Sixty-Three (20,551,163) shares.

ARTICLE IV

The terms and provisions of the Common Stock and Preferred Stock are as follows:

1. Definitions. For purposes of this Article IV, the following definitions shall apply:

(a) "Conversion Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock and $2.58 per share for the Series C Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(b) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities (other than shares of Preferred Stock) convertible into or exchangeable for Common Stock.

(c) "Corporation" shall mean Fluidigm Corporation.

(d) "Dividend Rate" shall mean an annual rate of $0.11 per share for the Series A Preferred Stock, an annual rate of $0.18 for the Series B Preferred Stock and an annual rate of $0.26 per share for the Series C Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(e) "Liquidation Preference" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock and $2.58 per share for the Series C Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(f) "Options" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(g) "Original Issue Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 for the Series B Preferred Stock and $2.58 per share for the Series C Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(h) "Preferred Stock" shall mean the Series A Preferred Stock, Series B Preferred Stock and the Series C Preferred Stock.

2. Dividends.

(a) Series C Preferred Stock. The holders of outstanding shares of Series C Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Series A Preferred Stock, Series B Preferred Stock or Common Stock (collectively, the "**Junior Stock**") of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Junior Stock during any fiscal year of the Corporation, other than dividends on the Common Stock payable solely in Common Stock, until all declared dividends on the Series C Preferred Stock have been paid or set apart for payment to the Series C Preferred Stock holders. The right to receive dividends on shares of Series C Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series C Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(b) Series A Preferred Stock and Series B Preferred Stock. The holders of outstanding shares of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Common Stock of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made

with respect to the Common Stock, other than dividends payable solely in Common Stock, until all declared dividends on the Preferred Stock have been paid or set apart for payment to the Preferred Stock holders. Payment of any dividends to the holders of the Series A Preferred Stock and Series B Preferred Stock shall be on a pro-rata, pari passu basis in proportion to the Dividend Rates for the Series A Preferred Stock and Series B Preferred Stock, as applicable. The right to receive dividends on shares of Series A Preferred Stock and Series B Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series A Preferred Stock or Series B Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(c) Distribution. For purposes of this Section 2, unless the context otherwise requires, a "**distribution**" shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, payable other than in Common Stock, or the purchase or redemption of shares of the Corporation other than (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors; and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors; and (iii) any other repurchase or redemption of capital stock of the corporation unanimously approved by the Board of Directors and approved by the holders of the majority of the Common Stock and the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock, voting as separate classes.

(d) Common Stock. Dividends may be paid on the Common Stock as and when declared by the Board of Directors, subject to the prior dividend rights of the Preferred Stock and Section 6 below.

(e) Non-Cash Distributions. Whenever a distribution provided for in this Section 2 shall be payable in property other than cash, the value of such distribution shall be deemed to be the fair market value of such property as determined in good faith by the Board of Directors.

(f) Consent to Certain Repurchases. As authorized by Section 402.5(c) of the California Corporations Code, Sections 502, 503 and 506 of the California Corporations Code shall not apply with respect to payments made by the Corporation in connection with (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors, and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors, and (iii) any other repurchase or redemption of capital stock of the Corporation unanimously approved by the Board of Directors and approved by the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class.

3. Liquidation Rights.

(a) Series C Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of the Series C Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock and the Series B Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series C Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series C Preferred Stock. If upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution to the holders of the Series C Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(a), then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series C Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(a).

(b) Series B Liquidation Preference. After the payment to the holders of Series C Preferred Stock of the full amounts specified in Section 3(a) above, the holders of the Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock and the Series A Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series B Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series B Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series B Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(b), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series B Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(b).

(c) Series A Liquidation Preference. After the payment to the holders of Series C Preferred Stock and the holders of Series B Preferred Stock of the full amounts specified in Sections 3(a) and 3(b) above, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount per share for each share of Series A Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series A Preferred Stock. If remaining assets of the Corporation legally available for distribution to the holders of the Series A Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(c), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series A Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(c).

(d) Remaining Assets. After the payment to the holders of Preferred Stock of the full amounts specified in Sections 3(a), 3(b) and 3(c) above, the entire remaining assets of the

Corporation legally available for distribution shall be distributed pro-rata to holders of the Common Stock of the Corporation in proportion to the number of shares of Common Stock held by them.

(e) Shares Not Treated as Both Preferred Stock and Common Stock in Any Distribution. Shares of Preferred Stock shall not be entitled to be converted into shares of Common Stock in order to participate in any distribution, or series of distributions, as shares of Common Stock, without first foregoing participation in the distribution, or series of distributions, as shares of Preferred Stock.

(f) Reorganization. For purposes of this Section 3, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any merger effected exclusively for the purpose of changing the domicile of the Corporation) other than a transaction or series of transactions in which the holders of the voting securities of the Corporation outstanding immediately prior to such transaction or series of transactions continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Corporation held by such holders prior to such transaction, at least fifty percent (50%) of the total voting power represented by the voting securities of the Corporation or such surviving entity outstanding immediately after such transaction or series of transactions; or (ii) a sale, transfer, lease or other conveyance of all or substantially all of the assets of the Corporation.

(g) Valuation of Non-Cash Consideration. If any assets of the Corporation distributed to shareholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, except that any securities to be distributed to shareholders in a liquidation, dissolution, or winding up of the Corporation shall be valued as follows:

(i) If the securities are then traded on a national securities exchange or the Nasdaq Stock Market System (or a similar national quotation system), then the value of the securities shall be deemed to be to the average of the closing prices of the securities on such exchange or system over the ten (10) trading day period ending five (5) trading days prior to the distribution;

(ii) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the distribution; or

(iii) if there is no active public market for the securities, then the value of the securities shall be deemed to be the fair market value thereof as determined in good faith by the Board of Directors which determination shall include consideration of the illiquidity of the securities.

In the event of a merger or other acquisition of the Corporation by another entity, the distribution date shall be deemed to the date such transaction closes.

For the purposes of this subsection 3(g), "**trading day**" shall mean any day on which the exchange or system on which the securities to be distributed are traded is open, and "closing prices" or "closing bid prices" shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or Nasdaq, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the "regular hours" trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

4. Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

(a) Right to Convert. Subject to Section 4(c), each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the Corporation or any transfer agent for the Preferred Stock, into that number of fully-paid, nonassessable shares of Common Stock determined by dividing the Original Issue Price for the relevant series by the Conversion Price for such series. (The number of shares of Common Stock into which each share of Preferred Stock of a series may be converted is hereinafter referred to as the "**Conversion Rate**" for each such series.) Upon any decrease or increase in the Conversion Price for any series of Preferred Stock, as described in this Section 4, the Conversion Rate for such series shall be appropriately increased or decreased.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share (i) immediately prior to the closing of a firm commitment underwritten initial public offering on Form S-1 (or successor form) filed under the Securities Act of 1933, as amended (the "**Securities Act**"), covering the offer and sale of the Corporation's Common Stock, provided that the offering price per share is not less than $7.10 (as adjusted for stock splits or stock dividends) and the aggregate gross proceeds to the Corporation are not less than $25,000,000, or (ii) upon the receipt by the Corporation of a written request for such conversion from the holders of two-thirds of the shares of Preferred Stock then outstanding, or, if later, the effective date for conversion specified in such requests (each of the events referred to in (i) and (ii) being hereinafter referred to as an "**Automatic Conversion Event**").

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of a share of Common Stock as determined by the Board of Directors. For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, and

to receive certificates therefor, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock, and shall give written notice to the Corporation at such office that he elects to convert the same; provided, however, that on the date of an Automatic Conversion Event, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided further, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such Automatic Conversion Event unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of an Automatic Conversion Event, each holder of record of shares of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

The Corporation shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; provided, however, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of the sale of such securities.

(d) Adjustments to Conversion Price for Diluting Issues.

(i) Special Definition. For purposes of this paragraph 4(d), "**Additional Shares of Common**" shall mean all shares of Common Stock issued (or, pursuant to paragraph 4(d)(iii), deemed to be issued) by the Corporation after the filing of these Articles of Incorporation, other than:

(1) shares of Common Stock issued or issuable upon conversion of shares of Preferred Stock;

(2) shares of Common Stock issued or issuable to officers, directors and employees of, or consultants and other service providers to, the Corporation pursuant to stock grants, option plans, purchase plans or other employee stock incentive programs or arrangements approved by the Board of Directors or upon exercise of options or warrants granted to such parties pursuant to any such plan, program or arrangement;

(3) shares of Common Stock issued upon the exercise or conversion of Options or Convertible Securities outstanding as of the date of the filing of these Articles of Incorporation;

(4) shares of Common Stock issued or issuable as a dividend or distribution on Preferred Stock or pursuant to any event for which adjustment is made pursuant to paragraph 4(e), 4(f) or 4(g) hereof;

(5) shares of Common Stock issued in a registered public offering under the Securities Act pursuant to which all outstanding shares of Preferred Stock are automatically converted into Common Stock pursuant to an Automatic Conversion Event;

(6) shares of Common Stock issued or issuable pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided, that such issuances are unanimously approved by the Board of Directors; and

(7) shares of Common Stock issued or issuable to banks, equipment lessors or other financial institutions pursuant to a commercial leasing or debt financing transaction approved by the Board of Directors.

(ii) No Adjustment of Conversion Price. No adjustment in the Conversion Price of a particular series of Preferred Stock shall be made in respect of the issuance of Additional Shares of Common unless the consideration per share (as determined pursuant to paragraph 4(d)(v)) for an Additional Share of Common issued or deemed to be issued by the Corporation is less than the Conversion Price in effect on the date of, and immediately prior to such issue, for such series of Preferred Stock.

(iii) Deemed Issue of Additional Shares of Common. In the event the Corporation at any time or from time to time after the date of the filing of these Articles of Incorporation shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities or, in the case of Options for Convertible Securities, the exercise of such Options and the conversion or exchange of the underlying securities, shall be deemed to have been issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which shares are deemed to be issued:

(1) no further adjustment in the Conversion Price of the Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock in connection with the exercise of such Options or conversion or exchange of such Convertible Securities;

(2) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price of the Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(3) no readjustment pursuant to clause (2) above shall have the effect of increasing the Conversion Price of the Preferred Stock to an amount which exceeds the lower of (i) the Conversion Price of the Preferred Stock on the original adjustment date, or (ii) the Conversion Price of the Preferred Stock that would have resulted from any issuance of Additional Shares of Common between the original adjustment date and such readjustment date;

(4) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

(A) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of such exercised Options plus the consideration actually received by the Corporation upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange, and

(B) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common deemed to have been then issued was the consideration actually received by the Corporation for the issue of such exercised Options, plus the consideration deemed to have been received by the Corporation (determined pursuant to Section 4(d)(v)) upon the issue of the Convertible Securities with respect to which such Options were actually exercised; and

(5) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Conversion Price which became effective on such record date shall be canceled as of the close of

business on such record date, and thereafter the Conversion Price shall be adjusted pursuant to this paragraph 4(d)(iii) as of the actual date of their issuance.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common. In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to paragraph 4(d)(iii)) without consideration or for a consideration per share less than the applicable Conversion Price of a series of Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the affected series of Preferred Stock shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Subsection 4(d)(iv), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Subsection 4(d)(iii) hereof, shall be deemed to be outstanding.

(v) Determination of Consideration. For purposes of this subsection 4(d), the consideration received by the Corporation for the issue (or deemed issue) of any Additional Shares of Common shall be computed as follows:

(1) Cash and Property. Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (a) and (b) above, as reasonably determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common deemed to have been issued pursuant to paragraph 4(d)(iii) shall be determined by dividing

(X) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating

thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

(Y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(e) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price of each series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Common Stock, the Conversion Prices in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(f) Adjustments for Subdivisions or Combinations of Preferred Stock. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(g) Adjustments for Reclassification, Exchange and Substitution. Subject to Section 3 above ("**Liquidation Rights**"), if the Common Stock issuable upon conversion of the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), then, in any such event, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive each holder of such Preferred Stock shall have the right thereafter to convert such shares of Preferred Stock into a number of shares of such other class or classes of stock which a holder of the number of shares of Common Stock deliverable upon conversion of such series of Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(h) No Impairment. The Corporation will not through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment. Notwithstanding the foregoing, nothing in this Section 4(h) shall prohibit the Corporation from amending its Articles of Incorporation with the requisite consent of its shareholders and the board of directors.

(i) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(j) Notices of Record Date. In the event that this Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iii) to voluntarily liquidate or dissolve or to enter into any transaction deemed to be a liquidation, dissolution or winding up of the corporation pursuant to Section 3(f);

then, in connection with each such event, this Corporation shall send to the holders of the Preferred Stock at least 14 days' prior written notice of the date on which a record shall be taken for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (ii) and (iii) above.

Each such written notice shall be given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of this Corporation.

The right of the holders of the Preferred Stock to notice hereunder may be waived, either prospectively or retroactively and either generally or in a particular instance, by the holders of more

than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class.

(k) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(l) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of more than two-thirds (2/3) of the outstanding shares of such series. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Voting.

(a) Restricted Class Voting. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

(b) No Series Voting. Other than as provided herein or required by law, there shall be no series voting.

(c) Preferred Stock. Each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock held by such holder could be converted as of the record date. The holders of shares of the Preferred Stock shall be entitled to vote on all matters on which the Common Stock shall be entitled to vote. Holders of Preferred Stock shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(d) Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

(e) Election of Directors. So long as at least 2,000,000 shares (as adjusted for Recapitalizations) of Preferred Stock remain outstanding, the holders of Series C Preferred Stock, voting as a separate class, shall be entitled to elect three (3) members of the Corporation's Board of Directors at each meeting or pursuant to each consent of the Corporation's shareholders for the election of directors. Any additional members of the Corporation's Board of Directors shall be elected by the holders of Common Stock, Series A Preferred Stock and Series B Preferred Stock,

voting together as a single class. If a vacancy on the Board of Directors is to be filled by the Board of Directors, only directors elected by the same class or classes of shareholders as those who would be entitled to vote to fill such vacancy shall vote to fill such vacancy.

6. Amendments and Changes Requiring Approval of Preferred Stock. As long as any of the Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class:

(a) amend, alter or repeal any provision of the Articles of Incorporation or By-laws of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Preferred Stock or any series thereof;

(b) enter into any transaction or series of related transactions deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to Section 3(f) above.

(c) voluntarily liquidate or dissolve;

(d) declare or pay any distribution (as defined in Section 2(c)) with respect to the Common Stock of the Corporation;

(e) permit any subsidiary of the Corporation to sell securities to a third party;

(f) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Preferred Stock;

(g) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, liquidation, redemption, conversion or other rights senior to or on a parity with any series of Preferred Stock or with respect to voting senior to any series of Preferred Stock;

(h) increase or decrease the authorized number of directors of the Corporation; or

(i) amend this Section 6.

7. Amendments and Changes Requiring the Approval of the Series C Preferred Stock. As long as any of the Series C Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of two-thirds of the outstanding shares of the Series C Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series C Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series C Preferred Stock;

(c) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series C Preferred Stock or with respect to voting senior to the Series C Preferred Stock;

(d) declare or pay any distribution (as defined in Section 2(c)) with respect to the Common Stock or Preferred Stock of the Corporation;

(e) increase the authorized number of directors of the Corporation above nine (9); or

(f) amend this Section 7.

8. Amendments and Changes Requiring the Approval of the Series B Preferred Stock. As long as any of the Series B Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of two-thirds of the outstanding shares of the Series B Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series B Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series B Preferred Stock; or

(c) amend this Section 8.

9. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Article 4 hereof, then the shares so converted shall be cancelled and shall not be issuable by the Corporation. The Articles of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

10. Notices. Any notice required by the provisions of this Article IV to be given to the holders of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

ARTICLE V

1. Limitation of Directors' Liability. The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

2. Indemnification of Corporate Agents. This Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, votes of shareholders or disinterested directors or

otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to this Corporation and its shareholders.

3. Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article V shall not adversely affect any right of indemnification or limitation of liability of an agent of this Corporation relating to acts or omissions occurring prior to such repeal or modification.

(THE GREAT SEAL OF THE STATE OF CALIFORNIA - OFFICE OF THE SECRETARY OF STATE)

EXHIBIT D

NOTICE OF BORROWING

_____, _____

Lighthouse Capital Partners V, L.P.
500 Drake's Landing Road
Greenbrae, CA 94904-3011

Ladies and Gentlemen:

Reference is made to the Loan and Security Agreement No. 4561 dated as of March 29, 2005 (as it has been and may be amended from time to time, the *"Loan Agreement,"* initially capitalized terms used herein as defined therein), between **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** and **FLUIDIGM CORPORATION** (the *"Company")*

The undersigned is the President and CEO of the Company, and hereby irrevocably requests an Advance under the Loan Agreement, and in that connection certifies as follows:

1. The amount of the proposed Advance is $_____. The business day of the proposed Advance is _____.

2. The Loan Commencement Date for this Advance shall be March 1, 2006.

3. As of this date, no Event of Default, or event which with notice or the passage of time would constitute an Event of Default, has occurred and is continuing, or will result from the making of the proposed Advance, and the representations and warranties of the Company contained in **Section 5** of the Loan Agreement are true and correct in all material respects.

4. No event that could reasonably be expected to have a material adverse effect on the ability of Borrower to fulfill its obligations under the Loan Agreement has occurred since the date of the most recent financial statements, submitted to you by the Company.

The Company agrees to notify you promptly before the funding of the Advance if any of the matters to which I have certified above shall not be true and correct on the Funding Date.

Very truly yours,

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

EXHIBIT E

INCUMBENCY CERTIFICATE

The undersigned, William Smith, hereby certifies that:

1. He/She is the duly elected and acting General Counsel and Vice President of Legal Affairs of **FLUIDIGM CORPORATION**, a California corporation (the *"Company")*.

2. That on the date hereof, each person listed below holds the office in the Company indicated opposite his or her name and that the signature appearing thereon is the genuine signature of each such person:

NAME	OFFICE	SIGNATURE
Gajus Worthington	President and CEO	
William Smith	General Counsel and Vice President of Legal Affairs	

3. Attached hereto as ***Exhibit A*** is a true and correct copy of the Articles of Incorporation of the Company, as amended, as in effect as of the date hereof.

4. Attached hereto as ***Exhibit B*** is a true and correct copy of the Bylaws of the Company, as amended, as in effect as of the date hereof.

5. Attached hereto as ***Exhibit C*** is a copy of the resolutions of the Board of Directors of the Company authorizing and approving the Company's execution, delivery and performance of a loan facility with Lighthouse Capital Partners V, L.P.

IN WITNESS WHEREOF, the undersigned has executed this Incumbency Certificate on March 29, 2005.

FLUIDIGM CORPORATION

By: _____

Name: William Smith

Title: General Counsel and Vice President of Legal Affairs

I, the President and CEO of the Company, do hereby certify that William Smith is the duly qualified, elected and acting General Counsel and Vice President of Legal Affairs of the Company and that the above signature is his or her genuine signature.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Officer's Certificate on March 29, 2005.

FLUIDIGM CORPORATION

By: _____

Name: Gajus Worthington

Title: President and CEO

EXHIBIT F

OFFICER'S CERTIFICATE

The undersigned, to induce **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** *("Lender")*, to extend or continue financial accommodations to **FLUIDIGM CORPORATION**, a California corporation (the *"Borrower")* pursuant to the terms of that certain Loan and Security Agreement dated March 29, 2005 (the *"Loan Agreement")*, hereby certifies that on the date hereof:

1. I am the duly elected and acting _____ of Borrower.

2. I am a Responsible Officer as that term is defined in the Loan Agreement.

3. The information submitted herewith complies with **Sections 5.7** and **6.2** of the Loan Agreement.

4. The financial statements delivered herewith fairly present the financial condition of Borrower

5. Borrower is currently able to meet its obligations as they come due.

6. I understand that Lender is relying upon the truthfulness, accuracy and completeness hereof in connection with the Loan Agreement.

7. I will advise you if it comes to my attention that, as of the date hereof, the information submitted herewith was not in fact true, correct and complete.

IN WITNESS WHEREOF, the undersigned has executed this Officer's Certificate on _____.

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

EXHIBIT G

AUTHORIZATION FOR AUTOMATIC PAYMENT

The undersigned **FLUIDIGM CORPORATION** *("Borrower")* authorizes **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** and any and all affiliated funds (collectively, *"Lender")* and the bank / financial institution (*"Bank")* named below to initiate variable debit and/or credit entries to Borrower's deposit, checking or savings accounts as designated below and to cause funds transfers to an account of Lender as payment of any and all amounts due under the Loan and Security Agreement between Borrower and Lender dated March _____, 2005 (the *"Loan Agreement").*

1. Lender is hereby authorized to initiate variable debit and/or credit transactions and resulting funds transfers in Borrower's designated accounts with respect to amounts calculated by Lender to be due and owing to Lender by Borrower periodically under the Loan Agreement. Borrower consents to all such debit and/or credit transactions and resulting funds transfers and hereby authorizes Lender to take all such actions as may be required by Bank with respect to such transactions. Borrower acknowledges and agrees that such credit and/or debit entries may be made in amounts due under the Loan Agreement in order to cause timely payments as required by the terms of the Loan Agreement.

2. Borrower hereby authorizes Lender to release to Bank all information concerning Borrower that may be necessary or desirable for Bank to investigate or recover any erroneous funds transfers that may occur.

3. Borrower acknowledges and agrees that all such debit and/or credit transactions and funds transfers are intended to be made through an Automated Clearing House system and in compliance with the NACHA Rules and in compliance with Bank's security procedures.

4. Borrower represents and warrants that the account information set forth below is accurate and complete and that each of the account(s) set forth below is a business account maintained in Borrower's name and for Borrower's account.

This Consent shall be effective as of March 29, 2005 and shall remain in effect until the Loan Agreement has been terminated. Any cancellation by Borrower of this consent shall (i) be made in writing and (ii) delivered to Bank and Lender in such time as to afford Bank and Lender a reasonable opportunity to act on said cancellation.

Wells Fargo Bank
(Name of Borrower's Bank)

420 Montgomery St.	San Francisco	CA	94104
(Address of Bank)	(City)	(State)	(Zip Code)

Bank Routing Number [***]
(between these symbols " /:" ":/" on bottom left of check)

Account Number: [***] (checking /deposit /savings) *(circle one)*

Copy of a voided check is attached to this form

Borrower Name: **FLUIDIGM CORPORATION**
Borrower Address: 7100 Shoreline Court
South San Francisco. CA 94080

Authorized by: _____
Its: _____

Date authorized: _____

Internal ACH Authorizations from Lender:

Approved by: _____ Date: _____

EXHIBIT H

NEGATIVE PLEDGE AGREEMENT

THIS NEGATIVE PLEDGE AGREEMENT is made as of March 29, 2005, by and between **FLUIDIGM CORPORATION** *("Borrower")* and **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** *("Lender").*

In consideration of the Loan and Security Agreement between the parties of proximate date herewith (the *"Loan Agreement")*, Borrower agrees as follows:

Except as otherwise permitted in the Loan Agreement, Borrower shall not sell, transfer, assign, mortgage, pledge, lease, grant a security interest in, or encumber any of Borrower's owned intellectual property, including, without limitation, the following:

(a) Any and all copyright rights, copyright applications, copyright registration and like protection in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held (collectively, the *"Copyrights");*

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights which may be available to Borrower now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections, including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including, without limitation, the patents and patent applications (collectively, the *"Patents");*

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks (collectively, the *"Trademarks");*

(f) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for an collect such damages for said use or infringement of the intellectual property rights identified above;

(g) Any and all licenses or other rights to use any of the Copyrights, Patents or Trademarks and all license fees and royalties arising from such use to the extent permitted by such license or rights

(h) Any and all amendments, extensions, renewals and extensions of any of the Copyrights, Patents or Trademarks; and

(i) Any and all proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

It shall be an Event of Default under the Loan Agreement if there is a breach of any term of this Negative Pledge Agreement. Borrower agrees to properly execute all documents reasonably required by Lender in order to fulfill the intent and purposes hereof.

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

LIGHTHOUSE CAPITAL PARTNERS V, L.P.

By: **LIGHTHOUSE MANAGEMENT PARTNERS V, L.L.C.**, its general partner

By: _____

Name: _____

Title: _____

EXHIBIT I

CONTROL AGREEMENT

[In form and substance acceptable to Lender in its reasonable discretion]

RESTRICTED ACCOUNT AGREEMENT

(ACCOUNT RESTRICTED AFTER INSTRUCTIONS — Standing Wire Transfers)

This **Restricted Account Agreement** (the "Agreement"), dated as of the date specified at the end of this Agreement, is entered into among **Fluidigm Corporation** ("Company"), **Lighthouse Capital Partners V, L.P.** ("Secured Party") and the Wells Fargo Bank identified in the signature block at the end of this Agreement ("Bank"), and sets forth the rights of Secured Party and the obligations of Bank with respect to the deposit account(s) of Company at Bank identified at the end of this Agreement as the "Restricted Account(s)". As used in this Agreement, the term "Restricted Account" refers, individually and collectively, to each such deposit account.

1. **Secured Party's Interest in Restricted Account.** Secured Party represents that it is either (i) a lender who has extended credit to Company and has been granted a security interest in the Restricted Account or (ii) such a lender and the agent for a group of such lenders (the "Lenders"). Company hereby confirms, and Bank hereby acknowledges, the security interest granted by Company to Secured Party in all of Company's right, title and interest in and to the Restricted Account and all sums now or hereafter on deposit in or payable or withdrawable from the Restricted Account (the "Account Funds"). Except as specifically provided otherwise in this Agreement, Company has given Secured Party complete control over the Account Funds. Secured Party hereby appoints Bank as agent for Secured Party only for the purpose of perfecting the security interest of Secured Party in the Account Funds while they are in the Restricted Account. Company and Secured Party would like to use the Restricted Account Service of Bank described in this Agreement (the "Service") to further the arrangements between Secured Party and Company regarding the Restricted Account and the Account Funds.

2. **Access to Restricted Account.** Secured Party agrees that Company will be allowed access to the Account Funds until Bank receives written instructions from Secured Party directing that Company no longer have access to any Account Funds (the "Instructions"). Company agrees that the Account Funds should be paid to Secured Party after Bank receives the Instructions, and hereby irrevocably authorizes Bank to comply with the Instructions even if Company objects in any way to the Instructions. Company further agrees that after Bank receives the Instructions, Company will not have access to any Account Funds.

3. **Balance Reports.** Bank agrees, at the telephone request of Secured Party on any Business Day (a day on which Bank is open to conduct its regular banking business, other than a Saturday, Sunday or public holiday), to make available to Secured Party a report ("Balance Report") showing the opening available balance in the Restricted Account as of the beginning of such Business Day, either on-line or by facsimile transmission, at Bank's option. Company expressly consents to this transmission of information. Secured Party and Company understand and agree that the opening available balance in the Restricted Account at the beginning of any Business Day will be determined after deducting from the Restricted Account the face amount of all Returned Items (as defined in Section 8 of this Agreement).

4. **Transfers to Secured Party.** Bank agrees that on each Business Day after it receives the Instructions it will transfer to the Secured Party's account specified at the end of this Agreement

with the bank specified at the end of this Agreement (the "Secured Party Account") the full amount of the opening available balance in the Restricted Account at the beginning of such Business Day. Bank will use the Fedwire system to make each funds transfer unless for any reason the Fedwire system is unavailable, in which case Bank will determine the funds transfer system to be used in making each funds transfer and the means by which each transfer will be made. Bank, Secured Party and Company each agree that Bank will comply with instructions given to Bank by Secured Party directing disposition of funds in the Restricted Account without further consent by Company, subject otherwise to the terms of this Agreement and Bank's standard policies, procedures and documentation in effect from time to time governing the type of disposition requested. Company authorizes all such transfers. Except as otherwise required by law, Bank will not agree with any third party to comply with instructions for disposition of funds in the Restricted Account originated by such third party.

5. **Delays in Making Funds Transfers.** Secured Party and Company understand that a funds transfer may be delayed or not made if (a) the transfer would cause Bank to exceed any limitation on its intra-day net funds position established in accordance with Federal Reserve or other regulatory guidelines or to violate any other Federal Reserve or other regulatory risk control program, or (b) the funds transfer would otherwise cause Bank to violate any applicable law or regulation. If a funds transfer cannot be made or will be delayed, Bank will notify Secured Party by telephone.

6. **Reliance on Identifying Numbers.** If Secured Party indicates a name and an identifying number for the bank of the person or entity to receive funds transfers out of the Restricted Account, Secured Party and Company understand and agree that Bank may rely on the number Secured Party indicates even if that number identifies a bank different from the bank Secured Party named. If Secured Party indicates a name and an account number for the person or entity to receive funds transfers out of the Restricted Account, Secured Party and Company understand and agree that Bank may rely on the account number Secured Party indicates even if that account number is not the account number for the person or entity who is to receive the transfers.

7. **Reporting Errors in Transfers.** If Secured Party or Company learns of any error in a funds transfer or any unauthorized funds transfer, then the party learning of such error or unauthorized transfer (the "Informed Party") must notify Bank as soon as possible by telephone at (800) AT- WELLS (which is a recorded line), and provide written confirmation to Bank of such telephonic notice within two Business Days at the address given for Bank on the signature page of this Agreement. In no case may such notice to Bank by an Informed Party be made more than fourteen (14) calendar days after such Informed Party learns of the erroneous or unauthorized transfer. If a funds transfer is made in error and Bank suffers a loss because an Informed Party breached its agreement to notify Bank of such error within the time limits specified in this Section 7, then such Informed Party shall reimburse Bank for the loss promptly upon demand by Bank; provided, however, that in the event both Secured Party and Company breach this notification requirement, Secured Party shall not be obligated to reimburse Bank for the loss unless Company fails to satisfy Bank's demand for reimbursement within fifteen (15) calendar days after demand is made on Company.

8. **Returned Item Amounts.** Secured Party and Company understand and agree that the face amount ("Returned Item Amount") of each Returned Item will be paid by Bank debiting the Restricted Account, without prior notice to Secured Party or Company. As used in this Agreement, the term "Returned Item" means (i) any item deposited to the Restricted Account and returned unpaid, whether for insufficient funds or for any other reason, and without regard to the timeliness of such return or the occurrence or timeliness of any drawee's notice of non-payment; (ii) any item subject to a claim against Bank of breach of transfer or presentment warranty under the Uniform Commercial Code, as adopted in the applicable state; (iii) any automated clearing house ("ACH") entry credited to the Restricted Account and returned unpaid

or subject to an adjustment entry under applicable clearing house rules, whether for insufficient funds or for any other reason, and without regard to the timeliness of such return or adjustment; (iv) any credit to the Restricted Account from a merchant card transaction, against which a contractual demand for chargeback has been made; and (v) any credit to the Restricted Account made in error. Company agrees to pay all Returned Item Amounts immediately on demand, without setoff or counterclaim, to the extent there are not sufficient funds in the Restricted Account to cover the Returned Item Amounts on the day they are to be debited from the Restricted Account. Secured Party agrees to pay all Returned Item Amounts within thirty (30) calendar days after demand, without setoff or counterclaim, to the extent the Returned Item Amounts are not paid in full by Company within fifteen (15) calendar days after demand on Company by Bank, and to the extent Secured Party received proceeds from the corresponding Returned Items.

9. **Bank Fees.** Company agrees to pay all Bank's fees and charges for the maintenance and administration of the Restricted Account and for the treasury management and other account services provided with respect to the Restricted Account (collectively "Bank Fees"), including, but not limited to, the fees for (a) the Balance Reports provided on the Restricted Account, (b) the wire transfer services received with respect to the Restricted Account, (c) Returned Items, (d) funds advanced to cover overdrafts in the Restricted Account (but without Bank being in any way obligated to make any such advances), and (e) duplicate bank statements on the Restricted Account. Before Bank receives the Instructions, the Bank Fees will be paid by Bank debiting the Restricted Account, and after Bank receives the Instructions the Bank fees will be paid by Bank debiting one or more of the demand deposit operating accounts of Company at Bank specified at the end of this Agreement (the "Operating Accounts"). All such debits will be made on the Business Day that the Bank Fees are due without notice to Secured Party or Company. If there are not sufficient funds in the Restricted Account, or after Bank receives the Instructions, the Operating Accounts, to cover fully the Bank Fees on the Business Day they are debited from the Restricted Account or the Operating Accounts, or if no Operating Accounts are indicated at the end of this Agreement, such shortfall or the amount of such Bank Fees will be paid by Company sending Bank a check in the amount of such shortfall or such Bank Fees, without setoff or counterclaim, within fifteen (15) calendar days after demand of Bank. After Bank receives the Instructions, Secured Party agrees to pay the Bank Fees within thirty (30) calendar days after demand, without setoff or counterclaim, to the extent such Bank Fees are not paid in full by Company by check within fifteen (15) calendar days after demand on Company by Bank. Bank may, in its discretion, change the Bank Fees upon thirty (30) calendar days prior written notice to Company and Secured Party.

10. **Account Documentation.** Secured Party and Company agree that, except as specifically provided in this Agreement, the Restricted Account will be subject to, and Bank's operation of the Restricted Account will be in accordance with, the terms and provisions of Bank's deposit account agreement governing the Restricted Account ("Account Agreement"), a copy of which Company and Secured Party acknowledge having received.

11. **Bank Statements.** After Bank receives the Instructions, Bank will, if so indicated on the signature page of this Agreement, send to Secured Party by United States mail, at the address indicated for Secured Party after its signature to this Agreement, duplicate copies of all bank statements on the Restricted Account which are sent to Company. Company and/or Secured Party will have thirty (30) calendar days after receipt of a bank statement to notify Bank of an error in such statement. Bank's liability for such errors is limited as provided in the "Limitation of Liability" section of this Agreement.

12. **Partial Subordination of Bank's Rights.** Bank hereby subordinates to the security interest of Secured Party in the Restricted Account (i) any security interest which Bank may have or acquire in the Restricted Account, and (ii) any right which Bank may have or acquire to set off or otherwise apply any Account Funds against the payment of any indebtedness from time to time

owing to Bank from Company, except for debits to the Restricted Account permitted under this Agreement for the payment of Returned Item Amounts or Bank Fees.

13. **Bankruptcy Notice; Effect of Filing.** If Bank at any time receives notice of the commencement of a bankruptcy case or other insolvency or liquidation proceeding by or against Company (a "Bankruptcy Notice"), Bank will continue to comply with its obligations under this Agreement, except to the extent that any action required of Bank under this Agreement is prohibited under applicable bankruptcy laws or regulations or is stayed pursuant to the automatic stay imposed under the United States Bankruptcy Code or by order of any court or agency. With respect to any obligation of Secured Party hereunder which requires prior demand upon Company, the commencement of a bankruptcy case or other insolvency or liquidation proceeding by or against Company shall automatically eliminate the necessity of such demand upon Company by Bank, and shall immediately entitle Bank to make demand on Secured Party with the same effect as if demand had been made upon Company and the time for Company's performance had expired.

14. **Legal Process, Legal Notices and Court Orders.** Bank will comply with any legal process, legal notice or court order it receives if Bank determines in its sole discretion that the legal process, legal notice or court order is legally binding on it.

15. **Indemnification for Following Instructions.** Secured Party and Company each agree that, notwithstanding any other provision of this Agreement, except to the extent caused by Bank's gross negligence or willful misconduct Bank will not be liable to Secured Party or Company for any losses, liabilities, damages, claims (including, but not limited to, third party claims), demands, obligations, actions, suits, judgments, penalties, costs or expenses, including, but not limited to, attorneys' fees, (collectively, "Losses and Liabilities") suffered or incurred by Secured Party or Company as a result of or in connection with, (a) Bank complying with any binding legal process, legal notice or court order referred to in Section 14 of this Agreement, (b) Bank following any instruction or request of Secured Party, or (c) Bank complying with its obligations under this Agreement. Further, Company, and to the extent not paid by Company within fifteen (15) calendar days after demand, Secured Party, will indemnify Bank against any Losses and Liabilities Bank may suffer or incur as a result of or in connection with any of the circumstances referred to in clauses (a) through (c) of the preceding sentence.

16. **No Representations or Warranties of Bank.** Bank agrees to perform its obligations under this Agreement in a manner consistent with the quality provided when Bank performs similar services for its own account. However, Bank will not be responsible for the errors, acts or omissions of others, such as communications carriers, correspondents or clearinghouses through which Bank may perform its obligations under this Agreement or receive or transmit information in performing its obligations under this Agreement. Secured Party and Company also understand that Bank will not be responsible for any loss, liability or delay caused by wars, failures in communications networks, labor disputes, legal constraints, fires, power surges or failures, earthquakes, civil disturbances or other events beyond Bank's control. **BANK MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICE OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT.**

17. **Limitation of Liability.** In the event that Secured Party, Company or Bank suffers or incurs any Losses and Liabilities as a result of, or in connection with, its or any other party's performance or failure to perform its obligations under this Agreement, the affected parties shall negotiate in good faith in an effort to reach a mutually satisfactory allocation of such Losses and Liabilities, it being understood that Bank will not be responsible for any Losses and Liabilities due to any cause other than its own negligence or breach of this Agreement, in which case its liability to Secured Party and Company shall, unless otherwise provided by any law which cannot be

varied by contract, be limited to direct money damages in an amount not to exceed ten (10) times all the Bank Fees charged or incurred during the calendar month immediately preceding the calendar month in which such Losses and Liabilities occurred (or, if no Bank Fees were charged or incurred in the preceding month, the Bank Fees charged or incurred in the month in which the Losses and Liabilities occurred). Company will indemnify Bank against all Losses and Liabilities suffered or incurred by Bank as a result of third party claims; provided, however, that to the extent such Losses and Liabilities are directly caused by Bank's negligence or breach of this Agreement such indemnity will only apply to those Losses and Liabilities which exceed the liability limitation specified in the preceding sentence. The limitation of Bank's liability and the indemnification by Company set out above will not be applicable to the extent any Losses and Liabilities of any party to this Agreement are directly caused by Bank's gross negligence or willful misconduct. **IN NO EVENT WILL BANK BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES, WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, WHETHER THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN TO BANK AND REGARDLESS OF THE FORM OF THE CLAIM OR ACTION, INCLUDING, BUT NOT LIMITED TO, ANY CLAIM OR ACTION ALLEGING GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FAILURE TO EXERCISE REASONABLE CARE OR FAILURE TO ACT IN GOOD FAITH.** Any action against Bank by Company or Secured Party under or related to this Agreement must be brought within twelve months after the cause of action accrues.

18. **Termination.** This Agreement and the Service may be terminated by Secured Party or Bank at any time by either of them giving thirty (30) calendar days prior written notice of such termination to the other two parties to this Agreement at their contact addresses specified after their signatures to this Agreement; provided, however, that this Agreement and the Service may be terminated immediately upon written notice from Bank to Company and Secured Party should Secured Party fail to make any payment when due to Bank from Secured Party under the terms of this Agreement. Secured Party and Company agree that the Restricted Account may be closed by Bank as provided in the Account Agreement. Company's and Secured Party's obligation to report errors in funds transfers and bank statements and to pay the Bank Fees, as well as the indemnifications made, and the limitations on the liability of Bank accepted, by Company and Secured Party under this Agreement will continue after the termination of this Agreement and/or the closure of the Restricted Account with respect to all the circumstances to which they are applicable existing or occurring before such termination or closure, and any liability of any party to this Agreement, as determined under the provisions of this Agreement, with respect to acts or omissions of such party prior to such termination or closure will also survive such termination or closure. Upon any termination of this Agreement and the Service or closure of the Restricted Account all collected and available balances in the Restricted Account on the date of such termination or closure will be transferred to Secured Party as requested by Secured Party in writing to Bank.

19. **Modifications, Amendments, and Waivers.** This Agreement may not be modified or amended, or any provision thereof waived, except in a writing signed by all the parties to this Agreement; provided, however, that the Bank Fees may be changed after thirty (30) calendar days prior written notice to Company and Secured Party.

20. **Notices.** All notices from one party to another shall be in writing, or be made by a telecommunications device capable of creating a written record, shall be delivered to Company, Secured Party and/or Bank at their contact addresses specified after their signatures to this Agreement, or any other address of any party notified to the other parties in writing, and shall be effective upon receipt. Any notice sent by one party to this Agreement to another party shall also be sent to the third party to this Agreement. Bank is authorized by Company and Secured Party to act on any instructions or notices received by Bank if (a) such instructions or notices

purport to be made in the name of Secured Party, (b) Bank reasonably believes that they are so made, and (c) they do not conflict with the terms of this Agreement as such terms may be amended from time to time, unless such conflicting instructions or notices are supported by a court order.

21. **Successors and Assigns.** Neither Company nor Secured Party may assign or transfer its rights or obligations under this Agreement to any person or entity without the prior written consent of Bank, which consent will not be unreasonably withheld. Bank may not assign its rights or obligations under this Agreement to any person or entity without the prior written consent of Secured Party, which consent will not be unreasonably withheld; provided, however, that no such consent will be required if the assignee is a bank affiliate of Bank.

22. **Governing Law.** Company and Secured Party understand that Bank's provision of the Service under this Agreement is subject to federal laws and regulations. To the extent that such federal laws and regulations are not applicable this Agreement shall be governed by and be construed in accordance with the laws of the state in which the office of Bank that maintains the Restricted Account is located, without regard to conflict of laws principles.

23. **Severability.** To the extent that this Agreement or the Service to be provided under this Agreement are inconsistent with, or prohibited or unenforceable under, any applicable law or regulation, they will be deemed ineffective only to the extent of such prohibition or unenforceability and be deemed modified and applied in a manner consistent with such law or regulation. Any provision of this Agreement which is deemed unenforceable or invalid in any jurisdiction shall not affect the enforceability or validity of the remaining provisions of this Agreement or the same provision in any other jurisdiction.

24. **Usury.** It is never the intention of Bank to violate any applicable usury or interest rate laws. Bank does not agree to, or intend to contract for, charge, collect, take, reserve or receive (collectively, "charge or collect") any amount in the nature of interest or in the nature of a fee, penalty or other charge which would in any way or event cause Bank to charge or collect more than the maximum Bank would be permitted to charge or collect by any applicable federal or state law. Any such excess interest or unauthorized fee shall, notwithstanding anything stated to the contrary in this Agreement, be applied first to reduce the amount owed, if any, and then any excess amounts will be refunded.

25. **Counterparts.** This Agreement may be executed in any number of counterparts each of which shall be an original with the same effect as if the signatures thereto and hereto were upon the same instrument.

26. **Entire Agreement.** This Agreement, together with the Account Agreement, contains the entire and only agreement among all the parties to this Agreement and between Bank and Company, and Bank and Secured Party, with respect to (a) the Service, (b) the interest of Secured Party and the Lenders in the Account Funds and the Restricted Account, and (c) Bank's obligations to Secured Party and the Lenders in connection with the Account Funds and the Restricted Account.

This Agreement has been signed by the duly authorized officers or representatives of Company, Secured Party and Bank on the date specified below.

Date: March 29, 2005

Restricted Account Number(s):	**[***]**
Operating Account Number(s):	**[***]**
Secured Party Account Number:	**[***]**
Bank of Secured Party Account:	**Comerica Bank**

Secured Party is to be sent duplicate Bank Statements.

[Company] FLUIDIGM CORPORATION

By: _____
Name: **Gajus Worthington**
Title: **CEO**

Address For All Notices:

Fluidigm Corporation
Attn: James Neesen
7100 Shoreline Court

[Secured Party] LIGHTHOUSE CAPITAL PARTNERS V, L.P.

BY: LIGHTHOUSE MANAGEMENT PARTNERS V, L.L.C. ITS GENERAL PARTNER

By: _____
Name: **Thomas Conneely**
Title: **Vice President**

Address For All Notices:

Lighthouse Capital Partners V, L.P.
500 Drakes Landing Road
Greenbrae, CA 94904
Attn: Contracts Administration

WELLS FARGO BANK , N.A.

By: _____
Name: **Scott M. Van Gorder**
Title: **Vice President, Senior Relationship Manager**

Address For All Notices:

420 Montgomery Street, 9th Floor
MAC A0101-096
San Francisco, CA 94108

March 29, 2005

Morgan Stanley & Co. Incorporated (the "Broker")
555 California Street 14th Floor
San Francisco, CA 94104

Re: **Notice of Pledge and Security**

Gentlemen:

Please be advised that the undersigned, Fluidigm Corporation ("Pledgor"), has pledged a security interest in Account No. [***] (the "Account") held by Broker, as securities intermediary, and in all of the securities, proceeds, cash or other assets now or hereafter held in the Account (collectively, the "Collateral"), to Lighthouse Capital Partners V, L.P. ("Pledgee") pursuant to the terms and provisions of a certain Loan and Security Agreement (the "Agreement"), dated March 29, 2005.

Broker, Pledgor and Pledgee, by signing this letter, hereby agree as follows:

a) The Account shall be retitled "Fluidigm Corporation — Pledgor/ Lighthouse Capital – Pledgee";

b) Pledgee has a security interest in the Collateral and is authorized to instruct the Broker with regard to the Account without further consent needed by Pledgor;

c) Broker is hereby notified of Pledgee's security interest, and agrees to comply with all instructions and entitlement orders of Pledgee with regard to the Account. Broker shall not comply with instructions and entitlement orders with respect to the Collateral or the Account that are originated by the Pledgor except as described in Paragraph D below. Broker is also hereby authorized and agrees to send duplicate copies of any and all statements and confirmations, as well as any other appropriate correspondence, relating to the Account directly to the Pledgee at the address indicated below, or to such other address as Pledgee may designate in writing. This pledge will remain in full force and effect until Pledgee notifies Broker in writing to the contrary;

d) Pledgee hereby instructs Broker that until further instruction in writing from an Authorized Officer of Pledgee (as defined below) that Pledgee is assuming exclusive control over the Account ("Notice of Exclusive Control"), the Broker shall comply with directions of Pledgor with respect to any transactions, including withdrawals, in the Account. Notwithstanding anything contained herein, upon receipt of a Notice of Exclusive Control (it being understood that Broker shall have no duty or obligation whatsoever to investigate or determine whether the Notice of Exclusive Control was

rightfully or legally issued), Broker shall only follow the directions and instructions of Pledgee with regard to the Account. In that case, if Pledgee so requests, Broker will proceed to liquidate the assets of the Account in accordance with Pledgee's instructions and to deliver the proceeds to Pledgee.

For purposes of this Agreement, "Authorized Officer of Pledgee" shall refer to any one of the following individuals: Richard Stubblefield and Thomas Conneely. If Pledgee finds it necessary to designate a replacement for any of the designated Authorized Officers of Pledgee, written notice of replacement shall be given to Broker, which notice shall be signed by the President, an Executive Vice President, a Senior Vice President, or such other officer of Pledgee as Broker may approve. However, Broker shall be entitled to rely on any notice it receives from someone whom it reasonably believes is an Authorized Officer of Pledgee;

e) Broker shall have no obligation to monitor the Account for any purpose in connection with the pledge granted hereunder. The Pledgee accepts and acknowledges full responsibility for reviewing daily confirmations and monthly statements to ensure that it is adequately secured;

f) Pledgor and Pledgee hereby agree to indemnify and hold harmless Broker, its affiliates, officers, and employees from and against any and all claims, causes of actions, liabilities, lawsuits, demands, and/or damages, including, without limitation, any and all court costs and reasonable attorney's fees, that might result by reason of the actions of Broker under this Agreement. Broker shall not be responsible for any losses, claims, damages, liabilities and expenses incurred by Pledgor or Pledgee, except to the extent that such losses, claims, damages, liabilities or expenses arise out of the bad faith, gross negligence, or criminal acts or omissions on the part of Broker;

g) Broker may terminate this Agreement at any time by canceling the Account and transferring all funds and securities in the Account to Pledgee;

h) As of the date hereof, the Collateral has not been paid to or withdrawn by the Pledgor; Broker is not in receipt of any notice of withdrawal or redemption with regard to the Collateral or notice not to renew the Account, and Broker has not given any notice that the Account will not be renewed or extended, as the case may be;

i) Broker's records indicate that the value of the Collateral, as of the date hereof, is approximately [***].

j) Broker subordinates any right of offset Broker may now or hereafter have against the Collateral for any indebtedness now or hereafter owing to Broker by the Pledgors to the security interest of Pledgee; provided that Broker shall continue to have a first perfected security interest in the Collateral with respect to any charges incurred in connection with the operation of the Account, including, but not limited to, fees, commissions and any costs related to unsettled securities transactions.

k) This Agreement shall be governed by the law of the State of New York, excluding its conflict of law rules. The parties hereby agree that (i) the "securities intermediary's jurisdiction" with respect to the Account and the Collateral is New York and (ii) the parties shall not agree with any other person that such securities intermediary's jurisdiction is any jurisdiction other than New York.

Very truly yours,
FLUIDIGM CORPORATION

_____
By: James Neeson
Title: Controller

Read and Agreed to:
MORGAN STANLEY & CO. INCORPORATED

By _____
Name:
Title:

LIGHTHOUSE CAPITAL PARTNERS V, L.P.

By: Lighthouse Management Partners V, L.L.C.
its general partner

By _____
Name: Thomas Conneely
Title: Vice President
Address: 500 Drakes Landing Road
Greenbrae, CA 94904

SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT (this "Agreement"), dated as of March 29, 2005, is between, on the one hand, each undersigned holder (each a "Holder" and collectively the "Holders") of Convertible Promissory Notes issued pursuant to those certain Convertible Note Purchase Agreement dated December 18, 2003, as amended from time to time (each a "Note" and collectively the "Notes") issued by **Fluidigm Corporation,** a California corporation ("Company"), and, on the other hand, **Lighthouse Capital Partners V, L.P.,** a Delaware limited partnership ("LCP"), lender under that certain Loan and Security Agreement No. 4561, dated March 29, 2005 (the "Loan Agreement") with Company (all obligations of payment and performance due or to become due pursuant to the Obligations or the Loan Documents as those terms are defined therein, as the same may be amended from time to time, are the "LCP Obligations"), with reference to the following:

WHEREAS, in order to induce LCP to enter into the Loan Agreement, the Holders agree to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereby agree as follows:

1. Subordination. Each Holder agrees that it shall not receive any payment of any amounts on account of the Notes until the LCP Obligations have been paid and performed in full. Regardless of (i) any agreement of any Holder or LCP with Company, (ii) the time, place, manner or order of attachment, perfection, or the filing of UCC-1 filings or other documents, or (iii) the giving or failure to give notice, each Holder does hereby subordinate payment by Company on its Notes to the full and final payment to LCP of the LCP Obligations. Each Holder agrees that all payments and the proceeds received by Holders on account of the Notes shall be held by them in trust for LCP for the payment of the LCP Obligations, and turned over to LCP in kind upon receipt of notice from LCP that Company has failed to pay LCP any of the LCP Obligations. Holders hereby agree they have no security interest in any property of the Company.

Notwithstanding anything in this Agreement, (i) in the event the Convertible Note, dated as of December 18, 2003 (the "Initial EDB Note"), issued by Company to Biomedical Sciences Investment Fund Pte Ltd ("BMSIF") has not been converted according to the terms set forth in Section 2 of such Initial EDB Note by the Payment Date (as defined in such Initial EDB Note), BMSIF may receive payment by the Company in an amount not to exceed 50% of the principal amount outstanding under such Initial EDB Note, and (ii) each Holder may convert any Note into capital stock of the Company and accept cash in lieu of fractional shares in connection with any such conversion. Upon conversion of any Note into capital stock of the Company and acceptance of cash in lieu of fractional shares in connection with any such conversion, this Agreement shall terminate with respect to such Note and any proceeds received by a Holder in connection with the conversion of such Note.

2. Bankruptcy. (Subject to paragraph (1) above), Each Holder agrees that upon any

distribution of assets or readjustment of indebtedness of Company, whether by liquidation, bankruptcy, assignment for the benefit of creditors, or otherwise, LCP shall receive payment in full on the LCP Obligations before Holder receives payment of any amounts due under the Notes and Holders shall pay over to LCP any amounts so received by them related to the Notes until the LCP Obligations are paid in full. In furtherance thereof, each Holder authorizes LCP to make and vote (without LCP being obligated to make or vote) any and all proofs of claim respecting the Notes in any such proceeding and to receive and collect all dividends or other payments thereupon; provided that LCP will pay over to Holders a pro rata distribution of amounts received by it in excess of that necessary for the full and final satisfaction of the LCP Obligations. Holders agree to execute such instruments of assignment and other documents as may be necessary to enforce such claims and collect such dividends or to otherwise carry out the intent and purpose hereof.

3. Representations. Each party hereto warrants and represents to the others that it has full power and authority to enter hereinto and to perform all obligations hereunder, that this Agreement is valid, binding and enforceable in accordance with its terms and that execution and performance hereof does not violate any agreement with any other person or entity. Each Holder represents and warrants that it (i) is the owner of the Notes, free and clear of the claims of any others, (ii) has not heretofore subordinated or assigned the Notes or its interest therein to any entity, (iii) will not transfer any Notes to any entity other than one which agrees to be bound hereby, and (iv) waives any rights to claim that the enforceability of this Agreement may be affected by any subsequent modification, release, extension, or change in LCP obligations.

4. No Third Party Beneficiaries. Company has no rights hereunder. This Agreement is made only for the benefit of Holders and LCP and their successors and assigns, and may not be relied upon by any other third party, including Company or any successor thereto or any judgment lien creditor thereof. Nothing herein shall constitute a commitment or agreement by either of LCP or Holder to provide funds to Company.

5. Miscellaneous. This Agreement: (i) may only be amended by a writing signed by LCP and the affected Holder; (ii) contains the entire agreement between Holders and LCP with respect to its subject matter, and all prior negotiations, documents and discussions are superseded hereby; (iii) shall be governed by the laws of the state of California; (iv) may be executed in counterparts delivered by telefacsimile, all of which, when taken together, shall constitute one and the same original document; and (v) may be attached to a Form UCC-1 and filed in the public records of any jurisdiction; and (vi) shall terminate upon the full, final and indefeasible payment and performance by Company to LCP of all LCP Obligations.

6. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Lighthouse Capital Partners V, L.P.
a Delaware limited partnership

by: Lighthouse Management Partners V, L.L.C.
its general partner

by: /s/ Thomas Conneely
Thomas Conneely
Vice President

500 Drakes Landing Road
Greenbrae, CA 94904
Attn: Contracts Administration
Tel: (415) 464-5900
Fax: (415) 925-3387

HOLDERS:

Biomedical Sciences Investment Fund Ptd Ltd

By: /s/ Lily Chan
Title: Director
20 Biopolis Way
#09-01 Centros
Singapore 138668
Attn: Lily Chan, PhD
Tel: 65-6395-7700
Fax: 65-6395-7796

Invus, L.P.

By: Invus Advisors, LLC
Its general partner

By: _____
Title: _____
135 East 57th Street
New York, NY 10022
Attn: Phillipe J. Amouyal
Tel: (212) 371-1717
Fax: (212) 371-1829

Company hereby acknowledges and consents to the Agreement, promises to take all such action as may be necessary to fulfill its essential intent and purpose, agrees that failure to do so shall be an Event of Default under the LCP Obligations, and acknowledges that in the transactions referenced herein it has been advised to seek, and has selected, counsel of its own choosing, namely Wilson, Sonsini, Goodrich & Rosati of Palo Alto, California.

Fluidigm Corporation

By _____
Its _____

HOLDERS:

Biomedical Sciences Investment Fund Ptd Ltd

By: _____
Title: _____

20 Biopolis Way
#09-01 Centros
Singapore 138668
Attn: General Manager
Tel: 65-6395-7700
Fax: 65-6395-7796

Invus, L.P.

By: Invus Advisors, LLC
Its general partner

By: /s/ Aflalo Guimaraes
Title: Managing Director
135 East 57th Street
New York, NY 10022
Attn: Phillipe J. Amouyal
Tel: (212) 371- 1717
Fax: (212) 371-1829

Company hereby acknowledges and consents to the Agreement, promises to take all such action as may be necessary to fulfill its essential intent and purpose, agrees that failure to do so shall be an Event of Default under the LCP Obligations, and acknowledges that in the transactions referenced herein it has been advised to seek, and has selected, counsel of its own choosing, namely Wilson, Sonsini, Goodrich & Rosati of Palo Alto, California.

Fluidigm Corporation

By _____
Its _____

HOLDERS:

Biomedical Sciences Investment Fund Ptd Ltd

By: _____
Title: _____

20 Biopolis Way
#09-01 Centros
Singapore 138668
Attn: General Manager
Tel: 65-6395-7700
Fax: 65-6395-7796

Invus, L.P.

By: Invus Advisors, LLC
Its general partner

By: _____
Title: _____

135 East 57th Street
New York, NY 10022
Attn: Phillipe J. Amouyal
Tel: (212) 371-1717
Fax: (212) 371-1829

Company hereby acknowledges and consents to the Agreement, promises to take all such action as may be necessary to fulfill its essential intent and purpose, agrees that failure to do so shall be an Event of Default under the LCP Obligations, and acknowledges that in the transactions referenced herein it has been advised to seek, and has selected, counsel of its own choosing, namely Wilson, Sonsini, Goodrich & Rosati of Palo Alto, California.

Fluidigm Corporation

By /s/ Gajus Worthington
Its President & CEO

AMENDMENT NO. 01 ("*Amendment*")
TO LOAN AND SECURITY AGREEMENT NO. 4561

Entered into as of August 4, 2006 by and between
Lighthouse Capital Partners V, L.P. *("Lender")* and **Fluidigm Corporation** *("Borrower").*

RECITALS

WHEREAS, Borrower and Lender have previously entered into that certain Loan and Security Agreement No. 4561 dated as of March 29, 2005 (the *"Loan and Security Agreement";* all initially capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Loan and Security Agreement), together with the other agreements and instruments entered into in connection therewith (collectively, the *"Loan Documents");* and

WHEREAS, Borrower and Lender each have agreed to amend the Loan Documents subject to Borrower's performance of the terms and conditions hereof; and

WHEREAS, as of August 31, 2006, Borrower and Lender mutually agree that the outstanding principal balance of the Loans is $11,093,832.04;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereby agree to modify the Loan Documents by entering into this Amendment and Borrower agrees to perform such other covenants and conditions as follows:

A) Loan and Security Agreement

(i) Definitions — The definition *of "Subordinated Indebtedness"*, shall be amended and restated to read as follows:

> *"Subordinated Indebtedness"* means Indebtedness of Borrower to Singapore EDB (including its investment fund BioMedical Sciences Investment Fund Ptd Ltd) and Invus Group that is subordinated in both security and right of payment to the Obligations on terms and conditions reasonably satisfactory to Lender in an amount not to exceed $8,000,000.

B) Secured Term Promissory Note

(i) Definitions — The following definitions shall be added to the Notes, and to the extent these terms are already defined in the Loan Documents, they shall be deleted in their entirety and replaced with the following:

"*Final Payment"* means 11.25% of the Advance.

"*Basic Rate"* means a variable *per annum* rate of interest equal to the Index plus the Interest Margin which shall be subject to adjustment as provided herein. On and after March 1, 2006 through and including August 31, 2006, the Basic Rate shall be fixed at 10.00%. On and after September 1, 2006, the Basic Rate shall be fixed at 9.75%.

"*Repayment Period"* means the period beginning on the Loan Commencement Date and continuing for 48 calendar months.

C) Additional Terms and Conditions

1. Repayment. Notwithstanding anything contained in any Note issued in connection with the Loan and Security Agreement, Section 1 of each such Note shall be superseded by the following payment terms: for and on account of all of the Notes, from March 1, 2006 through and including August 31, 2006, Borrower will pay Lender $416,006.71 per month. On and after September 1, 2006 through February 28, 2010, Borrower shall pay Lender $310,305.95 per month. In addition to all other amounts due or to become due hereunder, the Final Payment is due on the earliest to occur of the Maturity Date or March 1, 2009.

2. Restructure Fee. In addition to all other amounts due or to become due hereunder, on the earliest to occur of (i) the Maturity Date; (ii) the date of prepayment of all of the Notes, or (ii) March 1, 2009, Borrower shall pay to Lender a restructure fee in the amount of $150,000, in cash.

3. Expenses. Borrower shall pay reasonable fees and expenses incurred by Lender's legal counsel in connection with the preparation and negotiation of documentation related to this Amendment. Such restructure expenses are due and payable when billed.

D) Acknowledgments; Representations and Warranties. Borrower warrants and represents to Lender, as a material inducement to Lender's entering hereinto, as follows:

a) No Further Funding Obligations. Lender has no obligations to make further Advances to Borrower.

b) No Waivers. Lender has made no separate oral or written waiver of any existing or future Default or Event of Default by Borrower under any Loan Document.

c) No Set-Off. Borrower has no claims or rights of set-off against Lender of any kind under any Loan Document or otherwise. Borrower has no defenses to payments of any amounts owed to Lender as the same become due and payable.

d) Representations and Warranties of Borrower. The representations and warranties contained in the Loan Agreement are true and complete in all material respects as of the date hereof, except with respect to any such representation or warranty which speak only as of a specific date prior to the date hereof. Borrower warrants and represents that no Events of Default have occurred. Borrower warrants and represents that it has not reached any settlement with any other creditor of Borrower that has not been disclosed in writing to Lender.

E. Release. Borrower for itself and for its agents, partners, stockholders, employees and affiliates and its or their successors and assigns hereby (a) agrees to waive, release and further discharge Lender and its officers, directors, stockholders, partners, successors, assigns, agents and employees of and from any and all manner of claims arising in connection with the Loan Documents for damages at law or in equity with respect to any matter occurring prior to the date hereof which Borrower or such other releasing party may have had, and (b) waives California Civil Code Section 1542, which reads: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." Each provision of this release shall be severable from every other provision when determining its legal enforceability.

Except as amended hereby, the Loan Documents remain unmodified and unchanged and ratified by Borrower as though fully set forth herein. In the event of any contradiction between any term of this Amendment with any other Loan Document, the terms under this Amendment shall control Lender and Borrower have executed this Amendment as of the date first written above.

Borrower:	**Lender:**
Fluidigm Corporation	**Lighthouse Capital Partners V, L.P.**
	By: **Lighthouse Management Partners V, L.L.C.,** its general partner
By: /s/ Gajus Worthington	By: /s/ Thomas Conneely
Name: Gajus Worthington	Name: Thomas Conneely
Title: CEO	Title: Vice President

AMENDMENT NO. 02 *("Amendment")*
TO LOAN AND SECURITY AGREEMENT NO. 4561

Entered into as of November 16, 2006 by and between
Lighthouse Capital Partners V, L.P. *("Lender")* and **Fluidigm Corporation** *("Borrower").*

Without limiting or amending any other provisions of the Agreement, as amended, Lender and Borrower agree to the following:

Section 1.1 of the Agreement, the definition of *"Subordinated Indebtedness"*, shall be amended and restated to read as follows:

> *"Subordinated Indebtedness"* means Indebtedness of Borrower to Singapore EDB (including its investment fund BioMedical Sciences Investment Fund Ptd Ltd) and Invus Group that is subordinated in both security and right of payment to the Obligations on terms and conditions reasonably satisfactory to Lender in an amount not to exceed $13,000,000.

All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.

Borrower:	**Lender:**
Fluidigm Corporation	**Lighthouse Capital Partners V, L.P.**
	By: **Lighthouse Management Partners V, L.L.C.,** its general partner
By: /s/ Rich Delateur	By: /s/ Darren Haggerty
Name: Rich Delateur	Name: Darren Haggerty
Title: Chief Financial Officer	Title: Director of Portfolio Analysis

AMENDMENT NO. 03

Dated August 8, 2007

TO

that certain Loan and Security Agreement No. 4561
dated as of March 29, 2005, as amended *("Agreement")*, by and between
Lighthouse Capital Partners V, L.P. *("Lender")* and
Fluidigm Corporation, a Delaware corporation (formerly a California corporation) *("Borrower")*.

(All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.)

Without limiting or amending any other provisions of the Loan Documents, Lender and Borrower agree to the following:

Effective March 29, 2007, Borrower's state of incorporation has reincorporated from the State of California to the State of Delaware.

Except as amended hereby, the Loan Documents remains unmodified and unchanged.

BORROWER:	**LENDER:**
Fluidigm Corporation	**Lighthouse Capital Partners V, L.P.**
	By: **Lighthouse Management Partners V, L.L.C.,** its general partner
By: /s/ Gajus Worthington	By: /s/ Tom Conneely
Name: Gajus Worthington	Name: Tom Conneely
Title: President & CEO	Title: Vice President

AMENDMENT NO. 04

Dated February 15, 2008

TO

that certain Loan and Security Agreement No. 4561
dated as of March 29, 2005, as amended *("Agreement")*, by and between
Lighthouse Capital Partners V, L.P. *("Lender")* and
Fluidigm Corporation *("Borrower").*

this Amendment No. 04 *("Amendment 04")* to that certain Loan and Security Agreement No. 4561 dated March 29, 2005 (as amended to date, the *"Agreement)* is entered into as of February 15, 2008, by and between **Lighthouse Capital Partners V, L.P.** *("Lender")* and **Fluidigm Corporation**, a Delaware corporation *("Borrower").*

WHEREAS, Borrower and Lender have previously entered into and amended the Agreement; and

WHEREAS, Borrower has requested Lender provide an additional term loan financing, which Lender has agreed to provide subject to the terms of this Amendment 04.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereby agree to modify the Agreement and to perform such other covenants and conditions as follows:

(All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.)

I. Section 1.1, the following definitions shall be added to the Agreement:

"Change of Management or Board Composition " means that **(i)** Borrower's senior management shall not include Gajus Worthington; **(ii)** Versant Ventures or any of its affiliated funds shall cease to have a representative (currently Samuel Colella) serving on Borrower's Board of Directors; or **(iii)** Alloy Ventures or any of its affiliated funds shall cease to have a representative (currently Mike Hunkapiller) serving on Borrower's Board of Directors.

"Commitment One" means the Commitment as that term is used in the Agreement prior to the effect of this Amendment 04.

"Commitment Two" means $10,000,000.

"Commitment Two Warrant" mean the Warrant in favor of Lender to purchase securities of Borrower, substantially in the form *of **Exhibit C-2*** attached to this Amendment 04 and issued in conjunction with Commitment Two.

II. Section 1.1, the following definitions of the Agreement shall be deleted in its entirety and replaced with the following:

"Basic Rate" (i) under Commitment One, as defined in the Notes, as amended pursuant to Amendment No. 01, and (ii) under Commitment Two, as defined in the Notes for Advances under Commitment Two.

"Commitment" means Commitment One and Commitment Two.

"Commitment Fee" means $10,000 under Commitment One and $10,000 under Commitment Two.

"Commitment Termination Date" has occurred for Commitment One, and for Commitment Two it means the earliest to occur of **(i)** July 1, 2008; **(ii)** any Default or Event of Default, or **(iii)** Change of Management or Board Composition (unless Lender has waived this condition in writing).

"Disclosure Schedule" means the Disclosure Schedule delivered to Lender in connection with the execution and delivery of Amendment No. 04 to this Agreement.

"Loan Commencement Date" means **(i)** for Advances under Commitment One, as defined in the Notes, as amended pursuant to Amendment No. 01, and **(ii)** for Advances under Commitment Two, as defined in the Notes for Advances under Commitment Two.

"Note" means (i) in connection with Advances under Commitment One, Secured Promissory Notes in the form *of* ***Exhibit B***, and (ii) in connection with Advances under Commitment Two, Secured Promissory Notes in the form *of* ***Exhibits B-2*** to Amendment 04.

"Notice of Borrowing" means (i) in connection with Advances under Commitment One, the form attached as ***Exhibit D,*** and (ii) in connection with Advances under Commitment Two in the form of ***Exhibit D-2*** attached to Amendment 04.

"Warrant" means (i) all Warrants issued by Borrower to Lender prior to the date of Amendment 04, and (ii) the Commitment Two Warrant.

III. Section 6.2 — Section 6.2 of the Agreement shall be amended deleted in its entirety and replaced with the following:

6.2 Financial Statements, Reports, Certificates. Borrower shall deliver to Lender: **(i)** as soon as prepared, and no later than 30 days after the end of each calendar quarter, a balance sheet, income statement and cash flow statement covering Borrower's operations for each of the three months during such period, provided for each calendar month ending after the calendar quarter ending on September 30, 2008, Borrower shall deliver to Lender as soon as prepared, and no later than 30 days after the end of each calendar month, a balance sheet, income statement and cash flow statement covering Borrower's operations during such period; **(ii)** as soon as prepared, but no later than 90 days after the end of the fiscal year, or such other timeframe formally approved by Borrower's audit committee, audited financial statements prepared in accordance with GAAP, together with an opinion that such financial statements fairly present Borrower's financial condition by an independent public accounting firm reasonably acceptable to Lender; **(iii)** immediately upon notice thereof, a report of any legal or administrative action pending or threatened in writing against Borrower which is likely to result in liability to Borrower in excess of $100,000 (provided that Borrower shall not be required to report notices of possibly relevant third party patents, or proposals or demands to license intellectual property); and **(iv)** such other financial information as Lender may reasonably request from time to time. Financial statements delivered pursuant to subsections **(i)** and **(ii)** above shall be accompanied by a certificate signed by a Responsible Officer (each an *"Officer's Certificate")* in the form *of* ***Exhibit F.***

IV. Section 3 — Conditions of Advances; Procedure for requesting Advances; the following new **Sections 3.2 and 3.3** shall be added:

3.2 Procedure for Making Advances. For any Advance, Borrower shall provide Lender an irrevocable Notice of Borrowing at least 15 business days prior to the desired Funding Date and Lender shall only be required to make Advances hereunder based upon written requests which comply with the terms and exhibits of this Loan Agreement (as the same may be amended from time to time), and which are submitted and signed by a Responsible Officer. Borrower shall execute and deliver to Lender a Note and such other documents and instruments as Lender may reasonably require for each Advance made.

3.3. Conditions Precedent to Initial Advance under Commitment Two. The obligation of Lender to make the Initial Advance under Commitment Two is subject the satisfaction of each of the following conditions:

(a) This Amendment 04 duly executed by Borrower.

(b) The Commitment Two Warrant to be issued to Lender duly executed by Borrower.

(c) Delivery to Ledner of an officer's certificate of Borrower with copies of the following documents attached: **(i)** the certificate of incorporation and by-laws or other organizational documents of Borrower certified by Borrower as being in full force and effect as of the date of Amendment 04, **(ii)** incumbency and representative signatures, and **(iii)** resolutions authorizing the execution and delivery of Amendment 04 and each of the other Loan Documents.

(d) Delivery to Lender of a good standing certificate from Borrower's state of incorporation or formation and the state in which Borrower's principal place of business is located, together with certificates of the applicable governmental authorities stating that Borrower is in compliance with the franchise tax laws of each such state, each dated as of a recent date.

(e) Borrower has obtained all necessary consents of shareholders, members, and other third parties with respect to the execution, delivery and performance of the Agreement, Amendment 04, the Commitment Two Warrant, and the other Loan Documents.

(f) Borrower shall have satisfied all the conditions set forth in **Section 3.1 and 3.2** of the Agreement.

3.4 Reaffirmation Subject to the Disclosure Schedule attached hereto as Schedule 1, Borrower reaffirms the representations and warranties made to Lender in the Agreement as of the date hereof as though fully set forth herein.

3.5 Existing Notes Notes for Advances under Commitment Two are not affected by Amendment No. 01 and Notes for Advances under Commitment One remain subject to Amendment No. 01

V. Further Terms and Conditions of this Amendment 04.

1. Representations and Warranties of Borrower. Borrower warrants and represents, as a significant material inducement to Lender to enter hereinto, that: (i) no Events of Default have occurred and are continuing that have not been disclosed to Lender by Borrower in writing; (ii) it is not and has no reason to believe it may be named as a party to any judicial or administrative proceeding, litigation or arbitration, and has not received any written communication from any person or entity (whether private or governmental) threatening or indicating the same, except to the extent that any such written communication could not reasonably be expected to result in a material adverse effect on Borrower's business; and (iii) it is in full compliance with Section 7.10 of the Loan and Security Agreement.

2. No Control. Borrower warrants and represents, as a significant material inducement to Lender to enter hereinto, that none of Lender nor any affiliate, officer, director, employee, agent, or attorney of Lender have at any time, from Borrower's date of formation through to the date hereof, (i) exercised management or other control over the Borrower, (ii) exercised undue influence over Borrower or any of its officers, employees or directors, (iii) made any representation or warranty, express or implied, to any party on behalf of Borrower, (iv) entered into any joint venture, agency relationship, employment relationship, or partnership with Borrower, (v) directed or instructed Borrower on the manner, method, amount, or identity of payee of any payment made to any creditor of Borrower, and further, Borrower warrants and represents that by entering hereinto with Lender has not, are not and will not have engaged in any of the foregoing.

3. Integration Clause. This Agreement represents and documents the entirety of the agreement and understanding of the parties hereto with respect to its subject matter. All prior understandings, whether oral or written, other than the Loan Documents, are hereby merged hereinto. **NEITHER THE LOAN AND SECURITY AGREEMENT NOR THIS AGREEMENT MAY BE MODIFIED EXCEPT BY A WRITING SIGNED BY LENDER AND BORROWER.** Each provision hereof shall be severable from every other provision when determining its legal enforceability such that Lender's rights and remedies under this Agreement and the Loan Documents may be enforced to the maximum extent permitted under applicable law. This Agreement shall be binding upon, and inure to the benefit of, each party's respective permitted successors and assigns. This Agreement may be executed in counterpart originals, all of which, when taken together, shall constitute one and the same original document. No provision of any other document between Lender and Borrower shall limit the effectiveness hereof or the rights and remedies of Lender against Borrower. In the event of any contradiction or inconsistency among the terms and conditions of this Agreement or any Loan Document, the interpretation most favorable to the interests of Lender shall prevail.

Except as amended hereby, the Agreement remains unmodified and unchanged.

BORROWER:

FLUIDIGM CORPORATION

By: /s/ Gajus Worthington
Name: Gajus Worthington
Title: President and CEO

LENDER:

LIGHTHOUSE CAPITAL PARTNERS V, L.P.

By: **LIGHTHOUSE MANAGEMENT PARTNERS V, L.L.C.,**
its general partner

By: /s/ Thomas Conneely
Name: Thomas Conneely
Title: Vice President

EXHIBIT B-2
(COMMITMENT TWO)

[_____]

SECURED PROMISSORY NOTE

This SECURED PROMISSORY NOTE (this *"Note")* is made _____ , 2008, by **FLUIDIGM CORPORATION** *("Borrower")* in favor of **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** (collectively with its assigns, *"Lender").* Initially capitalized terms used and not otherwise defined herein are defined in that certain Loan and Security Agreement No. 4561 between Borrower and Lender dated March 29, 2005, as amended (the *"Loan Agreement").*

FOR VALUE RECEIVED, Borrower promises to pay in lawful money of the United States, to the order of Lender, at 500 Drake's Landing Road, Greenbrae, California 94904, or such other place as Lender may from time to time designate (*"Lender's Office"),* the principal sum of $_____ (the *"Advance"),* including interest on the unpaid balance and all other amounts due or to become due hereunder according to the terms hereof and of the Loan Agreement.

"Basic Rate" means a fixed per *annum* rate of interest equal 8.5%.

"Final Payment" means 6.5% of the Advance.

"Loan Commencement Date" means January 1,2009.

"Maturity Date" means the last day of the Repayment Period, or if earlier, the date of prepayment under the Note.

"Payment Date" means the first day of each calendar month.

"Prepayment Fee" means (i) if prepaid in the calendar years 2008 or 2009, 3% of the outstanding principal amount being prepaid; (ii) if prepaid in the calendar year 2010, 2% of the outstanding principal amount being prepaid; and (iii) if prepaid in the calendar year 2011 or thereafter, 1% of the outstanding principal amount being prepaid.

"Repayment Period" means the period beginning on the Loan Commencement Date and continuing for 30 calendar months.

1. Repayment. Borrower shall pay principal and interest due hereunder from the Funding Date, until this Note is paid in full, on each Payment Date pursuant to the terms of the Loan Agreement and this Note. Borrower shall pay to Lender, monthly in advance on each Payment Date, interest calculated using the Basic Rate. Beginning on the Loan Commencement Date and on each Payment Date thereafter during the Repayment Period, Borrower shall make equal installments of principal and interest in advance, calculated at the Basic Rate. On the Maturity Date, Borrower shall pay, in addition to all unpaid principal and interest outstanding hereunder, the Final Payment.

2. Interest. Interest not paid when due will, to the maximum extent permitted under applicable law, become part of principal, at Lender's option, and thereafter bear like interest as principal. Interest shall be computed on the basis of a 360 day year. All Obligations not paid when due shall bear interest at the Default Rate unless waived in writing by Lender. All amounts paid hereunder will be applied to the Obligations in Lender's discretion and as provided in the Loan Agreement.

3. Voluntary Prepayment. Borrower may prepay the Note if and only if Borrower pays to Lender **(i)** the outstanding principal amount of this Note and any unpaid accrued interest **(ii)** the Final Payment, **(iv)** the Prepayment Fee, and **(v)** all other sums, if any, that shall have become due and payable hereunder with respect to this Note.

4. Collateral. This Note is secured by the Collateral.

5. Waivers. Borrower, and all guarantors and endorsers of this Note, regardless of the time, order or place of signing, hereby waive notice, demand, presentment, protest, and notices of every kind, presentment for the purpose of accelerating maturity, diligence in collection to the fullest extent permitted by law.

6. Choice of Law; Venue. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF BORROWER AND LENDER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE CITY AND

County of San Francisco, State of California. Borrower and Lender each hereby waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Note. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

7. Miscellaneous. This Note may be modified only by a writing signed by Borrower and Lender. Each provision hereof is severable from every other provision hereof and of the Loan Agreement when determining its legal enforceability. Sections and subsections are titled for convenience, and not for construction. "Hereof," "herein," "hereunder," and similar words refer to this Note in its entirety. "Or" is not necessarily exclusive. "Including" is not limiting. The terms and conditions hereof inure to the benefit of and are binding upon the parties' respective permitted successors and assigns. This Note is subject to all the terms and conditions of the Loan Agreement.

In Witness Whereof, Borrower has caused this Note to be executed by a duly authorized officer as of the day and year first above written.

Fluidigm Corporation

By: _____

Name: _____

Title: _____

EXHIBIT D

NOTICE OF BORROWING

_____, _____

Lighthouse Capital Partners V, L.P.
500 Drake's Landing Road
Greenbrae, CA 94904-3011

Ladies and Gentlemen:

Reference is made to the Loan and Security Agreement No. 4561 dated as of March 29, 2005 (as it has been and may be amended from time to time, the *"Loan Agreement,"* initially capitalized terms used herein as defined therein), between **LIGHTHOUSE CAPITAL PARTNERS V, L.P.** and **FLUIDIGM CORPORATION** (the *"Company")*

The undersigned is the President and CEO of the Company, and hereby irrevocably requests an Advance under the Loan Agreement, and in that connection certifies as follows:

1. The amount of the proposed Advance is $_____. The business day of the proposed Advance is _____.

2. The Loan Commencement Date for this Advance shall be March 1, 2006.

3. As of this date, no Event of Default, or event which with notice or the passage of time would constitute an Event of Default, has occurred and is continuing, or will result from the making of the proposed Advance, and the representations and warranties of the Company contained in **Section 5** of the Loan Agreement are true and correct in all material respects.

4. No event that could reasonably be expected to have a material adverse effect on the ability of Borrower to fulfill its obligations under the Loan Agreement has occurred since the date of the most recent financial statements, submitted to you by the Company.

The Company agrees to notify you promptly before the funding of the Advance if any of the matters to which I have certified above shall not be true and correct on the Funding Date.

Very truly yours,

FLUIDIGM CORPORATION

By: _____

Name: _____

Title: _____

THIS NOTE AND THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL (WHICH MAY BE COUNSEL FOR THE COMPANY), OR OTHER EVIDENCE, REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE SECURITIES ACT. THIS NOTE MAY ONLY BE TRANSFERRED UPON THE TERMS AND CONDITIONS CONTAINED IN THE NOTE AND IN AN AGREEMENT BETWEEN HOLDER AND THE COMPANY

Fluidigm Corporation
a California corporation

CONVERTIBLE PROMISSORY NOTE

NOTE NUMBER E-3 (REVISED)

US$5,000,000

April 19, 2007
South San Francisco, California

1. Principal and Interest. **Fluidigm Corporation** (the "Company"), a California corporation, for value received, hereby promises to pay to the order of Biomedical Sciences Investment Fund Pte Ltd (the "Holder") in lawful money of the United States of America, the principal amount of Five Million Dollars (US$5,000,000), or such lesser amount as shall equal the outstanding principal amount hereof, together with interest from the date of this Note on the unpaid principal balance at a rate equal to 8.00% per annum, computed on the basis of the actual number of days elapsed and a year of 365 days, compounded annually.

This Convertible Promissory Note ("Note") is the third Note issued pursuant to that certain Convertible Note Purchase Agreement dated August 7, 2006 (as amended, modified or supplemented, the "Note Purchase Agreement") between the Company and the Holder. Unless defined herein, capitalized terms shall have the same meanings ascribed to them in the Note Purchase Agreement.

Unless converted in accordance with Section 3, this Note shall become due and payable as to both accrued interest and principal on the Payment Date (as defined in Section 3). This Note may be prepaid by Company at any time, in accordance with the terms of Section 2 of this Note. Upon payment in full of all principal and interest payable hereunder (including upon any conversion), this Note shall be surrendered to the Company for cancellation. All payments hereon shall be applied first to accrued interest and second to the reduction of principal.

2. Prepayment of Note. Upon five days prior written notice to Holder (the "Prepayment Notice"), the Company may prepay this Note in whole or in part; provided that any such prepayment will be applied first to the payment of expenses due under this Note, second to interest accrued on this Note and third, if the amount of prepayment exceeds the amount of all such expenses and accrued interest, to the payment of principal of this Note. In the event that the Holder desires to avoid prepayment of the Note by the Company, the Holder must within five days of its receipt of the Prepayment Notice deliver to the Company the Conversion Notice pursuant to Section 3(c)(iii) electing to convert this Note, in which case this Note will not be prepaid as provided in the Prepayment Notice and will instead be converted into shares of Series E Preferred Stock of the Company in accordance with Section 3 of this Note.

3. Conversion.

(a) Conversion Events. Upon the earlier to occur of (i) an Initial Public Offering (as defined below) or (ii) satisfaction of each of the Milestones pursuant to Section 3(b)(iv) below (either, a "Conversion Event"), all of the then outstanding principal and accrued interest owing under this Note shall convert into that number of shares of Series E Preferred Stock of the Company determined by dividing (i) the aggregate principal and accrued interest owing under this Note as of the date of such Conversion Event by (ii) the Conversion Price (as defined below). Notwithstanding the foregoing, by complying with Section 3(c)(iii) hereof, the Holder may at any time earlier elect to convert this Note into that number of shares of Series E Preferred Stock determined by dividing (i) the aggregate principal and accrued interest owing under this Note as of the date of the Conversion Notice (as defined in Section 3(c)(iii)) by (ii) the Conversion Price (as defined below).

(b) Definitions. For purposes of this Note, the following terms shall have the following meanings:

(i) The term "Change of Control Transaction" shall mean (i) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any merger effected exclusively for the purpose of changing the domicile of the Corporation) other than a transaction or series of transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction or series of transactions continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Company held by such holders prior to such transaction, at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such transaction or series of transactions; or (ii) a sale, transfer, lease or other conveyance of all or substantially all of the assets of the Corporation.

(ii) The term "Conversion Price" shall mean US$3.60, subject to adjustment as set forth in Section 5 below.

(iii) The term "Initial Public Offering" shall mean the first sale of securities of the Company pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act") after or in connection with which the outstanding shares of Preferred Stock of the

Company have been converted into Common Stock pursuant to the Company's then existing Articles of Incorporation or otherwise.

(iv) Unless otherwise agreed in writing between the Company and the Holder, the term "Milestones" shall mean satisfaction of the following on or before April 30, 2008:

(1) The Company will have released the BioMark II Chip Loader to manufacturing, as demonstrated by a Manufacturing Release approval form duly signed-off. The approval is typically characterized by having completed standard prototype development, including building and testing of suitable prototypes;

(2) The approved BioMark II Chip Loader (or a subsequent version thereof) will be made generally available to customers, as demonstrated by a Company product announcement;

(3) The Subsidiary will also have produced prototype BioMark II End Point Readers and made them available to at least three (3) customers;

(4) The Subsidiary will have at least maintained the number of Research and Development Engineers hired to achieve Milestones in the First Note and the Milestones in the Second Note; and

(5) The Company will be manufacturing the BioMark II Chip Loader through the Subsidiary in Singapore, and the Company's then-current financial and business plan will provide for the manufacturing of the BioMark II End Point Readers through the Subsidiary in Singapore; *provided that* if the Holder provides the Company with a Milestone Response Notice pursuant to Section 3(c)(ii) below, then the Company shall have 30 days following the Company's receipt of the Milestone Response Notice (the "Milestones Cure Period") to cure any failure to satisfy the Milestones identified by the Holder in the Milestone Response Notice.

(v) The term "Payment Date" shall mean April 19, 2009 or such later date as may be mutually agreed in writing by Holder and the Company.

(c) Conversion Procedure.

(i) Conversion in Connection with Initial Public Offering. Upon the occurrence of an Initial Public Offering as set forth in Section 3(a), this Note shall convert automatically without further action on the part of the Holder hereof. Written notice shall be delivered to Holder at the address last shown on the records of Company for Holder or given by Holder to Company for the purpose of notice notifying Holder of the conversion effected or to be effected, specifying the Conversion Price, the date on which such conversion occurred or is expected to occur and calling upon such Holder to surrender to Company, in the manner and at the place designated, the Note.

(ii) Conversion in Connection with Satisfaction of Milestones. If the Company reasonably believes that it has satisfied all of the Milestones, it may send written notice thereof (the "Milestone Completion Notice") to the Holder (at the address last shown on the records

of the Company for the Holder or given by Holder to Company for the purpose of notice) specifying the Conversion Price, the date on which the Company reasonably believes all of the Milestones were satisfied (the "Notified Milestone Completion Date"), together with a duly executed compliance certificate dated as of the Notified Milestone Completion Date substantially in the form attached hereto as Exhibit A (the "Compliance Certificate"), and calling upon Holder to surrender to the Company the Note. In the event that the Holder reasonably believes that any of (i) the Milestones have not been satisfied or (ii) the representations and warranties made in the Compliance Certificate are inaccurate in any material respect, the Holder may provide written notice (the "Milestone Response Notice") to the Company of such disagreement and/or inaccuracy within 30 days of its receipt of the Milestone Completion Notice. The Milestone Response Notice shall specify in reasonable detail the reasons for such disagreement and/or basis for belief that any of the representations and warranties made in the Compliance Certificate are inaccurate and shall be accompanied by reasonably available support documentation evidencing the basis for such disagreement or belief. If the Holder shall fail to provide the Milestone Response Notice within such time period, the Milestones shall be deemed satisfied as of the Notified Milestone Completion Date and this Note shall be automatically converted as set forth in Section 3(a). If the Holder shall have timely provided the Milestone Response Notice, the Company and the Holder shall in good faith attempt to resolve their disagreement as to the satisfaction of the Milestones and/or the accuracy of the representations and warranties in the Compliance Certificate. If the Company and Holder are unable to resolve their disagreement within the Milestones Cure Period, the Company may pay to the Holder the principal and interest owing under this Note as of the Notified Milestone Completion Date (in which case the Note shall be cancelled and surrendered) or may pursue any other remedy that may be available to it under applicable law.

(iii) Elective Conversion. If the Holder wishes to voluntarily convert this Note as set forth in Section 3(a) hereof prior to a Conversion Event, the Holder shall surrender this Note to the Company and provide the Company with a written notice (the "Conversion Notice") to that effect.

(iv) Certificate; Time of Conversion. Upon conversion of this Note, the Holder shall promptly surrender this Note, duly endorsed, at the principal office of Company. At its expense, the Company shall, as soon as practicable thereafter, issue and deliver to such Holder at such principal office a certificate or certificates for the number of shares to which Holder shall be entitled upon such conversion (bearing such legends as are required by this Note and the Note Purchase Agreement and applicable state and federal securities laws in the opinion of counsel to Company), together with any other securities and property to which Holder is entitled upon such conversion under the terms of this Note, including a check payable to Holder for any cash amounts payable as described in Section 3(d). Any such conversion of this Note shall be deemed to have been made immediately prior to the Conversion Event as described in Section 3(a) (or in the case of delivery of the Conversion Notice as set forth in Section 3(c)(iii), upon the Company's receipt of such Conversion Notice); provided, however, the Holder shall not be deemed a record holder of such shares or a purchaser of such shares until the Holder has delivered the Note for conversion. On and after such date, the Holder shall be treated as a purchaser of such shares under the Note Purchase Agreement and shall be bound by the applicable terms of this Note and Note Purchase Agreement.

(d) Fractional Shares. No fractional shares will be issued upon any conversion of this Note. In lieu of any fractional share to which the Holder would otherwise be entitled, the Company will pay to the Holder in cash that amount of the unconverted principal and interest balance of this Note.

(e) Reservation of Shares. The Company will at all times reserve and keep available out of its authorized but unissued shares or shares held in treasury, sufficient shares of Series E Preferred Stock or other securities to permit the full conversion of the outstanding principal and interest of this Note pursuant to the terms of this Note. In the event the Company shall have insufficient shares of Series E Preferred Stock or other securities to permit the full conversion of the outstanding principal and accrued interest of this Note pursuant to the terms hereof, the Company hereby covenants and agrees that the Company shall use its commercially reasonable efforts to seek board and shareholder approval of an amendment to the Company's Articles of Incorporation in order to authorize an increase in the number of authorized shares of Series E Preferred Stock or other securities of the Company in a sufficient amount so that the aggregate number of shares of Series E Preferred Stock or other securities issuable upon conversion of this Note will then be authorized and available for issuance.

4. Change of Control Transaction. The Company shall provide the Holder with 15 days written notice of the closing of a Change of Control Transaction, specifying in reasonable detail the terms of such Change of Control Transaction. If the Holder shall not have voluntarily elected to convert this Note as set forth in Section 3(c)(iii) within such 15 day period, the Company may prepay the entire principal amount and interest owing under this Note as of the date of such prepayment. The Holder shall thereafter promptly return the Note to the Company for cancellation.

5. Change in Series E Preferred Stock.

(a) Split, Subdivision or Combination of Series E Preferred Stock. In the event the Company should at any time or from time to time after the date of issuance hereof split or subdivide the outstanding shares of its Series E Preferred Stock (or other securities issuable upon conversion of this Note) or issue additional shares of Series E Preferred Stock (or other securities issuable upon conversion of this Note) to the holders thereof as a dividend or make any other distribution payable in additional shares of Series E Preferred Stock (or other securities issuable upon conversion of this Note) to the holders thereof without payment of any consideration by such holder for the additional shares of Series E Preferred Stock (or such other securities), then, as of the date of such dividend, distribution, split or subdivision, the Conversion Price of this Note shall be appropriately decreased so that the number of shares of Series E Preferred Stock or other securities issuable upon conversion of this Note shall be increased in proportion to such increase of outstanding shares of Series E Preferred Stock or other securities issuable upon conversion of this Note, as applicable. If the number of shares of Series E Preferred Stock (or other securities issuable upon conversion of this Note) outstanding at any time after the date hereof is decreased by a combination of the outstanding shares of Series E Preferred Stock (or other securities issuable upon conversion of this Note), then, following the record date of such combination, the Conversion Price for this Note shall be appropriately increased so that the number of shares of Series E Preferred Stock or other securities issuable on conversion hereof shall be decreased in proportion to such

decrease in outstanding shares of Series E Preferred Stock or other securities issuable upon conversion of this Note, as applicable.

(b) Reclassification etc. In case of any reclassification, capital reorganization, or change in the Series E Preferred Stock (or other securities issuable upon conversion of this Note) of the Company, including conversion of such shares pursuant to the Company's Articles of Incorporation then in effect (other than as a result of a split, subdivision, combination, or stock dividend provided for in Section 5(a) above), then appropriate adjustment shall be made to the Conversion Price and kind of securities or other property issuable upon conversion of this Note so that this Note shall be convertible upon the terms set forth herein into the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization, or change by a holder of the same number of shares of Series E Preferred Stock or other securities as are issuable on conversion of this Note.

(c) Merger or Consolidation. Other than a Change of Control Transaction in connection with which this Note has been converted or prepaid, if at any time there shall be an acquisition of the Company by merger, consolidation or otherwise where the Company is not the surviving corporation or as a result of which all of the outstanding capital stock of the Company is exchanged for capital stock of another corporation, then, as a part of such acquisition, the Conversion Price and kind of securities issuable upon conversion hereof shall be appropriately adjusted so that the Holder shall receive upon conversion of this Note, the number of shares of stock or other securities or property of the surviving or successor corporation resulting from such acquisition (or the corporation the capital stock of which is issued in exchange for the capital stock of the Company), to which a holder of the securities issuable upon conversion of this Note would have been entitled in such acquisition if this Note had been converted immediately before such acquisition.

6. Payment Due Date. If not previously converted into shares of Series E Preferred Stock pursuant to Section 3 hereof and if not sooner prepaid by the Company pursuant to Section 2 hereof or accelerated and declared due and owing by the Holder pursuant to Section 7 hereof, the principal amount and any accrued interest due thereon then outstanding under this Note will become due and payable on the Payment Date.

7. Default. The Company shall be deemed to be in default under this Note in the event (i) the Company shall fail to materially perform any covenant or agreement of the Company contained in Section 4 of the Note Purchase Agreement for a period of 30 days after written notice of such failure from Holder; (ii) the Company shall have failed to make payment of principal or interest due on the Note when such principal and interest becomes due; or (iii) the Company shall commence, whether voluntarily or involuntarily a case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it. In the case of an event of default, the Holder may, by written notice to the Company, declare the unpaid principal amount of this Note, all interest accrued and unpaid hereon, and all other amounts payable hereunder to be immediately due and payable, without presentment,

demand, protest, or further notice of any kind, as well as enforce all other rights and remedies available to the Holder under applicable law.

8. Notices. Any notice, request, other communication, or payment required or permitted hereunder shall be in writing and shall be deemed to have been duly given upon delivery, if delivered personally by facsimile, or by recognized overnight courier service, or five days after deposit, if deposited in the United States mail for mailing by registered or certified mail, postage prepaid, and addressed as follows:

If to Holder:

Biomedical Sciences Investment Fund Pte Ltd
20 Biopolis Way
#09-01 Centros
Singapore 138668
Attention: Chu Swee Yeok
Tel: 65-6336-2288
Fax: 65-6334-8478

If to the Company:

Fluidigm Corporation
7100 Shoreline Court
South San Francisco, California 94080
Attention: Chief Executive Officer
Tel: (650) 266-6000
Fax: (650) 871-7195

with a copy to:

Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, California 94304-1050
Attention: Ken Clark and Robert Kornegay
Tel: (650) 493-9300
Fax: (650) 493-6811

Each of the above addressees may change its address or facsimile number for purposes of this paragraph by giving to the other addressee notice of such new address in conformity with this paragraph.

9. Amendments. This Note may be amended and any provision hereof waived with the consent of the Company and the Holder.

10. No Rights as Shareholder. Nothing in this Note shall be construed as conferring upon the Holder or any other person the right to vote or to consent or to receive notice as a shareholder in respect of meetings of shareholders for the election of directors of the Company or any other matters or any rights whatsoever as a shareholder of the Company until, and only to the extent that, this Note shall have been converted.

11. Successors and Assigns. Subject to the restrictions on transfer described in Section 12 and in the Note Purchase Agreement, the rights and obligations of the Company and Investor shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

12. Transfer of Note and Securities Issuable on Conversion Hereof. Prior to the conversion of this Note, this Note (or the underlying securities issuable upon conversion hereof) may not be sold, assigned, transferred, pledged or otherwise disposed of by the Holder, in whole or in part, without the prior written consent of the Company. With respect to any sale, assignment, transfer, pledge or other disposition of the securities into which this Note may be converted after conversion of this Note, the Holder may only transfer such securities pursuant to, and on the conditions set forth in that certain Eighth Amended and Restated Investor Rights Agreement dated June 13, 2006 between the Company and certain investors in the Company (including Holder), as may be amended from time to time (the "Rights Agreement"). The Holder shall cause any proposed purchaser, assignee, transferee or pledgee of such securities to agree in writing to take and hold such securities subject to and upon the conditions specified in this Note, the Note Purchase Agreement, and the Rights Agreement, including, without limitation, Sections 1.2, 1.3, 1.4, and 1.14 of the Rights Agreement.

13. Highest Lawful Rate. Anything herein to the contrary notwithstanding, if during any period for which interest is computed hereunder, the amount of interest computed on the basis provided for in this Note, together will all fees, charges, and other payments or rights which are treated as interest under applicable law, as provided for herein or in any other document executed in connection herewith, would exceed the amount of such interest computed on the basis of the Highest Lawful Rate, the Company shall not be obligated to pay, and the Holder shall not be entitled to charge, collect, receive, reserve, or take, interest in excess of the Highest Lawful Rate, and during any such period the interest payable hereunder shall be computed on the basis of the Highest Lawful Rate. As used herein, "Highest Lawful Rate" means the maximum non-usurious rate of interest, as in effect from time to time, which may be charged, contracted for, reserved, received, or collected by the Holder in connection with this Note under applicable law. In accordance with this section, any amounts received in excess of the Highest Lawful Rate shall be applied towards the prepayment of principal then outstanding.

14. Miscellaneous. The Company agrees to pay on demand all of the losses, costs, and expenses (including, without limitation, attorneys' fees and disbursements) which the Holder incurs in connection with enforcement of this Note, or the protection or preservation of the Holder's rights under this Note, whether by judicial proceeding or otherwise. Such costs and expenses include, without limitation, those incurred in connection with any workout or refinancing, or any bankruptcy, insolvency, liquidation, or similar proceedings. The Company hereby waives presentment, demand for performance, notice of non-performance, protest, notice of protest, and notice of dishonor. No delay on the part of the Holder in exercising any right hereunder shall operate as a waiver of such right or any other right. This Note is being delivered in and shall be construed in accordance with the laws of the State of California without regard to the conflicts of law provisions thereof. Any reference to "dollars" or "$" in this Note shall refer to the lawful money of the United States of America.

IN WITNESS WHEREOF, the Company has caused this Convertible Promissory Note to be executed by its officer thereunto duly authorized as of the date first above written.

Dated: April 19, 2007

FLUIDIGM CORPORATION
a California corporation

By: /s/ Gajus V. Worthington

Name: Gajus Worthington

Title: Chief Executive Officer

Acknowledged and Agreed:

HOLDER

BIOMEDICAL SCIENCES INVESTMENT FUND PTE LTD

By: /s/ Chu Swee Yeok

Name: Chu Swee Yeok

Title: Director

Exhibit 5.1

September 15, 2008

Fluidigm Corporation
7000 Shoreline Court, Suite 100
South San Francisco, CA 94080

Re: Registration Statement on Form S-1

Ladies and Gentlemen:

We are acting as counsel to Fluidigm Corporation, a Delaware corporation (the "Company"), in connection with the registration of 6,095,000 shares of the Company's Common Stock, par value $0.001 per share, including 795,000 shares subject to an over-allotment option (collectively, the "Shares"), pursuant to a Registration Statement on Form S-1 (Registration No. 333-150227), as amended (the "Registration Statement"), filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended.

As counsel for the Company, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary for the purposes of rendering this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with the originals of all documents submitted to us as copies.

Based upon the foregoing, we are of the opinion that the Shares to be registered for sale by the Company have been duly authorized by the Company and, when issued, delivered and paid for in accordance with the terms of the underwriting agreement referred to in the Registration Statement and in accordance with the resolutions adopted by the Board of Directors of the Company, will be, validly issued, fully paid and nonassessable.

We consent to the use of this opinion as an exhibit to the Registration Statement, and we consent to the reference of our name under the caption "Legal Matters" in the Prospectus forming a part of the Registration Statement.

Very truly yours,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

/s/ Wilson Sonsini Goodrich & Rosati, P.C.

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 10.8

PATENT LICENSE AGREEMENT 3950.LICI.001 Gyros AB

This Agreement, effective as of January 9, 2003, is made by and between **GYROS AB** having its principal office at Uppsala Science Park, SE-751 83 Uppsala, Sweden, a corporation organized and existing under the laws of Sweden (hereinafter referred to as **"Licensor"),** and **FLUIDIGM Corporation** having its principal office at 7100 Shoreline Court, South San Francisco, CA 94080, a corporation organized and existing under the laws of the state of California, U.S.A (hereinafter referred to as the **"Licensee").**

RECITALS

WHEREAS, the Licensor is the holder of intellectual property pertaining to, and possesses a special expertise in the field of fluidic microsystems.

WHEREAS, the Licensor is active in the field of microfluidics and microfluidic applications, primarily within the Life Sciences and Diagnostics.

WHEREAS, the Licensor is the owner of certain patents and patent applications pertaining to microfluidics and microfluidic applications.

WHEREAS, Licensor is willing to grant Licensee a royalty-bearing non-exclusive licence to such patents on the terms and conditions given below.

NOW, THEREFORE, in consideration of the promises and the faithful performance of the covenants herein contained IT IS AGREED;

ARTICLE 1 DEFINITIONS

1.1 **"Affiliate"** shall mean any corporation, partnership, or other business entity controlled by, or controlling, or under common control with any party or signatory to this Agreement, with "control" meaning direct or indirect beneficial ownership of more than fifty percent (50%) of the voting power, or of the interest in the income of such corporation, partnership or other entity, or having the power to appoint the majority of its directors or otherwise having the power to direct its business activities.

1.2 **"Competitor of Licensor"** shall mean a company in the business of making and selling compact disc-like structures in which fluids are moved by centrifugal force.

1.3 **"Net Sales"** shall mean the gross selling price charged by Licensee for Products manufactured or sold by the Licensee in a country in which the Product is covered by a Patent (i.e., a country in which, but for the license granted herein, the Product would infringe a valid, enforceable, unexpired claim of a Patent) less:

(a) allowances for damaged and returned goods;

(b) discounts actually credited to customers or commissions paid to third parties in amounts customary in the trade;

(c) custom duties, forwarding insurance premiums, sales, excise, and other taxes actually paid by the Licensee or otherwise included in the gross selling price with respect to the sale of Products;

A Product shall be considered sold hereunder in accordance with extant GAAP accounting procedures and guidelines.

If the Products are sold in combination with, or as a component of, other products not licensed hereunder, Net Sales for purposes of determining royalty hereunder shall be calculated by multiplying the Net Sales from the combined product by the fraction A/B, where A is the invoice price of the Products sold separately and B is the invoice price of the combined product. If the Products are not sold separately, the Net Sales for purposes of calculating royalties hereunder shall be reasonably determined by agreement of Licensor and the Licensee promptly after such combination products are sold by Licensee. The parties agree to use good faith in negotiating the appropriate adjustment to Net Sales of any combined product within thirty (30) days after the Licensee notifies Licensor of sales of a combination product. The Net Sales of any Products sold by the Licensee to any Affiliate of the Licensee or any other person or organization enjoying a special course of dealing with the Licensee, shall be determined by reference to the Net Sales which would be applicable under this Article 1.2 in an arm's length sale of such Products by the Licensee to a third party.

1.4 **"Patents"** shall mean the patents listed in Exhibit A, attached hereto, together with any other corresponding patents/ patent applications in any country owned or controlled by the Licensor.

1.5 **"Covered Products"** shall mean all products now or hereafter manufactured, assembled, used or sold by or on behalf of the Licensee or its Affiliates and which are covered by any of the Patents.

It is hereby acknowledged that any and all products consisting of compact discs ("CD's") and CD-like structures where a centrifugal force is utilized to move the liquids within the CD are explicitly excluded from this definition.

1.6 **"Option Field of Use"** means each of (i) [***] and (ii) [***].

"Licensed Fields of Use" means [***] and each Option Field of Use for which Licensee exercises the option as set forth in Section 5.2 below.

1.8 **"Product"** means each Covered Product useful, used, or for use in a Licensed Field of Use.

ARTICLE 2 GRANT

2.1 Upon the terms and subject to the conditions of this Agreement, Licensor hereby grants to the Licensee and its Affiliates, and the Licensee and its Affiliates accept from Licensor, a restricted, perpetual, irrevocable (except as set forth in Section 9.1), non-exclusive, non-transferable (except as set forth in Section 7.4), royalty-bearing license under the Patents for the term hereof solely to make, have made, import, use, offer for sale, and sell Products. No other license is granted to the Licensee expressly, impliedly or by estoppel, except as explicitly set forth in Section 5.2 below.

The Licensee expressly acknowledges and agrees that the Licensee shall have no right to sublicense, assign, or otherwise transfer any or all of the license granted to it under the Patents, except as set forth in Section 9.1, provided that Licensee can sublicense Patents to a third party other than a Competitor of Licensor (as defined in Section 7.4) in conjunction with a license from Licensee to make and sell any of Licensee's Products. Licensor reserves the right to practice the Patents itself, and to sublicense, assign or otherwise transfer the Patents to others for any purposes whatsoever, provided that such transfer or assignment shall be subject to the licenses granted to Licensee in this Agreement.

2.3 Licensor hereby irrevocably releases Licensee and its Affiliates, and each of their subcontract manufactures and direct and indirect customers, of and from all claims of infringement of Patents, known or unknown, which claims have been made or might have been made at any time, with respect to any apparatus made, used, imported, offered for sale, or sold, or any method or process practiced, before the effective date of this Agreement, which apparatus, method, or process would have been licensed had it been made, used, imported, offered for sale, or sold, or practiced after effective date of this Agreement. A corresponding release will be deemed made in relation to each of the Option Fields of Use when and if exercised under Section 5.2 below.

ARTICLE 3 PATENT MARKING

Beginning two (2) years after the effective date of this Agreement, Licensee shall display or cause to be displayed proper patent notices on the documentation, inserts, packages or containers of all Products which shall indicate that the Product is sold or manufactured under a patent license from Licensor. The Licensee shall provide Licensor for its review prior to use,

representative samples containing such patent notices and the parties agree to use good faith in determining the requirements for and adequacy of such notices under the controlling patent laws.

ARTICLE 4 RESTRICTIONS ON PUBLICATION

Upon the signing of this Agreement and upon exercise of any of the Option Fields of Use under 5.2, both parties shall be entitled to make public — through a press release or otherwise - that Licensee has taken a license to the Patents from the Licensor. Such press-release or similar shall be in a form reasonably acceptable to the other party and shall not disclose any of the financial terms agreed in this Agreement. Within thirty (30) days of the effective date of this Agreement, Licensee will publish on its corporate website that it has taken a license from Licensor under the Patents. Under all other circumstances, neither party shall use the other's name nor any variation thereof, nor any emblem, logo, trademark or variation thereof, nor the name of any employee in any press releases, advertising, promotional or sales literature, or in any securities reports required by the Securities and Exchange Commission, without the prior written consent of the other party in each case; provided however, that both parties (a) may refer to publications by employees of the other party in the scientific literature, (b) may only state that a non-exclusive, royalty-bearing patent license from Licensor to Licensee has been granted (excluding financial terms) and (c) may make such disclosures as required by law.

ARTICLE 5 ROYALTIES AND PAYMENT

5.1 In consideration of the rights granted by Licensor to the Licensee under this Agreement, the Licensee agrees to pay to Licensor:

(a) a non-refundable sum of [***] payable on March 31, 2003 ("Annual Payment Date"). The foregoing payment includes full payment for all sales by the Licensee of Products before the effective date of this Agreement;

(b) a sum of [***] payable on each anniversary of the Annual Payment Date during the term of this Agreement; and

(c) a royalty of [***] of the Net Sales of all Products sold by the Licensee during the term of this Agreement. Sums paid under Subsections 5.1 (a) and (b) above, and Section 5.2 below, shall be fully creditable against such royalties, regardless of the year in which such royalties accrue.

5.2 At any time(s) during the first twelve (12) months of the term of this Agreement, Licensee shall be entitled, at its option, to add one or both Option Fields of Use to the Licensed Field of Use under this Agreement, and upon each such exercise, each such Option Field of Use shall become a Licensed Field of Use under this Agreement. If Licensee has not, during the first

twelve (12) month period of the term of this Agreement, added both Option Fields of Use to the Licensed Field of Use, then during the second twelve (12) month period of the term of this Agreement, Licensee shall be entitled, at its option, to add one Option Field of Use to the Licensed Field of Use under this Agreement. Each such exercise of this option by Licensee shall be by written notice to Licensor, referencing this Agreement and specifying the Option Field(s) of Use to be added. Within thirty (30) days after such exercise, Licensee shall pay an additional [***] license fee for the first added Option Field of Use, and an additional [***] license fee for the second added Option Field of Use. For the avoidance of doubt, during the first twelve (12) month period of the term of this Agreement, Licensee may exercise this option for one or both Option Fields of Use and on one or two occasions.

5.3 Within thirty (30) days of the end of each calendar quarter the Licensee shall pay to Licensor the royalty having accrued on the Products sold during such calendar quarter to the extent the royalty exceeds the credited sums paid by Licensee. Such payments shall be made in US Dollars by wire transfer, at the Licensee's cost, to such bank as shall be notified by Licensor. Payments of royalties accrued on sales in other currencies than US Dollars shall be made in US Dollars at the rate of exchange quoted by a first class commercial bank in the Licensee's country on the last day of the relevant calendar quarter.

5.4 If the Licensee fails to make the payments as provided for herein, such amounts shall bear interest from and after the due date at the rate of [***] above the one month LIBOR for the currency of payment.

5.5 Withholding or other taxes assessed on Licensor in connection with the payment of royalties and other consideration due hereunder and which the Licensee is required by law to deduct and withhold when making payments, may be deducted from royalty payments hereunder (including without limitation payments under Sections 5.1(a), 5.1(b), and 5.2) and shall be paid by the Licensee to the competent authority on behalf of Licensor. The originals of the official government receipt for such taxes paid by the Licensee on Licensor's behalf, shall so indicate such fact and shall be sent by the Licensee to Licensor not later than fifteen (15) working days after the date of payment, indicating net payment of royalties to which such taxes relate, and in accordance with the instructions given by Licensor. The sums so paid by the Licensee shall be credited by Licensor in partial discharge of the Licensee's obligation for gross royalties as provided for herein.

ARTICLE 6 RECORDS, AUDITS AND REPORTS

6.1 The Licensee agrees to maintain accurate, complete and up to date records, until five (5) years after a royalty payment has been made, in sufficient detail to enable the royalties payable by the Licensee to be determined. Licensor shall have the right, at its own expense and during regular business hours, at any time upon sixty (60) days prior written notice to Licensee, during the term of this Agreement and for one (1) year thereafter, to have such records examined, in its own discretion, by an independent auditor of its own choice, provided such auditor is bound by confidentiality in writing to Licensee and reasonably acceptable to the

Licensee. The auditor shall not disclose the contents of the examination to any other entity and shall use the information only to verify proper reporting and payment of royalties under this Agreement.

6.2 Once Licensee's royalty obligations have exceeded the sums paid under Subsections 5.1(a) and (b) above or in the event of a completed initial public offering of Licensee's common stock, then Licensee agrees to deliver to Licensor within forty-five (45) days of the end of each subsequent calendar quarter a confidential written report, in a format to be agreed by the parties and made an exhibit to this Agreement, of all Products sold by it during such quarter in sufficient detail to permit a calculation of the royalties due thereon. Licensor shall not disclose the contents of the report to any other entity and shall use the information only to verify proper reporting and payment of royalties under this Agreement. Such report shall include, but not be limited to, information of the total quantities of Products sold and the Net Sales thereof on a country by country basis, and the amount of royalties due.

ARTICLE 7 TERM AND TERMINATION

7.1 Unless otherwise terminated as provided for in this Agreement, the license shall run to the end of the life of the last to expire of the Patents.

7.2 The Licensee shall have the right to terminate this Agreement and surrender the license granted hereunder at any time by giving thirty (30) days' written notice to Licensor.

7.3 If Licensor or the Licensee is in default in the performance of any of its respective obligations under this Agreement, including the failure by the Licensee to make any of the payments provided for at the times specified herein, and such default is not cured within ninety (90) days after the aggrieved party has given to the other a written notice specifying the nature of the default, the aggrieved party shall have the right to terminate this Agreement by giving written notice of termination to the other, subject to the remainder of this section. Upon the giving of such notice this Agreement shall terminate; provided, however, that if there is a dispute as to the alleged default (including as to whether there is a default, or whether it has been cured), the aggrieved party alleging the default shall not be entitled to terminate unless and until a further notice of termination after (i) an agreed dispute resolution entity has determined that there was a default, as specified in the aggrieved party's notice of default, that was not cured within the applicable cure period and (ii) the defaulting party does not cure the default within thirty (30) days after such determination.

7.4 If during the term of this Agreement, Licensee effects a Competitor Assignment (as defined in Section 9.1), or a change of control over Licensee takes place meaning that fifty percent (50%) or more of the shares in Licensee come under common control of a third party Competitor of Licensor or Affiliates of such Competitor of Licensor, or if Licensee and/or certain of its shareholders enter into an arrangement of a similar effect, Licensor shall be entitled to terminate this Agreement on sixty (60) days prior written notice to Licensee. Upon such termination by Licensor, Licensor shall promptly refund to Licensee (or its successor) a

pro rata (on a day for day basis) the annual payment made by Licensee for that year under Section 5.1(a), 5.1(b), or 5.2, as applicable.

7.5 If during the term of this Agreement, the Licensee becomes bankrupt or insolvent, or if the business of Licensor or the Licensee is placed in the hands of a receiver or trustee, whether by voluntary act or otherwise, this Agreement shall immediately and automatically terminate.

7.6 The following rights and obligations shall survive any termination to the degree necessary to permit their complete fulfilment or discharge:

(a) the Licensee's obligation to supply a final report on each impacted Product in accordance with Section 6.2 above with respect to the terminated license;

(b) Licensor's right to receive or recover and the Licensee's obligation to pay royalties, including minimum royalties, if any, accrued or accruable for payment at the time of any termination;

(c) the Licensee's obligation to maintain records and to allow Licensor to audit such records as provided for herein.

ARTICLE 8 RESTRICTED WARRANTY AND INDEMNITY

8.1 The Licensor represents and warrants that it has full authority to enter into this Agreement, that it has not granted, and will not grant, any rights or licenses that would conflict with the rights and licenses granted in this Agreement, that it is not aware of any third party claims with respect to any Patent, and that it has no knowledge of any third party rights that would affect its ability to grant the license hereunder. Licensor further represents and warrants that the Patents are the only patent filings owned or controlled by Licensor or its Affiliates, or which Licensor or its Affiliates otherwise have the right to enforce, license or sublicense, which pertain to microfluidics based on multilayer soft lithography or its uses. However, the Licensor makes no representation or warranty, express or implied, as to the validity of the Patents nor to the merchantability or satisfactory quality of the Products that are or may be sold by the Licensee. Licensor does not assume any liability for any infringement or alleged infringement of any patent or other rights of third parties due to the Licensee's activities under the license set forth herein.

8.2 The Licensee shall assume full responsibility for its use of the Patents and shall defend Licensor and its officers, directors, agents, and employees ("Indemnified Parties") against any claims or actions arising out of this Agreement by reason of death, personal injury, illness or property damage, or any other injury or damage arising out of the use by the Licensee of the Patents or the preparation of, use or sale of Products, including but not limited to, use or reliance upon such Products by the Licensee's customers, and Licensee shall indemnify the Indemnified Parties against all liability, costs, damages, and expenses awarded against the Indemnified Parties with respect to such claims or actions.

ARTICLE 9 MISCELLANEOUS

9.1 Assignment. This Agreement is personal to the Licensee who shall not have any right to assign or transfer the Agreement, in whole or in part, or the license granted hereunder, without the prior written consent of Licensor, which shall not be unreasonably withheld; provided, however, that Licensee may transfer or assign its rights and obligations under this Agreement to a successor to all or substantially all of Licensee's Product business relating to one or more Licensed Fields of Use, whether by sale, merger or otherwise, provided further that that Licensee shall not have the right to transfer or assign this Agreement to a Competitor of Licensor ("Competitor Assignment") without the prior written consent of Licensor . Notwithstanding the foregoing, Licensor shall have the right to assign or transfer this Agreement, in whole or in part, to any Affiliate.

9.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by it. This Agreement may be modified or amended only by a writing executed by authorized officers of each of the parties.

9.3 Waiver. The waiver by either Licensor or the Licensee of any right or failure to perform or of any breach by the other shall not be deemed as a waiver of any other right hereunder or of any other breach or failure by the other, whether of a similar nature or otherwise.

9.4 Notices. Any notice or other communication relating to this Agreement shall be sent registered mail or overnight express prepaid or telefax/telecopier to the address of the party to be served therewith which is shown below and shall be deemed to have been given upon the date the notice or communication was sent:

If to Licensor:	**Gyros AB**	Att: Maris Hartmanis President & CEO Uppsala Science Park S-751 83 Uppsala, Sweden Telefax: +46 (18) 56 6350
with a copy to:	rambe legal consultants	Att: Lars J. Rambe, LL.M Telefax +46-8-6508835
If to the Licensee:	**Fluidigm Corporation**	

Att: Gajus Worthington
President & CEO
7100 Shoreline Court
South San Francisco
CA 94080

Telefax: (650) 871-7152

with a copy to: Fluidigm General Counsel Att: William M. Smith

Telefax: (650) 871-7195

Such addresses may be changed by notice so given.

9.5 Severability. If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the full extent possible consistent with the intent of the parties.

9.6 Governing Law. This Agreement and its effects shall be subject to and shall be construed and enforced in accordance with the laws of the state of New York, U.S.A.

9.7 Disputes. Any dispute in connection with this Agreement shall be first elevated to each party's respective President for a period of thirty (30) days prior to giving a notice of default under section 9.3 above, who shall convene a face-to-face meeting prior to pursuing any legal courses of action.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Agreement the day and year first above written.

Gyros AB

By: /s/ Maris Hartmanis
Maris Hartmanis

By: /s/ (ILLEGIBLE)

Fluidigm Corporation

By: /s/ Gajus Worthington
Gajus Worthington

By:

Exhibit A

Patent family:

[***]

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 10.9

MASTER CLOSING AGREEMENT

By and Among

FLUIDIGM CORPORATION,
a California corporation,

OCULUS PHARMACEUTICALS, INC.,
a Delaware corporation,

and

THE UAB RESEARCH FOUNDATION

dated

March 7, 2003

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

EXHIBITS AND SCHEDULES

Exhibit	Description
A	Amended and Restated Articles of Incorporation of Fluidigm
B	Form of New License Agreement
C	Form of Sponsored Research Agreement
D	Description of Technology

Schedule	Description
4.6	Pending Litigation

MASTER CLOSING AGREEMENT

THIS MASTER CLOSING AGREEMENT is entered into as of March 7, 2003 by and among FLUIDIGM CORPORATION, a California corporation ("Fluidigm"), OCULUS PHARMACEUTICALS, INC., a Delaware corporation ("Oculus"), and THE UAB RESEARCH FOUNDATION ("UABRF").

RECITALS

A. Oculus and UABRF have entered into a license agreement dated September 21, 2001 (together with all amendments and modifications thereto, the "License Agreement") under which Oculus was granted an exclusive license to practice the intellectual property and technology relating to nanovolume crystallization arrays described in Schedule A to the License Agreement.

B. The parties hereto have entered into a binding letter agreement dated December 19, 2002 (the "Letter Agreement") under which Oculus and UABRF have agreed to terminate the License Agreement, UABRF has agreed to grant to Fluidigm an exclusive license to practice the intellectual property and technology relating to nanovolume crystallization arrays covered by the License Agreement, and Fluidigm and UABRF have agreed to enter into a sponsored research agreement. In exchange for the rights to be acquired by Fluidigm as contemplated by the Letter Agreement, Fluidigm has paid cash in the amount of [***] pursuant to the Letter Agreement and has agreed to the payment of additional cash and securities as specified in the Letter Agreement.

C. The parties desire to enter into this Agreement to set out additional terms and conditions related to the closing of the transactions, and the payments to be made by Fluidigm, contemplated by the Letter Agreement.

NOW, THEREFORE, in consideration of the representations, warranties and agreements herein contained, the parties agree as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth or referenced below:

1.1 "Affiliate" of any specified person shall mean any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For purposes of this definition, "control" when used with respect to any specified person means the power to direct or cause the direction of the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

1.2 "Ancillary Documents" shall mean all documents or agreements required by this Agreement to be executed or delivered by any party hereto.

1.3 "Assigned Rights" shall mean any intellectual property rights owned by Oculus that pertain in any way to the Technology, including without limitation any Inventions (as such term is defined in Section 11 of the License Agreement) and any other patent rights and other intellectual property rights therein owned by Oculus.

1.4 "Cash Consideration" shall mean the sum of cash in the amount of [***] paid in accordance with the Letter Agreement and the Closing Cash Consolidation.

1.5 "Closing" shall mean the closing of the transactions contemplated by this Agreement.

1.6 "Closing Cash Consideration" shall mean cash in the amount of [***].

1.7 "Closing Date" shall mean March 7, 2003, or such other date to which the parties shall mutually agree in writing.

1.8 "Encumbrances" shall mean restrictions on or conditions to transfer or assignment, claims, liabilities, licenses, immunities from lawsuits to third parties, liens, pledges, mortgages or security interests of any kind, whether accrued, absolute, contingent, or otherwise.

1.9 "Fluidigm Series C Preferred Stock" shall mean the Series C Preferred Stock of Fluidigm having the rights, preferences and privileges set forth in Fluidigm's Articles of Incorporation attached hereto as Exhibit A.

1.10 "License Agreement" shall mean the license agreement between Oculus and UABRF as described in Recital A.

1.11 "New License Agreement" shall mean the license agreement between Fluidigm and UABRF in the form of Exhibit B attached hereto.

1.12 "Sponsored Research Agreement" shall mean the sponsored research agreement between Fluidigm and UABRF in the form of Exhibit C attached hereto.

1.13 "Technology" shall mean all intellectual property and other rights relating to nanovolume crystallization arrays described in Exhibit D attached hereto.

1.14 "Transfer Taxes" shall mean all sales taxes, use taxes, conveyance taxes, transfer taxes, filing fees, recording fees, reporting fees and other similar duties, taxes and fees, if any, imposed upon, or resulting from, the transfer of the Assigned Rights hereunder, except federal, state or local income or similar taxes based upon or measured by revenue, income, profit or gain from the transfer of the Assigned Rights or the operation of Oculus' business prior to the Closing or by any increase in the value of any of the Assigned Rights through the Closing Date.

ARTICLE II

TRANSFER OF ASSIGNED RIGHTS AND LICENSE OF TECHNOLOGY

2.1 Transfer of Rights and License of Technology. Oculus and UABRF have mutually terminated the License Agreement as of January 30, 2003 and Oculus has surrendered all rights under the License Agreement to UABRF. Subject to and upon the terms and conditions of this Agreement, effective as of the Closing, Fluidigm and UABRF will enter into the New License Agreement. It is the intent of the parties that all intellectual property rights subject to the License Agreement as of November 27, 2002 shall be transferred and/or assigned to Fluidigm, and that all such rights owned by UABRF shall be licensed to Fluidigm under the New License Agreement, subject to the reservation by UABRF of certain rights as set forth in the License Agreement.

2.2 Excluded Assets and Liabilities. Notwithstanding the provisions of Section 2.1, (a) Fluidigm and Oculus expressly acknowledge and agree that Oculus shall not sell, transfer, assign, convey or deliver to Fluidigm, and Fluidigm shall not purchase, acquire or accept from Oculus, any right, title or interest of Oculus in or to any other property or assets of Oculus, and (b) Fluidigm does not assume, and Oculus does not transfer or assign, any liabilities or obligations, whether presently fixed and determined, contingent or otherwise, of Oculus.

2.3 Payment. In consideration of the execution of the New License Agreement and the transfer of the rights thereunder, Fluidigm will deliver to UABRF the Closing Cash Consideration and [* * *] shares of Fluidigm Series C Preferred Stock valued at 2.58 per share, the price at which Fluidigm sold and issued shares of its Series C Preferred Stock to other investors.

2.4 Taxes. Fluidigm and Oculus shall each pay (or reimburse the other for) one-half of all Transfer Taxes, whether imposed by law on Fluidigm and Oculus or otherwise.

2.5 Assigned Rights. Oculus hereby sells, assigns and transfers to Fluidigm all Assigned Rights, free and clear of all Encumbrances (except to the extent that the settlement agreement pertaining to the Lawsuit (as such term is defined in Section 6.3) may include an immunity from lawsuits for conduct arising prior to the date of the settlement agreement).

2.6 Unassignable Rights.

(a) Notwithstanding any provision of this Agreement or any of the Ancillary Documents, but subject to Section 11.3(c), to the extent that any of the Assigned Rights are not assignable or otherwise transferable to Fluidigm, or if such assignment or transfer would constitute a breach thereof or a violation of any applicable law, then neither this Agreement nor such Ancillary Documents shall constitute an assignment or transfer (or an attempted assignment or transfer) thereof until such consent, approval or waiver of such party or parties has been duly obtained.

(b) If any consent required to transfer the Assigned Rights to Fluidigm has not been obtained as of the Closing Date and Fluidigm nevertheless determines to proceed with the

Closing, Oculus and UABRF shall, at their own expense, continue to cooperate with Fluidigm and use commercially reasonable efforts to obtain such consent after the Closing.

(c) If any Assigned Right is not transferred to Fluidigm at the Closing pursuant to this Agreement, Oculus and Fluidigm shall cooperate with each other in any reasonable arrangement designed to provide for Fluidigm all of the benefits of such Assigned Rights. At Fluidigm's request, Oculus shall take all reasonable actions requested by Fluidigm to enforce for the benefit of Fluidigm any and all rights of Oculus with respect to any such Assigned Right that is not otherwise transferred pursuant to the provisions of this Agreement. Oculus agrees to hold in trust for, and remit promptly to, Fluidigm all future collections or payments received by Oculus in respect of all such Assigned Rights (net of all costs and expenses incurred by Oculus in respect thereto); provided, however, that nothing herein shall create or provide any rights or benefits in or to third parties.

(d) If any intellectual property rights that are described in the New License Agreement cannot be licensed to Fluidigm by UABRF under the New License Agreement without the consent of any third party or without resulting in a breach or default of any agreement affecting such rights, UABRF covenants and agrees that it shall not sue or otherwise take any legal action to restrict or prevent Fluidigm and Fluidigm's permitted assignees and sublicensees from practicing such intellectual property rights as purported to be granted under the terms of the New License Agreement.

(e) If, subsequent to the Closing, a claim brought by any party challenging any of the transactions contemplated hereby results in any ruling or order which has the result of frustrating in a material way the transfer of any of the Assigned Rights hereunder to Fluidigm or the grant of rights to Fluidigm under the New License Agreement or Fluidigm's use thereof as provided herein, Oculus and UABRF shall cooperate with Fluidigm in any reasonable arrangement designed to give Fluidigm, as nearly as practicable, the same economic benefits as if such transfer or license, as the case may be, had been consummated in accordance with the provisions hereof.

(f) Nothing in this Section 2.6 shall be deemed to modify in any respect any of the representations or warranties of Oculus and UABRF set forth herein or the conditions to Fluidigm's obligations contained in this Agreement, be deemed a waiver by Fluidigm of its right to have received on or before the Closing Date an effective assignment of all of the Assigned Rights or be deemed to constitute an agreement to exclude any assets from the Assigned Rights.

ARTICLE III

THE CLOSING

3.1 The Closing. The Closing shall take place at the offices of Gray Cary Ware & Freidenrich LLP, 400 Hamilton Avenue, Palo Alto, California, at 11:00 a.m., Pacific Time, on the Closing Date, or at such other time and place as Oculus, Fluidigm and UABRF may agree.

3.2 Termination of License Agreement. On or before the Closing, Oculus and UABRF shall deliver to Fluidigm an agreement and acknowledgment that the License

Agreement has been terminated and such other agreements and instruments as may be necessary or appropriate to evidence the return by Oculus to UABRF of all rights under the License Agreement.

3.3 Agreements Between Fluidigm and UABRF. At the Closing, Fluidigm and UABRF shall execute and deliver the New License Agreement and the Sponsored Research Agreement.

3.4 Other Documents. Each party shall deliver to the other at the Closing such other documents, certificates, schedules, agreements and instruments required by this Agreement to be delivered at such time.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF OCULUS

Oculus hereby represents and warrants to Fluidigm as follows:

4.1 Organization. Oculus is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power to own, lease and operate its properties and to conduct its business as it is currently being conducted. Oculus is duly qualified or licensed to do business as a foreign corporation in each jurisdiction in which the failure to be so qualified or licensed would have a material adverse effect on Oculus.

4.2 Authorization. This Agreement and all of the Ancillary Documents to which Oculus is or will be a party have been, or upon their execution and delivery hereunder will have been, duly and validly executed and delivered by Oculus and constitute, or will constitute, valid and binding agreements of Oculus, enforceable against Oculus in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by principles of public policy or general equitable principles or the exercise of judicial discretion in accordance with such principles. Oculus has the requisite corporate power and authority to execute and deliver this Agreement and the Ancillary Documents to which Oculus is or will be a party and, at the time of the Closing, will have the requisite corporate power and authority to carry out the transactions contemplated by this Agreement and the Ancillary Documents. The execution, delivery and performance by Oculus of this Agreement and the Ancillary Documents have been duly and validly approved and authorized by the Board of Directors and shareholders of Oculus.

4.3 No Conflicts; Consents. The execution and delivery by Oculus of this Agreement and the Ancillary Documents to which Oculus is or will be a party do not, and the consummation of the transactions contemplated hereby and thereby and compliance by Oculus with the provisions hereof and thereof will not, contravene, conflict with, result in a breach of, constitute a default (with or without notice or lapse of time, or both) under or violation of, or result in the creation of any Encumbrance pursuant to, (i) any provision of the Certificate of Incorporation or Bylaws of Oculus, (ii) any judgment, order, decree, rule, law or regulation of any court or

governmental authority, foreign or domestic, applicable to Oculus or to any of the Assigned Rights, except where any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on Fluidigm's ownership of the Assigned Rights, or (iii) any provision of any material agreement, instrument or understanding to which Oculus is a party or by which Oculus is bound or any of the Assigned Rights are affected, except where any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on Fluidigm's ownership of the Assigned Rights, nor will such actions give to any other person or entity any interests or rights of any kind, including rights of termination, acceleration or cancellation, in or with respect to any of the Assigned Rights, or result in the creation of any Encumbrance on any of the Assigned Rights. No consent, approval, order or authorization of, or registration, declaration or filing with, any third party or any governmental authority is required to be obtained on the part of Oculus to permit the consummation of the transactions contemplated by this Agreement or the Ancillary Documents.

4.4 Title to Assigned Rights. Oculus has good and marketable title to all of the Assigned Rights. All of the Assigned Rights are free and clear of any Encumbrances (except to the extent that the settlement agreement pertaining to the Lawsuit (as such term is defined in Section 6.3) may include an immunity from lawsuits for conduct arising prior to the date of the settlement agreement). At the Closing, Oculus will sell, convey, assign, transfer and deliver to Fluidigm good, valid and marketable title and all right and interest in and to all of the Assigned Rights, free and clear of any Encumbrances.

4.5 No Assignment. Oculus has not sublicensed or otherwise transferred any material rights under the License Agreement to any third party. As of December 19, 2002, the License Agreement was in full force and effect in accordance with its terms. Prior to the termination of the License Agreement, no provisions of the License Agreement had been waived in any material respect. Exhibit D lists all of the patent filings subject to the License Agreement. To the knowledge of Oculus, UABRF is the owner of the patent rights within the technology and inventions subject to the License Agreement and has not granted a license to such technology and inventions to any person or entity other than Oculus.

4.6 Litigation and Claims. Except as set forth on Schedule 4.6 attached hereto, there are no claims, actions, suits, proceedings arbitrations or investigations in progress or pending (or, to the knowledge of Oculus, threatened) before any court, tribunal or governmental agency against Oculus that relate to any of the Assigned Rights. Oculus is not a party to any judgment, decree, order or arbitration award (or agreement entered into in any administrative, judicial or arbitration proceeding with any governmental authority) with respect to any of the Assigned Rights.

4.7 Distribution Agreement. Oculus has entered into a mutually acceptable agreement with UABRF regarding the distribution of any and all consideration to be paid by Fluidigm in connection with the transactions contemplated by this Agreement.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF FLUIDIGM

Fluidigm hereby represents and warrants to Oculus and UABRF as follows:

5.1 Organization. Fluidigm is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all requisite corporate power to own, lease and operate its properties, to conduct its business as it is currently being conducted. Fluidigm is duly qualified or licensed to do business as a foreign corporation in each jurisdiction in which the failure to be so qualified or licensed would have a material adverse effect on Fluidigm.

5.2 Authorization. This Agreement and all of the Ancillary Documents to which Fluidigm is or will be a party have been, or upon their execution and delivery hereunder will have been, duly and validly executed by Fluidigm and constitute, or will constitute, valid and binding agreements of Fluidigm, enforceable against Fluidigm in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by principles of public policy or general equitable principles or the exercise of judicial discretion in accordance with such principles. Fluidigm has the requisite corporate power and authority to execute and deliver this Agreement and the Ancillary Documents to which Fluidigm is or will be a party and, at the time of the Closing, will have the requisite corporate power and authority to sell, issue and deliver the Securities pursuant to this Agreement and to carry out the other transactions contemplated by this Agreement and the Ancillary Documents. The execution, delivery and performance by Fluidigm of this Agreement and the Ancillary Documents have been duly and validly approved and authorized by Fluidigm's Board of Directors and by all requisite action of Fluidigm's stockholders.

5.3 No Conflicts; Consents. The execution and delivery by Fluidigm of this Agreement and the Ancillary Documents to which Fluidigm is or will be a party do not, and the consummation of the transactions contemplated hereby and thereby and compliance by Fluidigm with the provisions hereof and thereof will not, contravene, conflict with, result in a breach of, constitute a default (with or without notice or lapse of time, or both) under or violation of, or result in the creation of any Encumbrance pursuant to, (i) any provision of the Articles of Incorporation or Bylaws of Fluidigm, (ii) any judgment, order, decree, rule, law or regulation of any court or governmental authority, foreign or domestic, applicable to Fluidigm except where such any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on the consummation of the transactions contemplated hereby, or (iii) any provision of any agreement, instrument or understanding to which Fluidigm is a party or by which Fluidigm is bound, except where such any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on the consummation of the transactions contemplated hereby. No consent, approval, order or authorization of, or registration, declaration or filing with, any third party or any governmental authority is required to be obtained on the part of Fluidigm to permit the consummation of the transactions contemplated by this Agreement or the Ancillary Documents.

5.4 Litigation and Claims. There are no claims, actions, suits, proceedings, arbitrations or investigations in progress or pending (or, to Fluidigm's knowledge, threatened, other than potential claims relating to the Interfering Patent (as such term is defined in Section 12.1(a) below), including, but not limited to, a possible interference) before any court, tribunal or governmental agency, against or relating to Fluidigm, which, if determined adversely to Fluidigm, would be likely to have a material adverse effect upon Fluidigm's financial condition or materially impair its ability to carry out and perform its obligations hereunder.

5.5 Securities Laws Exemptions. Based in part on the representations of UABRF contained in Section 6.5, the issuance of the Securities pursuant to the terms of this Agreement will be exempt from the registration requirements of the Securities Act and the regulations thereunder, and the registration, permit or qualification requirements of any applicable state securities laws.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF UABRF

To the best knowledge of the UABRF Director and Dr. Larry DeLucas, UABRF hereby represents to Fluidigm as follows:

6.1 Authorization. This Agreement and the Ancillary Documents to which UABRF is or will be a party have been, or upon their execution and delivery hereunder will have been, duly and validly executed and delivered by UABRF and constitute, or will constitute, valid and binding agreements of UABRF, enforceable against UABRF in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by principles of public policy or general equitable principles or the exercise of judicial discretion in accordance with such principles. UABRF has full power and authority to execute and deliver this Agreement and the Ancillary Documents to which UABRF is or will be a party and, at the time of the Closing, will have all requisite power and authority to carry out the transactions contemplated by this Agreement and the Ancillary Documents. All university, foundation and other internal approvals necessary for UABRF to consummate the transactions contemplated by this Agreement and the Ancillary Documents to which UABRF is or will be a party have been obtained.

6.2 No Conflicts; Consents. The execution and delivery by UABRF of this Agreement and the Ancillary Documents to which UABRF is or will be a party do not, and the consummation of the transactions contemplated hereby and thereby and compliance by UABRF with the provisions hereof and thereof will not, contravene, conflict with, result in a breach of, constitute a default (with or without notice or lapse of time, or both) under or violation of, or result in the creation of any Encumbrance pursuant to, (i) any provision of the charter documents of UABRF, (ii) any judgment, order, decree, rule, law or regulation of any court or governmental authority, foreign or domestic, applicable to UABRF or to the Technology, except where any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on Fluidigm's rights under the New License Agreement or the consummation of the transactions contemplated hereby, or (iii) any provision of any agreement, instrument or understanding to which UABRF is a party or by which UABRF is bound or any of

the Technology is affected, except where such any such contravention, conflict, breach or default could not reasonably be expected to have a material adverse effect on Fluidigm's rights under the New License Agreement or the consummation of the transactions contemplated hereby, nor will such actions give to any other person or entity any interests or rights of any kind, including rights of termination, acceleration or cancellation, in or with respect to any of the Technology, or result in the creation of any Encumbrance on any of the Technology. No consent, approval, order or authorization of, or registration, declaration or filing with, any third party or any governmental authority is required to be obtained on the part of the UABRF to permit the consummation of the transactions contemplated by this Agreement or the Ancillary Documents.

6.3 Title to Technology. UABRF is the sole owner of the technology, inventions and patent rights in the Technology and subject to the License Agreement and has not granted a license to such technology, inventions and patent rights to any person or entity other than Oculus. The License Agreement has been mutually terminated by UABRF and Oculus and neither Oculus nor any other party has any rights thereunder. UABRF has the right to grant an exclusive license to the technology, inventions, patent rights and other rights under the New License Agreement to Fluidigm, free and clear of any Encumbrances of any nature whatsoever, subject to those liens, encumbrances or restrictions which may arise as a result of the settlement of the litigation between Oculus and Syrrx, Inc. ("Syrrx") described in Schedule 4.6 (the "Lawsuit"), provided that Syrrx shall have no rights that may be exercised after the Closing to practice the technology, inventions, patent rights and other rights subject to the New License Agreement, and the potential infringement by Diversified Scientific, Inc. of the Licensed IP Rights (as such term is defined in the New License Agreement) described in Section 2.2.3 of the New License Agreement. Exhibit D lists all of the patent filings subject to the License Agreement. UABRF is not aware of any third-party challenges to the ownership, validity or entitlement to priority date of any of the patent filings subject to the License Agreement or the New License Agreement, except for the Lawsuit between Oculus and Syrrx and the settlement agreement related to said Lawsuit provided to Fluidigm pursuant to Section 7.2 of this Agreement.

6.4 Litigation and Claims. Except as set forth on Schedule 4.6 attached hereto, there are no claims, actions, suits, proceedings, arbitrations or investigations in progress or pending (or, to the knowledge of UABRF, threatened) before any court, tribunal or governmental agency
against UABRF that relate to any of the Technology. UABRF is not a party to any judgment, decree, order or arbitration award (or agreement entered into in any administrative, judicial or arbitration proceeding with any governmental authority) with respect to any of the Technology, except to the extent that UABRF may be deemed to be a party thereto as a result of UABRF's status as a shareholder of Oculus and having a member on the Board of Directors of Oculus as well as the status of Dr. Larry DeLucas as a member of the Board of Directors of Oculus and a shareholder of Oculus.

6.5 Distribution Agreement. UABRF has entered into a mutually acceptable agreement with Oculus regarding the distribution of any and all consideration to be paid by Fluidigm in connection with the transactions contemplated by this Agreement.

6.6 Investment Representations

(a) UABRF is acquiring the shares of Fluidigm capital stock to be issued hereunder (the "Securities") for investment and not with the view to the public resale or distribution thereof, and UABRF has no present intention of selling, granting any participation in, or otherwise distributing the Securities, other than in accordance with the terms of a Termination Agreement dated as of ____, 2003 between UABRF and Oculus. UABRF understands that the Securities have not been registered under the Securities Act by reason of a specific exemption thereunder, which depends upon, among other things, the bona fide nature of UABRF's investment intent as expressed herein.

(b) UABRF acknowledges that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or Fluidigm receives an opinion of counsel satisfactory to Fluidigm that such registration is not required. UABRF is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of stock purchased in a private placement subject to the satisfaction of certain conditions.

(c) UABRF understands that no public market now exists for the Securities and that there can be no assurance that a public market will ever exist for the Securities.

(d) UABRF is an "accredited investor" as defined in the Securities Act, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the investment in the Securities.

(e) UABRF has been given the opportunity to obtain any information or documents related to, and ask questions and receive answers about Fluidigm and its business, prospects and risks which UABRF deems necessary, to evaluate the merits and risks related to UABRF's investment in the Securities and to verify the information UABRF received.

(f) UABRF's financial condition is such that it can afford to bear the economic risk of holding the Securities for an indefinite period of time, and it has adequate means of providing for its current needs and contingencies and to suffer a complete loss of its investment in such Securities.

6.7 Restrictions. No Securities shall be sold, assigned, transferred or pledged except upon the conditions specified in this Agreement. UABRF will cause any proposed purchaser, assignee, transferee or pledgee of the Securities to agree in writing to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

6.8 Restrictive Legend. Each certificate representing the Securities shall (unless otherwise permitted by the provisions of Section 6.9 below) be stamped or otherwise imprinted with a legend in the following form (in addition to any legend required under applicable state securities laws):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). SUCH

SECURITIES MAY NOT BE SOLD, TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL (WHICH MAY BE COUNSEL FOR THE COMPANY) OR OTHER EVIDENCE REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE SECURITIES ACT."

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STAND-OFF AGREEMENT IN THE EVENT OF A PUBLIC OFFERING, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY."

UABRF consents to Fluidigm making a notation on its records and giving instructions to any transfer agent of the Securities in order to implement the restrictions on transfer established in Sections 6.7 through 6.10 of this Agreement.

6.9 Notice of Proposed Transfers. UABRF and any transferee of any certificate representing the Securities, by acceptance thereof, agrees to comply in all respects with the restrictions on transfer contained in Sections 6.7 through 6.10 of this Agreement. Prior to any proposed sale, assignment, transfer or pledge of any Securities (other than any transfer not involving a change in beneficial ownership), unless there is in effect a registration statement under the Securities Act covering the proposed transfer, the holder thereof shall give written notice to Fluidigm of such holder's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and shall be accompanied at such holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall be, reasonably satisfactory to Fluidigm, addressed to Fluidigm, to the effect that the proposed transfer of the Securities may be effected without registration under the Securities Act, or (ii) a "no action" letter from the Securities and Exchange Commission (the "Commission") to the effect that the transfer of such Securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, or (iii) any other evidence reasonably satisfactory to counsel to Fluidigm, whereupon the holder of such Securities shall be entitled to transfer such Securities in accordance with the terms of the notice delivered by the holder to Fluidigm; provided, however, that no such legal opinion, "no action" letter or other evidence shall be required with respect to a transfer to an affiliate of the holder. Each certificate evidencing the Securities transferred as above provided shall bear, except if such transfer is made pursuant to Rule 144, the appropriate restrictive legend set forth in Section 6.8 above, except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such holder and Fluidigm, such legend is not required in order to establish compliance with any provisions of the Securities Act or this Agreement.

6.10 Standoff Agreement. UABRF agrees in connection with Fluidigm's initial sale of securities pursuant to an effective registration statement, upon notice by Fluidigm or the underwriters managing such offering, not to sell, make any short sale of, loan, pledge (or

otherwise encumber or hypothecate), grant any option for the purchase of, or otherwise directly or indirectly dispose of any Securities (other than those included in the registration) without the prior written consent of Fluidigm and such managing underwriters for such period of time as Fluidigm's Board of Directors establishes pursuant to its good faith negotiations with such managing underwriters; provided, however that:

(i) such agreement shall not exceed one hundred eighty (180) days;

(ii) such agreement shall not apply to transfers to an affiliate, provided that such affiliate agrees to be bound by the terms of such agreement, to the same extent as if such transferee were the original party thereunder;

(iii) UABRF shall not be subject to such agreement unless (A) all executive officers and directors of Fluidigm, (B) all shareholders of Fluidigm holding more than 1% of Fluidigm's outstanding capital stock and (C) all holders of registration rights, are subject to or obligated to enter into similar agreements; and

(iv) if and when any person identified in clause (iii) is released, in whole or in part, from such agreement (whether or not such release is contemplated at the time of the offering) or if any such agreement is terminated, UABRF shall be concurrently released on a pro rata basis based on the number of Securities held by such person and UABRF.

(b) UABRF agrees that prior to the initial public offering it will not transfer securities of Fluidigm unless each transferee agrees in writing to be bound by all of the provisions of this Section 6.10, provided that this Section 6.10 shall not apply to transfers pursuant to a registration statement.

UABRF hereby consents to the placement of stop transfer orders with Fluidigm's transfer agent in order to enforce the foregoing provision and agrees to execute a market standoff agreement with said underwriters in customary form consistent with the provisions of this Section 6.10.

ARTICLE VII

COVENANTS OF OCULUS

7.1 Conduct of Business. During the period from the date of this Agreement to the Closing, Oculus will conduct its business in the ordinary course consistent with past practices. During the period from the date of this Agreement to the Closing, Oculus will not without the prior written consent of Fluidigm:

(a) encumber or permit to be encumbered any of the Technology or Assigned Rights;

(b) dispose of any of the Technology or Assigned Rights;

(c) waive or release any right or claim relating to any Technology or Assigned Rights; or

(d) agree to do any of the things described in the preceding clauses of this Section 7.1.

Fluidigm agrees that the foregoing restrictions will not prevent Oculus from entering into a settlement agreement with Syrrx to settle the Lawsuit, provided that such settlement does not involve the sale, transfer or assignment of the Technology or the Assigned Rights, or any rights in any of the foregoing, or result in the creation of any Encumbrance on the Technology, the Assigned Rights, or any rights in any of the foregoing.

7.2 Access to Information. Until the earlier of the termination of this Agreement or the Closing, Oculus will allow Fluidigm and its agents reasonable access upon reasonable notice and during normal working hours to its files, books, records, and offices relating to the Technology and Assigned Rights, except where prohibited by contract or protected by privilege. In furtherance of the above, Fluidigm and its counsel and advisors shall have reasonable access during normal business hours to pertinent contracts of Oculus, including an unsigned final version of the settlement agreement between Oculus and Syrrx related to the Lawsuit, and drafts of such settlement agreement (to the extent it is permissible under applicable confidentiality terms and with the understanding that Oculus may be required to obtain the return or destruction by Fluidigm of the final version and drafts of such settlement agreement prior to its execution), as well as all scientific notebooks, invention records and other documents related to the conception and reduction to practice and prosecution of the patent filings listed on Exhibit D, including, without limitation, all patent searches, patent file wrappers, legal and scientific investigations and research related to the Technology, the License Agreement and the New License Agreement.

7.3 Regulatory Approvals. Prior to the Closing, Oculus will execute and file, or join in the execution and filing of, any application or other document that may be reasonably necessary in order to obtain the authorization, approval or consent of any governmental entity that may be required in connection with the consummation of the transactions contemplated by this Agreement. Oculus will use commercially reasonable efforts to obtain all such authorizations, approvals and consents.

7.4 Satisfaction of Conditions Precedent. Oculus will use commercially reasonable efforts to satisfy or cause to be satisfied all the conditions precedent to the Closing hereunder, and to cause the transactions contemplated hereby to be consummated, and, without limiting the generality of the foregoing, to obtain all consents and authorizations of third parties and to make all filings with, and give all notices to, third parties which may be necessary or reasonably required on its part in order to effect the transactions contemplated hereby.

ARTICLE VIII

COVENANTS OF UABRF

8.1 Conduct of Business. During the period from the date of this Agreement to the Closing, UABRF will not without the prior written consent of Fluidigm:

(a) encumber or permit to be encumbered any of the Technology;

(b) dispose of any of the Technology;

(c) waive or release any right or claim relating to any Technology; or

(d) agree to do any of the things described in the preceding clauses of this Section 8.1.

Fluidigm agrees that the foregoing restrictions will not prevent UABRF from consenting to a settlement agreement between Oculus and Syrrx to settle the Lawsuit, provided that such settlement does not involve the sale, transfer or assignment of the Technology or the Assigned Rights, or any rights in any of the foregoing, or result in the creation of any Encumbrance on the Technology, the Assigned Rights, or any rights in any of the foregoing.

8.2 Access to Information. Until the earlier of the termination of this Agreement or the Closing, UABRF will allow Fluidigm and its agents reasonable access upon reasonable notice and during normal working hours to its files, books, records, and offices relating to the Technology and Assigned Rights, except where prohibited by contract or protected by privilege. In furtherance of the above, Fluidigm and its counsel and advisors shall have reasonable access during normal business hours to pertinent scientific notebooks, invention records and other documents related to the conception and reduction to practice and prosecution of the patent filings listed on Exhibit D, including, without limitation, all patent searches, patent file wrappers, legal and scientific investigations and research related to the Technology, the License Agreement and the New License Agreement.

8.3 Regulatory Approvals. Prior to the Closing, UABRF will execute and file, or join in the execution and filing of, any application or other document that may be reasonably necessary in order to obtain the authorization, approval or consent of any governmental entity that may be required in connection with the consummation of the transactions contemplated by this Agreement. UABRF will use commercially reasonable efforts to obtain all such authorizations, approvals and consents.

8.4 Satisfaction of Conditions Precedent. UABRF will use commercially reasonable efforts to satisfy or cause to be satisfied all the conditions precedent to the Closing hereunder, and to cause the transactions contemplated hereby to be consummated, and, without limiting the generality of the foregoing, to obtain all consents and authorizations of third parties and to make all filings with, and give all notices to, third parties which may be necessary or reasonably required on its part in order to effect the transactions contemplated hereby.

ARTICLE IX

COVENANTS OF FLUIDIGM

9.1 Regulatory Approvals. Prior to the Closing, Fluidigm will execute and file, or join in the execution and filing of, any application or other document that may be reasonably necessary in order to obtain the authorization, approval or consent of any governmental entity that may be required in connection with the consummation of the transactions contemplated by this Agreement. Fluidigm will use its commercially reasonable efforts to obtain all such authorizations, approvals and consents.

9.2 Satisfaction of Conditions Precedent. Fluidigm will use commercially reasonable efforts to satisfy or cause to be satisfied all the conditions precedent to the Closing hereunder, and to cause the transactions contemplated hereby to be consummated, and, without limiting the generality of the foregoing, to obtain all consents and authorizations of third parties and to make all filings with, and give all notices to, third parties which may be necessary or reasonably required on its part in order to effect the transaction contemplated hereby.

ARTICLE X

MUTUAL COVENANTS

10.1 Confidentiality. The parties acknowledge that the Confidential Disclosure Agreement dated as of October 8, 2002 between Fluidigm and Oculus and the Confidential Disclosure Agreement dated December 19, 2002 between Fluidigm, Oculus and UABRF are binding upon the parties hereto and in full force and effect, except to the extent that the provisions hereof supersede provisions to similar effect contained in the Confidential Disclosure Agreements. The terms of the Confidential Disclosure Agreements (exclusive of such superseded provisions) are incorporated in this Agreement by this reference.

10.2 Publicity. Except as may otherwise be required by law, none of the parties hereto shall make or cause to be made any public announcements in respect of this Agreement or the transactions contemplated herein or otherwise communicate with any news media without the prior written consent of the other party, provided, however, that following the Closing Fluidigm may issue a press release to announce the closing of the transactions contemplated hereby and the execution and delivery of the New License Agreement and Sponsored Research Agreement with UABRF provided that such press release shall not be issued prior to the execution by Syrrx of a settlement agreement with Oculus to settle the litigation described in Schedule 4.6 but in any event the press release may be issued no later than 30 days from the execution date of the New License Agreement. Except for the press release issued by Fluidigm, none of the parties hereto will make any public disclosure prior to the Closing or with respect to the Closing unless all parties agree on the text and timing of such public disclosure, except as required by law. Nothing contained in this Section shall prevent any party at any time from furnishing any information pursuant to the requirements of any governmental entity; provided, however, that if such party is required to furnish such information, it will provide a copy to the other parties.

10.3 Governmental Filings. As promptly as practicable after the execution of this Agreement, each party shall make any and all governmental filings required with respect to the transactions contemplated in this Agreement and the Ancillary Documents.

ARTICLE XI

CONDITIONS TO CLOSING

11.1 Conditions to Each Party's Obligations. The respective obligations of each party to effect the transactions to be performed by such party at the Closing are subject to the satisfaction at or prior to the Closing of the following conditions any of which may be waived in writing by each party:

(a) No order shall have been entered, and not vacated, by a court or administrative agency of competent jurisdiction, in any action or proceeding which enjoins, restrains or prohibits the sale of the Assigned Rights, the grant of rights under the New License Agreement or the consummation of any other transaction contemplated hereby.

(b) All permits, authorizations, approvals and orders required to be obtained under all applicable statutes, codes, ordinances, rules and regulations in connection with the transactions contemplated hereby shall have been obtained and shall be in full force and effect at the Closing Date.

(c) There shall be no litigation pending or threatened by any regulatory body or private party in which (i) an injunction is or may be sought against the transactions contemplated hereby, or (ii) relief is or may be sought against any party hereto as a result of this Agreement and in which, in the good faith judgment of the Board of Directors of either Fluidigm, Oculus or UABRF (relying on the advice of their respective legal counsel), such regulatory body or private party has the probability of prevailing and such relief would have a material adverse affect upon such party.

11.2 Conditions to Obligations of Oculus and UABRF. The obligations of Oculus and UABRF to effect the transactions to be performed by Oculus and UABRF at the Closing are subject to the satisfaction at or prior to the Closing of the following additional conditions any of which may be waived in writing by Oculus and UABRF:

(a) All of the representations and warranties of Fluidigm set forth in Article V hereof shall be true in all material respects on and as of the Closing Date with the same force and effect as if they had been made at the Closing, except for changes contemplated by this Agreement.

(b) All of the terms, covenants and conditions of this Agreement to be complied with and performed by Fluidigm at or prior to the Closing shall have been duly complied with and performed in all material respects.

11.3 Conditions to Obligations of Fluidigm. The obligations of Fluidigm to effect the transactions to be performed by it at the Closing are subject to the satisfaction at or prior to the Closing of the following additional conditions any of which may be waived in writing by Fluidigm:

(a) All of the representations and warranties of Oculus and UABRF set forth in Articles IV and VI hereof shall be true in all material respects on and as of the Closing Date with the same force and effect as if they had been made at the Closing, except for changes contemplated by this Agreement.

(b) All of the terms, covenants and conditions of this Agreement to be complied with and performed by Oculus and UABRF at or prior to the Closing shall have been duly complied with and performed in all material respects.

(c) All required consents from third parties required to allow the consummation of the sale of the Assigned Rights, the grant of rights under the New License

Agreement and the other transactions contemplated hereby shall have been obtained and delivered to Fluidigm.

(d) Fluidigm shall have received an opinion from the attorney(s) prosecuting the patent filings listed on Exhibit D, in form and substance reasonably acceptable to Fluidigm, as to the following matters: (i) assignments of the inventions covered by the patent filings to UABRF have been properly filed with the United States Patent and Trademark Office ("USPTO"), (ii) UABRF is named as the sole owner of the inventions covered by the patent filings listed on Exhibit D, (iii) a declaration of interference was timely requested with at least one of the pending U.S. patent applications listed on Exhibit D and U.S. Patent No. 6,296,673 with the USPTO in accordance with U.S.C. Section 135, (iv) none of the patents listed on Exhibit D have been held to be permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and none of the patents listed on Exhibit D have been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise, and (v) the patent applications listed on Exhibit D were filed in good faith and have not been abandoned or finally disallowed without the possibility of appeal or refiling of such application.

ARTICLE XII

POST-CLOSING MATTERS

12.1 Additional Payments by Fluidigm. In addition to the consideration delivered by Fluidigm at the Closing, Fluidigm will pay the following amounts to UABRF upon the achievement of the following milestones:

(a) Milestone 1. Milestone 1 shall be satisfied [***]. Within [***] days after [***], Fluidigm will issue shares of its stock having a value of [***] (based on the fair value of the stock at the time Milestone 1 is achieved), subject to compliance with applicable securities laws.

(b) Milestone 2. Milestone 2 shall be satisfied [***]. Within [***] days after [***], Fluidigm will issue shares of its stock having a value of [***] (based on the fair value at the time Milestone 2 is achieved), subject to compliance with applicable securities laws. In addition, (i) [***]

[***]

(c) Stock to be Issued. If Fluidigm is a private company at the time a milestone is achieved, upon achievement of a milestone Fluidigm will issue shares of the series of Fluidigm Preferred Stock that was issued in Fluidigm's most recent financing and the shares will be valued at the price at which the shares were sold in such financing. If Fluidigm is a public company at the time a milestone is achieved, upon achievement of a milestone Fluidigm will issue shares of Fluidigm Common Stock and the shares will be valued at the average closing price of Fluidigm's Common Stock over the five trading days preceding the achievement of the milestone.

12.2 Settlement of Lawsuit. If the Lawsuit has not been settled or dismissed as of the Closing Date:

(a) Oculus agrees that Fluidigm and its counsel and advisors shall have reasonable access during normal business hours to the final version of the settlement agreement between Oculus and Syrrx related to the Lawsuit, and drafts of such settlement agreement (to the extent permissible under applicable confidentiality terms), in the manner contemplated by Section 7.2 of this Agreement, until the Lawsuit is settled or dismissed.

(b) Oculus and UABRF agree that if a settlement agreement related to the Lawsuit is entered into after the Closing Date, the settlement will not involve the sale, transfer or assignment of the Technology or the Assigned Rights, or any rights in any of the foregoing, or result in the creation of any Encumbrance on the Technology, the Assigned Rights, or any rights in any of the foregoing.

ARTICLE XIII

TERMINATION OF AGREEMENT

13.1 Termination by Fluidigm. This Agreement may be terminated at any time before the Closing by action of the Board of Directors of Fluidigm upon written notice to Oculus and UABRF, specifying the basis for such termination, if (i) Oculus or UABRF shall have breached in any material respect any of their covenants or agreements contained in this Agreement, or (ii) any representation or warranty of Oculus or UABRF contained in this Agreement shall have been materially inaccurate.

13.2 Termination by UABRF. This Agreement may be terminated at any time before the Closing by action of the Board of Directors or other governing body of UABRF upon written notice to Fluidigm, specifying the basis for such termination, if (i) Fluidigm shall have breached in any material respect any of its covenants or agreements contained in this Agreement, or (ii) any representation or warranty of Fluidigm contained in this Agreement shall have been materially inaccurate.

13.3 Mutual Consent. This Agreement may be terminated at any time before the Closing, by the mutual written consent of Fluidigm, Oculus and UABRF.

13.4 Effect of Termination. Upon any termination of this Agreement, all parties hereto shall be relieved of all further obligations under this Agreement, except for the provisions of Section 2.5 regarding the assignment by Oculus to Fluidigm of Assigned Rights, together with all patent rights and all other intellectual property rights therein, Section 15.6 regarding the payment of certain expenses and Section 10.1 regarding the continuing obligations of the parties under the Confidential Disclosure Agreements.

ARTICLE XIV

SURVIVAL OF REPRESENTATIONS AND WARRANTIES

14.1 Survival of Representations and Warranties. The representations and warranties set forth in this Agreement shall survive the Closing for a period equal to the greater of 12 months after the Closing Date or the date on which both Milestones specified in Section 12.1 have been achieved. After the expiration of such period, such representations and warranties shall expire and be of no further force and effect.

ARTICLE XV

GENERAL

15.1 Governing Law. It is the intention of the parties hereto that the internal laws of the State of California (irrespective of its choice of law principles) shall govern the validity of this Agreement, the construction of its terms, and the interpretation and enforcement of the rights and duties of the parties hereto; provided, however, that any disputes involving UABRF shall be governed by the internal laws of the State of Alabama (irrespective of its choice of law principles and any disputes involving UABRF shall be resolved Birmingham, Alabama in accordance with the provisions of Section 15.11 and UABRF shall have the right to raise all of the defenses available to the University of Alabama at Birmingham.

15.2 Assignment; Binding upon Successors and Assigns. None of the parties hereto may assign any of its rights or obligations hereunder (whether by operation of law or otherwise) without the prior written consent of the other party; provided, however, that any party may assign its rights and obligations under covenants and agreements to be performed after the Closing in connection with the sale of all or substantially all of such party's business. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

15.3 Severability. If any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances shall be interpreted so as best to reasonably effect the intent of the parties hereto. The parties further agree to replace such illegal, void or unenforceable provision of this Agreement with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the illegal, void or unenforceable provision.

15.4 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) the Ancillary Agreements, the documents and instruments and other agreements among the parties hereto referenced herein and therein, and the exhibits thereto, constitute the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties with respect hereto and thereto including, without limitation, the Letter Agreement. To the extent that any provision of this Agreement conflicts with any provision of the New License Agreement or the Sponsored Research Agreement between Fluidigm and UABRF, the applicable provision of the New License Agreement or the Sponsored Research Agreement, as the case may be, shall control and supersede the applicable provision of this Agreement.

15.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

15.6 Expenses.

(a) The parties shall each pay their own legal, accounting and financial advisory fees and other out-of-pocket expenses incurred incident to the negotiation, preparation and carrying out of this Agreement and the transactions herein contemplated, whether or not the transactions contemplated hereby are consummated.

(b) Each party shall indemnify the other against, and agrees to hold the other harmless from, all liabilities and expenses (including reasonable attorneys' fees) in connection with any claim by any person for compensation as a broker, finder or in any similar capacity, by reason of services allegedly rendered to the indemnifying party in connection with the transactions contemplated hereby.

15.7 Other Remedies. Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party shall be deemed cumulative with and not exclusive of any other remedy conferred hereby or by law on such party, and the exercise of any one remedy shall not preclude the exercise of any other.

15.8 Amendment. Any term or provision of this Agreement may be amended by a written instrument signed by Fluidigm, Oculus and UABRF; provided that any term or provision that pertains only to UABRF and Fluidigm may be amended by a written instrument signed by UABRF and Fluidigm.

15.9 Waiver. Any party hereto may, by written notice to the other party: (i) waive any of the conditions to its obligations hereunder or extend the time for the performance of any of the obligations or actions of another party; (ii) waive any inaccuracies in the representations of another party contained in this Agreement or in any documents delivered pursuant to this Agreement; (iii) waive compliance with any of the covenants of the other contained in this Agreement; or (iv) waive or modify performance of any of the obligations of another party. Except as specifically contemplated by this Agreement, no action taken pursuant to this Agreement, including without limitation any investigation by or on behalf of any party, shall be

deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, condition or agreement contained herein. Waiver of the breach of any one or more provisions of this Agreement shall not be deemed or construed to be a waiver of other breaches or subsequent breaches of the same provisions.

15.10 Informal Resolution. In the event of any controversy or claim arising under this Agreement, officers or comparable officials of UABRF, Oculus and Fluidigm shall promptly meet and attempt in good faith to reach a resolution of such controversy or claim.

15.11 Mediation. Any controversy or claim between any of the parties hereto arising out of or relating to this Agreement that is not resolved by the parties within thirty (30) days after delivery of notice of such controversy or claim, upon written notice of either Fluidigm, Oculus or UABRF, shall be submitted for resolution by mediation in accordance with commercial mediation guidelines. Any mediation proceeding shall be conducted in the County of Cook, City of Chicago, in the State of Illinois. The mediation shall be concluded within a ninety (90) day period after notice.

15.12 Notices. All notices and other communications hereunder will be in writing and will be deemed given (i) upon receipt if delivered personally (or if mailed by registered or certified mail), (ii) the next business day after dispatch if sent by overnight delivery service, (iii) upon dispatch if transmitted by facsimile (and confirmed by a copy delivered in accordance with clause (i) or (ii)), properly addressed to the parties at the following addresses:

Fluidigm:	Fluidigm Corporation 7100 Shoreline Court South San Francisco, CA 94080 Attention: President Facsimile No.: (650) 871-7192
with a copy to:	Fluidigm Corporation 7100 Shoreline Court South San Francisco, CA 94080 Attention: General Counsel Facsimile No.: (650) 871-7195
Oculus:	Oculus Pharmaceuticals, Inc. 1601 12th Avenue South Birmingham, AL 35205 Attention: B.J. Lehman Facsimile No: (216) 361-9495 and Oculus Pharmaceuticals, Inc. 3201 Carnegie Avenue Cleveland, OH 44115 Attention: B.J. Lehman Facsimile No.: (216) 361-9495

UABRF: The UAB Research Foundation
1120G Administration Building
701 20th Street South
Birmingham, AL 35294-0111
Attention: Director
Facsimile No.: (205) 975-5560

Any party may change its address for such communications by giving notice thereof to the other party in conformity with this Section.

15.13 Construction and Interpretation of Agreement.

(a) This Agreement has been negotiated by the parties hereto and their respective attorneys, and the language hereof shall not be construed for or against any party.

(b) The titles and headings herein are for reference purposes only and shall not in any manner limit the construction of this Agreement, which shall be considered as a whole.

(c) Any reference to a "material adverse effect" with respect to any entity or group of entities means a material adverse effect on the business, assets (including intangible assets), financial condition, properties, liabilities, results of operations or prospects of such entity.

(d) Any reference to a party's "knowledge means such party's actual knowledge after reasonable inquiry of its directors, officers and other management level employees that have responsibility for the referenced matters.

(e) When reference is made to a Section or Article, such reference shall be to a Section or Article of the Agreement, unless otherwise indicated.

15.14 No Joint Venture. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between any of the parties hereto. No party is by virtue of this Agreement authorized as an agent, employee or legal representative of any other party. No party shall have the power to control the activities and operations of any other and their status is, and at all times, will continue to be, that of independent contractors with respect to each other. No party shall have any power or authority to bind or commit any other. No party shall hold itself out as having any authority or relationship in contravention of this Section.

15.15 Absence of Third Party Beneficiary Rights. No provisions of this Agreement are intended, nor shall be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, shareholder, partner of any party hereto or any other person or entity unless specifically provided otherwise herein, and, except as so provided, all provisions hereof shall be personal solely between the parties to this Agreement.

15.16 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each party shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary or appropriate to effectuate and perform the provisions of this Agreement and such transactions and the intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

FLUIDIGM CORPORATION

By: /s/ Gajus Worthington

Title: President & CEO

OCULUS PHARMACEUTICALS, INC.

By: /s/ (ILLEGIBLE)

Title: President & CEO

THE UAB RESEARCH FOUNDATION

By: /s/ (ILLEGIBLE)

Title: Director

Acknowledged and agreed to
this March 7, 2003.

/s/ Dr. Larry DeLucas
Dr. Larry DeLucas

SCHEDULE 4.6

Lawsuit filed by Syrrx, Inc. against Oculus on April 30, 2002 in the United States District Court for the District of Delaware — Syrrx and Oculus may enter into a settlement agreement to settle the Lawsuit prior to the Closing under the Agreement; as part of the settlement a judgment or other order will be entered against Oculus by the court in which the Lawsuit was filed.

EXHIBIT A

Amended and Restated
Articles of Incorporation of Fluidigm

Superseded by Exhibit 3.1 filed with Registration Statement on April 14, 2008.

AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

Gajus V. Worthington and William Smith certify that:

1. They are the President and Secretary, respectively, of Fluidigm Corporation, a California corporation (the "Corporation").

2. The Articles of Incorporation of the Corporation are amended and restated in full to read as set forth in EXHIBIT A attached hereto.

3. Said Amended and Restated Articles of Incorporation have been duly approved by the Corporation's Board of Directors.

4. Said Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the corporation is 8,363,318 shares of Common Stock, 2,727,273 shares of Series A Preferred Stock, 6,460,675 shares of Series B Preferred Stock and 16,364,832 shares of Series C Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding Common Stock, voting as a single class, more than 66 2/3% of the outstanding Series C Preferred Stock, voting as a single class, more than 66 2/3% of the outstanding Preferred Stock voting as a single class and more than 50% of the outstanding Common Stock and Preferred Stock, voting together as a single class.

I further declare under penalty of perjury that the matters set forth in the foregoing certificate are true and correct of my own knowledge.

Executed at Palo Alto, California, this 17th day of December, 2003.

/s/ Gajus V. Worthington
Gajus V. Worthington
President

/s/ William Smith
William Smith
Secretary

Exhibit A

AMENDED AND RESTATED

ARTICLES OF INCORPORATION OF

FLUIDIGM CORPORATION

ARTICLE I

The name of the corporation is Fluidigm Corporation.

ARTICLE II

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated under the California Corporations Code.

ARTICLE III

The total number of shares of stock that the corporation shall have authority to issue is One Hundred Nine Million One Hundred Twenty-Six Thousand Eight Hundred Twenty-Seven (109,126,827), consisting of Sixty-Five Million Five Hundred Thousand (65,500,000) shares of Common Stock, $0.001 par value per share, and Forty-Three Million Six Hundred Twenty-Six Thousand Eight Hundred Twenty-Seven (43,626,827) shares of Preferred Stock, $0.001 par value per share. The first series of Preferred Stock shall be designated “Series A Preferred Stock” and shall consist of Two Million Seven Hundred Twenty–Seven Thousand Two Hundred Seventy–Three (2,727,273) shares. The second series of Preferred Stock shall be designated “Series B Preferred Stock” and shall consist of Six Million Four Hundred Sixty Thousand Six Hundred Seventy-Five (6,460,675) shares. The third series of Preferred Stock shall be designated “Series C Preferred Stock” and shall consist of Twenty Million Five Hundred Fifty-One Thousand One Hundred Sixty Three (20,551,163) shares. The fourth series of Preferred Stock shall be designated “Series D Preferred Stock” and shall consist of Thirteen Million Eight Hundred Eighty-Seven Thousand Seven Hundred Sixteen (13,887,716) shares.

ARTICLE IV

The terms and provisions of the Common Stock and Preferred Stock are as follows:

1. Definitions. For purposes of this Article IV, the following definitions shall apply:

(a) "Conversion Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock, $2.58 per share for the Series C Preferred Stock and $2.80 per share for the Series D Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(b) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities (other than shares of Common Stock) convertible into or exchangeable for Common Stock.

(c) "Corporation" shall mean Fluidigm Corporation.

(d) "Dividend Rate" shall mean an annual rate of $0.11 per share for the Series A Preferred Stock, an annual rate of $0.18 for the Series B Preferred Stock, an annual rate of $0.26 per share for the Series C Preferred Stock and an annual rate of $0.30 per share for the Series D Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(e) "Liquidation Preference" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 per share for the Series B Preferred Stock, $2.58 per share for the Series C Preferred Stock and $2.80 per share for the Series D Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(f) "Options" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(g) "Original Issue Price" shall mean $1.10 per share for the Series A Preferred Stock, $1.78 for the Series B Preferred Stock, $2.58 per share for the Series C Preferred Stock and $2.80 per share for the Series D Preferred Stock (each subject to adjustment from time to time as set forth elsewhere herein).

(h) "Preferred Stock" shall mean the Series A Preferred Stock, Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock.

2. Dividends.

(a) Series D Preferred Stock. The holders of outstanding shares of Series D Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Common Stock (collectively, the "**Junior Stock**") of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Junior Stock during any fiscal year of the Corporation, other than dividends on the Common Stock payable solely in Common Stock, until all declared dividends on the Series D Preferred Stock have been paid or set apart for payment to the holders of Series D Preferred Stock. The right to receive dividends on shares of Series D Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series D Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(b) Series C Preferred Stock. The holders of outstanding shares of Series C Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Series A Preferred Stock, Series B Preferred Stock or Common Stock of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Series A Preferred Stock, Series B Preferred Stock or Common Stock during any fiscal year of the Corporation, other than dividends on the Common Stock payable solely in Common Stock, until all declared dividends on the Series C Preferred Stock have been paid or set apart for payment to the holders of Series C Preferred Stock. The right to receive dividends on shares of Series C Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series C Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(c) Series A Preferred Stock and Series B Preferred Stock. The holders of outstanding shares of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive dividends, when and as declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Preferred Stock payable in preference and priority to any declaration or payment of any distribution on Common Stock of the Corporation other than a dividend payable solely in Common Stock. No distributions shall be made with respect to the Common Stock, other than dividends payable solely in Common Stock, until all declared dividends on the Preferred Stock have been paid or set apart for payment to the Preferred Stock holders. Payment of any dividends to the holders of the Series A Preferred Stock and Series B Preferred Stock shall be on a pro-rata, pari passu basis in proportion to the Dividend Rates for the Series A Preferred Stock and Series B Preferred Stock, as applicable. The right to receive dividends on shares of Series A Preferred Stock and Series B Preferred Stock shall not be cumulative, and no right to such dividends shall accrue to holders of Series A Preferred Stock or Series B Preferred Stock by reason of the fact that dividends on said shares are not declared or paid in any year.

(d) Distribution. For purposes of this Section 2, unless the context otherwise requires, a "**distribution**" shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, payable other than in Common Stock, or the purchase or redemption of shares of the Corporation other than (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors; and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors; and (iii) any other repurchase or redemption of capital stock of the corporation unanimously approved by the Board of Directors and approved by the holders of the majority of the Common Stock and the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock, voting as separate classes.

(e) Common Stock. Dividends may be paid on the Common Stock as and when declared by the Board of Directors, subject to the prior dividend rights of the Preferred Stock and Section 6 below.

(f) Non-Cash Distributions. Whenever a distribution provided for in this Section 2 shall be payable in property other than cash, the value of such distribution shall be deemed to be the fair market value of such property as determined in good faith by the Board of Directors.

(g) Consent to Certain Repurchases. As authorized by Section 402.5(c) of the California Corporations Code, Sections 502 and 503 of the California Corporations Code shall not apply with respect to payments made by the Corporation in connection with (i) repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase and at the original purchase price paid by such employees, consultants, officers and directors, and (ii) repurchase of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such rights, provided that such repurchase is unanimously approved by the Board of Directors, and (iii) any other repurchase or redemption of capital stock of the Corporation unanimously approved by the Board of Directors and approved by the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class.

3. Liquidation Rights.

In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, distribution of the assets of the Corporation legally available for distribution to the Corporation's shareholders shall be made in the following manner:

(a) Series D Liquidation Preference. The holders of the Series D Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series D Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series D Preferred Stock. If the assets of the Corporation legally available for distribution to the holders of the Series D Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(a), then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series D Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(a).

(b) Series C Liquidation Preference. After payment to the holders of Series D Preferred Stock of the full amounts specified in Section 3(a) above, the holders of the Series C Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Common Stock, the Series A Preferred Stock and the Series B Preferred Stock by reason of their ownership of such stock, an amount per share for each

share of Series C Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series C Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series C Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(b), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series C Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(b).

(c) Series B Liquidation Preference. After the payment to the holders of Series D Preferred Stock and Series C Preferred Stock of the full amounts specified in Sections 3(a) and 3(b) above, the holders of the Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock and the Series A Preferred Stock by reason of their ownership of such stock, an amount per share for each share of Series B Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series B Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series B Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(c), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series B Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(c).

(d) Series A Liquidation Preference. After the payment to the holders of Series D Preferred Stock, the holders of Series C Preferred Stock and the holders of Series B Preferred Stock of the full amounts specified in Sections 3(a), 3(b) and 3(c) above, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the remaining assets of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount per share for each share of Series A Preferred Stock held by them equal to the sum of (i) the Liquidation Preference for such shares and (ii) all declared and unpaid dividends on such share of Series A Preferred Stock. If the remaining assets of the Corporation legally available for distribution to the holders of the Series A Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(d), then the entire remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series A Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(d).

(e) Remaining Assets. After the payment to the holders of Preferred Stock of the full amounts specified in Sections 3(a), 3(b), 3(c) and 3(d) above, the entire remaining assets of the Corporation legally available for distribution shall be distributed pro-rata to holders of the Common Stock of the Corporation in proportion to the number of shares of Common Stock held by them.

(f) Shares Not Treated as Both Preferred Stock and Common Stock in Any Distribution. Shares of Preferred Stock shall not be entitled to be converted into shares of Common Stock in order to participate in any distribution, or series of distributions, as shares of Common

Stock, without first foregoing participation in the distribution, or series of distributions, as shares of Preferred Stock.

(g) Reorganization. For purposes of this Section 3, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any merger effected exclusively for the purpose of changing the domicile of the Corporation) other than a transaction or series of transactions in which the holders of the voting securities of the Corporation outstanding immediately prior to such transaction or series of transactions continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Corporation held by such holders prior to such transaction, at least fifty percent (50%) of the total voting power represented by the voting securities of the Corporation or such surviving entity outstanding immediately after such transaction or series of transactions; or (ii) a sale, transfer, lease or other conveyance of all or substantially all of the assets of the Corporation.

(h) Valuation of Non-Cash Consideration. If any assets of the Corporation distributed to shareholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, except that any securities to be distributed to shareholders in a liquidation, dissolution, or winding up of the Corporation shall be valued as follows:

(i) If the securities are then traded on a national securities exchange or the Nasdaq Stock Market System (or a similar national quotation system), then the value of the securities shall be deemed to be to the average of the closing prices of the securities on such exchange or system over the ten (10) trading day period ending five (5) trading days prior to the distribution;

(ii) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the distribution; or

(iii) if there is no active public market for the securities, then the value of the securities shall be deemed to be the fair market value thereof as determined in good faith by the Board of Directors which determination shall include consideration of the illiquidity of the securities.

In the event of a merger or other acquisition of the Corporation by another entity, the distribution date shall be deemed to the date such transaction closes.

For the purposes of this Section 3(h), "**trading day**" shall mean any day on which the exchange or system on which the securities to be distributed are traded is open, and "closing prices" or "closing bid prices" shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or Nasdaq, the last reported trade price or sale price,

as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the "regular hours" trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

4. Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

(a) Right to Convert. Subject to Section 4(c), each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the Corporation or any transfer agent for the Preferred Stock, into that number of fully-paid, nonassessable shares of Common Stock determined by dividing the Original Issue Price for the relevant series by the Conversion Price for such series. (The number of shares of Common Stock into which each share of Preferred Stock of a series may be converted is hereinafter referred to as the "**Conversion Rate**" for each such series.) Upon any decrease or increase in the Conversion Price for any series of Preferred Stock, as described in this Section 4, the Conversion Rate for such series shall be appropriately increased or decreased.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share (i) immediately prior to the closing of a firm commitment underwritten initial public offering on Form S-1 (or successor form) filed under the Securities Act of 1933, as amended (the "**Securities Act**"), covering the offer and sale of the Corporation's Common Stock, provided that the offering price per share is not less than $5.69 (as adjusted for stock splits or stock dividends) and the aggregate gross proceeds to the Corporation are not less than $25,000,000, or (ii) upon the receipt by the Corporation of a written consent or request for such conversion from the holders of two-thirds of the shares of Preferred Stock then outstanding, or, if later, the effective date for conversion specified in such requests (each of the events referred to in (i) and (ii) being hereinafter referred to as an "**Automatic Conversion Event**").

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of a share of Common Stock as determined by the Board of Directors. For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, and to receive certificates therefor, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock, and shall give written notice to the Corporation at such office that he elects to convert the same; provided, however, that on the date of an Automatic Conversion Event, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided further, however, that the Corporation shall not be obligated to issue

certificates evidencing the shares of Common Stock issuable upon such Automatic Conversion Event unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of an Automatic Conversion Event, each holder of record of shares of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

The Corporation shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; provided, however, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of the sale of such securities.

(d) Adjustments to Conversion Price for Diluting Issues.

(i) Special Definition. For purposes of this Section 4(d), "**Additional Shares of Common**" shall mean all shares of Common Stock issued (or, pursuant to Section 4(d)(iii), deemed to be issued) by the Corporation after the filing of these Articles of Incorporation, other than:

(1) shares of Common Stock issued or issuable upon conversion of shares of Preferred Stock;

(2) shares of Common Stock issued or issuable to officers, directors and employees of, or consultants and other service providers to, the Corporation pursuant to stock grants, option plans, purchase plans or other employee stock incentive programs or arrangements approved by the Board of Directors or upon exercise of options or warrants granted to such parties pursuant to any such plan, program or arrangement;

(3) shares of Common Stock issued upon the exercise or conversion of Options or Convertible Securities outstanding as of the date of the filing of these Articles of Incorporation;

(4) shares of Common Stock issued or issuable as a dividend or distribution on Preferred Stock or pursuant to any event for which adjustment is made pursuant to Section 4(e), 4(f) or 4(g) hereof;

(5) shares of Common Stock issued in a registered public offering under the Securities Act pursuant to which all outstanding shares of Preferred Stock are automatically converted into Common Stock pursuant to an Automatic Conversion Event;

(6) shares of Common Stock issued or issuable pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided, that such issuances are unanimously approved by the Board of Directors;

(7) shares of Common Stock issued or issuable to banks, equipment lessors or other financial institutions pursuant to a commercial leasing or debt financing transaction approved by the Board of Directors;

(8) shares of Common Stock issued or issuable in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements, or strategic partnerships or relationships, if the issuance is approved by the Board of Directors; and

(9) shares of Common Stock issued or issuable upon conversion of up to $5 million in aggregate principal amount (plus interest) of convertible promissory notes originally issued or issuable to Biomedical Sciences Investment Fund Pte Ltd. or its affiliates and upon conversion of up to $3 million in aggregate principal amount (plus interest) of convertible promissory notes originally issued or issuable to Invus, L.P. or its affiliates.

(ii) No Adjustment of Conversion Price. No adjustment in the Conversion Price of a particular series of Preferred Stock shall be made in respect of the issuance of Additional Shares of Common unless the consideration per share (as determined pursuant to Section 4(d)(vi)) for an Additional Share of Common issued or deemed to be issued by the Corporation is less than the Conversion Price in effect on the date of, and immediately prior to such issue, for such series of Preferred Stock.

(iii) Deemed Issue of Additional Shares of Common. In the event the Corporation at any time or from time to time after the date of the filing of these Articles of Incorporation shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible

Securities, the conversion or exchange of such Convertible Securities or, in the case of Options for Convertible Securities, the exercise of such Options and the conversion or exchange of the underlying securities, shall be deemed to have been issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which shares are deemed to be issued:

(1) no further adjustment in the Conversion Price of the Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock in connection with the exercise of such Options or conversion or exchange of such Convertible Securities;

(2) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price of the Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(3) no readjustment pursuant to clause (2) above shall have the effect of increasing the Conversion Price of the Preferred Stock to an amount which exceeds the lower of (i) the Conversion Price of the Preferred Stock on the original adjustment date, or (ii) the Conversion Price of the Preferred Stock that would have resulted from any issuance of Additional Shares of Common between the original adjustment date and such readjustment date;

(4) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

(A) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of such exercised Options plus the consideration actually received by the Corporation upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange, and

(B) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common deemed to have been then issued was the consideration actually received by the Corporation for the issue of such exercised Options, plus the consideration deemed to have been

received by the Corporation (determined pursuant to Section 4(d)(v)) upon the issue of the Convertible Securities with respect to which such Options were actually exercised; and

(5) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Conversion Price which became effective on such record date shall be canceled as of the close of business on such record date, and thereafter the Conversion Price shall be adjusted pursuant to this Section 4(d)(iii) as of the actual date of their issuance.

(iv) Adjustment of Conversion Price of Series D Preferred Stock Upon Issuance of Additional Shares of Common.

(1) For so long as the Conversion Price of the Series D Preferred Stock is greater than $2.58 (as adjusted for subdivisions and combinations of the Common Stock and changes in the Common Stock as set forth in Sections 4(e) and 4(g)) (the "**Series D Ratchet Amount**"), in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) for a consideration per share less than the applicable Conversion Price of the Series D Preferred Stock in effect on the date of and immediately prior to such issue, but for a consideration per share equal to or greater than the Series D Ratchet Amount, then, the Conversion Price of the Series D Preferred Stock shall be reduced concurrently with such issue to a price (calculated to the nearest cent) equal to the per share price of the Additional Shares of Common.

(2) In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than the Series D Ratchet Amount, then, the Conversion Price of the Series D Preferred Stock immediately prior to such issue shall be deemed to be equal to the Series D Ratchet Amount (the "**Adjusted Conversion Price**") and such Adjusted Conversion Price shall be further reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Adjusted Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Adjusted Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(iv)(2), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding. Section 4(d)(iv)(3) shall govern adjustments to the Conversion Price of the Series D Preferred Stock after the first adjustment to the Conversion Price of the Series D Preferred Stock pursuant to this Section 4(d)(iv)(2).

(3) After any adjustment to the Conversion Price of the Series D Preferred Stock pursuant to Section 4(d)(iv)(2), in the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to

Section 4(d)(iii)) without consideration or for a consideration per share less than Conversion Price of the Series D Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Series D Preferred Stock shall be reduced concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(iv)(3), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding.

(v) Adjustment of Conversion Price of Series A, B and C Preferred Stock. In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(d)(iii)) without consideration or for a consideration per share less than the applicable Conversion Price of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock (if affected) shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. For the purposes of this Section 4(d)(v), all shares of Common Stock issuable upon exercise of outstanding Options or the conversion of outstanding Convertible Securities and shares of Preferred Stock, and all Additional Shares of Common deemed issued pursuant to Section 4(d)(iii) hereof, shall be deemed to be outstanding.

(vi) Determination of Consideration. For purposes of this Section 4(d), the consideration received by the Corporation for the issue (or deemed issue) of any Additional Shares of Common shall be computed as follows:

(1) Cash and Property. Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation before deducting reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with such issue (or deemed issue);

(B) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as reasonably determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common deemed to have been issued pursuant to Section 4(d)(iii) shall be determined by dividing

(X) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

(Y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(e) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price of each series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Common Stock, the Conversion Prices in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(f) Adjustments for Subdivisions or Combinations of Preferred Stock. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(g) Adjustments for Reclassification, Exchange and Substitution. Subject to Section 3 above ("**Liquidation Rights**"), if the Common Stock issuable upon conversion of the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), then, in any such event, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, each holder of such Preferred Stock shall have the right thereafter to convert such shares of Preferred Stock into a number of shares of such other class or classes of stock which a holder of the number of shares of Common Stock deliverable upon conversion of such series of Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(h) No Impairment. The Corporation will not through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment. Notwithstanding the foregoing, nothing in this Section 4(h) shall prohibit the Corporation from amending its Articles of Incorporation with the requisite consent of its shareholders and the board of directors.

(i) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(j) Notices of Record Date. In the event that this Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iii) to voluntarily liquidate or dissolve or to enter into any transaction deemed to be a liquidation, dissolution or winding up of the corporation pursuant to Section 3(f);

then, in connection with each such event, this Corporation shall send to the holders of the Preferred Stock at least 14 days' prior written notice of the date on which a record shall be taken for such dividend or distribution (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (ii) and (iii) above.

Each such written notice shall be given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of this Corporation.

The right of the holders of the Preferred Stock to notice hereunder may be waived, either prospectively or retroactively and either generally or in a particular instance, by the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class.

(k) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(l) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of more than two-thirds (2/3) of the outstanding shares of such series. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Voting.

(a) Restricted Class Voting. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

(b) No Series Voting. Other than as provided herein or required by law, there shall be no series voting.

(c) Preferred Stock. Each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock held by such holder could be converted as of the record date. The holders of shares of the Preferred Stock shall be entitled to vote on all matters on which the Common Stock shall be entitled to vote. Holders of Preferred Stock shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted

and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(d) Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

(e) Election of Directors. So long as at least 2,000,000 shares of Series D Preferred Stock (as adjusted for stock splits, subdivisions, combinations or stock dividends with respect to such shares) remain outstanding, the holders of the Series D Preferred Stock, voting as a separate class, shall be entitled to elect one (1) member of the Corporation's Board of Directors at each meeting or pursuant to each consent of the Corporation's shareholders for the election of directors. So long as at least 2,000,000 shares of Series C Preferred Stock (as adjusted for stock splits, subdivisions, combinations or stock dividends with respect to such shares) remain outstanding, the holders of Series C Preferred Stock, voting as a separate class, shall be entitled to elect three (3) members of the Corporation's Board of Directors at each meeting or pursuant to each consent of the Corporation's shareholders for the election of directors. Any additional members of the Corporation's Board of Directors shall be elected by the holders of Common Stock, Series A Preferred Stock and Series B Preferred Stock, voting together as a single class.

6. Amendments and Changes Requiring Approval of Preferred Stock. As long as any of the Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of more than two-thirds (2/3) of the outstanding shares of the Preferred Stock voting together as a single class:

(a) amend, alter or repeal any provision of the Articles of Incorporation or By-laws of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Preferred Stock or any series thereof;

(b) enter into any transaction or series of related transactions deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to Section 3(f) above;

(c) voluntarily liquidate or dissolve;

(d) declare or pay any distribution (as defined in Section 2(d)) with respect to the Common Stock of the Corporation;

(e) permit any subsidiary of the Corporation to sell securities to a third party (other than directors' qualifying shares in the case of subsidiaries outside the United States);

(f) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Preferred Stock;

(g) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, liquidation, redemption, conversion or other rights senior to or on a parity with any series of Preferred Stock or with respect to voting senior to any series of Preferred Stock;

(h) increase or decrease the authorized number of directors of the Corporation; or

(i) amend this Section 6.

7. Amendments and Changes Requiring the Approval of the Series D Preferred Stock.

(a) As long as any of the Series D Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of 60% of the outstanding shares of the Series D Preferred Stock:

(i) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series D Preferred Stock in a manner different from any other series of Preferred Stock; or

(ii) amend this Section 7(a).

(b) As long as any of the Series D Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of a majority of the outstanding shares of the Series D Preferred Stock:

(i) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series D Preferred Stock;

(ii) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series D Preferred Stock or with respect to voting senior to the Series D Preferred Stock;

(iii) declare or pay any distribution (as defined in Section 2(d)) with respect to the Common Stock or Preferred Stock of the Corporation;

(iv) increase the authorized number of directors of the Corporation above eleven (11); or

(v) amend this Section 7(b).

8. Amendments and Changes Requiring the Approval of the Series C Preferred Stock. As long as any of the Series C Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of two-thirds of the outstanding shares of the Series C Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or

restrictions provided for the benefit of the Series C Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series C Preferred Stock;

(c) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, preferences or privileges with respect to dividends, payments upon liquidation or other rights senior to or on a parity with the Series C Preferred Stock or with respect to voting senior to the Series C Preferred Stock;

(d) declare or pay any distribution (as defined in Section 2(c)) with respect to the Common Stock or Preferred Stock of the Corporation;

(e) increase the authorized number of directors of the Corporation above eleven (11); or

(f) amend this Section 8.

9. Amendments and Changes Requiring the Approval of the Series B Preferred Stock. As long as any of the Series B Preferred Stock shall be issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders of two-thirds of the outstanding shares of the Series B Preferred Stock:

(a) amend, alter or repeal any provision of the Articles of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series B Preferred Stock in a manner different from any other series of Preferred Stock;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Series B Preferred Stock; or

(c) amend this Section 9.

10. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Article 4 hereof, then the shares so converted shall be cancelled and shall not be issuable by the Corporation. The Articles of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

11. Notices. Any notice required by the provisions of this Article IV to be given to the holders of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

ARTICLE V

1. Limitation of Directors' Liability. The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

2. Indemnification of Corporate Agents. This Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, votes of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to this Corporation and its shareholders.

3. Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article V shall not adversely affect any right of indemnification or limitation of liability permitted under California law relating to acts or omissions occurring prior to such repeal or modification.

(THE GREAT SEAL OF THE STATE OF CALIFORNIA - OFFICE OF THE SECRETARY OF STATE)

EXHIBIT B

Form of New License Agreement

Superseded by Exhibit 10.9A filed with the Registration Statement on April 14, 2008.

EXHIBIT C

Form of Sponsored Research Agreement

FORM OF
SPONSORED RESEARCH AGREEMENT

THIS SPONSORED RESEARCH AGREEMENT (this "Agreement") dated as of March , 2003 (the "Effective Date"), is entered into between The UAB Research Foundation, an Alabama not for profit organization (the "UABRF"), having a place of business at 1120G Administration Building, 704 20th Street, Birmingham, Alabama 35294, and Fluidigm Corporation, a California corporation ("Fluidigm"), having a place of business at 7100 Shoreline Court, South San Francisco, California 94080. The parties agree as follows:

1. DEFINITIONS

1.1 "Confidential Information" shall mean, with respect to a party, all information of any kind whatsoever, and all tangible and intangible embodiments thereof of any kind whatsoever, which is disclosed by such party to the other party and is marked, identified as or otherwise acknowledged to be confidential at the time of disclosure to the other party. Notwithstanding the foregoing, Confidential Information of a party shall not include information which the other party can establish by written documentation (a) to have been publicly known prior to disclosure of such information by the disclosing party to the other party, (b) to have become publicly known, without fault on the part of the other party, subsequent to disclosure of such information by the disclosing party to the other party, (c) to have been received by the other party at any time from a source, other than the disclosing party, rightfully having possession of and the right to disclose such information, (d) to have been otherwise known by the other party prior to disclosure of such information by the disclosing party to the other party, or (e) to have been independently developed by employees or agents of the other party without access to or use of such information disclosed by the disclosing party to the other party (each, a "Confidentiality Exception").

1.2 "Derived" or "derived" shall mean obtained, developed, created, designed, derived or resulting from, based upon or otherwise generated (whether directly or indirectly, or in whole or in part).

1.3 "Master Closing Agreement" shall mean a Master Closing Agreement between Fluidigm, UABRF and Oculus Pharmaceuticals, Inc. of even date hereof.

1.4 "Materials" shall mean the proprietary materials provided by one party to the other under this Agreement, together with all derivatives and parts thereof.

1.5 "Principal Investigator" shall mean [***].

1.6 "Program" shall mean the research program described in Section 2.1.

1.7 "Program Period" shall mean the period commencing on the Effective Date, and continuing through the fifth (5th) anniversary of the Effective Date, unless terminated earlier as provided below.

1.8 "Program Technology" shall mean, collectively, all inventions, discoveries, data and information (whether patentable or not patentable) generated in connection with the Program, excluding the Materials. Unless subject to a Confidentiality Exception, all Program Technology shall be Confidential Information of UABRF.

1.9 "Research Plan" shall mean the annual written research workplan for the Program.

2. SPONSORED RESEARCH

2.1 Statement of Work. During the Program Period, UABRF shall conduct the Program in accordance with the Research Plan. The Research Plan for the first (1st) year of the Program is attached hereto as Exhibit A. No later than ninety (90) days prior to each anniversary of the Effective Date (other than the fifth (5th) anniversary thereof) during the term of this Agreement the parties shall mutually agree upon the Research Plan for the upcoming year of the Program and shall amend Exhibit A by attaching such mutually agreed upon Research Plan thereto. Except as provided in this Section 2.1 or except by the mutual written agreement of the parties, the Research Plan shall not be altered.

2.2 Principal Investigator. UABRF shall conduct the Program under the direction of the Principal Investigator. The Principal Investigator shall be responsible for the supervision and administration of the Program, including all budgeting and revisions to the budget in accordance with all applicable policies of UABRF. Fluidigm shall consider in good faith utilizing on mutually acceptable terms and conditions the engineering capability available at the Principal Investigator's laboratory for the continuing development of Fluidigm's Topaz microprocessor product line as reasonably required by, but at the sole discretion of, Fluidigm at additional compensation over and above the amounts set forth in Section 4.1 of this Agreement.

2.3 Records and Reports.

2.3.1 UABRF shall keep complete and accurate records of the work performed under this Agreement in accordance with established good laboratory practices and appropriate for patent purposes. Fluidigm shall have the right, upon reasonable notice and during reasonable business hours, to inspect and make copies of such accounts, notes, data and records.

2.3.2 Within [***] after the end of each calendar quarter during the Program Period, UABRF shall prepare and provide Fluidigm with quarterly written reports describing the work performed during such calendar quarter under this Agreement and all resulting Program Technology. Within [***] after the expiration or earlier termination of the Program Period, UABRF shall prepare and provide Fluidigm with a comprehensive written report describing all work performed under this Agreement and all resulting Program Technology. At Fluidigm's request, upon reasonable notice, UABRF also shall provide interim summary reports and copies of all data generated under this Agreement.

2.4 Informal Consultations. At reasonable times during the Program Period, Fluidigm's representatives may consult informally with the Principal Investigator regarding the Program personally, by telephone, email or other means of communication.

3. MATERIAL TRANSFER

3.1 Materials. Each party shall provide to the other party (the "Recipient") those Materials required to be provided under the Research Plan. The Recipient of any Materials hereby acknowledges that, as between the parties, the other party is the sole owner or licensee of such Materials.

3.2 Permitted Use. The Recipient shall use the Materials solely as permitted under the Research Plan and not for any other purpose. THE RECIPIENT UNDERSTANDS THAT THE MATERIALS ARE PROVIDED SOLELY FOR CERTAIN RESEARCH USE ONLY AND HAVE NOT BEEN APPROVED FOR HUMAN USE. THE RECIPIENT SHALL NOT ADMINISTER THE MATERIALS TO HUMANS IN ANY MANNER OR FORM. Provided however, upon the Fluidigm Materials becoming commercially available ("Commercial Fluidigm Materials"), the restrictions of this Section 3.2 shall terminate as to the Commercial Fluidigm Materials, and the UABRF /UAB shall have the right to use the Commercial Fluidigm Materials on the same terms and conditions as Fluidigm generally makes the Commercial Fluidigm Materials commercially available to third parties.

3.3 No Transfer. The Recipient shall not transfer the Materials to any third party without the prior express written consent of the other party. The Recipient shall limit transfer and disclosure of the Materials on a need to know basis, as reasonably necessary for the conduct of the Program, to its directors, officers and employees who are bound by written agreements with the Recipient to not use or transfer the Materials for any purpose other than those permitted by this Agreement. The Recipient shall notify the other party promptly upon discovery of any unauthorized use or transfer thereof.

3.4 Return of Materials. Upon expiration or termination of the Program Period, the Recipient shall promptly return or destroy (as requested by the other party) all remaining Materials to the other party.

3.5 No Warranty. THE RECIPIENT ACKNOWLEDGES THAT THE MATERIALS ARE EXPERIMENTAL IN NATURE AND ARE PROVIDED "AS IS." THE PARTY PROVIDING THE MATERIALS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRES OR IMPLIED, WITH RESPECT TO THE MATERIALS OR THE USE THEREOF, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

4. FUNDING

4.1 Budget and Payment. Subject to the terms and conditions of this Agreement, Fluidigm shall support the Program by an aggregate grant to UABRF of [***], payable in [***] equal quarterly installments of [***] on or before the thirtieth (30th) day of each calendar quarter after the Effective Date. Fluidigm shall have no obligation to provide funds to UABRF in excess of such amount. All payments by Fluidigm to UABRF under this Agreement shall be originated from a United States bank located in the United States and made by bank wire transfer

to the following account: Account Name: UAB Research Foundation; Bank Name: First Commercia1 Bank; ABA Number: [***], Account Number: [***].

4.2 Accounting. Upon request by Fluidigm, UABRF shall provide to Fluidigm a report of expenditures shown by major cost categories.

5. PROGRAM TECHNOLOGY

5.1 Ownership.

5.1.1 All right, title and interest in all Program Technology (a) made or conceived solely by employees or others acting on behalf of UABRF (the "UABRF Inventions") shall be owned solely by UABRF; (b) made or conceived solely by employees or others acting on behalf of Fluidigm (the "Fluidigm Inventions") shall be owned solely by Fluidigm; and (c) made or conceived jointly by employees or others acting on behalf of Fluidigm and by employees or others acting on behalf of UABRF (the "Joint Inventions") shall be owned jointly by Fluidigm and UABRF. Each party shall have the right, subject to the provisions of this Agreement, to freely exploit, transfer, license or encumber its rights in any Joint Inventions, and the patent rights and other intellectual property rights therein, without the consent of, or payment or accounting to, the other party.

5.1.2 The transfer of physical possession of any materials or technology owned by, and the physical possession and use of any materials or technology by, Fluidigm or UABRF, as the case may be, shall not be (nor construed as) a sale, lease, offer to sell or lease, or other transfer of title of such materials or technology to UABRF or Fluidigm, as the case may be.

5.2 Disclosure. UABRF promptly shall disclose to Fluidigm any Program Technology made or conceived by or on behalf of UABRF, and provide Fluidigm with copies of all information available to UABRF regarding such Program Technology.

5.3 Options and Licenses.

5.3.1 UABRF hereby grants to Fluidigm a nonexclusive, worldwide, royalty-free license (together with the right to grant sublicenses), under UABRF's rights in the Program Technology, to use all unpatented Program Technology for all purposes.

5.3.2 With respect to each discovery or invention comprising Program Technology, UABRF hereby grants to Fluidigm an exclusive option to obtain an exclusive, worldwide, royalty-bearing license (with the exclusive right to sublicense) under any issued patents relating to such discovery or invention for all purposes. The option with respect to each such discovery or invention shall be exercisable for the [***] following disclosure to Fluidigm of all information available to UABRF regarding such discovery or invention. The license shall be on mutually acceptable terms and conditions. Upon exercise by Fluidigm of the option with respect to each such discovery or invention, the parties shall negotiate in good faith, and shall use good faith efforts to execute a written agreement evidencing such license prior to the expiration of [***] days following the expiration of the one-year option term described above. The actual royalty rate shall be negotiated in good faith based on reasonable factors including without limitation [***]

[***]. Fluidigm shall have the right to control the filing, prosecution, maintenance and enforcement of all patent applications and patents that are so licensed to Fluidigm.

5.3.3 If Fluidigm fails to obtain a license under Section 5.3.2 with respect to any patent rights, during the [***] day negotiation period under Section 5.3.2 ("Option Negotiation Period"), UABRF for a [***] month period following the expiration of the Option Negotiation Period shall [***].

5.4 Patent Rights

5.4.1 UABRF shall control the preparation, filing, prosecution and maintenance of all patents and patent applications to the extent they claim UABRF Inventions or Joint Inventions. Fluidigm shall advise UABRF no later than ninety (90) days after disclosure by UABRF of a UABRF Invention or a Joint Invention whether it intends to reimburse UABRF for the reasonable out of pocket costs of preparing, filing and prosecuting patent applications covering such UABRF Invention or Joint Invention. If Fluidigm declines to reimburse UABRF for all reasonable costs of preparing, filing and prosecuting a patent application for a patentable UABRF Invention or Joint Invention in any jurisdiction, UABRF may do so at its sole cost, but such patent application and patent shall be excluded from Fluidigm's option to license under Section 5.3 above; provided, however, UABRF shall not file or prosecute a patent application when Fluidigm has demonstrated to UABRF that the filing or prosecution of such patent application would be prejudicial to the optimization of such UABRF Invention or Joint Invention. UABRF shall give Fluidigm an opportunity to review the text of, and shall reasonably consider Fluidigm's comments with respect to, each patent application for a UABRF Invention or a Joint Invention before filing, and shall supply Fluidigm with a copy of such application as filed, together with notice of its filing date and serial number. UABRF shall prepare, file and prosecute patent applications covering UABRF Inventions or Joint Inventions in all jurisdictions requested by Fluidigm, provided that Fluidigm has not declined to reimburse UABRF for all reasonable costs of preparing, filing and prosecuting such patent applications.

5.4.2 Fluidigm shall control, at its sole expense, the preparation, filing, prosecution and maintenance of all patents and patent applications to the extent they claim Fluidigm Inventions.

5.4.3 Each party shall cooperate with the other party, execute all lawful papers and instruments and make all rightful oaths and declarations as may be necessary in the preparation, filing, prosecution maintenance and enforcement of all patents and patent applications described in this Section 5.4.

6. CONFIDENTIALITY AND PUBLICATION

6.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration or earlier termination hereof, each party shall maintain in confidence all Confidential Information disclosed by the other party, and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees, consultants, clinical investigators, contractors, (sub)licensees, distributors or permitted assignees, to the extent such disclosure is reasonably necessary in connection with such party's activities as expressly authorized by this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, each party hereto shall obtain agreement of any such person or entity to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.

6.2 Terms of this Agreement. Except as otherwise provided in Section 6.1 or 6.3, neither party shall disclose any terms or conditions of this Agreement to any third party without the prior consent of the other party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties shall agree upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement from time to time, without the other party's consent.

6.3 Permitted Disclosures. The confidentiality obligations contained in this Section 6 shall not apply to the extent that the receiving party is required (a) to disclose information by law, order or regulation of a governmental agency or a court of competent jurisdiction, or (b) to disclose information to any governmental agency for purposes of obtaining approval to test or market a Product, provided in either case that the receiving party shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment thereof.

6.4 Publication. Fluidigm acknowledges UABRF's interest in publishing certain results of the Program to obtain recognition within the scientific community and to advance the state of scientific knowledge. Each party also recognized their mutual interest in obtaining valid patent protection and protecting business interests. Consequently, if UABRF desires to make a publication (including any oral disclosure made without obligation of confidentiality) of any results of the Program, UABRF shall provide Fluidigm with a copy of the proposed written publication at least [***] days prior to submission for publication, or an outline of such oral disclosure at least [***] days prior to presentation. Fluidigm shall have the right (a) to propose modifications to the publication for patent reasons, and (b) to request a reasonable delay in publication in order to protect patentable information. If Fluidigm requests such a delay, UABRF shall delay submission or presentation of the publication for a period of [***] days to enable patent applications to be prepared and filed. Upon the expiration of such [***] day period (in the case of proposed written disclosures) or [***] day period (in the case of proposed oral disclosures) from receipt by Fluidigm, UABRF shall be free to proceed with the written publication or the presentation, respectively, unless Fluidigm has requested the delay described above.

7. TERM

7.1 Expiration. Unless terminated earlier pursuant to Section 7.2, this Agreement shall expire on the expiration of the Program Period.

7.2 Termination for Cause. A party may terminate this Agreement upon or after a material breach of this Agreement by the other party, if the breaching party has not cured such breach within thirty (30) days after notice thereof from the other party.

7.3 Effect of Expiration and Termination. Expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination. The provisions of Sections 5, 6 and 8 shall survive the expiration or termination of this Agreement. Except as the parties otherwise agree in writing, termination of this Agreement shall not affect the Master Closing Agreement.

7.4 Outstanding Commitments. Upon the giving of notice of termination by either party, UABRF shall use best efforts to limit or terminate any outstanding commitments in connection with the Program. Fluidigm shall reimburse UABRF for all direct costs incurred by it for all work performed through the effective termination date, and for all outstanding obligations which cannot be cancelled; provided, however, that Fluidigm's aggregate funding obligation under this Agreement shall not exceed the amount set forth in Section 4.1 above. Within thirty (30) days after the effective date of termination, UABRF shall furnish Fluidigm with a final statement for settlement of all costs to be reimbursed. This statement may include costs incurred before the notice of termination was given but which were not yet billed. If funds received by UABRF exceed expenses incurred, UABRF shall reimburse Fluidigm for any such excess funds at the time such final statement is furnished to Fluidigm.

8. INDEMNIFICATION

8.1 Indemnification.

8.1.1 Fluidigm shall defend, indemnify and hold UABRF harmless from all losses, liabilities, damages and expenses (including reasonable attorneys' fees and costs) resulting from any claims, demands, actions and other proceedings by any unaffiliated third party to the extent resulting from Fluidigm's gross negligence or willful misconduct under this Agreement or use of the UABRF Materials or UABRF Confidential Information.

8.1.2 UABRF shall (to the fullest extent to which University of Alabama at Birmingham has the right under applicable law to do so) defend, indemnify and hold Fluidigm harmless from all losses, liabilities, damages and expenses (including reasonable attorneys, fees and costs) resulting from any claims, demands, actions and other proceedings by any unaffiliated third party to the extent resulting from UABRF's gross negligence or willful misconduct under the Agreement, or use of the Fluidigm Materials or Fluidigm Confidential Information.

8.1.3 A party (the "Indemnitee") that intends to claim indemnification under this Section 8.1 shall promptly notify the other party (the "Indemnitor") of any liability or action in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall have the right to participate in, and, to the extent the Indemnitor so desires,

jointly with any other indemnitor similarly noticed, to assume the defense thereof with counsel selected by the Indemnitor; provided, however, that an Indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the Indemnitor, if representation of such Indemnitee by the counsel retained by the Indemnitor would be inappropriate due to actual or potential differing interests between such Indemnitee and any other party represented by such counsel in such proceedings. The indemnity agreement in this Section 8.1 shall not apply to amounts paid in settlement of any loss, claim, damage, liability or action if such settlement is effected without the consent of the Indemnitor, which consent shall not be unreasonably withheld or delayed. The failure to deliver notice to the Indemnitor within a reasonable time after the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve the Indemnitor of any liability to the Indemnitee under this Section 8.1, but the omission so to deliver notice to the Indemnitor will not relieve it of any liability that it may have to the Indemnitee otherwise than under this Section 8.1. The Indemnitor may not settle the action or otherwise consent to an adverse judgment in such action that diminishes the rights or interests of the Indemnitee without the express written consent of the Indemnitee. The Indemnitee, its employees and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any action, claim or liability covered by this indemnification.

8.2 Representation. UABRF hereby represents that to the knowledge of UABRF and the Principal Investigator the rights and obligations of UABRF under this Agreement do not conflict with rights and obligations provided under other agreements which it has with third parties, including the federal and local governments. During the Program Period (or while Fluidigm is providing any subsequent funding), neither UABRF nor the Principal Investigator shall enter into any other agreements which conflict with rights and obligations provided hereunder, including any rights and obligations which survive termination hereto. UABRF shall enter into written agreements with its employees. consultants and such others as is necessary to obtain ownership of inventions, discoveries and other useful research results, products and processes made by them pursuant to activity carried out in connection with the Program.

9. MISCELLANEOUS

9.1 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one of the parties to the other shall be in writing and addressed to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor, and shall be effective upon receipt by the addressee.

If to UABRF: UAB Research Foundation
1120G Administration Building
704 20th Street
Birmingham, Alabama 35294
Attention: Director

If to Fluidigm: Fluidigm Corporation
7100 Shoreline Court
South San Francisco, California 94080
Attention: President

with a copy to: Fluidigm Corporation
7100 Shoreline Court
South San Francisco, California 94080
Attention: General Counsel

9.2 Assignment. Except as otherwise expressly provided under this Agreement neither this Agreement nor any right or obligation hereunder may be assigned or otherwise transferred (whether voluntarily, by operation of law or otherwise), without the prior express written consent of the other party; provided, however, that either party may, without such consent, assign this Agreement and its rights and obligations hereunder in connection with the transfer or sale of all or substantially all of its business, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment or transfer in violation of this Section 9.2 shall be void.

9.3 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, without regard to the conflicts of law principles thereof.

9.4 Entire Agreement. This Agreement and the Master Closing Agreement (together with the Ancillary Agreements, as defined in the Master Closing Agreement) contain the entire understanding of the parties with respect to the subject matter hereof. All express or implied representations, agreements and understandings, either oral or written, heretofore made are expressly superseded by this Agreement and the Master Closing Agreement.

9.5 Independent Contractors. Each party hereby acknowledges that the parties shall be independent contractors and that the relationship between the parties shall not constitute a partnership, joint venture or agency. Neither party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other party, without the prior consent of the other party to do so.

9.6 Waiver. The waiver by a party of any right hereunder, or of any failure to perform or breach by the other party hereunder, shall not be deemed a waiver of any other right hereunder or of any other breach or failure by the other party hereunder whether of a similar nature or otherwise.

9.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement as of the date first written above.

UAB RESEARCH FOUNDATION

By: _____
Title: _____

FLUIDIGM CORPORATION

By: _____
Title: _____

Acknowledged and agreed to
this March , 2003.

_____
Dr. [***],
Principal Investigator

EXHIBIT A

RESEARCH PLAN

[***]

APPENDIX 1
(To Exhibit A ("Research Plan")

[***]

Part Number	Item	Quantity
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]

Other Materials included: [***]

EXHIBIT D

PATENTS AND PATENT APPLICATIONS

[***]

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 10.10

COY-15-RISC/F269-1
S05/1-25730208

27 March 2008

Ms Grace Yow
General Manager
Fluidigm Singapore Pte Ltd
Block 1026, #07-3532
Tai Seng Avenue
Singapore 534413

Dear Ms Grace Yow,

APPLICATION FOR INCENTIVES UNDER THE RESEARCH INCENTIVE SCHEME FOR COMPANIES (RISC)

This is with reference to your application of 15 June 2005 and subsequent revisions for incentives under the Research Incentive Scheme for Companies. This letter amends, restates and replaces our original letter agreement dated 7 October 2005 (the "Prior Letter"), provided that the Supplement to the Prior Letter dated 11 January 2006 (the "Supplement") shall remain in full force and effect and all references in the Supplement to the Prior Letter or LOF shall be considered references to this amended and restated letter.

2 We are pleased to inform you that the Economic Development Board (hereinafter called "EDB") has agreed to provide a grant not exceeding S$9,926,000 in total to Fluidigm Singapore Pte Ltd (hereinafter called "the Company") under the RISC for your project on the development of the Fluidigm R&D centre (hereinafter called the "Development Project"), as described in your application. This grant shall be subject to the following conditions:

Project Implementation

(a) The Company shall implement the Development Project as indicated in the Company's application dated 15 June 2005 and subsequent revisions.

(b) The Development Project shall meet the project milestones, deliverables and headcount commitment as shown in Annex 1.

(c) The Company shall carry out the entire Development Project in Singapore unless otherwise stated.

(d) The Company shall employ at least 16 Research Scientists and Engineers in Singapore by 31 December 2007.

(e) The Company shall employ at least 24 Research Scientists and Engineers in Singapore by 31 December 2009.

(f) The Company shall incur annual R&D spending of at least S$6.5 million by 31 December 2008 and at least S$8 million by 31 December 2010.

(g) The Company shall be the legal and economic owner of all intellectual property (IP) arising from this project.

(h) The Company shall engage a Singapore-based IP or legal firm(s) to file, draft and manage all patent applications arising from this project.

(i) The Company shall manufacture all products developed from this RISC project in Singapore for the lifetime of the products.

Supported Period

(j) **Only expenses incurred during the qualifying period, which shall be from 1 August 2005 to 31 July 2010, will be supported.**

Grant Support

(k) All manpower, equipment, materials & software, professional services and intellectual property rights supported under this RISC grant shall be used exclusively for the Development Project and shall follow the administrative guidelines laid out in Annex 2.

(l) The Company shall not sell, lease, dispose or otherwise transfer the equipment & software supported under this RISC grant to another party during the execution of the Development Project without first obtaining the written approval of EDB, which if so granted, shall be on such terms as EDB deems fit. The Company shall at all times maintain proper records with respect to the assets acquired through the grant.

(m) The Company shall not seek or receive funds from any other incentives offered by other agencies of the Government of Singapore for funding of this Development Project.

(n) All grant monies received shall be used solely for the implementation of this Development project.

Project Management & Co-ordination

(o) The Company shall appoint a person (hereinafter called the "Principal Investigator") to lead the Development Project. The Principal Investigator shall be responsible for the proper management, co-ordination and progress of the Development Project, the management of grants disbursed and all other matters pertaining to the Development Project, including the preparation of claims, submission of audited statements and progress reports.

(p) The Principal Investigator shall be deemed as an agent of the Company throughout the Development Project and EDB shall at all times have access to the Principal Investigator with regards to all matters pertaining to the Development Project.

(q) The Company shall inform EDB in writing of any change in the Principal Investigator.

Other Conditions

(r) The Company shall permit EDB officers to inspect the premises where the development work is carried out, the Company's accounts on the development expenditures and the records on the progress of the Development Project.

(s) The Company shall be required to provide, through responses to surveys or any other such studies carried out by EDB, relevant information on the Development Project, as and when requested by EDB.

(t) If required by EDB, the Company shall submit a report comparing its projections in the application form with the actual realised figures. The template for this report and the timeline for submission will be provided by EDB.

3 In the event the Project is aborted, the Company is to inform EDB in writing immediately.

4 EDB reserves the right to recover from the Company the total amount of grant released to the Company for any breach of condition under which the RISC grant was approved.

5 The Company shall keep the terms and conditions of this RISC grant confidential. Such information shall not be released to any external party, the public or the press unless prior written consent from EDB is given.

6 EDB reserves the right to change the terms and conditions of this offer from time to time as may be specified and deemed necessary by EDB.

7 If you are prepared to accept this amended and restated offer of a grant under the conditions stipulated above, please sign below and return it to EDB within 1 month from the date of this letter, **failing which this offer shall be deemed to have lapsed**.

8 If you have any queries, please contact Ih-Ming CHAN at 6395 7794. For queries on claims, please call the EDAS hotline at 6832 6416. We wish you every success in this project.

Yours sincerely

DR BEH SWAN GIN
DIRECTOR
BIOMEDICAL SCIENCES CLUSTER

Enclosures:

Annex 1 Project Milestones and Deliverables

Annex 2 Administrative Guidelines

Accepted and Agreed

FLUIDIGM CORPORATION

_____

Name:
Title:

Annex 1

PROJECT MILESTONES AND DELIVERABLES

(a) The Company shall employ at least 16 Research Scientists and Engineers in Singapore by 31 December 2007.

(b) The Company shall employ at least 24 Research Scientists and Engineers in Singapore by 31 December 2009.

(c) The Company shall incur annual R&D spending of at least S$6.5 million by 31 December 2008 and at least S$8.0 million by 31 December 2010.

(d) The Company shall be the legal and economic owner of all intellectual property (IP) arising from this project. The economic benefits resulting from the exploitation of the IP arising from this project shall accrue to the Company.

(e) The Company shall engage a Singapore-based IP or legal firm(s) to file, draft and manage all patent applications arising from this project.

(f) The Company shall manufacture all products developed from this RISC project in Singapore for the lifetime of the products.

(g) The Company shall fulfil the following project milestones as indicated below:

Milestones	Date of Completion
TOPAZ Screening Chip	
[***]	[***]
[***]	[***]
TOPAZ Next Generation Screening Chip	
[***]	[***]
[***]	[***]
[***]	[***]
TOPAZ Diffraction Chip	
[***]	[***]
[***]	[***]
[***]	[***]

Milestones	Date of Completion
Dynamic Array IFCs	
[***]	[***]
[***]	[***]
[***]	[***]
Next Generation IFCs (Immunoassays, PET Synthesis, DID, Pathogen Detection)	
[***]	[***]

Annex 2

ADMINISTRATIVE GUIDELINES

1. The grant shall cover 50% of the actual qualifying manpower costs and 30% of the actual qualifying costs for equipment, materials & software, professional services and intellectual property rights incurred by the Company on the Development Project during the qualifying period. In the event where qualifying cost items are not used exclusively for the Development Project, the qualifying costs items shall be suitably pro-rated. The qualifying cost items are listed below, but shall be subject to a total maximum grant of S$9,926,000. Virement from one qualifying cost item to another will not be considered and the grant shall not cover GST payments.

Category	Approved Grant (S$)
Manpower	4,675,380
Equipment, Materials and Software	4,963,380
Professional services	288,000
Total	9,926,760
Total Approved Grant (Rounded down to nearest thousand dollars)	9,926,000

2. The qualifying cost for equipment (less its residual value, if any) is pro-rated based on the number of months the equipment is used for the project (this refers to the date of delivery to the end of qualifying period) over the approved useful life of equipment.

   The qualifying cost of equipment is based on the actual expenses, residual value, number of months that the equipment is used for the project and approved useful life of equipment.

   The qualifying cost for intellectual property rights (IPR) is pro-rated based on the project duration over the approved useful life of IPR.

   The qualifying cost of IPR is based on the cost of acquiring IPR, project duration and the approved useful life of IPR.

3. Disbursements shall be made on a reimbursement basis upon application by the Company at quarterly intervals. Claims must be submitted using the prescribed forms and shall be certified by the Company's Chief Financial Officer and the Principal Investigator. The amount disbursed shall be based on the actual qualifying cost item incurred by the Company on the Development Project during the qualifying period.

   The grant will be disbursed as follows:

   (i) Disbursements of up to a cumulative total 70% of the approved grant amount shall be made upon application by the Company.

   (ii) The remaining 30% of the grant may be released upon application by the Company on completion of the Development Project.

4. For all claims (except for the final claim), the first 50% of the amount claimed will be disbursed to the Company upon receipt of claim and the remaining 50% will be disbursed upon the completion of checks.
5. The final claim must be submitted within 6 months with complete documentation from the end of the qualifying period (31 July 2010), failing which any claim will be disqualified.
6. For total approved grant exceeding S$100,000, all claims must be externally audited. The audited statement of accounts shall be submitted on an annual basis, as well as when the Development Project is completed or terminated. The Company shall make available to its auditor this Letter of Offer and its accompanying annexes. The Company shall ensure that the external auditor forwards a copy of the audited accounts directly to EDB upon completion of the audit. In the event that the external auditor cannot issue an unqualified report, EDB shall have direct access to the external auditor to gather details with regard to the audit findings.
7. The Company shall submit progress reports to EDB at half-yearly intervals. The disbursement of any grant shall be subject to the Company achieving the project milestones as stated in the Offer Letter. The final report is to be submitted upon completion of the project.

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 10.11

COY-15-RISC/F269-2
S06/1-39831633

27 March 2008

Ms Grace Yow
General Manager
Fluidigm Singapore Pte Ltd
Block 1026, #07-3532
Tai Seng Avenue
Singapore 534413

Dear Ms Grace Yow,

APPLICATION FOR INCENTIVES UNDER THE RESEARCH INCENTIVE SCHEME FOR COMPANIES (RISC)

This is with reference to your application of 26 March 2006 and subsequent revisions for incentives under the Research Incentive Scheme for Companies. This letter amends, restates and replaces our original letter agreement dated 12 February 2007 (the "Prior Letter") and all references in the Prior Letter shall be considered references to this amended and restated letter.

2 We are pleased to inform you that the Economic Development Board (hereinafter called "EDB") has agreed to provide a grant not exceeding S$3,715,000 in total to Fluidigm Singapore Pte Ltd (hereinafter called "the Company") under the RISC for your project on the development of the Fluidigm Instrumentation R&D Project (hereinafter called the "Development Project"), as described in your application. This grant shall be subject to the following conditions:

Project Implementation

a) The Company shall implement the Development Project as follows:

(i) The Company shall implement the Development Project as indicated in the Company's application dated 26 March 2006 and subsequent revisions.

(ii) The Company shall manufacture all products developed from the Development Project in Singapore for the lifetime of the products.

(iii) The Company shall be the legal and economic owner of all intellectual property (IP) arising from the Development Project.

(iv) The Company shall engage a Singapore-based IP or legal firm(s) to file, draft and manage all patent applications arising from the Development Project.

(v) The Company shall employ at least 10 new Research Scientists and Engineers (RSEs) in Singapore by 31 May 2009 for the Development Project.

(vi) The Company shall employ at least 12 new RSEs in Singapore by 31 May 2011 for the Development Project.

(vii) The Company shall incur total annual R&D spending of at least S$6.5 million by 31 May 2009 for the Development Project.

(viii) The Company shall incur total annual R&D spending of at least S$9 million by 31 May 2011 for the Development Project.

(ix) The Company shall maintain at least 12 RSEs in total at its R&D Centre in Singapore until 31 May 2013.

(x) Fluidigm Corporation shall raise a minimum of US $45 million in new funding between 1 Jan 2006 and 31 Dec 2008.

(xi) The Development Project shall meet the project milestones and deliverables as shown in Annex 1.

b) The Company shall carry out the entire Development Project in Singapore unless otherwise stated.

Supported Period

c) Only expenses incurred during the qualifying period, which shall be from 1 June 2006 to 31 May 2011, will be supported.

Grant Support

d) All manpower, equipment, materials & software, professional services and intellectual property rights supported under this RISC grant shall be used exclusively for the Development Project and shall follow the administrative guidelines laid out in Annex 2.

e) The Company shall not sell, lease, dispose or otherwise transfer the equipment & software supported under this RISC grant to another party during the execution of the Development Project without first obtaining the written approval of EDB, which if so granted, shall be on such terms as EDB deems fit. The Company shall at all times maintain proper records with respect to the assets acquired through the grant.

f) The Company shall not seek or receive funds from any other incentives offered by other agencies of the Government of Singapore for funding of this Development Project.

g) All grant monies received shall be used solely for the implementation of this Development project.

Project Management & Co-ordination

h) The Company shall appoint a person (hereinafter called the "Principal Investigator") to lead the Development Project. The Principal Investigator shall be responsible for the proper management, co-ordination and progress of the Development Project, the management of grants disbursed and all other matters pertaining to the Development Project, including the preparation of claims, submission of audited statements and progress reports.

i) The Principal Investigator shall be deemed as an agent of the Company throughout the Development Project and EDB shall at all times have access to the Principal Investigator with regards to all matters pertaining to the Development Project.

j) The Company shall inform EDB in writing of any change in the Principal Investigator.

Other Conditions

k) The Company shall permit EDB officers to inspect the premises where the development work is carried out, the Company's accounts on the development expenditures and the records on the progress of the Development Project.

l) The Company shall be required to provide, through responses to surveys or any other such studies carried out by EDB, relevant information on the Development Project, as and when requested by EDB.

m) If required by EDB, the Company shall submit a report comparing its projections in the application form with the actual realised figures. The template for this report and the timeline for submission will be provided by EDB.

3 In the event the Project is aborted, the Company is to inform EDB in writing immediately.

4 EDB reserves the right to recover from the Company the total amount of grant released to the Company for any breach of condition under which the RISC grant was approved.

5 The Company shall keep the terms and conditions of this RISC grant confidential. Such information shall not be released to any external party, the public or the press unless prior written consent from EDB is given.

6 EDB reserves the right to change the terms and conditions of this offer from time to time as may be specified and deemed necessary by EDB.

7 If you are prepared to accept this amended and restated offer of a grant under the conditions stipulated above, please sign below and return it to EDB within 1 month from the date of this letter, **failing which this offer shall be deemed to have lapsed**.

8 If you have any queries, please contact Ih-Ming CHAN at 6395 7794. For queries on claims, please call the EDAS hotline at 6832 6416. We wish you every success in this project.

Yours sincerely

YEOH KEAT CHUAN
EXECUTIVE DIRECTOR
BIOMEDICAL SCIENCES CLUSTER

Enclosures:

Annex 1 Project Milestones and Deliverables

Annex 2 Administrative Guidelines

Accepted and Agreed

FLUIDIGM CORPORATION

/s/ Gajus Worthington
Name: Gajus Worthington
Title: President & CEO

Annex 1

PROJECT MILESTONES AND DELIVERABLES

The Company shall meet the following R&D milestones:

Milestones	Completion Date
AIX Gen II development	
[***]	[***]
[***]	[***]
BioMark II Chip Loader development	
[***]	[***]
[***]	[***]
[***]	[***]
BioMark II End Point Reader development	
[***]	[***]
[***]	
[***]	[***]
BioMark Next Generation Instrument Development	
[***]	[***]
[***]	[***]
[***]	[***]

Annex 2

ADMINISTRATIVE GUIDELINES

1. The grant shall cover 50% of the actual qualifying manpower costs and 30% of the actual qualifying costs for equipment, materials & software, professional services and intellectual property rights incurred by the Company on the Development Project during the qualifying period. In the event where qualifying cost items are not used exclusively for the Development Project, the qualifying costs items shall be suitably pro-rated. The qualifying cost items are listed below, but shall be subject to a total maximum grant of S$3,715,000. Virement from one qualifying cost item to another will not be considered and the grant shall not cover GST payments.

Category	Approved Grant (S$)
Manpower	2,093,592
Equipment, Materials and Software	1,188,672
Professional services	433,500
Total	3,715,764
Total Approved Grant (Rounded down to nearest thousand dollars)	**3,715,000**

2. The qualifying cost for equipment (less its residual value, if any) is pro-rated based on the number of months the equipment is used for the project (this refers to the date of delivery to the end of qualifying period) over the approved useful life of equipment.

   The qualifying cost of equipment is based on the actual expenses, residual value, number of months that the equipment is used for the project and approved useful life of equipment.

   The qualifying cost for intellectual property rights (IPR) is pro-rated based on the project duration over the approved useful life of IPR.

   The qualifying cost of IPR is based on the cost of acquiring IPR, project duration and the approved useful life of IPR.

3. Disbursements shall be made on a reimbursement basis upon application by the Company at quarterly intervals. Claims must be submitted using the prescribed forms and shall be certified by the Company's Chief Financial Officer and the Principal Investigator. The amount disbursed shall be based on the actual qualifying cost item incurred by the Company on the Development Project during the qualifying period.

   The grant will be disbursed as follows:

   (i) Disbursements of up to a cumulative total 70% of the approved grant amount shall be made upon application by the Company.

   (ii) The remaining 30% of the grant may be released upon application by the Company on completion of the Development Project.

4. For all claims (except for the final claim), the first 50% of the amount claimed will be disbursed to the Company upon receipt of claim and the remaining 50% will be disbursed upon the completion of checks.

5. The final claim must be submitted within 6 months with complete documentation from the end of the qualifying period (31 May 2011), failing which any claim will be disqualified.

6. For total approved grant exceeding S$100,000, all claims must be externally audited. The audited statement of accounts shall be submitted on an annual basis, as well as when the Development Project is completed or terminated. The Company shall make available to its auditor this Letter of Offer and its accompanying annexes. The Company shall ensure that the external auditor forwards a copy of the audited accounts directly to EDB upon completion of the audit. In the event that the external auditor cannot issue an unqualified report, EDB shall have direct access to the external auditor to gather details with regard to the audit findings.

7. The Company shall submit progress reports to EDB at half-yearly intervals. The disbursement of any grant shall be subject to the Company achieving the project milestones as stated in the Offer Letter. The final report is to be submitted upon completion of the project.

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Distribution Agreement

This Agreement, effective as of April 1, 2005 ("Effective Date"), is made by and between Fluidigm Corporation, a corporation of the State of California, having an office at 7100 Shoreline Court, South San Francisco CA 94080, United States of America ("FC"), and Eppendorf AG, a German corporation, having its headquarter at Barkhausenweg 1, D-22339 Hamburg, Germany ("EAG"), each hereinafter referred to as the "Party" or collectively called the "Parties".

WHEREAS, FC is specialized in development and manufacturing of systems with integrated fluidic circuits for life-science research,

WHEREAS, EAG is a biotechnology company with a broad range of applications and products, mainly in the fields of bio tools, molecular technologies and complementary products,

WHEREAS, the Parties intend to engage in a mutually beneficial relationship concerning new FC applications which include the Eppendorf product Mastercycler personal for thermal control of microfluidic components;

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants contained herein, the Parties hereto hereby agree as follows:

§ 1 Subject Matter of the Agreement

The object of this Agreement is the development, manufacture and delivery by EAG to FC of a special brand version of Eppendorf Mastercycler personal for the exclusive handling of FC microfluidic chips and licensed for PCR thermocycling practiced in fields of research and development, quality assurance or control, environmental testing, plant diagnostics, identity testing (other than parentage testing for humans) and forensics ("PCR Field") and hereinafter referred to as "Product" - in accordance with the description of Product (Enclosure 1). EAG grants FC the right to commercially use, market, import, offer to sell, sell and/or distribute (including through one or more tiers of sub-distributors) the "Product" under the EAG label as an "Authorized Thermal Cycler" on a worldwide basis.

The use, marketing, distribution and/or selling of the Product (i) for PCR thermocycling outside the PCR Field as defined above and/or (ii) for real time PCR thermocycling as covered by United States Patent No. 6,814,934 (the "Higuchi Patent") is not authorized under this Agreement, whereas EAG does not restrict FC to use, market, distribute and sell the Product in all other fields of use outside the PCR thermocycling. It is the duty of FC to determine the freedom to operate the Product in such cases and not to infringe third party patents. The Parties acknowledge that FC acts as a distributor of the Product (including without limitation [***].

§ 2 Up-front payment

Up-front payment of FC for EAG R&D of the Product is EURO [***] and it is due as follows:

EURO [***] already received ([***] USD)

EURO [***] already received

EURO [***] due in July 2005 against separate invoice.

The up-front payment for R&D further includes manufacturing of [* * *]. One of these units will remain in its final serial execution in EAG's engineering as a basic reference unit. One unit will be a life unit in EAG's R&D used for measuring, testing, modification evaluation, etc. One licensed unit will be for FC for acceptance and release of serial production. It will also serve as a reference unit for Fluidigm.

§ 3 Execution and Delivery

Delivery of PRODUCT by EAG will be to a worldwide maximum of three (3) addresses, which are detailed below.

1- Fluidigm Corporation
7100 Shoreline Court
South San Francisco, CA 94080

United States of America

2- Fluidigm KK
Attn: Takeshi Iwabuchi
Ginza TK Building 5F
1-1-7 Shintomi
Chuo-ku, Tokyo 104-0041

Japan

3- Fluidigm Europe, BV
Attn: Anja Wienecke
Flughafenstrasse 52a, Haus C
D-22335 Hamburg

Germany

FC shall order the Product in a purchase order ("Purchase Order") and EAG shall confirm each order in writing, by e-mail or fax within 14 calendar days, provided that EAG must accept all Purchase Orders that fall within FC's forecast specified in Section 6 below. Each order shall identify the quantity of Products being ordered and the required delivery date and delivery address. Deliveries shall be within 6 weeks after the effective date of the order (or such longer period as may be specified in FC's order), unless a later date was previously agreed by the Parties in writing.

EAG is permitted to make partial deliveries and no penalty for minimum delivery will be applied in this case. EAG agrees to notify FC promptly of any factor, occurrence or event coming to its attention that may impact EAG's ability to meet any deliveries or other requirements set forth in this Agreement, particularly that may cause a material delay in delivery of Products, including any loss or reassignment of key employees, threat of strike or major equipment failure.

The Products manufactured and delivered by EAG will be inspected and tested, as required, by FC within forty-five (45) days of receipt (the "Acceptance Period"). If during the Acceptance Period any Products are found to be not new, defective in material or workmanship and/or fail to meet the specifications set forth in Enclosure 1 below, Reclaimed Products will be repaired or replaced, as outlined in Section 11 hereafter.

§ 4 Minimum Quantity and Minimum Delivery Lot

Subject to the terms and conditions of this Agreement, FC shall order, and subject to timely delivery of conforming units, will buy and take delivery of a total of [* * *]. The orders for the following minimum number of Products per calendar year are to be purchased by FC in good time to allow delivery before the end of the specified calendar year:

[* * *]

[* * *]

[* * *]

[* * *]

[* * *]

Minimum delivery lot per single order is [* * *]. In the event FC orders deliveries with fewer than [* * *] per delivery lot, each such delivery lot will be regularly invoiced plus a lump sum penalty of [* * *] per delivery lot.

EAG's sole remedy for FC's failure to meet the minimum purchase requirements as set forth in this Section 4 shall be as follows: Should the ordered number of units be less than [* * *] of the above minimum number for each of [* * *], then EAG shall have the right to terminate this Agreement on written notice to FC within [* * *] after the end of [* * *].

§ 5 Forecast

A revolving [* * *] forecast will be given from FC to EAG. The forecast covers [* * *] and will be given [* * *] before the [* * *] forecast period begins. It will be submitted on the appropriate form Enclosure 3 or a similar form.

The forecasted unit orders for the next [* * *] represent a firm order to be delivered in that [* * *]. The corresponding written order is to be enclosed with the forecast.

The figure forecasted for [* * *], may vary by [* * *] before used in next regular forecast as firm order.

The figure forecasted for [* * *], may vary by [* * *] before used in next regular forecast as figure for [* * *].

The figure forecasted for the [* * *], is considered [* * *]

The forecast is used by EAG to control the production of the Product and EAG agrees to delivery within [* * *] weeks of receiving FC's order (or such longer period as may be specified in FC's order).

§ 6 Conditions of Prices, Packaging and Payment

The prices are to be understood exclusive of VAT/sales tax, administrative or other fees, deductions, customs charges, transport and insurance. The prices are including solid cardboard packing and vary in accordance with the staggered price list (Enclosure 2).

Price conditions: net, for delivery EXW Hamburg (Incoterms 2000).

Export packing:	Product in cardboard box on a pallet suitable for airfreight, transportation by truck or by sea freight in an LCL container.
Payment:	net in EUROS by check or wire transfer, within 30 days from date of invoice.

Place of Delivery: EXW EAG warehouse (Incoterms 2000).

§ 7 Staggered Prices

The Product price depends on the effectively delivered quantity within a calendar year. The valid prices are shown in the staggered price list (Enclosure 2).

The first units to be delivered in each calendar year are invoiced at a unit price as per staggered price list for the number of units to be delivered. Each additional set of units to be delivered later within the same calendar year will be invoiced at an actual staggered unit price ("ASUP") resulting from the staggered price list for the sum of all units actually delivered in the respective calendar year.

ASUP will also be applied for all units having been delivered and invoiced earlier in that calendar year. For this purpose, each invoice for new orders within a calendar year will be accompanied by a credit note for the difference between previously invoiced prices and ASUP, if applicable.

§ 8 Price Adjustment to Cost Situation

Prices of Staggered Price List can be reviewed and adjusted once annually, beginning as of January 1, 2007. Thereafter, EAG is entitled to change prices if justified by a change in costs pertaining to the manufacture of the Product. Changes in price must be announced at least 3 months before the price change becomes effective.

Annual changes in price may not exceed the changes contained in the index published by the German Federal Office of Statistics (GFOS) as part of the specialist series 17, sub-series II, "Prices and price indices for commercial products (manufacturing prices)" under no. 33205 of the GP systematic "Instrument, apparatus and devices for certain chemical and physical measuring or examinations". The index multiplier is the change of the annual mean value, published each year by the GFOS.

§ 9 Documentation

FC shall be entitled to receive from EAG software files of user documentation in EAG's standard form, to enable FC to modify such software for its applications. After return of modified files to EAG, EAG will ensure that the modified documentation is included with the Product.

FC shall also receive software files of technical illustrations, test instructions, parts lists, etc., which pertain to the Product. The copyright remains with EAG, but is hereby licensed to FC in accordance with FC's distribution and other specified rights under this Agreement. FC shall use the documentation exclusively with respect to this Agreement.

Any Product supplied will be accompanied by a certificate as shown in Enclosure 4 (which Enclosure shall be updated from time to time to accurately reflect the then current situation). Any related marketing material produced by FC needs to show in prominent position the disclaimer as given in Enclosure 5 (which Enclosure shall be updated from time to time to accurately reflect the then current situation).

§ 10 Modifications

Applications for modifications to the Product must be made in writing to FC and the modifications must be authorized in writing by FC. Modifications carried out without prior written confirmation from FC are not permissible. FC shall not unreasonably withhold agreement to any reasonable proposal made by EAG for Product modifications.

Should FC make a written request for modifications to the Product, it is in EAG's discretion to effect these modifications, provided that EAG shall not unreasonably withhold agreement to any reasonable proposal made by FC for product modification. All pre-approved costs related to the modifications requested by FC will be covered by FC. EAG is not obliged to carry out modifications to Products which have already been manufactured or delivered.

§ 11 Warranty

EAG warrants to be owner of licensed rights outlined in Section 1 above. This includes limited licenses for FC's end users to use the Product as an Authorized Thermal Cycler under all patent or contract rights controlled by Applied Biosystems (aka Applera Corporation) and/or Roche Molecular Systems as defined in Authorization Notice Enclosure 4. EAG is not aware of any third party patent rights that the sale or use of the Products may be infringing in view of the licenses granted hereunder.

EAG represents and warrants that all Products will be new, will conform to the specifications set forth herein (or as may otherwise be mutually agreed by the Parties in writing) and will be free from defects in material and workmanship for a period of 15 months from the delivery date of the Products to FC.

EAG shall have discretion as to whether the defective Product or accessories or any part thereof should be replaced or are to be repaired by FC without FC bearing the costs of the materials. This warranty does not cover defects, over which EAG has no influence, such as natural wear and tear, acts of God, incorrect treatment, tampering by FC or a third party, excessive use, or extreme ambient influences.

FC will report all warranty and replaced service parts via [***] (as specified in Section 15 below) reporting to EAG.

Deliveries to EAG of unsatisfactory warranty Products, clearly labeled as such, shall be made at FC expenses. Replacement deliveries from EAG to FC shall be made at EAG's expense.

§ 12 Liability

12.1 IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF THIS AGREEMENT EXCEED THE GREATER OF (a) TWO HUNDRED FIFTY THOUSAND DOLLARS (US $250,000) OR (b) THE AGGREGATE AMOUNTS PAID OR PAYABLE BY FC TO EAG UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF THIS AGREEMENT.

12.2 The limitations of Section 12.1, however, shall not apply to (i) liability to Applied Biosystems for infringement of intellectual property rights under Section 22, (ii) any other liability to Applied Biosystems under Section 22, or (iii) breaches of the CDA with respect to confidential information disclosed in connection with this Agreement

§ 13 No Compete Clause

FC shall refrain from manufacturing and/or selling products, in standalone form, of another make that are identical or similar to the Product. FC shall also abstain in every other respect from any direct or indirect competition for the Product, for sale in standalone form, with EAG, including by means of trusts or third parties, legal and commercial entities or private individuals; this includes any entity that is controlled by or controls FC including those, which are acquired at a later date or granted a controlling influence.

In particular FC shall not, directly or indirectly, act as distributor, dealer, commission merchant or commercial agent for a third party with regard to identical or similar products for sale in standalone form. Exceptions require the prior written consent of EAG. FC at the date hereof, is not preparing and not engaged in the production or distribution of other similar items to the Products.

Notwithstanding the foregoing in this Section 13, in the case of EAG's sustained inability to supply for reasons other than Force Majeure, as specified in Section 14, both Parties will co-operate in good faith to resolve the difficulty to both Parties' satisfaction, or if unable to so resolve the difficulty, to use the documentation and convey rights (only to the extent EAG is so able) necessary for production to enable FC or third party to make or have made the Product involved. It is the duty of FC to determine the freedom to operate in such cases and especially not to infringe ABI's IP rights.

EAG agrees not to sell or otherwise provide the Product (or any identical or similar product that has been specifically adapted to receive FC microfluidic chips) to any person or entity other than FC, during and two (2) years after the term of this Agreement.

§ 14 Force Majeure

No failure or omission by the Parties hereto in the performance of any obligation of this Agreement shall be deemed a breach of this Agreement or create any liability if the same shall arise from any cause or causes beyond the control of the Parties, including but not limited to the following: act of God; acts of omissions of any government; any rules, regulations or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof; fire; storm; flood; earthquake; accident; war; rebellion; insurrection; riot, strikes and lockouts; and invasion; and provided that such failure or omission resulting from one of the above causes is cured as soon as practicable after the occurrence of one or more of the above-mentioned causes.

This applies only if the disabled Party informs the other Party as soon as possible about the extent and the grounds of the disabling cause or causes.

Should the disabling circumstance(s) last longer than three (3) months, the other Party can terminate the Agreement without a period of notice and/or proceed in accordance with Section 13 Para. 3.

§ 15 Service, Spare Parts

FC is responsible for the service of the Products. FC may delegate service responsibility to its distribution partners. EAG will support service by training of the trainers of FC as per Section 16 below.

FC will purchase and keep on stock a sufficient number of spare parts to fulfill service needs. FC agrees to order minimum spare parts value of [***] - per spare parts shipment.

§ 16 Training of Service Trainers

Not later than the date of signature of this Agreement FC shall supply EAG with the names of up to three key service managers of FC with defined responsibilities for a training as service trainers. They will each receive a training course by EAG of the technical service for the Product in a way which enables them to commence service training themselves to service engineers of FC or to service engineers of international distribution partners of FC.

EAG shall provide this training course regarding the Product and regarding reporting system via [***] for such key service personnel of FC in Hamburg, Germany. EAG shall bear the cost of training, lodging and lunch within EAG's facilities. Other expenses, traveling fees and salary shall be borne by FC. Should a trained key service person leave FC then FC shall bear all costs for the renewed training of a successor.

Any training which may be requested by FC in addition to the aforesaid provision shall be at the expense of FC.

§ 17 Confidentiality - Publicity

17.1 A Confidential Disclosure Agreement ("CDA") has been signed by the Parties in Sept. 2004 (Enclosure 6). For purposes of this Agreement, the "Purpose" in the CDA shall include the performance of obligations and the exercise of rights pursuant to this Agreement. Additionally terms of this Agreement are confidential as set forth in Section 17.3. Information about this Agreement shall be released only after mutual agreement of the Parties, except as set forth in Section 17.3.

17.2 With respect to FC's distribution of any written information to third parties, including but not limited to advertising, brochures, catalogs, promotional and sales material, and public relations material, EAG shall only have the right to prescribe changes regarding references to, or descriptions of: Applied Biosystems, PCR, the amplification patent rights, the amplification system patent rights, the PCR instrument patents, PCR licenses or authorizations, or this Agreement. FC agrees to comply provided that such prescriptions are reasonable in nature and documented by EAG as appropriate for accuracy.

17.3 Except as provided in Enclosure 5 and Section17.2, each Party shall, to the extent reasonably practicable, maintain the confidentiality of the provisions of this Agreement in accordance with the CDA and shall refrain from disclosing the terms of this Agreement without prior written consent of the other Party, except (i) to the extent either Party concludes in good faith that such disclosure is required by any court or other governmental body or is otherwise required under applicable law or regulation, in which case the other Party shall be notified in advance; (ii)to legal counsel of the Parties; (iii) in connection with the requirements of a public offering or securities filing; (iv) in confidence, to accountants, banks, and financing sources and their advisors; (v) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; or (vi) in confidence, in connection with a merger or acquisition or proposed merger or acquisition, or the like.

§ 18 Compliance and Quality

It shall be the duty of each Party to comply fully with all applicable laws, regulations and ordinances and to obtain and keep in effect licenses, permits and other governmental approvals (federal, state or local) necessary or appropriate to carry on activities hereunder.

§ 19 Assignment

This Agreement shall not be assigned by either Party except in any assignment or transfer of all or substantially all of such Party's business related to this Agreement.

§ 20 Duration of Agreement, Termination of Agreement with Good Reason

20.1 This Agreement is valid as of Effective Date and will continue for a minimum of five (5) calendar years after Effective Date provided terms and conditions are met by both Parties. After five years from Effective Date, this Agreement may be terminated with a period of written notice of not less than six months.

20.2 The duration of Agreement automatically extends for another calendar year if not cancelled by FC at least six (6) months before the end of minimum duration date or at least six (6) months before the end of any Agreement extension period. Provided that FC meets or exceeds unit forecasts, EAG will give FC at least one (1) year notice of termination before the end of the minimum duration date or any Agreement extension period.

20.3 Either Party can terminate the Agreement with good reason especially in the event of the other Party not fulfilling one or more of its material contractual obligations and then not rectifying this situation within sixty (60) days of receipt of a written warning to this effect. Timely delivery of conforming Product units shall - amongst others – be deemed to be a material contractual obligation.

20.4 Each Party may also terminate this Agreement with immediate effect and with no liability for compensation in the event of the other Party becoming insolvent or filing for bankruptcy.

20.5 Should EAG terminate the Agreement with the reason of not having received orders for at least the agreed minimum number minus 25% as of Section 4, FC has the right to place, and EAG shall accept and fulfill, one final order for delivery within the commencing period of termination.

20.6 FC shall be entitled to terminate this Agreement for its convenience on at least sixty (60) days prior written notice to EAG, provided that no such termination shall be effective prior to the second anniversary of the Effective Date.

20.7 At the time of termination of this Agreement, FC will buy all Products still on stock, provided the stock is resulting from FC’s forecast (Enclosure 3)

20.8 The Parties’ rights and obligations pursuant to the following sections shall survive termination or expiration of this Agreement: Sections 1, 11, 12, 17, 18, 19, 21, 22, and 23. FC shall be entitled to distribute all Products purchased from EAG. All payment obligations of FC under this Agreement shall survive termination or expiration.

§ 21 Court of Jurisdiction and Applicable Law

21.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, U.S.A. without reference to conflict of laws principles.

21.2 All disputes arising out of this Agreement shall be finally settled by final and binding arbitration in New York, New York before, and under the then current commercial arbitration rules of, the International Chamber of Commerce, subject to the additional limitations set forth herein. The arbitration shall be conducted by a single arbitrator appointed in accordance with such rules. No discovery (e.g., document production; depositions) will be permitted. The arbitration shall be conducted in the English language, and all documentary evidence shall be presented in English; documentary evidence not originally in English shall be presented both in the original language and in English translation. The Parties agree that the decision of the arbitrator shall be final and binding. The arbitration shall take no more than one day, and each Party shall have a total of up to four (4) hours to present/rebut its case on that day, with the arbitrator announcing the decision at the end of such presentations/rebuttals. Judgment on any decision made by the arbitrator may be entered and enforced in any court of competent jurisdiction. All fees and charges by the International Chamber of Commerce shall be shared equally by the Parties unless otherwise specified by the arbitrator; each Party shall be responsible for the payment of all fees and expenses

connected with the presentation of its respective case, provided that the arbitrator may in his/her discretion award to the prevailing Party the costs and expenses incurred by the prevailing Party in connection with the arbitration proceeding. The arbitration shall be confidential.

§ 22 Indemnification

22.1 EAG holds limited license rights under U.S. Patents Nos. 5,038,852 and 5,333,675, describing and claiming automated apparatus suitable for performing the PCR process, any apparatus claim issuing from an application claiming priority of U.S. application Serial No. 833,368 or U.S. application Serial No. 899,061 (both filed in 1986), and apparatus claims in corresponding counterpart patents and patent applications in other countries for PCR thermocycling practiced in fields of research and development, quality assurance or control, environmental testing, plant diagnostics, identity testing (other than parentage testing for humans) and forensics as defined in section 1.

22.2 EAG shall defend FC or assist FC at its own discretion in defending FC against any claim or action, with the exemption of i) claims based on the “Higuchi Patent” ii) the flat silver chuck and related vacuum system and iii) the functions of these two components, for: (a) infringement by any Product, or the use thereof, of any third party patent, copyright, trade secret or other intellectual property right other than those caused by product specific modifications. (b) Defective Products manufactured by EAG, to the extent such defects are caused by EAG’s failure to manufacture the Products in conformance with the specifications and with EAG’s warranties as set forth in this Agreement, or by EAG’s misconduct or negligence; or (c) a breach by EAG of any license or other intellectual property right of any third party licensor of the Products other than a breach by EAG of any license or other intellectual property right of Applied Biosystems which breach was solely caused by FC or by Product specific modifications.

22.3 FC shall reasonably cooperate in EAG’s defense of any such claim or action, and FC shall not engage in any actions or communications that negatively affect EAGs defense or settlement of the claim or action. In no event shall FC defend or settle any such claim or action without EAG’s prior written approval.

22.4 (w) FC agrees to take all reasonable precautions to prevent death, personal injury, illness and property damage from the use of Products. FC shall defend, at its expense (including without limitation attorneys’ fees and court costs), EAG against any claim or action for:(a) infringement by any Product, or the use thereof, of any third party patent, copyright, trade secret or other intellectual property right solely due to the differences between the Product and another Eppendorf Mastercycler; (b) the use of the Products and all costs incurred as a result of a Product withdrawal or recall (collectively “Customer Losses”) to the extent such Customer Losses are caused by FC, or by FC’s misconduct or negligence; or (c) a breach by FC or their partners of any license or other intellectual property right of Applied Biosystems with respect to the Products.

(x) FC shall pay any amounts awarded against EAG, or settlements entered into by FC on behalf of EAG, to the extent attributable to any such claim or action under (a), (b), or (c) of Section 22.2(w) above.

(y) As a condition of FC’s liability and obligations under this Section 22.2, however, (i) EAG shall notify FC in writing of such claim or action promptly (and in no event later than twenty (20) calendar days) after learning of such claim or action, (ii) except as set forth hereinbelow, FC shall have the exclusive right to control the defense and settlement of any such claim or action, provided that any settlement shall be subject to the prior written approval of EAG, which shall not be unreasonably withheld or delayed, (iii) EAG shall reasonably cooperate in FC’s defense of any such claim or action, and (iv) EAG shall not engage in any actions or communications that negatively

affect FC's defense or settlement of the claim or action. In no event shall EAG defend or settle any such claim or action without FC's prior written approval.

Notwithstanding the foregoing, EAG shall be entitled to joint (with FC) control of the defense and settlement of the claim or action, at EAG's expense and through legal counsel of its choosing; in such event any settlement shall be subject to the prior written approval of both Parties, which shall not be unreasonably withheld or delayed.

(z) Notwithstanding the foregoing, FC shall have no liability or obligation with respect to any claim or action resulting from an actual or alleged breach by EAG of the first paragraph of Section 11.

22.3 EAG represents and warrants that EAG's agreement(s) with Applied Biosystems is/are substantially similar to the April 15, 2000 "THERMO CYCLER SUPPLIER AGREEMENT" between PE Corporation and Cepheid page 1 to 20 as such agreement was available as of August 02, 2005 at: http://contracts.onecle.com/cepheid/pe.supplier.2000.04.15.shtml) as attached as Enclosure 7 ("http Reference Agreement") and that any differences between EAG's agreement(s) with Applied Biosystems and the Reference Agreement (other than differences directly resulting from differences between Cepheid products and EAG Products) will not increase FC's potential or actual liability under this Agreement.

§ 23 Final Clauses

23.1 This Agreement contains the entire and only agreement between the Parties and supersedes and cancels all prior written and/or oral agreements, undertakings and negotiations between the Parties with respect to the subject matter hereof.

23.2 No amendments, changes, modifications or alterations of the terms and conditions of this Agreement shall be binding upon either Party unless in writing and signed by both Parties. Any waiver of this provision shall be made in each specific case in writing. Documents transmitted by fax are considered to be in writing.

23.3 Each Party represents and warrants that it has full power and authority to enter into this Agreement and to take all actions required by this Agreement and that each Party's obligations under the Agreement do not conflict with its obligations under any other agreement to which EAG or FC is a party.

23.4 The headlines are for orientation purposes only and do not form part of the Agreement.

23.5 Should any provision of this Agreement be invalid or unenforceable or should the Agreement contain an omission, the remaining provisions shall be valid. In the place of an invalid provision, a valid provision is presumed to be agreed upon by the Parties, which comes economically closest to the one actually agreed upon; the same shall apply in the case of an omission.

23.6 The Parties shall endeavor to settle amicably any disputes which result from the execution of this Agreement.

§ 24 Enclosures

The enclosures are integral part of the Agreement.

Enclosure 1	Description of Product
Enclosure 2	Staggered Price List
Enclosure 3	Forecast Form
Enclosure 4	Authorization Notice
Enclosure 5	Disclaimer
Enclosure 6	Confidential Disclosure Agreement
Enclosure 7	http Reference Agreement

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

South San Francisco, the 17 August 2005
Fluidigm Corporation
President / CEO

/s/ Gajus V. Worthington
Gajus V. Worthington

Hamburg, the 4 Aug. 2005
Eppendorf AG

/s/ Heinz Gerhard Koehn, Ph. D.
Heinz Gerhard Koehn, Ph. D.
Board Member, Technology

/s/ Michael Schroeder, Ph. D.
Michael Schroeder, Ph. D.
Board Member, Marketing and Sales

Description of Product and Specifications

A. Description:

Special brand version of Eppendorf Mastercycler personal

Special brand version of Eppendorf Mastercycler personal for FC, licensed for PCR-Applications for the Fields described in section 1. [***]

Special brand version of Eppendorf Mastercycler personal [***] to create the following features on the Product:

- [***]
- [***]

– [***]

– [***]

– [***]

– [***]

– [***]

- [***]
- [***]
- [***]

Remark: [***]

FC supplies the [***]

[***]

[***]

[***]

B. Specifications:

Performance

- [***]
- [***]
  - [***]
- [***]
  - [***]
  - [***]
  - [***]
    - [***]
    - [***]
    - [***]
- [***]
  - [***]
  - [***]
- [***]
  - [***]
  - [***]
  - [***]
  - [***]

Mechanical features and facilities

- [***]
- [***]

Software

- [***]
- [***]

Testing

- [***]
- [***]

Photo showing [***]

[***]

To page 13: sub-page 1 of 8

[***]

Position of [***]

[***]
[***]

To page 13: sub-page 2 of 8

[***]

To page 13: sub-page 3 of 8

[***]

To page 13: sub-page 4 of 8

[***]

[***]

To page 13: sub-page 5 of 8

[***]

[***]

To page 13: sub-page 6 of 8

[***]

[***]

To page 13: Sub-page 7 of 8

[***]

[***]

To page 13: Sub-page 8 of 8

Enclosure 2

Staggered price list

Prices per number of products to be delivered within one Agreement Year

[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*
[***] and more units/a	*price per unit*	*Euro*	*[***]*

License condition of prices:

Prices include the newly reduced up-front-fee-component of PCR license (fixed license portion) as pre-announced by EAG's licensor. Possible reductions (or elimination) of this license fee by the PCR licensor shall result in reductions.

The prices include PCR license, neglecting a price value for a device providing vacuum. Should PCR license also be requested for a vacuum providing device by the licensor, the requested license has to be borne by FC and above staggered prices will be revised correspondingly.

The prices include PCR license for the Product calculated on basis of Enclosure 1, (Description of Product) with the chuck supplied and invoiced to EAG as specified. Should the licensor request another price value for the chuck for the calculation of the PCR license, the requested license has to be borne by FC and above staggered prices will be revised accordingly.

Enclosure 3

Forecast Form

Special brand version of Eppendorf Mastercycler personal — Quarterly Forecast

Forecast period (12 Months), revolving quarterly:

Period of forecast mon. - mon. yyyy	Estimated number of units correspond to:	**Number of units** Article number 5332 000.480 120 V – U.S.A.	5332 000.405 230 V – int.	5332 000.430 100 V – Japan
1. Quart.	A fixed order Signature see below.			
2. Quart.	Estimation with +/- 25 % variability			
3. Quart.	Estimation with +/- 50 % variability			
4. Quart.	Orientation figure only			

Confirmation:

Number of units forecasted above for delivery in 1. Quarter herewith are firmly ordered. The definitive composition of individual delivery lots and the delivery address for each lot must be conveyed to EAG with [6 weeks] notice.

Place / Date: _____

Fluidigm Corporation

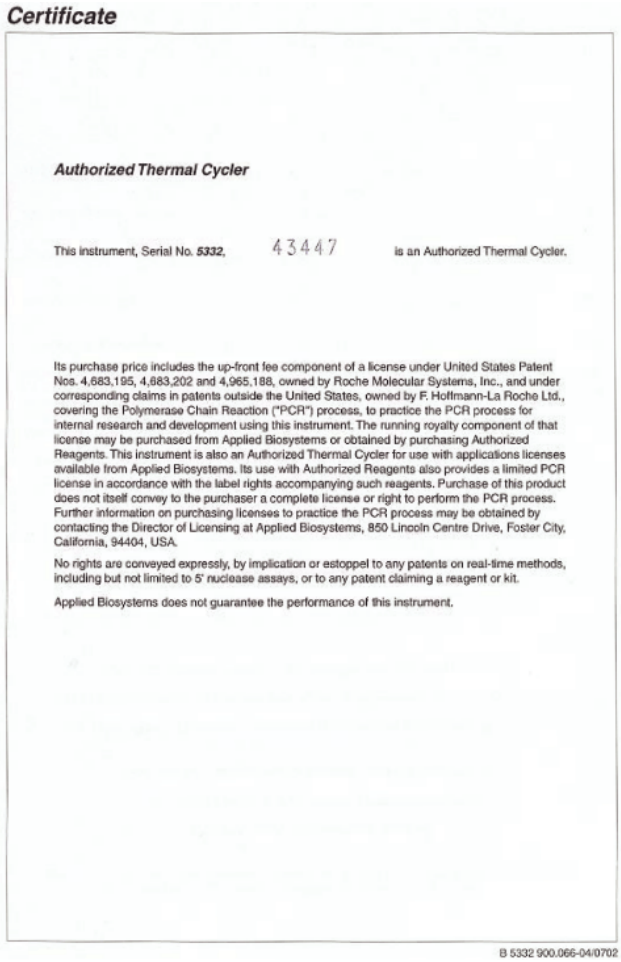
_____

(Signature)

Our production planning is controlled by forecast instruments. For this purpose the above forecast system is used. Please return the completed form before the middle of running quarter, to ensure punctual delivery for the next quarter.

The form contains an overview about the coming [***]. The figures for the [***]. The figure for the following [***] with the following forecast as indicated. The figure for the [***].

Eppendorf AG



Certificate

Authorized Thermal Cycler

This instrument, Serial No. **5332**, 43447 is an Authorized Thermal Cycler.

Its purchase price includes the up-front fee component of a license under United States Patent Nos. 4,683,195, 4,683,202 and 4,965,188, owned by Roche Molecular Systems, Inc., and under corresponding claims in patents outside the United States, owned by F. Hoffmann-La Roche Ltd., covering the Polymerase Chain Reaction ("PCR") process, to practice the PCR process for internal research and development using this instrument. The running royalty component of that license may be purchased from Applied Biosystems or obtained by purchasing Authorized Reagents. This instrument is also an Authorized Thermal Cycler for use with applications licenses available from Applied Biosystems. Its use with Authorized Reagents also provides a limited PCR license in accordance with the label rights accompanying such reagents. Purchase of this product does not itself convey to the purchaser a complete license or right to perform the PCR process. Further information on purchasing licenses to practice the PCR process may be obtained by contacting the Director of Licensing at Applied Biosystems, 850 Lincoln Centre Drive, Foster City, California, 94404, USA.

No rights are conveyed expressly, by implication or estoppel to any patents on real-time methods, including but not limited to 5' nuclease assays, or to any patent claiming a reagent or kit.

Applied Biosystems does not guarantee the performance of this instrument.

B 5332 900.066-04/0702

4.1 EAG will affix permanently and prominently to each Authorized Thermal Cycler the designation “Authorized Thermal Cycler”, its Serial Number and a direction to consult the user’s manual for the license information.

4.2 FC agrees to instruct the ultimate purchaser that transfer of the thermal cycler without the Serial Number or the Notice shall automatically terminate the authorization granted by this Agreement and the thermal cycler shall cease to be an Authorized Thermal Cycler.

Enclosure 5

Disclaimer

Wording of the Disclaimer

Practice of the patented polymerase chain reaction (PCR) process requires a license. The Mastercycler is an Authorized Thermal Cycler and may be used with PCR licenses available from Applied Biosystems. Its use with Authorized Reagents also provides a limited PCR license in accordance with the label rights accompanying such reagents.

Enclosure 6

Confidential Disclosure Agreement

Confidential Disclosure Agreement

This Agreement, effective as of 11 August 2004 (“Effective Date”), is made by and between Fluidigm Corporation a corporation of the State of California, having an office at 7100 Shoreline Court, South San Francisco, CA 94080. United States of America (“FLUIDIGM”), and Eppendort AG, a German corporation, having its headquarters at Barkhausenweg 1. D-22339 Hamburg. Germany (“EAG”), each hereinafter also referred to as the “Party” or collectively called the “Parties”.

WHEREAS, FLUIDIGM is specialised in development and manufacturing of systems with integrated fluid c circuits for life-science research with a concentration on protein structure determination.

WHEREAS, EAG is a leading biotechnology company with a broad range of applications and products, mainly in the fields of biotools, molecular technologies and complementary products.

WHEREAS, the Parties intend to engage in discussions concerning a co-operation for a new FLUIDIGM application which possibly may include components of the EAG product Mastercycler ep 18.Aug.04 (“Purpose”).

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants contained herein the Parties hereto hereby agree as follows.

Confidential information (“Information“), as used herein, shall mean any and all information, know-how, data and experience in whatever form, be it verbally, in writing, in drawing, samples, displays, in software, on tapes, hard disks, diskettes or otherwise furnished by either Party (hereinafter referred to as the “Disclosing Party”) to the other Party (hereinafter referred to as the “Receiving Party”) either directly or indirectly and disclosed to the Receiving Party under this Agreement.

2. The Receiving Party undertakes to keep confidential any and all information, except

a. Information, which the Receiving Party can establish by competent proof was at the time of disclosure or became after disclosure, part of the public domain by publication, except by breach of the undertakings hereunder by the Receiving Party;

b. Information which the Receiving Party can establish by competent proof was in its possession already at the time of disclosure, and which was not acquired, directly or indirectly, from the Disclosing Party, and information which the Receiving Party can establish by competent proof was later received from a third party, provided, however, that such information was not obtained by said third party directly or indirectly from the Disclosing Party;

c. Information which the Receiving Party can establish by competent proof was independently developed by the Receiving Party without use of the Confidential Informal on of the Disclosing Party; or

d. Information which was required to be disclosed by law or court or governmental order;

3. The Receiving Party undertakes to use any and all information only for the Purpose agreed upon in writing with the Disclosing Party, and will not, directly or indirectly, exploit or otherwise use information for any other purpose, unless and until the Disclosing Party from case to case explicitly accepts in writing prior to the proposed use of information for such other purpose.

4. The Receiving Party undertakes only to disclose Information to those employees who need to make use of Information in order to carry out agreed upon work for the Purpose, and guarantees that every such employee is aware of and will respect the confidentiality of Information.

5. The Receiving Party agrees that its affiliates will treat Information as if they were themselves a Party to this Agreement. Affiliate in this Agreement means any and all company or individual related to the Receiving Party, whether the relationship be that of employment or ownership or other, including any company or organization owning, owned by or under common control with the Receiving Party.

6. Within thirty (30) days after the Disclosing Party's request, the Receiving Party shall return to the Disclosing Party all Information, including all copies thereof, unless another agreement covering the use of Information has been made between the Parties.

7. Nothing herein and nothing said or written in connection with the disclosure of Information constitutes a promise or an undertaking to enter into further cooperation between the Parties.

8. The Parties further agree that the furnishing of Information under this Agreement shall not constitute any grant or license of any rights now or hereafter held by the Parties.

9. All obligations of the Parties with respect to the confidential information disclosed under this Agreement shall cease five (5) years from the Effective Date.

This Agreement shall be construed in accordance with and governed by substantive German law. The place of jurisdiction is the place of business of the defendant.

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

FLUIDIGM	EAG	
/s/ Gajus Worthington	/s/ Dr. Heinz G. Kohn	/s/ Ernst Tennstedt
Gajus Worthington Chief Executive Officer	Dr. Heinz G. Kohn Board Member Technology	Ernst Tennstedt Head of Legal Department
Date:	Date: 20.8.2004	

Enclosure 7 (1 of 14)

http Reference Agreement

THERMAL CYCLER SUPPLIER AGREEMENT

This Agreement, effective April 15, 2000, is made by and between PE Biosystems, a division of PE Corporation, a corporation of the State of Delaware, having an office at 850 Lincoln Centre Drive, Foster City, California 94404 ("PE CORP"), and Cepheid, a corporation of the State of California, having an office at 1190 Borregas Avenue, Sunnyvale, California 94089 ("Thermal Cycler Supplier") hereafter collectively referred to as "The Parties."

Whereas, PE CORP has the power to convey limited rights for research and in certain other fields under U.S. Patents Nos. 4,683,195, 4,683,202 and 4,965,188, describing and claiming gene amplification processes including, among others, a process known as the polymerase chain reaction ("PCR") process, which are owned by Roche Molecular Systems, Inc., and amplification process claims in corresponding counterpart patents and patent applications in other countries, owned by F. Hoffmann-La Roche Ltd (both of which are referred to collectively herein as "Roche").

Whereas, PE CORP offers to PCR users commercial and non-commercial license rights under these patents and patent applications for automated performance of the PCR process for research and certain other fields that include, inter alia, an up-front fee component based on the capacity of thermal cyclers used to perform the process.

Whereas, PE CORP offers to thermal cycler suppliers license rights under those patents, namely, an authorization to distribute their instruments with a label conveying to their customers rights under the up-front fee component of the PCR licenses described above, and the right to promote their instruments as "Authorized Thermal Cyclers" for PCR.

Whereas, PE CORP owns US. Patents Nos. 5,038,852 and 5,333,675, describing and claiming automated apparatus suitable for performing the PCR process, and apparatus claims in corresponding counterpart patents and patent applications in other countries.

Whereas, PE CORP owns U.S. Patent No. 5,475,610, describing and claiming improvements in thermal cycling apparatus for- PCR, including a pressing heated cover, and corresponding counterpart patents and patent applications in other countries.

Whereas, PE CORP owns U.S. Patent No. 5,656,493, describing and claiming an amplification system comprising PCR reagents and a thermal cycler programmed to carry out a PCR protocol.

Whereas, PE CORP owns patents and applications outside the U.S. that claim priority of U.S. application Serial No. 899,061 (filed in 1986) and that claim automated performance of the PCR process using certain programmed thermal cyclers.

Whereas, PE CORP offers to PCR users license rights for research and

certain other fields under its amplification system claims and automated method claims, and offers to thermal cycler suppliers the right to pass such rights to their thermal cycler customers.

Whereas, PE CORP has offered to Thermal Cycler Supplier the above Roche process rights, and the PE CORP systems, apparatus, automated method and pressing heated cover rights separately or in combinations, and Thermal Cycler Supplier has requested rights under the above Roche PCR process patents and PE CORP systems patent rights only, without rights under the above identified PE CORP apparatus, automated method and pressing heated cover patents and applications.

NOW, THEREFORE, The Parties agree as follows:

1. Definitions

For the purpose of this Agreement the terms set forth hereinafter shall be defined as fellows;

1.1 “AFFILIATE” of a party to this Agreement shall mean an organization: a) whose voting stock is controlled or owned directly or indirectly to the extent of fifty percent (50%) or more by the party; b) which directly or indirectly owns or controls fifty percent (50%) or more of the voting stock of the party; c) whose majority ownership is directly or indirectly common to that of the party; or d) defined under (a), (b), or (c) above except the amount of said ownership is less than fifty percent (50%) but that amount is the maximum amount permitted by law and Thermal Cycler Supplier has effective control.

1.2 “AMPLIFICATION PATENT RIGHTS” shall mean the nucleic acid amplification processes, including particularly the PCR process, covered by: United States Patents Nos. 4,683,195, 4,683,202 and 4,965,188; and any corresponding amplification process claim in patents and patent applications in other countries claiming priority of any of them. Amplification Patent Rights include rights only under the identified Roche patents and applications. They do not include rights, expressly or by implication, under any other Roche or PE CORP patent or application, or to any claim to reagents, apparatus, or a system of reagents and apparatus.

1.3 “AMPLIFICATION SYSTEM PATENT RIGHTS” shall mean U.S. Patent No. 5,656,493, which describes and claims an amplification system comprising PCR reagents and a thermal cycler programmed to carry out a PCR protocol. Amplification System Patent Rights include rights only under the identified PE CORP patent. They do not include rights, expressly or by implication, under any other Roche or PE CORP patent or application, or to any claim to reagents, apparatus, or an amplification process, even if that process is a result of the natural and intended operation of the system.

1.4 “AUTHORIZED REAGENT” shall mean a DNA polymerase whose use in performance of the PCR process is covered by the running-royalty component of a PCR process license under the Amplification Patent Rights for internal research and development. The running-royalty component of that license may be obtained

through the purchase of reagents bearing a valid label conveying the running-royalty component; alternatively, it may be purchased from PE CORP. Other PCR process licenses in the Fields also require use of Authorized Reagents.

1.5 “AUTHORIZED THERMAL CYCLER” shall mean a thermal cycler or temperature cycling instrument whose use in automated performance of the PCR process is covered by the automated-capacity, up-front fee component of a PCR process license under the Amplification Patent Rights for internal research and development. The up-front fee component of that license may be obtained through the purchase of a thermal cycler or temperature cycling instrument bearing a valid label conveying the up-front component; alternatively, it may be purchased from PE CORP. Other PCR process licenses in the Fields also require use of an instrument whose use is similarly covered, i.e., an “Authorized Thermal Cycler”.

1.6 “FIELDS” shall mean research and development, quality assurance or control, environmental testing, plant diagnostics, identity testing (other than parentage testing for humans) and forensics. The Fields specifically exclude human and veterinary diagnostics.

1.7 “NET SALES PRICE” for thermal cyclers, temperature cycling instruments and add-on modules distributed under this Agreement shall refer to the sales price charged to unrelated Third-Party end users as to whom the price is not affected by any other purchase, by any other dealing or by any special course of dealing, and shall mean the gross invoice price to such an end user less the following deductions where applicable: (i) discounts allowed and taken, in amounts customary in the trade, and (ii) sales and/or use taxes and/or duties for particular sales. No allowance or deduction shall be made for commissions or collections, by whatever name known. Thermal cyclers, temperature cycling instruments and add-on modules subject to this Agreement shall be separately invoiced items.

For distributions other than sales described by the preceding paragraph, including any sale, loan, lease, consignment, gift or other distribution (i) to an end user that is Thermal Cycler, Supplier itself, an Affiliate or a distributor, (ii) to an end user that enjoys a special course of dealing with Thermal Cycler Supplier, an Affiliate or distributor, or (iii) is under a reagent rental agreement or other arrangement that is not a sale to an unrelated Third-Party end user as to whom the price is unaffected by other purchase, dealing or special course of dealing, the Net Sales Price shall be determined by reference to the Net Sales Price which would be applicable in an arm’s length sale to a similarly situated unrelated Third-Party end user as to whom the price is not affected by any other purchase, by any other dealing or by any special course of dealing.

Net Sales Price shall be calculated on the basis of sales or transfers to end users by Thermal Cycler Supplier, its Affiliate or a distributor of either, as the case may be. In the event Thermal Cycler Supplier is unable to account for end-user sales by any distributor, the Net Sales Price shall be calculated as the price to the final distributor multiplied by [**], which factor represents a [**] margin on sales to end users by the distributor.

1.8 “TERRITORY” shall mean worldwide.

1.9 “THIRD PARTY” shall mean a party other than The Parties.

1.10 “TEMPERATURE CYCLING INSTRUMENT”, as used in this Agreement, shall mean an instrument, whether in single or multiple modules, that includes a thermal cycler as defined in Article 1.11 and additional structure for performing one or more other functions.

1.11 “THERMAL CYCLER”, as used in this Agreement, shall mean an instrument, whether in single or multiple modules, that is capable in itself of automatically cycling samples in the PCR process.

2. GRANT

2.1 Upon the terms and subject to the exceptions and conditions of this agreement, PE CORP grants to Thermal Cycler Supplier the following personal, non-transferable, royalty-bearing, non-exclusive rights in the Territory under the Amplification Patent Rights:

(a) Thermal Cycler Supplier is hereby authorized to sell and distribute to end users under Thermal Cycler Supplier’s name and trademarks the specific thermal cyclers and temperature cycling instruments described in Exhibit 1 (i.e. the Smart Cycler(R) System, Smart Cycler(R) XC System and GeneXpert(TM) Prototype, in the configurations described) and any thermal cycler or temperature cycling instrument containing one or more I-CORE(TM) modules (as defined in Exhibit 1) manufactured by Thermal Cycler Supplier, but not otherwise to sell or distribute to thermal cycler suppliers, with a label conveying to end users (including Thermal Cycler Supplier itself) in the Fields the up-front rights of PCR process licenses under the Amplification Patent Rights as specified in the label set forth in Section 5.1 below, that is, with an Authorized Thermal Cycler label; and

(b) Thermal Cycler Supplier may advertise and promote such thermal cyclers and temperature cycling instruments as described in Exhibit 1 and so labeled as Authorized Thermal Cyclers for PCR.

The grant of this Section 2.1 conveys no right or immunity, express or implied, under the Amplification System Patent Rights.

2.2 Upon the terms and subject to the exceptions and conditions of this Agreement, PE CORP grants to Thermal Cycler Supplier a personal,

non-transferable, royalty-bearing, non-exclusive right under the Amplification System Patent Rights to convey to end-user customers (including Thermal Cycler Supplier itself) of Thermal Cycler Supplier's Authorized Thermal Cyclers a non-exclusive license to use the same in the Fields in the Territory. The grant of this Section 2.2 includes no right or immunity, express or implied, under the Amplification Patent Rights.

2.3 No right, immunity, authorization or license is granted, expressly or by implication, for any other purpose, or in any other field, including: to make, have made, use or sell any polymerase (such as Taq), amplification reagent or kit; or to perform PCR or nucleic acid amplification that is not fully licensed under the Amplification Patent Rights. No right, immunity, authorization or license is granted, expressly or by implication, under any patent or patent application that is not expressly included in the Amplification Patent Rights, or the Amplification System Patent Rights. Specifically, but without limitation, no right, immunity, authorization or license is granted, expressly or by implication, under patents and applications of PE CORP or Roche that cover apparatus, methods, or reagents for real-time detection (for example, U.S. Patent No. 5,928,907 and published European patent applications EP 872562 and EP 512334) or for homogeneous assay (for example, U.S. Patents Nos. 5,210,015, 5,487,972, 5,538,848, all related to the 5' nuclease assay).

2.4 Rights granted to Thermal Cycler Supplier by this Agreement are personal to Thermal Cycler Supplier alone. Thermal Cycler Supplier shall have no right to sublicense, assign or otherwise transfer or share its rights hereunder.

2.5 Notwithstanding the prohibition of Section 2.4, Thermal Cycler Supplier's rights to sell to end users under the grants of Sections 2.1 and 2.2 include the right to sell through Affiliates (so long as Thermal Cycler Supplier reports and pays under this Agreement on their behalf) and through distributors of Thermal Cycler Supplier and such Affiliates, as well as directly.

2.6 Thermal Cycler Supplier agrees not to promote, directly or through distributors, the unlicensed use of the Amplification Patent Rights by the sale of unauthorized thermal cyclers or temperature cycling instruments, or by selling add-on modules for thermal cyclers or temperature cycling instruments other than as additions to Authorized Thermal Cyclers.

3. FEES, ROYALTIES, RECORDS AND REPORTS

3.1 For the licenses and rights granted under Article 2, Thermal Cycler Supplier shall pay to PE CORP:

(a) license issue fee of US$[**];

(b) for each Smart Cycler(R) System or Smart Cycler(R) XC System thermal cycler as described in Exhibit 1

(including all modules and components), or any thermal cycler or temperature cycling instrument containing one or more I-CORE(TM) modules (as defined in Exhibit 1) having a maximum capacity, if fully expanded, of more than [**] individual samples, delivered or invoiced by Thermal Cycler Supplier or an Affiliate after the effective date of this Agreement, US$[**] plus [**] percent ([**]%) of the Net Sales Price, and for each add-on module, [**] percent ([**]%) of the Net Sales Price;

(c) for each GeneXpert(TM) Prototype temperature cycling instrument as described in Exhibit 1 (including all modules and components), or any thermal cycler or temperature cycling instrument containing one I-CORE(TM) module (as defined in Exhibit 1) having a non-expandable capacity of no more than [**] individual sample, delivered or invoiced by Thermal Cycler Supplier or an Affiliate after the effective date of this Agreement, US$[**] plus [**] percent ([**]%) of the Net Sales Price; and

(d) for each thermal cycler or temperature cycling instrument containing one or more I-CORE(TM) modules (as defined in Exhibit 1) having a maximum capacity, if fully expanded, of at least [**] but no more than [**] individual samples, delivered or invoiced by Thermal Cycler Supplier or an Affiliate after the effective date of this Agreement, US$[**] plus [**] [**] percent ([**]%) of the Net Sales Price, and for each add-on module, [**] percent ([**]%) of the Net Sales Price.

The license issue fee shall be paid on the effective date of this Agreement. The per-thermal cycler payments specified in this Section 3,1 shall be paid as specified in Sections 3.4 and 3.5. Each thermal cycler or temperature cycling instrument for which those payments are paid shall be an Authorized Thermal Cycler and shall be so designated pursuant to Article 5 hereof.

3.2 All amounts payable hereunder shall be payable in United States dollars. Sales in other countries shall be converted to U.S. dollars based on the New York rate of exchange as quoted in the Wall Street Journal for the last business day of the applicable quarter. If not so published, The Parties may agree on a substitute publication. In the event there is no comparable publication, the applicable rate for such date by the appropriate governmental agency in such country shall apply.

3.3 Thermal Cycler Supplier shall keep, and shall require its pertinent Affiliates to keep, full, true and accurate books of account containing all particulars necessary to show the amount payable to PE CORP under this Agreement. Such books and the supporting data shall be open at all reasonable times, for three (3) years following the end of the calendar year to

which they pertain (and access shall not be denied thereafter, if reasonably available), to the inspection of an independent inspector retained by PE CORP. If in dispute, such records shall be kept until the dispute is settled. Inspection shall be at PE CORP's expense, unless the inspector concludes that the amount payable that is stated in a report is understated by five percent (5%) or more, in which case expenses shall be paid by Thermal Cycler Supplier.

3.4 Thermal Cycler Supplier shall within thirty (30) days after the first of each January, April, July and October deliver to PE CORP a true and accurate accounting report. This report shall be on a country-by-country basis and shall give such particulars of the business conducted by Thermal Cycler Supplier in each country during the preceding three (3) calendar months as are pertinent to accounting under this Agreement and shall be in accordance with, and include all information specified in, the royalty report form attached hereto as Appendix A.

The correctness and completeness of each report shall be attested to in writing by the responsible financial officer of Thermal Cycler Supplier or by Thermal Cycler Supplier's external auditor.

3.5 Simultaneously with the delivery of each royalty report, Thermal Cycler Supplier shall pay to PE CORP the monies then due under this Agreement for the period covered by the report. Each report and payment shall be sent by the due date to the following address:

PE Biosystems
PE Corporation
850 Lincoln Centre Drive
Foster City, California, 94404 U.S.A.
Attention: Director of Licensing

or to any address that PE CORP may advise in writing.

3.6 If Thermal Cycler Supplier shall fail to pay any amount owing under this Agreement by the due date, the amount owed shall bear interest at two percent (2%) over the Citibank NA base lending rate ("prime rate") from the due date until paid, provided, however, that if this interest rate is held to be unenforceable for any reason, the interest rate shall be the maximum rate allowed by law at the time the payment is due.

3.7 Failure of Thermal Cycler Supplier to pay any amount specified under this Agreement within thirty (30) days after the due date will give PE CORP the right to terminate under Section 6.7.

3.8 If all patents included in the Amplification Patent Rights expire before all patents included in the Amplification System Patent Rights, or vice versa, the per-thermal cycler payments

specified in Section 3.1 shall thereafter be reduced to the amount PE CORP is then charging for the remaining claims.

4. PAST SALES SALES AND ACTIVITIES

4.1 On the effective date of this Agreement, Thermal Cycler Supplier shall pay to PE CORP the sum of $[**]. In consideration thereof all thermal cyclers and temperature cycling instruments delivered or invoiced by Thermal Cycler Supplier and its Affiliates (including thermal cyclers and temperature cycling instruments delivered to themselves for use) prior to the effective date of this Agreement shall be considered Authorized Thermal Cyclers subject to the conditions of Section 4.2 and 5.3; and all earlier use of such thermal cyclers or temperature cycling instruments by customers, direct or indirect, of Thermal Cycler Supplier shall be deemed to have been use of a thermal cycler or temperature cycling instrument within the grant of this Agreement. This section does not apply to thermal cyclers or temperature cycling instruments already authorized by PCR users.

4.2 Thermal Cycler Supplier shall send to the original end-user customers of the thermal cyclers and temperature cycling instruments that are the subject of Section 4.1, Authorized Thermal Cycler notices in accord with Section 5.1 with a means reasonably satisfactory to PE CORP to relate each such notice to the appropriate thermal cycler or temperature cycling instrument. Any such thermal cycler or temperature cycling instrument not having an authorization notice within one hundred and twenty (120) days after the effective date of this Agreement shall cease to be an Authorized Thermal Cycler unless Thermal Cycler Supplier establishes to the reasonable satisfaction of PE CORP that (a) the thermal cycler or temperature cycling instrument falls within Section 4.1 and (b) the Authorized Thermal Cycler notice for the thermal cycler or temperature cycling instrument has not been applied to another instrument.

5. AUTHORIZATION NOTICE

5.1 Thermal Cycler Supplier agrees to include prominently in the front of the user's manual for each Authorized Thermal Cycler, and for no other thermal cycler or temperature cycling instrument, a Notice as specified from time to time by PE CORP. Unless and until PE CORP reasonably instructs differently, the Notice shall be:

AUTHORIZED THERMAL CYCLER

THIS INSTRUMENT, SERIAL NO. _____, IS AN AUTHORIZED THERMAL CYCLER. ITS PURCHASE PRICE INCLUDES THE UP-FRONT FEE COMPONENT OF A LICENSE UNDER THE PATENTS ON THE POLYMERASE CHAIN REACTION (PCR) PROCESS, WHICH ARE OWNED BY ROCHE MOLECULAR SYSTEMS INC. AND F. HOFFMANN-LA ROCHE LTD, TO PRACTICE THE PCR PROCESS FOR INTERNAL RESEARCH AND DEVELOPMENT USING THIS INSTRUMENT. THE RUNNING ROYALTY COMPONENT OF THAT LICENSE MAY BE PURCHASED FROM PE BIOSYSTEMS OR OBTAINED BY PURCHASING AUTHORIZED REAGENTS. THIS INSTRUMENT IS ALSO AN AUTHORIZED THERMAL CYCLER FOR USE WITH APPLICATIONS LICENSES AVAILABLE FROM PE BIOSYSTEMS. ITS USE WITH AUTHORIZED REAGENTS ALSO

PROVIDES A LIMITED PCR LICENSE IN ACCORDANCE WITH THE LABEL RIGHTS ACCOMPANYING SUCH REAGENTS. PURCHASE OF THIS PRODUCT DOES NOT ITSELF CONVEY TO THE PURCHASER A COMPLETE LICENSE OR RIGHT TO PERFORM THE PCR PROCESS. FURTHER INFORMATION ON PURCHASING LICENSES TO PRACTICE THE PCR PROCESS MAY BE OBTAINED BY CONTACTING THE DIRECTOR OF LICENSING AT PE CORPORATION, 850 LINCOLN CENTRE DRIVE, FOSTER CITY, CALIFORNIA 94404.

NO RIGHTS ARE CONVEYED EXPRESSLY, BY IMPLICATION OR ESTOPPEL TO ANY PATENTS ON REAL-TIME METHODS, INCLUDING BUT NOT LIMITED TO 5' NUCLEASE ASSAYS, OR TO ANY PATENT CLAIMING A REAGENT OR KIT.

PE BIOSYSTEMS DOES NOT GUARANTEE THE PERFORMANCE OF THIS INSTRUMENT.

5.2 Thermal Cycler Supplier agrees to affix permanently and prominently to each Authorized Thermal Cycler the designation "Authorized Thermal Cycler", its Serial Number and a direction to consult the user's manual for license information.

5.3 Thermal Cycler Supplier further agrees to instruct the ultimate purchaser that transfer of the thermal cycler or temperature cycling instrument without the Serial Number or the Notice shall automatically terminate the authorization granted by this Agreement and the thermal cycler or temperature cycling instrument shall cease to be an Authorized Thermal Cycler.

5.4 To avoid confusion among thermal cycler users, Thermal Cycler Supplier agrees not to designate or refer to thermal cyclers or temperature cycling instruments covered by this Agreement as "licensed" unless it fully and simultaneously explains that the thermal cyclers or temperature cycling instruments do not convey with their purchase a complete license under the Amplification Patent Rights.

5.5 No Authorization Notice shall be supplied with an add-on module or anything else which is less than a complete thermal cycler or temperature cycling instrument.

6. TERM AND TERMINATION

6.1 This Agreement, unless sooner terminated, shall continue until the expiration of the last-to-expire of the patents under which rights are granted in this Agreement.

6.2 This Agreement shall terminate upon a holding of invalidity or unenforceability of all patent claims licensed hereunder by a final court decision from which no appeal is or can be taken.

6.3 Thermal Cycler Supplier may terminate this Agreement for any reason by giving written notice to PE CORP and ceasing to advertise or promote its thermal cyclers or temperature cycling instruments as described in Exhibit 1 as Authorized Thermal Cyclers. Such termination shall be effective ninety (90) days after said notice or cessation, whichever is later.

6.4 The decision of a Court or Administrative body finding PE CORP liable or culpable due to Thermal Cycler Supplier's manufacture of thermal cyclers or temperature cycling instruments covered by this Agreement or due to the sale or distribution of those thermal cyclers or temperature cycling instruments by Thermal Cycler Supplier, an Affiliate or a distributor shall give PE CORP the right to terminate this Agreement immediately upon notice.

6.5 This Agreement shall terminate upon (i) an adjudication of Thermal Cycler Supplier as bankrupt or insolvent, or Thermal Cycler Supplier's admission in writing of its inability to pay its obligations as they mature; (ii) an assignment by Thermal Cycler Supplier for the benefit of creditors; (iii) the appointment of, or Thermal Cycler Suppliers applying for or consenting to the appointment of, a receiver, trustee or similar officer for a substantial part of its property; (iv) the institution of or any act of Thermal Cycler Supplier instituting any bankruptcy, insolvency arrangement, or similar proceeding; (v) the issuance or levy of any judgment, writ, warrant of attachment or execution or similar process against a substantial part of the property of Thermal Cycler Supplier; or (vi) loss of Thermal Cycler Suppliers federal or state licenses, permits or accreditation necessary for distribution of Authorized Thermal Cyclers.

6.6 PE CORP may terminate this Agreement immediately on notice upon any change in the ownership or control of Thermal Cycler Supplier or of its assets. For such purposes, a "change in ownership or control" shall mean that 30% or more of the voting stock of Thermal Cycler Supplier becomes subject to the ownership or control of a person or entity, or any related group of persons or entities acting in concert, which person(s) or entity(ies) did not own or control such portion of voting stock on the Effective Date hereof. PE CORP shall have the same right to terminate upon any transfer of 30% or more of the assets of Thermal Cycler Supplier.

6.7 Upon any breach of or default of a material term under this Agreement by Thermal Cycler Supplier, PE CORP may terminate this Agreement upon thirty (30) days' written notice. PE CORP will withdraw such notice if, during the notice period, Thermal Cycler Supplier fully cures such breach or default to PE CORP's reasonable satisfaction.

6.8 Upon expiration or termination of this Agreement, all rights granted to Thermal Cycler Supplier shall revert to or be retained by PE CORP.

6.9 Thermal Cycler Supplier's obligations to report and pay royalties as to activities under this Agreement shall survive termination or expiration.

7. CONFIDENTIALITY — PUBLICITY

7.1 In advertisements, catalogs, brochures, sales literature and promotional literature for Authorized Thermal Cyclers, Thermal Cycler Supplier, Affiliates and distributors shall state the following prominently in type and location:

> Practice of the patented polymerase chain reaction (PCR) process requires a license. The <Supplier's Model> Thermal Cycler is an Authorized Thermal Cycler and may be used with PCR licenses available from PE Corporation. Its use with Authorized Reagents also provides a limited PCR license in accordance with the label rights accompanying such reagents.

7.2 With respect to Thermal Cycler Supplier's distribution of any written information to Third Parties, including but not limited to advertising, brochures, catalogs, promotional and sales material, and public relations material, PE CORP shall have the right to prescribe changes regarding references to, or descriptions of: PE CORP, PCR, the patents under which rights are granted in this Agreement, PCR licenses or authorizations, or this Agreement. Thermal Cycler Supplier agrees to comply with PE CORP's reasonable prescriptions.

7.3 Except as provided in Sections 7.1 and 7.2, Thermal Cycler Supplier shall, to the extent reasonably practicable, maintain the confidentiality of the provisions of this Agreement and shall refrain from disclosing the terms of this Agreement without the prior written consent of PE CORP, except to the extent Thermal Cycler Supplier concludes in good faith that such disclosure is required under applicable law or regulation, in which case PE CORP shall be notified in advance.

8. COMPLIANCE AND QUALITY

8.1 In the exercise of any and all rights and in performance hereunder, it shall be the duty of Thermal Cycler Supplier, not PE CORP, to comply fully with all applicable laws, regulations and ordinances and to obtain and keep in effect licenses, permits and other governmental approvals (federal, state or local) necessary or appropriate to carry on activities hereunder.

8.2 PE CORP does not approve or endorse thermal cyclers or temperature cycling instruments of Thermal Cycler Supplier in any way or for any purpose, including PCR Quality and quality control with respect to suitability for PCR, according to standards and requirements that may exist in the marketplace from time to time, are the sole responsibility of Thermal Cycler Supplier.

9. ASSIGNMENT

9.1 This Agreement shall not be assigned by Thermal Cycler Supplier (including without limitation any assignment or transfer that would arise from a sale or transfer of Thermal Cycler Supplier's business).

9.2 PE CORP may assign all or any part of its rights and obligations under this Agreement at any time without the consent of Thermal Cycler Supplier. Thermal Cycler Supplier agrees to execute such further acknowledgments or other instruments as PE CORP may reasonably request in connection with such assignment.

10. NEGATION OF WARRANTIES AND INDEMNITY

10.1 Nothing in this Agreement shall be construed as: (a) a warranty or representation by PE CORP as to the validity or scope of any patent; (b) a warranty or representation that the practice under the Amplification Patent Rights or the Amplification System Patent Rights is or will be free from infringement of patents of Third Patties; (c) an authority or obligation to sublicense or to sue Third Parties for infringement; (d) except as expressly set forth herein, conferring the right to use in advertising, publicity or otherwise, in any form, the name of, or any trademark or trade name of, PE CORP or Roche; (e) conferring by implication, estoppel or otherwise any license, immunity or right under any patent owned by or licensed to PE CORP or Roche other than those specified, regardless of whether such patent is dominant or subordinate to the patents under which rights are granted in this Agreement; (f) an obligation to furnish any know-how; or (g) creating any agency, partnership, joint venture or similar relationship between PE CORP or Roche and Thermal Cycler Supplier.

10.2 PE CORP MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10.3 Thermal Cycler Supplier agrees to take all reasonable precautions to prevent death, personal injury, illness and property damage from the use of Authorized Thermal Cyclers. Thermal Cycler Supplier shall assume full responsibility for its operation under the patents under which rights are granted in this Agreement, the manufacture of Authorized Thermal Cyclers and the use thereof and shall defend, indemnify and hold PE CORP harmless from and against all liability, demands, damages, expenses (including attorneys fees) and losses for death, personal injury, illness, property damage or any other injury or damage, including any damages or expenses arising in connection with state or federal regulatory action, in view of the use by Thermal Cycler Supplier, its officers, directors, agents and employees of the Amplification Patent Rights and the Amplification System Patent Rights, and the manufacture and use of Authorized Thermal Cyclers except that Thermal Cycler Supplier shall not be liable to PE CORP for injury or damage arising solely because of PE CORP's negligence.

11. MOST FAVORED LICENSEE

11.1 If after signature of this Agreement, PE CORP grants to any unrelated third party, other than Roche, a license of substantially the same scope as granted to Thermal Cycler Supplier herein but under more favorable royalty rates than those given to Thermal Cycler Supplier under this Agreement, PE CORP shall promptly notify Thermal Cycler

Supplier of said more favorable royalty rates, and Thermal Cycler Supplier shall have the right and option to substitute such more favorable royalty rates for the royalty rates contained herein. Thermal Cycler Supplier's right to elect said more favorable royalty rates shall extend only for so long as and shall be conditioned on Thermal Cycler Supplier's acceptance of all the same conditions, favorable or unfavorable, under which such more favorable royalty rates shall be available to such other third party. Upon Thermal Cycler Supplier's acceptance of all such terms of said third-party agreement, the more favorable royalty rates shall be effective as to Thermal Cycler Supplier on the date of execution of such other third party license agreement. Notwithstanding the foregoing, in the event that PE CORP and/or Roche shall receive substantial other nonmonetary consideration, for example, such as intellectual property rights, as a part of the consideration for its granting of such license to a third party, then this Section 11.1 shall not apply.

12. GENERAL

12.1 This Agreement constitutes the entire agreement between The Parties as to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by it. This Agreement may be modified or amended only by a writing executed by authorized officers of each of The Parties.

12.2 Any notice required or permitted to be given by this Agreement shall be given by postpaid, first class, registered or certified mail, or by courier or facsimile, properly addressed to the other party at the respective address as shown below:

If to PE CORP:

PE Biosystems
PE Corporation
850 Lincoln Centre Drive
Foster City, California 94404 U.S.A.
Attn.: Director of Licensing

If to Thermal Cycler Supplier:

Cepheid
1190 Borregas Avenue
Sunnyvale, California 94089
Attn.: President

Either party may change its address by providing notice to the other. A notice shall be deemed given four (4) full business days after the day of mailing, or one full day after the date of delivery to the courier, or the date of facsimile transmission, as the case may be.

12.3 Governing Law and Venue. This Agreement shall be deemed made in the State of Delaware, and it shall be construed and enforced in accordance with the law of the State of Delaware. The Parties agree that the exclusive jurisdiction and venue for any dispute or controversy arising from this Agreement shall be in the state or federal courts in Delaware.

12.4 Nothing in this Agreement shall be construed to require the

commission of any act contrary to law, and wherever there is any conflict between any provision of this Agreement or concerning the legal right of The Parties to enter into this contract and any statute, law or ordinance, the latter shall prevail, but the provision shall be limited only to the extent necessary.

12.5 If any provision of this Agreement is held or discovered to both parties' satisfaction to be illegal, invalid or unenforceable in any jurisdiction or to render any patent in that jurisdiction unenforceable, the provision as it applies to that jurisdiction only shall be replaced automatically, as part of the document, by a provision as similar in terms as possible but not subject to such infirmity, in order to achieve the intent of the parties to the extent possible. In any event, as to that jurisdiction all other provisions of this Agreement shall be deemed valid and enforceable to the full extent possible.

IN WITNESS WHEREOF, The Parties hereto have duly executed this Agreement on the date(s) indicated below.

PE BIOSYSTEMS

By: /s/ [Signature Illegible]
Title: V. P., Intellectual Property
Date: 4/13/00

CEPHEID
(THERMAL CYCLER SUPPLIER)

By: /s/ THOMAS L. GUTSHALL
Title: CEO & Chairman
Date: 4/6/00

[***] Indicates text has been omitted from this Exhibit pursuant to a confidential treatment request and has been filed separately with the Securities and Exchange Commission.

Exhibit 10.18

HARVARD UNIVERSITY
Office for Technology and Trademark Licensing

Holyoke Center, Suite 727
1350 Massachusetts Avenue
Cambridge, MA 02138 USA

t. 617.495.3067
f. 617.495.9568
www.techtransfer.harvard.edu

December 22, 2004

William M. Smith
Vice President, Legal Affairs
Fluidigm Corporation
7100 Shoreline Court
South San Francisco, CA 94080

Subject: Letter Agreement between Fluidigm and Harvard Concerning Harvard Case Numbers [***]

Dear Bill,

Fluidigm Corporation (Fluidigm) has licensed a number of Harvard University (Harvard) owned patents and patent applications in the area of [***]. In particular, on October 15, 2000, Fluidigm (then known as Mycometrix Corporation) licensed Harvard Case Numbers [***], all exclusively or co- exclusively. Fluidigm has since terminated the license to Case Numbers [***], and the parties have mutually agreed in this letter to hereby terminate Fluidigm's licenses to Case Numbers [***]. Fluidigm is retaining its licenses to Case Numbers [***].

Fluidigm is concerned that Harvard or a licensee of Harvard may file claims in the previously or hereby terminated Case Numbers [***] or [***] that cover inventions that are not separately patentable (as described in 37 CFR 1.601(n)) from inventions covered, as of the date of this letter, by the pending or issued claims in Case Numbers [***]. Fluidigm further is concerned that Harvard or a licensee of Harvard may file claims in the previously or hereby terminated Case Numbers [***] that (a) cover inventions that (i) are separately patentable (as described in 37 CFR 1.601(n)) from inventions covered, as of the date of this letter, by the pending or issued claims in Case Numbers [***], and (ii) would meet the criteria of 35 USC §§102, 103 and 112 for patentability in Case Numbers [***], and (b) are not now pending in any of Case Numbers [***]. Fluidigm believes it has rights (through its co-exclusive license agreements to Case Numbers [***],)) to the not separately patentable inventions and the separately patentable inventions, each as described above. Harvard is willing to address Fluidigm's concerns through this letter agreement.

Therefore, Harvard and Fluidigm agree as follows:

A) Harvard agrees not to file, or to permit any other to file, claims in the previously or hereby terminated Case Numbers [***], that cover inventions that are not

separately patentable (as described in 37 CFR 1.601(n)) from inventions covered, as of the date of this letter, by the pending or issued claims in Case Numbers [***], without the prior express written consent of Fluidigm given after the date of this letter.

B) Harvard agrees to first offer to Fluidigm for licensing any claims, filed after the date of this letter, in Case Number [***] that (a) cover inventions that (i) are separately patentable (as described in 37 CFR 1.601(n)) from inventions covered, as of the date of this letter, by the pending or issued claims in Case Numbers [***], and (ii) would meet the criteria of 35 USC §§102, 103 and 112 for patentability in Case Numbers [***], and (b) are not now pending in any of Case Numbers [***]. Fluidigm agrees to inform Harvard within one month after Fluidigm receives express written notice form Harvard of the existence of said claims (together with a copy of such claims) whether it desires a license to said claims, or else Harvard shall be free to license them to other parties. Any license agreement between Fluidigm and Harvard for said claims shall be negotiated in good faith by the parties, have a field no broader than that now pending in Fluidigm's license to Case [***], have commercially reasonably royalties and be substantially like Harvard's then current license agreement with diligence requirements based on an acceptable development plan provided by Fluidigm; provided, however, if the parties have not entered into such license agreement within [***] after Fluidigm receives express written notice from Harvard of the existence of the applicable claims (together with a copy of such claims), then any license agreement between Fluidigm and Harvard for said claims shall be on the same terms and conditions, and in the same form, as the parties' license agreements with respect to Case Numbers [***], (as in effect as of the date of this letter), except that the license will be a non-exclusive license.

C) Harvard represents that all patent applications in Case Numbers [***] have been abandoned as of the date of this letter. Harvard agrees not to revive any such patent application or to file any other patent application under Case Number [***].

D) Fluidigm agrees to pay [***] of Harvard's reasonable out-of-pocket patent expenses, incurred after the date of this letter agreement, in Case Number [***], and within [***] of receiving an invoice from Harvard, up to a maximum aggregate amount of [***]. Harvard agrees to inform Fluidigm if any US patent or patent application in Case Number [***] becomes involved in an interference proceeding in the US Patent and Trademark Office before Harvard has incurred any expense to allow Fluidigm to terminate this letter agreement.

E) The parties mutually agree that the license to Case Numbers [***] hereby are terminated, and in connection therewith, promptly following the first meeting of the Board of Directors of Fluidigm after such date, Fluidigm shall issue to Harvard [***] of Common Stock of Fluidigm. Fluidigm represents that, in its last institutional round of financing, Fluidigm sold shares of its Series D Preferred Stock at a price of $2.80 per share. Harvard makes to Fluidigm, as of the date of the issuance of such [***], the same representations and warranties with respect to such shares as those representations and warranties set forth in Paragraph 4.2(c)(ii)(1), (2) and (3) of the

license for Case Number [***] regarding the Shares. Paragraphs 4.2(c)(iii) and (iv) of the license for Case Number [***] shall apply as well to such [***].

Fluidigm may terminate this Letter Agreement in writing with thirty (30) days written notice to Harvard and owe no patent expenses incurred by Harvard in Case Number [***] after said thirty day notice period.

F) Harvard may terminate this Letter Agreement for any material breach by Fluidigm of its obligations under Paragraphs (D) or (E) of this letter if Harvard gives express written notice to Fluidigm of such breach and such breach is not cured within thirty (30) days after Fluidigm's receipt of such notice.

G) Any disputes between the parties regarding this letter shall be resolved in the same manner as disputes are resolved under Fluidigm's licenses to Case Numbers [***].

H) The parties acknowledge that each party may currently have a different interpretation of certain aspects of the three remaining license agreements. With respect to the three remaining license agreements, the provisions of this letter are intended by the parties solely to provide specific protective mechanisms regarding the subject matter licensed by Harvard to Fluidigm. This letter shall not prejudice either parties' interpretation or intent of the three remaining license agreements, and is not intended to constitute the parties' interpretation of the three remaining license agreements (including the original intent thereof).

Sincerely,

/s/ Robert Benson
Robert Benson, PhD
Associate Director

Agreed to:

PRESIDENT AND FELLOWS
OF HARVARD COLLEGE:

/s/ Robert Benson for
Joyce Brinton
Director
Office for Technology and Trademark Licensing

Date: Dec. 23, 2004

Fluidigm Corporation:

/s/ Gajus Worthington
Signature

President and CEO
Title

Date: 12/23/04

Exhibit 10.19

Oscient

SUBLEASE

This SUBLEASE is made as of March 25, 2004, by and between Genome Therapeutics Corporation, a Massachusetts corporation having a place of business at 100 Beaver Street, Waltham, Massachusetts 02453 ("Sublessor") and Fluidigm Corporation, a California corporation having an address at 7100 Shoreline Court, San Francisco, California 94080 ("Sublessee").

WITNESSETH:

WHEREAS, pursuant to that certain Agreement of Lease dated as of November 9, 1999, by and between Mountain Cove Tech Center, L.L.C., as "landlord", ("Master Lessor") and MJ Research Company, Inc., as "tenant", ("Prime Lessor") (the "Master Lease"), Master Lessor leases to Prime Lessor the land and building known as and numbered 7000 Shoreline Court, San Francisco, California (the "Building") (all as more particularly described in the Master Lease a true and complete copy of which is attached hereto as **Exhibit A-1**, the "Master Premises"); and

WHEREAS, pursuant to that certain Agreement of Lease dated as of October 6, 2000 by and between Prime Lessor, as "landlord" and Sublessor, as "tenant" (as successor in interest to Genesoft, Inc.), as amended by a First Amendment to Lease dated December 5, 2002 and a Second Amendment to Lease dated March 25, 2004 (such lease, as so amended, and all renewals, modifications and extensions thereof being hereinafter collectively referred to as the "Prime Lease"), a true and complete copy of which is attached hereto as **Exhibit A-2**, Prime Lessor leases to Sublessor approximately 68,460 rentable square feet of space located on the first, second and third floors of the Building (all as more particularly described in the Prime Lease, the "Premises"); and

WHEREAS, Sublessee subleases other space in the Building directly from Prime Lessor pursuant to that certain Sublease dated December 1, 2001 (as amended to date, the "MJ Research Sublease"); and

WHEREAS, Sublessee desires to sublease a portion of the Premises from Sublessor and Sublessor is willing to sublease the same, all on the terms and conditions hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. Sublease of Subleased Premises. For the rent and upon the terms and conditions herein, Sublessor hereby subleases to Sublessee, and Sublessee hereby subleases from Sublessor approximately 14,503 rentable square feet of office and lab space located on the 1st floor of the Building as shown on **Exhibit B** attached hereto (the "Subleased Premises"). Sublessee acknowledges that any reference to the square

footage of the Subleased Premises is an approximation. Nevertheless, the parties agree that such approximation shall be final and binding for all purposes hereunder, and that no adjustment shall be made to the Rent if the actual square footage of the Subleased Premises differs from any reference to square footage contained herein. During the term hereof, Sublessee shall have access to the Subleased Premises and the parking lot(s) adjacent to the Building twenty-four (24) hours a day, 7 days a week, subject to the terms of the Prime Lease and this Sublease. Sublessor also grants Sublessee the right to use, without additional charge during the term of this Sublease, those items of personal property identified on **Exhibit C** attached hereto and made a part hereof (the "Furniture"), together with the existing network wiring/equipment (including handsets) and fixtures in the Subleased Premises as of the Commencement Date. Sublessee accepts possession of the Furniture and said network wiring/equipment and fixtures "as is, where is" and in their current condition, Sublessor having made no representation or warranty of any kind, express or implied (including, but not limited to, any warranty of fitness for any particular use or purpose) with respect to any of the same. Prior to the Commencement Date, Sublessee shall, upon prior notice to the Sublessor, have the right to enter the Subleased Premises for the purposes of inspecting the same, taking measurements, installing its furniture, fixtures and equipment, and preparing for the move into the Subleased Premises. Sublessor shall have the right to have a representative present any time such early entry right is exercised. If Sublessee enters the Subleased Premises prior to the Commencement Date, Sublessee shall be responsible for complying with all of the terms of this Sublease (other than the payment of Rent) and, to the extent incorporated herein by reference, the Prime Lease.

2. Term. The Term of this Sublease (the "Initial Term") shall commence on March 1, 2004 (the "Commencement Date"), and shall expire on December 31, 2007 (the "Expiration Date") or such earlier date upon which said Initial Term may expire, be canceled or be terminated pursuant to any of the terms or provisions of the Prime Lease, this Sublease or applicable law. Sublessee shall have one option to extend the term of this Sublease from January 1, 2008 until December 31, 2010 (the "Extension Term") following the Initial Term on the same terms and conditions as herein specified (other than the payment of Rent), which option shall be exercisable upon Sublessee's providing Sublessor with written notice no later than six (6) months prior to the Expiration Date, time being of the essence. Failure on the part of Sublessee to give timely such notice exercising the extension option for the Extension Term shall render said extension option void and of no further force or effect.

On the conditions (any one or more of which conditions Sublessor may waive, at its election, by written notice to Sublessee at any time) that at the time of option exercise Sublessee is not in default of its covenants and obligations under this Sublease beyond all applicable cure periods, Sublessee may elect to exercise its right to the Extension Term.

The Rent for the Extension Term shall be 95% of the then current fair market rental value ("FMRV") for comparable space in South San Francisco, California under a three (3) year sublease, taking into account all relevant factors.

The FMRV shall be proposed by Sublessor within thirty (30) days of the receipt of Sublessee's notice that it intends to extend the term of the Sublease (the "Sublessor's Proposed Market Rent"). The Sublessor's Proposed Market Rent shall be deemed to be the FMRV unless Sublessee notifies Sublessor, within thirty (30) days of Sublessee's receipt of the Sublessor's Proposed Market Rent notice, that the Sublessor's Proposed Market Rent is not satisfactory to Sublessee (the "Sublessee's Rejection Notice").

If the FMRV is not otherwise agreed upon by Sublessor and Sublessee within fifteen (15) days after Sublessor's receipt of the Sublessee's Rejection Notice, then:

(1) If the MJ Research Sublease has been extended for a period coterminous with the Extension Term hereunder and the "fair market rent" for such extension has been determined in good faith under and pursuant to the process set forth in Section 4 of the MJ Research Sublease, the FMRV shall be determined by multiplying such fair market rent per rentable square foot by the rentable square footage of the Subleased Premises. However, if for any reason such fair market rent has not been so determined as of the commencement of the Extension Term hereof, the FMRV shall be determined as set forth in subparagraphs (2) through (8) below.

(2) Sublessor and Sublessee shall notify one another within ten (10) days after the commencement of the Extension Term of the name and address of the appraiser designated by each. Such two (2) appraisers shall, within twenty (20) days after the designation of the second appraiser, make their determination of the FMRV in writing and give notice thereof to each other and to Sublessor and Sublessee. Such two (2) appraisers shall have twenty (20) days after the receipt of notice of each other's determinations to confer with each other and to attempt to reach agreement as to the determination of the FMRV. If such appraisers shall concur in such determination within said twenty (20) day period, then they shall give notice thereof to Sublessor and Sublessee and such concurrence shall be final and binding upon Sublessor and Sublessee. If such appraisers shall fail to concur as to such determination within said twenty (20) day period, then they shall give notice thereof to Sublessor and Sublessee and shall immediately designate a third appraiser. If the two (2) appraisers shall fail to agree upon the designation of such third appraiser within five (5) days after said twenty (20) day period, then they or either of them shall give notice of such failure to agree to Sublessor and Sublessee and, if Sublessor and Sublessee fail to agree upon the selection of such third appraiser within five (5) days after the appraiser(s) appointed by the parties give notice as aforesaid, then either party on behalf of both may apply to the American Arbitration Association or any successor thereof to designate a third appraiser, or on such association's failure, refusal or inability to act, to a court of competent jurisdiction, for the designation of such third appraiser.

(3) All appraisers shall be commercial real estate brokers who shall have had at least five (5) years' continuous experience as a commercial real estate broker, including some experience leasing biotech space, in the South San Francisco, California area.

(4) The third appraiser shall conduct such investigations as he or she may deem appropriate and shall, within ten (10) days after the date of his or her designation, make an independent determination of the FMRV.

(5) If none of the determinations of the appraisers varies from the mean of the determinations of the other appraisers by more than ten percent (10%), the mean of the determinations of the three (3) appraisers shall be the FMRV for the Subleased Premises. If, on the other hand, the determination of any single appraiser varies from the mean of the determinations of the other two (2) appraisers by more than ten percent (10%), the mean of the determination of the two (2) appraisers whose determinations are closest shall be the FMRV.

(6) The determination of the appraisers, as provided above, shall be conclusive upon the parties and shall have the same force and effect as a judgment made in a court of competent jurisdiction.

(7) Each party shall pay fees, costs and expenses of the appraiser selected by it and its own counsel fees and one-half (1/2) of all other expenses and fees of the third appraiser.

(8) Should the arbitration process extend beyond the Initial Term the monthly Rent will increase by 3.5% of the then monthly Rent until the new monthly Rent is established by the appraisers as provided herein and any Rent paid by Sublessee during such period shall be adjusted accordingly based on the outcome of the arbitration process.

References herein to the "Term" of this Sublease shall be deemed to mean and include the Initial Term and the Extension Term (and the Expiration Date shall be deemed extended accordingly) if and when Sublessee has given timely such notice exercising the same.

3. Appurtenant Rights. Sublessee shall have, as appurtenant to the Subleased Premises, rights to use in common with Sublessor and others entitled thereto Sublessor's rights in driveways, walkways, hallways, stairways and passenger elevators convenient for access to the Subleased Premises and the lavatories nearest thereto. In addition, Sublessor grants Sublessee the right to use not less than 44 parking spaces in the lot(s) adjacent to the Building on a non-exclusive basis. Sublessor shall not oversubscribe its parking rights under the Prime Lease.

4. Rent. Sublessee shall pay to Sublessor the following amounts as rent (the "Rent") during the Initial Term, which is intended to be full service gross rent, during the term of this Sublease:

Lease Period	Annual Rent	Monthly Rent	P.R.S.F.
3/1/04 - 9/30/04	N/A	$69,904.46	$57.84
10/01/04-12/31/04	N/A	$43,509.00	$36.00
1/1/05 -12/31/05	$522,108.00	$43,509.00	$36.00
1/1/06 -12/31/06	$540,381.78	$45,031.82	$37.26
1/1/07-12/31/07	$559,235.68	$46,602.97	$38.56

Rent includes the following: (i) all utility charges (including electricity consumed by Sublessee in the Subleased Premises); (ii) janitorial and all cleaning charges Monday through Friday (except federal holidays); (iii) non-hazardous waste disposal; (iv) RO/DI water; (v) vacuum/compressed air; (vi) emergency/back-up generator power, which generator shall provide at least the same amount of power that is currently available to Sublessee; (vii) use of common shipping/receiving area; (viii) waste water PH neutralization system; (ix) common on-site fitness room, lunch room and adjacent patio; (x) access cards; (xi) Taxes and property insurance; (xii) use of existing telephone and data wiring infrastructure; (xiii) common loading dock area; and (xiv) all maintenance and repair of the Subleased Premises excluding, subject to paragraph 7 of this Sublease, damage caused by the negligence or willful misconduct of Sublessee its employees, agents, contractors and invitees. Sublessor shall promptly and diligently perform the services required of it as set forth above. Rent does not include any Sublessee-specific operational items, including, but not limited to: (a) telecom/high speed data service through local service providers; (b) liquid nitrogen or any other specialty gas provisions; (c) hazardous waste disposal; and (d) any Sublessee-specific operating license(s) requirement(s). Environmental, health and safety and other consulting services are available through Sublessor at additional cost on a per case or as needed basis. Sublessee shall begin paying Rent to Sublessor on the Commencement Date. In addition to Rent, Sublessee shall also pay to Sublessor the sum of $35,000.00 per month as tenant improvement recovery, up to a total payment of (including the payment owing as of March 1, 2004 and all payments owing through the final scheduled $35,000.00 payment in December 1, 2004) $350,000.00. All monthly payments of Rent are due and payable in advance on the first day of each calendar month, without demand, deduction, counterclaim or setoff. Rent for any partial month shall be prorated and paid on the first of such month. Sublessee shall pay as additional rent ("Additional Rent") all sums of money or other charges required to be paid by Sublessee under this Sublease whether or not such sums and other charges are specifically designated as "Additional Rent." Sublessor shall have the same remedies for a default in the payment of Additional Rent as for a default in the payment of Rent.

5. Permitted Uses. Sublessee shall use the Subleased Premises for research and development, light manufacturing and general office uses and uses accessory thereto to the extent permitted by applicable law and under the Prime Lease, including without limitation, Article 5 of the Prime Lease as and to the extent hereinafter incorporated by reference and for no other purpose or purposes.

6. Condition of Subleased Premises. On the Commencement Date, the Subleased Premises shall be delivered to Sublessee in the condition existing on the date hereof, with all electrical, plumbing, gas, safety, security, sewer, fire suppression, restrooms, and water systems in good operating condition. Sublessee acknowledges that it has had an opportunity thoroughly to inspect the condition of the Subleased Premises, and Sublessee agrees that, subject only to the foregoing, Sublessee is leasing the Subleased Premises on an "AS IS" basis, with all defects, without any representation or warranty by Sublessor or its agents as to the condition of the Subleased Premises or their fitness for Sublessee's use, and subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Subleased Premises, and any easements, covenants or restrictions of record. Sublessee acknowledges that Sublessor and its agents have not made any representations or warranties that the Subleased Premises or the Building comply with legal requirements, including, but not limited to, the ADA, Title 24, any Transportation Management Plans, or any laws relating to hazardous substances or materials, and as a material inducement to Sublessor, Sublessee assumes responsibility for causing the Subleased Premises to comply with all legal requirements throughout the Term to the extent and only to the extent the same become applicable as a result of the introduction of hazardous substances to the Subleased Premises by Sublessee or any of its agents, contractors or employees, special circumstances of Sublessee's employees (and not generally applicable to the Building under the ADA), Sublessee's particular use of (or change of use from that currently obtaining in) the Subleased Premises, or Sublessee's construction of alterations in the Subleased Premises. Sublessee acknowledges that it has satisfied itself that the Subleased Premises are suitable for its intended use. Sublessor shall have no obligation to do any work in and to the Subleased Premises in order to prepare the Subleased Premises for occupancy or use by Sublessee.

Sublessee shall make no alterations, installations, removals, additions or improvements in or to the Subleased Premises or any other portion of the Building except with the consent of (a) Sublessor, which shall not be unreasonably withheld or delayed, (b) Prime Lessor in accordance with and to the extent required by Article 10 of the Prime Lease and (c) Master Lessor in accordance with and to the extent required by Article 10 of the Master Lease; provided, however, that, subject to the last sentence of this paragraph, Sublessor shall be entitled to condition its consent upon Sublessee's removal of the proposed alterations upon the expiration or earlier termination of this Sublease. Any alterations, installations, removals, additions or improvements consented to by Sublessor, Prime Lessor and Master Lessor shall be performed at Sublessee's sole cost. At the time Sublessee submits plans to Sublessor for Sublessor's approval, Sublessor shall, upon request of Sublessee, inform Sublessee whether it will require any alteration or improvement to be removed from the Subleased Premises upon the expiration of the Sublease term, provided, however, that Sublessor shall not unreasonably require that any alteration or improvement be so removed.

All trade fixtures and personal property, including furniture, furnishings, and audio visual or other similar technical or specialty installations, installed in the Subleased Premises at Sublessee's expense ("Tenant's Property") shall at all times remain Sublessee's property and Sublessee shall be entitled to all depreciation,

amortization and other tax benefits with respect thereto. Except for Tenant's Property, which cannot be removed without material injury to the Subleased Premises, at any time Sublessee may remove Tenant's Property from the Subleased Premises, provided Sublessee repairs all damage caused by such removal and restores the Subleased Premises to a condition consistent with the then condition of the balance of the Subleased Premises. Upon request, Sublessor shall execute a lien waiver in reasonable form acknowledging its lack of any interest or title in Tenant's Property.

Sublessee shall not misuse the Furniture, fixtures and equipment (other than Tenant's Property) and shall keep the same in clean condition, reasonable wear and tear and damage by fire or other casualty, Master Lessor, Prime Lessor, Sublessor or their respective agents, employees and contractors, and hazardous substances not introduced to the Subleased Premises by Sublessee or its agents, employees or contractors excepted.

Notwithstanding anything to the contrary in this Sublease, Sublessee shall have no obligation to perform, construct, repair, maintain, make or reimburse Sublessor for any improvement, (i) necessitated by the acts or negligence of Sublessor, Master Lessor, Prime Lessor, any other occupant of the building or the project, or their respective agents, employees, invitees or contractors, (ii) occasioned by the exercise of the power of eminent domain or any peril that would be covered by the customary form of so-called "special form, extended coverage" casualty insurance, (iii) to the structure or common areas of the building or the project or the heating, ventilating, air conditioning, electrical, water, sewer, and plumbing systems serving the Subleased Premises, the building, or the project, unless caused by the acts or negligence of Sublessee or its agents, employees or contractors, (iv) to any portion of the building or the project outside of the demising walls of the Subleased Premises, unless caused by the acts or negligence of Sublessee or its agents, employees or contractors, (v) occasioned by the presence of any hazardous substance on or about the Subleased Premises, other than hazardous substances introduced into the Subleased Premises by Sublessee or its agents, employees or contractors, or persons under its control, (vi) which is expressly the obligation of the Prime Lessor under the Prime Lease or the Master Lessor under the Master Lease, (vii) except to the extent Sublessee's obligation under the first paragraph of this Section 6, required as a consequence of any law, rule, regulation, ordinance, covenant, condition or restriction or occasioned by any construction defect or legal violation of the Subleased Premises, the building or the project, (viii) which would customarily be reimbursable under any "special form, extended coverage" casualty insurance policy, or (ix) except to the extent Sublessee's obligation under the first paragraph of this Section 6, which could be treated as a "capital expenditure" under generally accepted accounting principles.

7. Insurance. Sublessee shall maintain throughout the term of this Sublease such insurance in respect of the Subleased Premises and the conduct and operation of business therein, with Sublessor, Prime Lessor and Master Lessor (and Master Lessor's members, property managers and other parties in interest as Master Lessor may from time to time reasonably designate to Sublessee in writing), listed as additional insureds on the liability coverage component thereof, as is required of "Tenant"

pursuant to the terms of the Prime Lease (including, without limitation, Article 13 as and to the extent hereinafter incorporated by reference) and the terms of the Master Lease with no penalty to Sublessor, Prime Lessor or Master Lessor resulting from deductibles or self-insured retentions effected in Sublessee's insurance coverage, and with such other endorsements and provisions as Prime Lessor or Master Lessor may reasonably request under and pursuant to the Prime Lease and Master Lease, respectively. If Sublessee fails to procure or maintain such insurance and to pay all premiums and charges therefor within five (5) days after notice from Sublessor, Sublessor may (but shall not be obligated to) do so, whereupon Sublessee shall reimburse Sublessor upon demand. All such insurance policies shall, to the extent obtainable, contain endorsements providing that (i) such policies may not be canceled except upon thirty (30) days' prior notice to Sublessor, and if they are required hereunder to be named as additional insureds thereunder, Prime Lessor and Master Lessor, (ii) no act or omission of Sublessee shall affect or limit the obligations of the insurer with respect to any other named or additional insured and (iii) Sublessee shall be solely responsible for the payment of all premiums under such policies and Sublessor, notwithstanding that it is or may be a named insured, shall have no obligation for the payment thereof. Such insurance shall otherwise be in both form and substance as is customarily carried by landlords of comparable buildings in the South San Francisco, California area. On or before the Commencement Date, Sublessee shall deliver to Sublessor, Prime Lessor and Master Lessor either a fully paid-for policy or certificate, at Sublessee's option, evidencing the foregoing coverages. Any endorsements to such policies or certificates shall also be delivered to Sublessor, and if they are required hereunder to be named as additional insureds thereunder, Prime Lessor and Master Lessor upon issuance thereof. Sublessee shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Sublessee shall deliver to Sublessor, Prime Lessor and Master Lessor such renewal policies or certificates at least thirty (30) days before the expiration of any existing policy. In the event Sublessee fails so to deliver any such renewal policy or certificate at least thirty (30) days before the expiration of any existing policy, Sublessor shall have the right, but not the obligation, to obtain the same where upon Sublessee shall reimburse Sublessor upon demand.

Sublessee shall include in all such insurance policies any clauses or endorsements in favor of Prime Lessor and Master Lessor including, but not limited to, waivers of rights of subrogation, which Sublessor is currently required to provide pursuant to the provisions of the Prime Lease. Notwithstanding anything to the contrary in this Sublease, Sublessee and Sublessor, for themselves and their agents, employees, and contractors hereby waive any and all damages, losses, liabilities, costs, and expenses, (i) to the extent the same would be covered by the standard form in California of so-called full replacement cost, "special form" extended coverage casualty insurance and (ii) to the extent the same are actually covered by insurance carried by said party.

Sublessor shall maintain the insurance required of it under Section 13.1(b) of the Prime Lease.

8. Indemnification. Except to the extent arising out of the negligence, willful misconduct or violation of law by Sublessor, Master Lessor, Prime Lessor or

their respective agents, employees or contractors, or the breach of this Sublease, the Prime Lease or the Master Lease by Sublessor, Master Lessor, or Prime Lessor, Sublessee agrees to protect, defend (with counsel reasonably approved by Sublessor), indemnify and hold Sublessor, Prime Lessor and Master Lessor and their respective officers, agents and employees harmless from and against any and all claims, costs, expenses, losses and liabilities to the extent arising: (i) from the conduct or management of or from any work or thing whatsoever done in the Subleased Premises during the term hereof; (ii) from any condition arising, and any injury to or death of persons, damage to property or other event occurring or resulting from an occurrence in the Subleased Premises during the Term hereof; and (iii) from any breach or default on the part of Sublessee in the performance of any covenant or agreement on the part of Sublessee to be performed pursuant to the terms of this Sublease or from any willful misconduct or negligence on the part of Sublessee or any of its agents, employees, licensees, invitees or assignees or any person claiming through or under Sublessee. Sublessee further agrees to indemnify Sublessor, Prime Lessor and Master Lessor and their respective officers, agents and employees from and against any and all damages, liabilities, costs and expenses, including reasonable attorneys' fees, incurred in connection with any such indemnified claim or any action or proceeding brought in connection therewith. Except to the extent arising out of the negligence, willful misconduct or violation of law by Sublessee, Master Lessor, Prime Lessor or their respective agents, employees or contractors, or the breach of this Sublease, the Prime Lease or the Master Lease by Sublessee, Master Lessor, or Prime Lessor, Sublessor agrees to protect, defend (with counsel reasonably approved by Sublessee), indemnify and hold Sublessee and its respective officers, agents and employees harmless from and against any and all claims, costs, expenses, losses and liabilities to the extent arising from any willful misconduct or negligence on the part of Sublessor or any of its agents, employees or contractors. Sublessor further agrees to indemnify Sublessee and its officers, agents and employees from and against any and all damages, liabilities, costs and expenses, including reasonable attorneys' fees, incurred in connection with any such indemnified claim or any action or proceeding brought in connection therewith. The provisions of this Paragraph are intended to supplement any other indemnification provisions contained in this Sublease and in the Prime Lease to the extent incorporated by reference herein.

9. No Assignment or Subletting. Sublessee shall not assign, sell, mortgage, pledge or in any manner transfer this Sublease or any interest herein, or the term or estate granted hereby or the rentals hereunder, or sublet the Subleased Premises or any part thereof, or grant any concession or license or otherwise permit occupancy of all or any part of the Subleased Premises by any person, entity or any Competitor (as defined in Section 14.2 of the Prime Lease) of Prime Lessor, without the prior written consent of Sublessor, which shall not be unreasonably withheld or delayed and, if and to the extent required under the terms of the Master Lease or the Prime Lease, the consent of Prime Lessor and Master Lessor. Notwithstanding anything to the contrary in this Sublease, the consent of Sublessor shall not be required for any sublease of the Subleased Premises or any assignment of this Sublease to any entity controlled by, under common control with, or which controls Sublessee for so long as such entity is controlled by, under common control with, or controls Sublessee, or in connection with any merger of

Sublessee with any other entity (provided the surviving entity has at least the net worth of Sublessee immediately prior to the merger) or the sale of substantially all of the assets of Sublessee located in the Subleased Premise. Neither the consent of Sublessor, Prime Lessor or Master Lessor to an assignment, subletting, concession, or license, nor the references in this Sublease to assignees, subtenants, concessionaires or licensees, shall in any way be construed to relieve Sublessee of the requirement of obtaining the consent of Sublessor, Prime Lessor and Master Lessor to any further assignment or subletting or to the making of any assignment, subletting, concession or license for all or any part of the Subleased Premises. Notwithstanding any assignment or subletting, including, without limitation, any assignment or subletting permitted or consented to, the original Sublessee named herein and any other person(s) who at any time was or were Sublessee shall remain fully liable under this Sublease. If this Sublease is assigned, or if the Subleased Premises or any part thereof is underlet or occupied by any person or entity other than Sublessee, Sublessor may, after default by Sublessee following the lapse of any cure period, collect rent from the assignee, undertenant or occupant, and apply the net amount collected to the rents payable by Sublessee hereunder, but no assignment, underletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, undertenant or occupant as tenant, or a release of Sublessee from the further performance by Sublessee of the covenants hereunder to be performed on the part of Sublessee (except to the extent such amounts are so applied). Any attempted assignment or subletting without the prior written consent of Sublessor, Prime Lessor and Master Lessor, to the extent required, shall be void.

10. Primacy and Incorporation of Prime Lease.

(a) This Sublease is and shall be subject and subordinate to the Prime Lease and to all matters to which the Prime Lease is or shall be subject and subordinate, and to all amendments, modifications, renewals, extensions and replacements of or to the Prime Lease that do not adversely affect Sublessee, this Sublease or the rights of Sublessee, under this Sublease in the Subleased Premises or the use thereof by Sublessee, and Sublessor purports hereby to convey, and Sublessee takes hereby, no greater rights then those accorded to or taken by Sublessor as “Tenant” under the terms of the Prime Lease. To the extent expressly incorporated herein below, Sublessee covenants and agrees that it will perform and observe all of the provisions contained in the Prime Lease to be performed and observed by “Tenant” thereunder as applicable to the Subleased Premises, except that “Rent” shall be defined for purposes of this Sublease as set forth in Paragraph 4 hereof. Notwithstanding the foregoing, Sublessee shall have no obligation to (i) cure any default of Sublessor under the Prime Lease, (ii) perform any obligation of Sublessor under the Prime Lease which arose prior to the Commencement Date and Sublessor failed to perform, (iii) repair any damage to the Subleased Premises caused by Sublessor, (iv) remove any alterations or additions installed within the Subleased Premises by Sublessor, (v) indemnify Sublessor or Prime Lessor with respect to any negligence or willful misconduct of Sublessor, its agents employees or contractors, or (vi) discharge any liens on the Subleased Premises or the Building which arise out of any work performed, or claimed to be performed, by or at the direction of Sublessor. Except to the extent inconsistent with the context hereof,

capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Prime Lease. Further, except as set forth below, the terms, covenants and conditions of the following specified provisions of the Prime Lease are incorporated herein by reference as if such terms, covenants and conditions were stated herein to be the terms, covenants and conditions of this Sublease, so that except to the extent that they are inconsistent with or modified by the provisions of this Sublease, for the purpose of incorporation by reference each and every referenced term, covenant and condition of the Prime Lease binding upon or inuring to the benefit of the "Landlord" thereunder shall, in respect of this Sublease and the Subleased Premises, be binding upon or inure to the benefit of Sublessor, and each and every referenced term, covenant and condition of the Prime Lease binding upon or inuring to the benefit of the "Tenant" thereunder shall, in respect of this Sublease, be binding upon or inure to the benefit of Sublessee, with the same force and effect as if such terms, covenants and conditions were completely set forth in this Sublease: Articles/Sections: 2.3, 5.2, 5.3(a), 5.3(b), 5.3(c) (excluding the fourth, fifth, sixth and seventh sentences), 5.3(d), 5.3(e), 5.3(f), 5.3(g), 5.3(h) through the word "contractors," 5.4, 6.5, 6.6, the last two sentences of 7.8, 8, the fourth sentence of 10, 11, 12, 13.1 (excluding 13.1(b) and, subject to the additional qualification that Sublessor shall exercise its rights thereunder only as and to the extent Prime Lessor exercises the same against Sublessor, 13.1(g), 13.2, 13.3, 13.4, 15 (excluding 15.5 and 15.6), 16 (as amended), 17, 19, 20, 22, 23.3, the first paragraph of 24, 27.1, 27.2, 27.3, 27.4, 27.12 and 27.13, and Exhibits B, C and D. Notwithstanding the foregoing, for purposes of this Sublease, as to such incorporated terms, covenants and conditions:

(i) references in the Prime Lease to the "Demised Premises" shall be deemed to refer to the "Subleased Premises" hereunder;

(ii) references in the Prime Lease to "Landlord" and to "Tenant" shall be deemed to refer to "Sublessor" and "Sublessee" hereunder, respectively, except that where the term "Landlord" is used in the context of ownership or management of the entire Building, such term shall be deemed to mean "Prime Lessor";

(iii) references in the Prime Lease to "this Lease" shall be deemed to refer to "this Sublease" (except when such reference in the Prime Lease is, by its terms (unless modified by this Sublease), a reference to any other section of the Prime Lease, in which event such reference shall be deemed to refer to the particular section of the Prime Lease);

(iv) references in the Prime Lease to the "Term Commencement Date" shall be deemed to refer to the "Commencement Date" hereunder;

(v) references in the Prime Lease to the "Yearly Fixed Rent", "Fixed Rent", "Additional Rent" and "rent" shall be deemed to refer to the "Rent" as defined hereunder;

(vi) Sublessee shall not be required to name Sublessor, Prime Lessor, Master Lessor or any other party as an additional insured on its worker's compensation, business interruption or personal property insurance; and

(vii) reference to "Article 14" in Section 19.1 shall mean Paragraph 9 of this Sublease.

Notwithstanding the foregoing, the following provisions of the Prime Lease, Exhibits and Schedules annexed thereto are not incorporated herein by reference and shall not, except as to definitions set forth therein, have any applicability to this Sublease: Articles/Sections 1, 2.1, 2.2, 2.4, 3, 4, 5.1, the fourth, fifth, sixth and seventh sentences of 5.3(c), everything after the word "contractors" in 5.3(h), 6 (excluding 6.5 and 6.6), 7 (except the last two sentences of 7.8), 9, 10 (except the fourth sentence), 13.1(b), 13.5, 14, 15.5, 15.6, 18, 21, 23.1, 23.2, the second paragraph of 24, 25, 26, 27.5, 27.6, 27.7, 27.8, 27.9, 27.10, 27.11, 27.14, 28 and 29 and Exhibits A, A-l, A-2, E, F, G and H.

Where reference is made in the following Sections to "Landlord", the same shall be deemed to refer to "Master Lessor" and "Prime Lessor": Sections 7 (other than the last sentence of 7.8) 8, 13.5, 15.1 and 16.

Where reference is made in the following Section to "Landlord", the same shall be deemed to refer to "Prime Lessor": the fourth sentence of Section 15.6.

Where reference is made in the following Sections to "Landlord", the same shall be deemed to refer to "Master Lessor", "Prime Lessor" and "Sublessor": Sections 5.3(b), 5.3(d), 5.3(f), 5.3(g), 5.4, the last two sentences of 7.8, 10, 11,13.1, 13.2, 13.3, 13.4, 15.2, 15.3, 15.6 (excluding the fourth sentence), 15.7 and 17.

Where reference is made in the following Sections to "Landlord", the same shall be deemed to refer to "Prime Lessor" and "Sublessor": Sections 5.3(c) and 5.3(e).

(b) (Intentionally omitted)

(c) Notwithstanding anything to the contrary contained in the Prime Lease, the time limits (the "Notice Periods") contained in the Prime Lease for the giving of notices, making of demands or performing of any act, condition or covenant on the part of the "Tenant", thereunder, or for the exercise by the "Tenant", thereunder of any right, remedy or option, are changed for the purposes of incorporation herein by reference by shortening the same in each instance by five (5) days, so that in each instance Sublessee shall have five (5) fewer days to observe or perform hereunder than Sublessor has as the "Tenant" under the Prime Lease; provided, however, that if the Prime Lease allows a Notice Period of six (6) days or less, then Sublessee shall nevertheless be allowed the number of days equal to one-half of the number of days in each Notice Period to give any such notices, make any such demands, perform any such acts, conditions or covenants or exercise any such rights, remedies or options; provided, further, that if one-half of the number of days in the Notice Period is not a whole number, Sublessee shall

be allowed the number of days equal to one-half of the number of days in the Notice Period rounded up to the next whole number.

(d) Notwithstanding anything to the contrary contained in this Sublease (including, without limitation, the provisions of the Prime Lease incorporated herein by reference), Sublessor makes no representations or warranties whatsoever with respect to the Subleased Premises, this Sublease, Prime Lease or any other matter, either express or implied, except as set forth in this Sublease, and except that Sublessor represents and warrants (i) that it is the sole holder of the interest of the "Tenant" under the Prime Lease, (ii) that the Prime Lease is in full force and effect and that there are no modifications of the Prime Lease which will affect Sublessee's rights or obligations hereunder, (iii) that no notices of default have been served on Sublessor under the Prime Lease which have not been cured and to the best of Sublessor's knowledge Sublessor is not otherwise in default of its obligations under the Master Lease, and (iv) to the best of Sublessor's knowledge, Prime Lessor is not in default under the Prime Lease or the Master Lease and Master Lessor is not in default under the Master Lease.

11. Certain Services and Rights. Except as otherwise expressly set forth herein, the only services or rights to which the Sublessee is entitled hereunder, are those expressly set forth herein and those services and rights to which Sublessor is entitled under the Prime Lease, including without limitation those set forth in Sections 7.3, 7.4, 7.6 and 7.7(a) of the Prime Lease. Notwithstanding anything to the contrary contained herein, in no event shall Sublessor be deemed to be in default under this Sublease or liable to Sublessee for any failure of the Prime Lessor to perform its obligations under the Prime Lease. With respect to all work, services, utilities, repairs, restoration, maintenance, compliance with law, insurance, indemnification or other obligations or services to be performed or provided by Prime Lessor under the Prime Lease, Sublessor's sole obligation shall be, without expense to itself, to exercise commercially reasonable efforts to require Prime Lessor to comply with the obligations of Prime Lessor under the Prime Lease, provided that in no event shall Sublessor be required to file suit against Prime Lessor.

12. Compliance with Prime Lease. Sublessee shall neither do nor permit its agents, employees or contractors to do anything which violates the Prime Lease and which would cause the Prime Lease to be terminated or forfeited by reason of any right of termination or forfeiture reserved or vested in Prime Lessor under the Prime Lease, and Sublessee shall defend, indemnify and hold Sublessor harmless from and against any and all claims, liabilities, losses, damages and expenses (including reasonable attorneys' fees) of any kind whatsoever if the Prime Lease is terminated or forfeited in whole or in part as a result of a breach or default on the part of Sublessee. Sublessee covenants and agrees that Sublessee will not do anything which would constitute a default under the provisions of the Prime Lease or omit to do anything which Sublessee is obligated to do under the terms of this Sublease, which would constitute a default under the Prime Lease. Except if the same results in whole or in part from a breach on the part of Sublessee or any of its agents, employees or contractors of the obligations of Sublessee hereunder, Sublessor shall not cause or permit the Prime Lease to be terminated or forfeited by reason of any default on the part of Sublessor thereunder and

Sublessor shall indemnify, defend and hold harmless Sublessee from any such termination or forfeiture.

13. Default. In the event that Sublessee shall default in any of its obligations hereunder beyond applicable cure periods, including any default of the nature described in the herein incorporated provisions of the Prime Lease beyond applicable cure periods as modified by Paragraph 10(c) hereof, Sublessor shall have available to it all of the rights and remedies available to Prime Lessor under the Prime Lease, including without limitation Article 19 thereof as incorporated herein by reference, as though Sublessor were the "Landlord" thereunder and Sublessee the "Tenant" thereunder. Sublessee further agrees to reimburse Sublessor for all costs and expenses incurred by Sublessor in asserting its rights hereunder against Sublessee or any other party. The non-prevailing party shall also pay the attorneys' fees and costs incurred by the prevailing party in any post-judgment proceedings to collect and enforce the judgment. The covenant in the preceding sentence is separate and several and shall survive the merger of this provision into any judgment on this Sublease.

14. Brokerage. Sublessee and Sublessor represent that they have not dealt with any broker in connection with this Sublease other than CRESA Partners (the "Broker"). Each party agrees to indemnify and hold harmless the other from and against any and all liabilities, claims, suits, demands, judgments, costs, interests and expenses (including, without being limited to, reasonable attorneys' fees and expenses) which the indemnified party may be subject to or suffer by reason of any claim made by any person, firm or corporation other than the Broker for any commission, expense or other compensation as a result of the execution and delivery of this Sublease, which is based on alleged conversations or negotiations by said person, firm or corporation with the indemnifying party. Sublessee shall pay the Broker the brokerage fees/commissions due under a separate agreement between and among Sublessee and Broker. Each party shall indemnify and hold the other harmless from and against any and all liabilities, claims, suits, demands, judgments, costs, interest and expenses (including, without being limited, reasonable attorneys' fees and expenses) which said other party may be subject to or suffer by reason of any claim made by any other Broker for any brokerage fees/commissions, expense of other compensation as a result of the execution and delivery of this Sublease in breach of the indemnified parties representation.

15. Security Deposit. On January 1, 2005, the cash security deposit then currently held by Sublessor for the Subleased Premises shall be released to Sublessee and exchanged for a letter of credit in accordance with the following: Sublessee at its sole cost and expense shall deliver to Sublessor, in a form and from a financial institution acceptable to Sublessor, an irrevocable, unconditional standby letter of credit in the amount of $130,527.00 (the "Letter of Credit"), as security for the full and faithful performance and observance by Sublessee of Sublessee's covenants and obligations under this Sublease (the "Security Deposit"). Sublessee shall be solely responsible for all costs and expenses of obtaining, amending, renewing or replacing such Letter of Credit. The Letter of Credit shall have an expiration date not earlier than thirty (30) days following the expiration of the Term of this Sublease. If Sublessee defaults in the full and prompt payment and performance of any of Sublessee's covenants and

obligations under this Sublease, including, but not limited to, the payment of Rent specified in Paragraph 4 hereof, Sublessor may, after the giving of any required notices and the lapse of any cure period, but without giving any other notice to Sublessee, draw upon the Letter of Credit to the extent required for the payment of any Rent or any other sums as to which Sublessee is in default or for any sum which Sublessor may expend or may be required to expend by reason of Sublessee's default in respect of any of the terms, covenants and conditions of this Sublease, including, but not limited to, any damages or deficiency in the reletting of all or any portion of the Subleased Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Sublessor. If Sublessor draws upon the Letter of Credit to cure any default, Sublessee shall cause the Letter of Credit to be restored to its original amount (or shall make a cash security deposit with Sublessor in said amount) within fifteen (15) days of such drawing and failure to do so shall be deemed a default hereunder. Sublessee understands that its potential liability under this Sublease is not limited to the amount of the Security Deposit. Use of said Security Deposit by Sublessor shall not constitute a waiver, but is in addition to other remedies to Sublessor under this Sublease and under law (except to the extent of the amount so applied). In the event of any sale of Sublessor's interest in the Premises, Sublessor shall either return the Security Deposit to Sublessee or assign its interest in the Security Deposit to the transferee or assignee and Sublessor shall thereupon be released by Sublessee from all liability for the return or payment thereof; and Sublessee shall look solely to the new sublessor for the return or payment of the same delivered to the new sublessor; and the provisions hereof shall apply to every transfer or assignment made of the same to a new sublessor. Sublessee shall not assign or encumber or attempt to assign of encumber the Security Deposit and neither Sublessor nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Sublessee waives the provisions of California Civil Code Section 1950.7, and all other provisions of law now in force or that become in force after the date of execution of this Sublease that provide that Sublessor may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Sublessee, or to clean the Subleased Premises.

16. Notices. All notices, consents, approvals, demands, bills, statements and requests which are required or desired to be given by either party to the other hereunder shall be in writing and shall be governed by Article 25 of the Prime Lease as incorporated herein by reference, except that the mailing addresses for Sublessor and Sublessee shall initially be those first set forth above, except that after the Commencement Date the address for Sublessee shall be the Subleased Premises or such other address as Sublessee shall designate by written notice to Sublessor. Communications and payments to the Prime Lessor shall be given in accordance with, and subject to, Article 25 of the Prime Lease. Communications to the Master Lessor shall be given in accordance with, and subject to, Article 25 of the Master Lease.

17. Interpretation. This Sublease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Sublease to be drafted. Each covenant, agreement, obligation or other provision of this Sublease shall be deemed and construed as a separate and independent covenant of the party

bound by, undertaking or making the same, which covenant, agreement, obligation or other provision shall be construed and interpreted in the context of the Sublease as a whole. All terms and words used in this Sublease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. The word "person" as used in this Sublease shall mean a natural person or persons, a partnership, a corporation or any other form of business or legal association or entity. Terms used herein and not defined shall have the meaning set forth in the Prime Lease.

18. Fire or Casualty; Eminent Domain. In addition to the provisions of Article 16 of the Prime Lease as and to the extent incorporated herein by reference, Sublessor also agrees if the MJ Research Sublease is terminated by Prime Lessor, Master Lessor or Sublessee because of a fire or other casualty, then Sublessee may terminate this Sublease. Sublessee may exercise the termination right described in the previous sentence by giving written notice to Sublessor within thirty (30) days of Sublessee's receipt or giving of the termination notice under the MJ Research Sublease and the effective date of the termination of this Sublease will be the same date as the termination date of the MJ Research Sublease. Upon execution of this Sublease by Sublessee and Sublessor and the delivery of the Consent described in Paragraph 28 hereof, Sublessor shall deliver to Sublessee in electronic format and hard copy the plans in Sublessor's possession as of the date hereof for the tenant improvements and will assign any rights Sublessor has in such plans for purposes of using such plans to rebuild any tenant improvements existing in the Subleased Premises as of the date hereof. In the event of a fire or casualty to the Subleased Premises where Prime Lessor has decided to restore the Building including the Subleased Premises, Sublessor shall turn over to Prime Lessor the proceeds of insurance required to be carried by Sublessor under Section 13.1(b) of the Prime Lease for the rebuilding of the tenant improvements by Prime Lessor, unless this Master Lessor terminates the Master Lease, Prime Lessor terminates the Prime Lease, or Sublessor or Sublessee terminates this Sublease.

19. Right to Cure Sublessee's Defaults. If Sublessee shall at any time fail to make any payment or perform any other obligation of Sublessee hereunder within fifteen (15) days (except in the case of an emergency) of receiving Sublessor's notice of such failure to make payment or to perform, then Sublessor shall have the right, but not the obligation, after notice to Sublessee in accordance with Paragraph 16 of this Sublease, or without notice to Sublessee in the case of any emergency, and without waiving or releasing Sublessee from any obligations of Sublessee hereunder, to make such payment or perform such other obligation of Sublessee in such manner and to such extent as Sublessor shall deem necessary, and in exercising any such right, to pay any incidental costs and expenses, employ attorneys, and incur and pay reasonable attorneys' fees. Sublessee shall pay to Sublessor upon demand all sums so paid by Sublessor and all incidental costs and expenses of Sublessor in connection therewith, together with interest thereon at an annual rate equal to the rate four percent (4%) above the base rate or prime rate then announced as such by Citibank, N.A. or its successor, or the maximum rate permitted by law. Such interest shall be payable with respect to the period commencing on the date such expenditures are made by Sublessor and ending on the date such amounts are repaid by Sublessee. If Sublessor shall at any time fail to

perform any obligations on its part to be performed under Paragraph 4 of this Sublease which interfere (or are reasonably likely to imminently interfere with the use of the Subleased Premises by Sublessee) and Sublessor shall fail to commence to cure such default within fifteen (15) days (or such longer period of time as is reasonably necessary in the exercise of reasonable diligence to cure such failure to perform) following written demand for such performance by Sublessee and thereafter to diligently complete such cure, then, in addition to its other rights and remedies, Sublessee shall have the right, but not the obligation, without waiving or releasing Sublessor from any obligations of Sublessor hereunder, to perform such obligation of Sublessor. Notwithstanding anything to the contrary in this Sublease, the cost reasonably incurred by Sublessee in completing such cure shall be paid by Sublessor to Sublessee within five (5) days of receiving Sublessee's bill for the same. The foregoing, however, shall not apply to any of the services to be provided by Prime Lessor directly to Sublessor as set forth in Paragraph 11 and, in such case, the obligations of Sublessor subject to this Section shall be limited to the obligations of Sublessor under Paragraph 11. The provisions of this Paragraph shall survive the Expiration Date or the sooner termination of this Sublease.

20. Termination of Prime Lease. Subject to the rights, if any, of Sublessee to recognition of Sublessee's rights hereunder by Master Lessor or Prime Lessor, if for any reason the term of the Prime Lease shall terminate prior to the Expiration Date, this Sublease shall thereupon automatically terminate as to the premises demised under the Prime Lease and Sublessor shall not be liable to Sublessee by reason thereof except in the event of a breach by Sublessor of its obligations under Paragraph 12 hereof; provided, however, that Sublessor agrees that so long as Sublessee is not in default hereunder beyond any applicable cure periods, Sublessor shall not voluntarily surrender the Prime Lease except in accordance with the Prime Lease in the event of a taking or casualty. Notwithstanding the foregoing, if the Prime Lease gives Sublessor any right to terminate the Prime Lease in the event of the partial or total damage, destruction, or condemnation of the Subleased Premises or the Building, the exercise of such right by Sublessor shall not constitute a default or breach hereunder.

Upon the expiration or termination of this Sublease, whether by forfeiture, lapse of time or otherwise, or upon the termination of Sublessee's right of possession, Sublessee shall at once surrender and deliver the Subleased Premises and the Furniture in the condition and repair required by, and in accordance with the provisions of, this Sublease and the Prime Lease, including without limitation Article 20 of the Prime Lease as incorporated herein by reference, including the Furniture, which shall be in the same condition as at the date possession of the Subleased Premises was delivered to Sublessee, reasonable wear and tear, alterations made by Sublessee in compliance herewith that Sublessee is permitted to surrender, acts of God, casualties, condemnations, hazardous materials not introduced to the Premises by Sublessee, its agents, employees or invitees and the acts of Sublessor, Prime Lessor, Master Lessor or other occupants if the building (other than Sublessee, its agents, employees or invitees) and their respective agents, employees and contractors excepted.

21. Consents and Approvals. All references in this Sublease to the consent or approval of Prime Lessor, Master Lessor and/or Sublessor shall be deemed to mean

the written consent or approval of Prime Lessor, Master Lessor and/or Sublessor, as the case may be, and no consent or approval of Prime Lessor, Master Lessor and/or Sublessor, as the case may be, shall be effective for any purpose unless such consent or approval is set forth in a written instrument executed by Prime Lessor, Master Lessor and/or Sublessor, as the case may be. In all provisions requiring the approval or consent of Sublessor (whether pursuant to the express terms of this Sublease or the terms of the Prime Lease incorporated herein), Sublessee shall be required to obtain the approval or consent of Sublessor and then to obtain like approval or consent of Prime Lessor to the extent Prime Lessor's consent is required under the Prime Lease and Master Lessor to the extent Master Lessor's consent is required under the Master Lease. Sublessor agrees its consent shall not be unreasonably withheld or delayed, except as otherwise provided herein. If Sublessor is required or has determined to give its consent or approval to a matter as to which consent or approval has been requested by Sublessee, Sublessor shall cooperate reasonably with Sublessee in endeavoring to obtain any required Prime Lessor's or Master Lessor's consent or approval upon and subject to the following terms and conditions: (i) Sublessee shall reimburse Sublessor for any reasonable out-of-pocket costs incurred by Sublessor in connection with seeking such consent or approval, (ii) Sublessor shall not be required to make any payments to Prime Lessor or Master Lessor or to enter into any agreements or to modify the Prime Lease, or this Sublease in any manner which will prejudice Sublessor in order to obtain any such consent or approval, (iii) if Sublessee agrees or is otherwise obligated to make any payments to Sublessor, Master Lessor or Prime Lessor in connection with such request for such consent or approval, Sublessee shall have made arrangements satisfactory to Sublessor for such payments and (iv) Sublessee shall indemnify and hold Sublessor harmless from and against all liabilities, losses, damages or expenses, including, without being limited to, reasonable attorneys' fees and expenses Sublessor shall suffer or incur in connection with seeking such consent or approval. Nothing contained in this Article shall be " deemed to require Sublessor to give any consent or approval merely because Prime Lessor or Master Lessor has given such consent or approval. Sublessor shall promptly forward to Prime Lessor and Master Lessor, as the case may be, such requests as Sublessee may submit for approval or consent from Prime Lessor and Master Lessor.

22. No Privity of Estate. Nothing contained in this Sublease shall be construed to create privity of estate or of contract between Sublessee and Prime Lessor and Master Lessor, and Prime Lessor and Master Lessor are not obligated to recognize or to provide for the non-disturbance of the rights of Sublessee hereunder except as expressly set forth in separate agreements, if any, between said party or parties and Sublessee.

23. No Waiver. The failure of Sublessor or Sublessee to insist in any one or more cases upon the strict performance or observance of any obligation of the other hereunder or to exercise any right or option contained herein shall not be construed as a waiver or relinquishment for the future of any such obligation, right or option. Sublessor's receipt and acceptance of Rent or Sublessor's or Sublessee's acceptance of performance of any other obligation by the other party, with knowledge of a breach of any provision of this Sublease, shall not be deemed a waiver of such breach. No waiver by Sublessor or Sublessee of any term, covenant or condition of this Sublease shall be

deemed to have been made unless expressed in writing and signed by the party to be charged. .

24. Complete Agreement. This Sublease constitutes the entire agreement between the parties and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Sublease which are not fully expressed in this Sublease. This Sublease cannot be changed or terminated orally or in any manner other than by a written agreement executed by both parties. This Sublease shall not be binding upon either party unless and until it is signed and delivered by and to both parties.

25. Successors and Assigns. The provisions of this Sublease, except as herein otherwise specifically provided, shall extend to bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and permitted assigns.

26. Waiver of Jury Trial and Right to Counterclaim. To the extent permitted by law, the parties hereto hereby waive any rights which they may have to trial by jury in any summary action or other action, proceeding or counterclaim arising out of or in any way connected with this Sublease, the relationship of Sublessor and Sublessee, the Subleased Premises and the use and occupancy thereof, and any claim for injury or damages. Sublessee also hereby waives all right to assert or interpose a counterclaim (other than mandatory counterclaims) in any summary proceeding or other action or proceeding to recover or obtain possession of the Subleased Premises.

27. Estoppel Certificates. Sublessee and Sublessor shall each, within fifteen (15) days after each and every request by the other party, execute, acknowledge and deliver to the other party or any party reasonably designated by the other party, without cost or expense to the other party, a statement in writing (a) certifying that this Sublease is unmodified and, to its knowledge, is in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating such modifications); (b) specifying the dates to which Rent has been paid; (c) stating whether or not, to its knowledge, the other party is in default in the performance or observance of such other party's obligations under this Sublease and, if so, specifying each such default; (d) stating whether or not, to its knowledge, any event has occurred which, with the giving of notice or passage of time, or both, would constitute a default by the other party under this Sublease, and, if so, specifying each such default; (e) stating whether or not, to its knowledge, any event has occurred which, with the giving of notice or passage of time, or both, would constitute a default by the other party under this Sublease, and, if so, specifying each such event; (f) stating whether or not, to its knowledge, any event has occurred which, with the giving of notice or passage of time, or both, would constitute a default by Prime Lessor under the Prime Lease with respect to the Subleased Premises, and, if so, specifying such event; (g) describing all notices of default submitted by it to the other party and Prime Lessor with respect to this Sublease, or the Prime Lease from and after the date hereof; and (h) containing such other information with respect to the Subleased Premises or this Sublease as the other party shall reasonably request. Each party hereby acknowledges and agrees that any such statement delivered pursuant to this Paragraph may be relied upon by any prospective

assignee, transferee or mortgagee of the leasehold or subleasehold estate of the other party or any prospective lender or investor to the requesting party.

28. Consent of Prime Lessor. This Sublease is subject to the concurrent approval and consent of Prime Lessor, which Sublessor agrees to use all reasonable efforts to obtain. This Sublease shall not become effective unless and until a written approval and consent (the "Consent") is executed and delivered by the Prime Lessor, which Consent shall consent to this Sublease. After the Sublessor receives the Consent from the Prime Lessor, Sublessor agrees to promptly deliver a fully-executed original of the Consent to Sublessee. The effect and commencement of this Sublease is subject to and conditional upon the receipt by Sublessor and Sublessee of the Consent. To the extent that Sublessor has not already done so, upon execution of this Sublease by Sublessee, Sublessor will promptly apply to the Prime Lessor for the Consent and Sublessor will promptly inform Sublessee as to receipt of the Consent (if and when it is received) and deliver to Sublessee a copy of the same. If the Consent is not received by May 1, 2004 (the "Sunset Date"), then from the Sunset Date this Sublease will cease to have any further effect and the parties hereto will have no further obligations to each other with respect to this Sublease and any funds paid hereunder by Sublessee shall be promptly refunded by Sublessor.

29. Holding Over. If Sublessee shall fail to surrender and deliver the Subleased Premises as and when required hereunder, the Sublessee shall become a tenant at sufferance only, subject to all of the terms, covenants and conditions herein specified. Sublessee agrees to protect, defend (with counsel reasonably approved by Sublessor), indemnify and hold Sublessor and its officers, agents and employees harmless from and against any and all claims, costs, losses, damages, liabilities and expenses (including, without being limited to, reasonable attorneys' fees) that Sublessor may suffer by reason of any holdover by Sublessee hereunder.

30. Limitation of Liability. No director, officer, shareholder, employee, adviser or agent of Sublessor shall be personally liable in any manner for the obligations of the Sublessor under this Sublease. Except as set forth in Paragraph 29 hereof, in no event shall Sublessor or Sublessee or any of their directors, officers, shareholders, employees, advisers or agents be responsible for any indirect, special or consequential damages or interruption or loss of business, income or profits, nor shall Sublessor be liable for loss of or damage to artwork, securities or other property not in the nature of ordinary fixtures, furnishings and equipment used in general administrative and executive office activities. No director, officer, shareholder, employee, adviser or agent of Sublessee shall be personally liable in any manner for the obligations of the Sublessee under this Sublease.

31. Conflict. In the event of any conflict between the obligations of Sublessee set forth in this Sublease and the obligations of Sublessee under the Prime Lease as and to the extent incorporated herein by reference, the more restrictive provision shall control.

32. Security. Sublessee expressly assumes all responsibility for security, in the Subleased Premises, and, except to the extent arising out of the negligence, willful

misconduct, violation or law or breach of this Sublease or the Master Lease or Prime Lease by Sublessor or its agents, employees or contractors, Sublessor shall not be liable for any damage to goods, wares, merchandise or other property located in the Subleased Premises, or injury or death to Sublessee's employees, invitees, customers or any other person in or about the Subleased Premises. The foregoing waiver includes criminal acts of third parties.

33. Recording. Sublessor and Sublessee agree that neither party may record this Sublease.

34. Attorney's Fees. If either Sublessor or Sublessee shall bring any action or legal proceeding for an alleged breach of any provision of this Sublease, to recover rent, to terminate this Sublease or otherwise to enforce, protect or establish any term or covenant of this Sublease, the prevailing party shall be entitled to recover as a part of such action or proceeding, or in a separate action brought for that purpose, reasonable attorneys' fees, court costs, and expert fees as may be fixed by the court. "Prevailing party" as used in this Paragraph includes a party who dismisses an action for recovery hereunder in exchange for sums allegedly due, performance of covenants allegedly breached or considerations substantially equal to the relief sought in the action.

35. Existing Sublease. The existing Sub-Sublease Agreement dated as of May 31, 2001 by and between Sublessor and Sublessee (the "Existing Sub-Sublease Agreement") is hereby terminated. Sublessee agrees to deliver to Sublessor on or before the Commencement Date, the second and third floor space that was the subject of said Existing Sub-Sublease Agreement (i) in broom clean condition, (ii) with all of Sublessee's machinery, furniture, fixtures, and equipment, and hazardous materials removed from such space, and (iii) such space cleaned by Pass Janitorial Service. When so surrendered, the surrender obligations of Sublessee for such space as set forth in the existing sublease shall be deemed to have been performed in all required respects.

IN WITNESS WHEREOF, Sublessor and Sublessee have executed this Sublease as a sealed instrument as of the date first written above.

Genome Therapeutics Corporation

By: /s/ Stephen Rauscher
Name: Stephen Rauscher
Title: Sr VP+CEO

Fluidigm Corporation

By: /s/ Gajus Worthington
Name: Gajus Worthington
Title: CEO

FIRST AMENDMENT TO SUBLEASE

This First Amendment to Sublease is made as of the December 7, 2007 by and between Oscient Pharmaceuticals Corporation (formerly known as Genome Therapeutics Corporation), a Massachusetts corporation with a place of business at 1000 Winter Street, Suite 2200, Waltham, Massachusetts 02451 ("Sublessor"), and Fluidigm Corporation, a Delaware corporation, with a place of business at 7000 Shoreline Court, South San Francisco, California 94080 ("Sublessee").

WITNESSETH THAT:

WHEREAS, pursuant to that certain Agreement of Lease dated as of October 6, 2000 by and between ARE-San Francisco No. 17, LLC ("Prime Lessor") (as successor in interest to Mountain Cove Tech Center, L.L.C. by acquisition of the fee interest in the property, and MJ Research Company, Inc., by an Assignment and assumption of Subleases dated as of October 4, 2004 to Mountain Cove Tech Center, L.L.C.), as "landlord" and Sublessor, as "tenant" (as successor in interest to Genesoft, Inc.), as amended by a First Amendment to Lease dated December 5, 2002 and a Second Amendment to Lease dated March 25, 2004 (such lease, as so amended, and all renewals, modifications and extensions thereof being hereinafter collectively referred to as the "Prime Lease"), a true and complete copy of which is attached hereto as **Exhibit A,** Prime Lessor leases to Sublessor approximately 68,460 rentable square feet of space located on the first, second and third floors of the Building (all as more particularly described in the Prime Lease, the "Premises"); and

WHEREAS, pursuant to that certain Sublease Agreement dated as of March 25, 2004, by and between Sublessor, as "sublessor" and Sublessee, as "sublessee" (the "Sublease"), a true and complete copy of which is attached hereto as **Exhibit B,** Sublessor subleases to Sublessee approximately 14,503 rentable square feet of office and lab space located on the first floor of the Building (all as more particularly described in the Sublease, the "Subleased Premises"); and

WHEREAS, the term of the Sublease ends on December 31, 2007; and

WHEREAS, Sublessor and Sublessee desire to amend the Sublease to, among other things, extend said term all subject to the provisions hereof;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. Term. Notwithstanding anything to the contrary in the Sublease, the term of the Sublease is hereby extended for a period commencing on January 1, 2008 (the "Extension Effective Date") and expiring on February 28, 2011 (the "Expiration Date") or such earlier date upon which said term may expire, be cancelled or be terminated pursuant to any of the terms of provisions of the Prime Lease, the Sublease, this First Amendment to Sublease or applicable law (the "Additional Term"). Said extension shall be subject to all terms, covenants and conditions contained in the Sublease except as otherwise set forth herein. References herein and in the

Sublease to the Term shall be deemed to mean and include the Initial Term and Additional Term (and the Expiration Date shall be deemed extended accordingly). Sublessee acknowledges and agrees that it has no further right to extend the term of the Sublease and that any such right set forth in Section 2 of the Sublease is null and void.

2. Termination For Convenience. Sublessee is granted a one-time right to terminate ("Termination Right") the Sublease on July 1, 2009, Sublessee shall provide Sublessor written notification of its intent to terminate no later than October 1, 2008. If Sublessee exercises this Termination Right, Sublessee shall pay Sublessor an amount equal to $332,500.00 on or before July 1, 2009.

3. Rent. Notwithstanding anything to the contrary contained in Section 4 of the Sublease, commencing on January 1, 2008, the Rent due under the Sublease shall be equal to the following amounts during the periods set forth below:

Term Period	Monthly Rent	P.R.S.F. Per Year
1/1/08 — 12/31/08	$57,172.24	$47.305
1/1/09 — 12/31/09	$58,477.51	$48.385
1/1/10 — 12/31/10	$59,637.75	$49.345
1/1/11 — 2/28/11	$60,943.02	$50.425

The Rent specified above is inclusive of all services previously provided by Sublessor pursuant to Section 4 of the Sublease as well as all other provisions contained in Sections 4 and 11 of the Sublease. Section 4 (ii) is hereby deleted. The parties agree that the Sublessee shall be responsible for the janitorial and cleaning services. The fifth sentence from the bottom of Section 4 is hereby deleted.

4. Assignment and Subletting. The references in the first two sentences of Section 9 of the Sublease to "Competitors" and to net worth shall be deleted.

5. Financial Statements. Section 27.13 of the Prime Lease, as incorporated into the Sublease, shall be revised such that (a) Section 27.13 shall not apply if Sublessee is a publicly traded company, (b) if Sublessee is not a publicly traded company, Sublessee shall only be required to provide Sublessor with audited financial statements once they have been completed, provided Sublessee uses commercially reasonable efforts to complete such statements with a reasonable time frame and (c) Sublessor shall hold all of Sublessee's financial statements confidential.

6. Proper Authority. Each party represents to the other that (i) it has not assigned, encumbered or hypothecated any of its right, title or interest in the Sublease or any portion thereof or interest therein, (ii) it is duly authorized to enter into and perform its obligations under

this First Amendment to Sublease and to modify its rights under the Sublease as set forth in this First Amendment to Sublease, and (iii) the parties executing this First Amendment to Sublease on behalf of each party are duly authorized to bind the party they purport to represent.

7. Brokerage. Sublessee and Sublessor represent that they have not dealt with any broker in connection with this First Amendment to Sublease other than CRESA Partners on behalf of Sublessee. The Sublessor shall not be responsible for a commission or other fee, if any, is due to CRESA Partners. Each party agrees to indemnify and hold harmless the other from and against any and all liability, claims, suits, demands, judgments, costs, interest and expense (including, without being limited to, reasonable attorneys' fees and expenses) which the indemnified party may be subject to or suffer by reason of any claim made by any person, firm or corporation for any commission, expense or other compensation as a result of the execution and delivery of this First Amendment to Sublease, which is based on alleged conversations or negotiations by said person, firm or corporation with the indemnifying party.

8. Condition. This First Amendment to Sublease is subject to (a) approval and consent of Prime Lessor in accordance with this Section 6 and (b) the full execution of the Third Amendment to Lease currently being negotiated between Sublessee and Prime Lessor to extend the term of the MJ Research Sublease (the "MJ Research Amendment"). This First Amendment to Sublease shall not become effective unless and until a written approval and consent to this First Amendment to Sublease is executed and delivered by Prime Lessor to Sublessor and the MJ Research Amendment is fully executed. If the above conditions are not satisfied within ten (10) business days of Sublessee's execution of this First Amendment to Sublease, either party may terminate this First Amendment to Sublease by delivering written notice to the other.

9. Security Deposit. Sublessee shall maintain in effect throughout the Additional Term a Letter of Credit as required under Section 15 of the Sublease. Within ten (10) days of the Extension Effective Date, Sublessee at its sole cost and expense shall deliver to Sublessor, an extension of the existing Letter of Credit or a replacement of the existing Letter of Credit in a form and from a financial institution reasonably acceptable to Sublessor. Sublessee may at any time substitute a cash security deposit for the Letter of Credit, and upon such substitution, Sublessor shall return the Letter of Credit to Sublessee.

10. Miscellaneous. Unless the context requires otherwise, the terms used herein shall be construed in conformity with the definitions set forth in the Sublease. References in the Sublease to the MJ Research Sublease shall mean the MJ Research Sublease as amended, including by the MJ Research Amendment. As hereby modified, the Sublease is ratified and confirmed and remains in full force and effect.

IN WITNESS WHEREOF, Sublessor and Sublessee have caused this instrument to be executed under seal as of the day and year first above written.

OSCIENT PHARMACEUTICALS CORPORATION
a Massachusetts corporation

By /s/ Ph. M. MAITRE
Name: Ph. M. MAITRE
Title: SVP & CFO.

FLUIDIGM CORPORATION,
a Delaware corporation

By _____
Name:
Title:

IN WITNESS WHEREOF, Sublessor and Sublessee have caused this instrument to be executed under seal as of the day and year first above written.

OSCIENT PHARMACEUTICALS CORPORATION
a Massachusetts corporation

By _____
Name:
Title:

FLUIDIGM CORPORATION,
a Delaware corporation

By /s/ Gajus Worthington
Name: Gajus Worthington
Title: CEO

AGREEMENT OF LEASE

AGREEMENT OF LEASE made as of the 6th day of October, 2000, by and between MJ Research Company, Inc. (hereinafter referred to as "Landlord") and Genesoft, Inc. (hereinafter referred to as "Tenant").

WITNESSETH:

Landlord hereby leases to Tenant and Tenant hereby hires from Landlord a portion of the building (the "Building") in South San Francisco, as described in Section 1.1(4) below and shown on the plan attached hereto as Exhibit A and made a part hereof (hereinafter referred to as the "Premises" or the "Demised Premises").

1. REFERENCE DATA

1.1 Definitions. Each reference in this Lease to any of the terms and titles contained in this Article shall be deemed and construed to incorporate the data stated following that term or title in this Article.

1) Additional Rent:	Sums or other charges payable by Tenant to Landlord under this Lease, other than Yearly Fixed Rent, all of which shall be payable as additional rent under this Lease.
2) Broker:	None.
3) Business Day:	All days except Saturdays, Sundays, days defined as "legal holidays" for the entire state under the laws of the State of California, and such other days as Tenant presently or in the future recognizes as holidays for Tenant's general staff.
4) Demised Premises:	Space on the first, second and third floors of the Building at 7000 Shoreline Court, South San Francisco, California 94080 (the "Building"), which space is shown on the plans attached as Exhibit A.
5) Environmental Laws:	As defined in Section 5.3 (a) (1).
6) Event of Default:	The occurrence of an event listed in Section 19.1.
7) Hazardous Materials:	As defined in Section 5.3 (a) (2).

	pigs and relocate such animals off-site or, within a reasonable period of time (not to exceed two (2) business days) make such arrangements as are necessary to eliminate such picketing, signage or other disruption.
16) Prime Landlord:	Mountain Cove Tech Center LLC, a California limited liability company.
17) Prime Lease:	The lease dated November 9, 1999 between Prime Landlord and Landlord.
18) Property:	The Land and Building.
19) Rent:	Yearly Fixed Rent and Additional Rent.
20) Rentable Area of the Demised Premises:	Approximately 68,460 rentable square feet. The rentable square footage of the Demised Premises upon completion of Landlord's Work shall be measured by Landlord according to the most recent BOMA standards, but in any event shall include for computation purposes 50% of all common areas of the Building, including, without limitation, elevators, lobbies, hallways, exercise room, security desk, and lunch room. If Tenant disagrees with Landlord's computation of the rentable square footage of the Premises, Tenant may, at its expense, by notice given no later than ten (10) days after written notice by Landlord of the rentable square feet of the Demised Premises, submit the matter of the square footage as to arbitration as set forth in Section 27.7 herein. The inclusion of elevators, hallways, the exercise room, security desk and lunchroom in the computations of rentable square footage shall not be deemed to make Tenant liable for such facilities as if it were the exclusive lessee thereof.
21) Security Deposit:	One Year's Yearly Fixed Rent, subject to decrease as provided in Section 28.3.

22) Tenant's Address:	Until the Term Commencement Date, Two Corporate Drive South, San Francisco, California 94080, and thereafter, the Demised Premises.
23) Term Commencement Date:	As defined in Section 3.2.
24) Term of this Lease:	As defined in Section 3.1.
25) Termination Date:	As defined in Section 3.1.
26) Yearly Fixed Rent:	$4.50 per rentable square foot per month for the first lease year, which amount shall be increased annually commencing with the third lease year by three and one half percent (3.5%) compounded annually.

1.2 Exhibits. The following exhibits are attached hereto and made a part hereof:

A — Plan of Demised Premises

A-l — Plans and Specifications for Landlord's Work

A-2 — Landlord's Work Necessary for Tenant Improvement Work

B — Cleaning Specifications

C — Rules and Regulations

D — Sign Criteria

E — Form of Letter of Credit

F — List of Environmental Reports Given to Tenant

G — List of Permitted Hazardous Materials

H — List of Fixtures and Equipment to be Removed

2. DESCRIPTION OF DEMISED PREMISES

2.1 Demised Premises. The Demised Premises are that portion of the Building as described above (as the same may from time to time be constituted after changes therein, additions thereto and eliminations therefrom pursuant to rights of Landlord hereinafter reserved).

2.2 Appurtenant Rights. Tenant shall have, as appurtenant to the Demised Premises, rights to use in common, subject to reasonable rules from time to time made by Landlord of which Tenant is given notice, those common roadways, walkways, elevators, hallways and stairways necessary for access to that portion of the Building occupied by the Demised Premises. There is also appurtenant to the Demised Premises at no additional charge the nonexclusive use, in common with Landlord and other entitled thereto, of the parking lot appurtenant to the Building, which lot is designed to have three (3) parking spaces per 1,000 rentable square feet

in the Building. Landlord agrees that such parking lot shall be on a non-exclusive basis for Tenant and others entitled thereto and shall not exclusively assign portions of the parking area without providing equivalent and comparable exclusive assignments to Tenant, provided that, subject to casualty and eminent domain, in no event shall Tenant have the use (non-exclusive or otherwise) of not less than nor more than, three (3) spaces per 1,000 rentable square feet of the Demised Premises during the Term, provided that there shall be deducted from the parking available to Tenant any parking spaces lost due to Tenant's outside storage facility referred to in Section 5.3(c). Tenant may not store cars in the parking lot, i.e., leave cars parked for more than seven (7) days.

2.3 Reservations. All the perimeter walls of the Demised Premises except the inner surfaces thereof, any balconies, terraces or roofs adjacent to the Demised Premises, and any space in or adjacent to the Demised Premises used for serving other portions of the Building exclusively or in common with the Demised Premises, including without limitation (where applicable) shafts, stacks, pipes, conduits, wires and appurtenant fixtures, fan rooms, ducts, electric or other utilities, sinks or other Building facilities, and the use thereof, as well as the right of access through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are expressly reserved to Landlord.

2.4 Certain Amenities. The named Tenant, Genesoft, Inc. shall have access to on a nonexclusive basis, the following facilities:

(a) The exercise room. Landlord may charge a reasonable fee for towel service and janitorial service.

(b) A security desk in the main lobby of the Building to be staffed from 9:00 a.m. through 5:00 p.m. on all Business Days.

(c) The lunchroom and adjacent patio.

In the event the named Tenant Genesoft occupies less than 50% of the Building, Landlord may eliminate said amenities (other than the security desk) or assign them exclusively to Landlord or other occupants of the Building. Such amenities shall not be available to assignees or subtenants of Tenant unless permitted in writing by Landlord.

3. TERM OF LEASE

3.1 Term. The Term of this Lease is ten (10) years (or until such Term shall sooner cease or expire) commencing on the Term Commencement Date and ending on the day immediately prior to the tenth (10^{th}) anniversary thereof, except that if the Term Commencement Date shall be other than the first day of a calendar month, the Term of this Lease shall end on the last day of the calendar month in which said 10^{th} anniversary of the Term Commencement Date shall fall (which date

on which the Term of this Lease is scheduled to expire is hereinafter referred to as the "Termination Date").

3.2 Term Commencement Date. The Term Commencement Date shall be the earlier of (a) the date on which, pursuant to permission therefor duly given by Landlord, Tenant undertakes Use of the Demised Premises for the purposes set forth in Article 1, (b) the date on which the Demised Premises are ready for Tenant's occupancy in accordance with the provisions of Section 4.2, or (c) March 1, 2001, but in no event prior to the date on which Landlord's Work (as defined herein) is substantially completed, unless and only to the extent that the lack of such substantial completion is due to the fault, delay, or inaction by Tenant or to the roof work necessitated by Tenant's mechanical and other equipment to be placed on the roof. Notwithstanding the foregoing to the contrary, if the work set forth on Schedule A-2 is not substantially complete by January 1, 2000 and the lack of such substantial completion is not due to fault, delay or inaction of Tenant or to roof work necessitated by Tenant's mechanical and other equipment to be placed on the roof, then for each day beyond January 1, 2001 for which the work on Schedule A-2 is not substantially complete, the March 1, 2001 date shall be extended for one day. Further notwithstanding anything in the foregoing to the contrary, for purposes of determining when the Premises are ready for occupancy for purposes of determining the Term Commencement Date, the Premises shall not be deemed ready for occupancy until Tenant has completed its Tenant improvement work and obtained a certificate of occupancy therefor. Tenant further acknowledges that if Landlord has completed its work on Schedule A-2 on or before January 1, 2000 and made the Premises available to Tenant, Tenant assumes the risk of delay for Tenant improvement work and acknowledges that (subject to Landlord's obligations as to substantial completion of Landlord's Work) the Term will commence on March 1, 2001 whether or not Tenant has completed its work and obtained such a certificate of occupancy.

3.3 Option to Extend. Provided Tenant is not in default of the terms and covenants of this Lease beyond applicable notice and grace periods, and provided Tenant has not assigned this lease or subleased all or any portion of the Premises, it shall have the option to extend the Term for five (5) years, exercisable by written notice given to Landlord no later than twelve (12) months before the expiration of the original Term. All of the terms, conditions and covenants of this Lease shall apply to the option term, except that there shall be no further extension beyond that permitted above and that yearly Fixed Rent for the option term shall be computed as set forth in Section 6 herein.

4. PREPARATION OF PREMISES; TENANT'S ACCESS

4.1 Plans and Specifications. Landlord shall construct the Demised Premises in accordance with the plans and specifications (the "Plans") referenced in Exhibit A-l attached hereto and made a part hereof ("Landlord's Work"). Tenant

acknowledges that Landlord's Work will produce a so-called "cold shell" that will not be ready for Tenant's occupancy.

4.2 When Landlord's Work is Done. Landlord's Work shall be conclusively deemed finished after Landlord gives notice to Tenant that Landlord's Work has been substantially completed by Landlord. Notwithstanding anything to the contrary in this Lease, the Landlord's Work shall not be deemed "substantially completed" prior to the date on which: (a) construction and installation of the improvements listed on Exhibit A-1, attached hereto, have been substantially completed; (b) Tenant has direct access from the street to the elevator lobby on the first floor; and (c) utility services are ready to be furnished to the Premises consistent with the work set forth on Exhibit A-l. Such work shall not be deemed incomplete if only minor or insubstantial details of construction or mechanical adjustments remain to be done, or if a delay is caused in whole or in part by Tenant. Landlord's Architect's certificate of substantial completion, as hereinabove stated, given in good faith, or of any other facts pertinent to such work, shall be deemed conclusive of the statements therein contained and binding upon Tenant.

4.3 Conclusiveness of Landlord's Performance. Tenant shall be conclusively deemed to have agreed that Landlord has performed all of its obligations under this Article 4 unless not later than the end of the second calendar month next beginning after the Landlord's notice of substantial completion under Section 4.2 unless Tenant shall give Landlord written notice specifying the respects in which Landlord has not performed such obligations.

4.4 Entry by Tenant; Interference With Construction; Applicability of Lease Terms. The Demised Premises shall be made available by Landlord to Tenant on or before January 1, 2001 (the "Estimated Tenant Improvement Commencement Date") to undertake such work as is to be performed by Tenant pursuant and subject to this Lease in order to prepare the Demised Premises for Tenant's occupancy. Such entry shall be deemed to be pursuant to a license from Landlord to Tenant and shall be at the risk of Tenant. In no event shall Tenant interfere with any construction being performed by or on behalf of Landlord in or around the Building or with the use of the Building by Landlord or any other occupants; without limiting the generality of the foregoing, Tenant shall comply with all instructions issued by Landlord's contractors relative to the moving of Tenant's equipment and other property into the Demised Premises and shall pay any fees or costs imposed in connection therewith. Once Tenant makes such entry, Tenant will be bound by all terms and conditions of this Lease as if the Term had commenced, excepting payment of Rent. Landlord agrees to use its good faith and reasonable efforts to coordinate with Tenant the build-out of the Building shell and the tenant improvements.

4.5 Tenant Plans. Tenant shall perform no construction work in the Building unless and until Landlord has approved all plans, specifications and the

identity of contractors and major subcontractors therefor and such plans have been consented to by Landlord's mortgagee. Landlord agrees that unless it has disapproved any Tenant plans within ten (10) business days after receipt thereof, the plans shall be deemed approved. Tenant shall, upon Landlord's request, provide payment performance and lien bonds in commercially reasonable amounts and terms. All of the provisions of Articles 9, 10 and 11 shall apply to Tenant's work hereunder.

4.6 Tenant Improvement Allowance. Provided Tenant is not in default hereunder, Landlord will provide Tenant with a Tenant Improvement Allowance of $25.00 per rentable square foot. There shall be deducted from said Tenant Improvement Allowance the following: (i) 50% of the cost of purchase and installation of the emergency generator for the Building, (ii) 50% of all costs of upgrading the power capacity of the Building from 3500 amps to 4000 amps, including, without limitation, any delay costs (not to exceed $5,000.00) imposed upon Landlord under its construction contract with Opus attributable to said power capacity upgrades, (iii) all costs to Landlord associated with using the roofer under contract with Opus, Tenant acknowledging and understanding that use of said roofer in connection with the installation of Tenant's rooftop equipment and screens is required in order to maintain the roof warranty on the Building, and (iv) the cost of supporting, extending and connecting all screens on the roof, including, without limitation, all new screens, vertical steel beams, secondary structural support and all related costs. Landlord shall fund the Tenant Improvement Allowance on a pro rata basis as Tenant pays its contractor for Tenant's work. Landlord's contribution shall be funded based on the fraction of each construction draw, the numerator of which is $25.00 per rentable square foot and the denominator of which is the total cost of all work by Tenant to prepare the Demised Premises for Tenant's occupancy. Landlord shall have the right to reasonably approve Tenant's schedule of estimated construction disbursements. Landlord shall require Tenant to provide appropriate lien waivers and other evidence of payment contractors, subcontractors and material suppliers prior to funding any of the Tenant Improvement Allowance.

4.7 Inspections and Scheduling. Tenant may inspect the Building and the Premises during the construction of the Landlord's Work as it progresses. Landlord agrees to be available to Tenant from time to time, on reasonable prior notice, as necessary or desirable to review the Landlord's Work.

4.8 Permits and Approvals. Landlord, at its sole cost and expense, shall obtain all approvals, permits and other consents required to commence, perform and complete the Landlord's Work. Landlord agrees that the Landlord's Work will comply with all applicable laws and other governmental regulations as of the date of substantial completion including, but not limited to, the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the City of South San Francisco and State of California Building and fire codes, as the same may be amended from time to time.

4.9 Construction Guaranty. Landlord guaranties the Landlord's Work against defective workmanship and/or materials for a period of 11 months from the date of substantial completion of the Landlord's Work, and Landlord agrees, at its sole cost and expense, to repair or replace any defective item occasioned by poor workmanship and/or materials during said 11 month period. Nothing in this Section 4.9 shall limit Landlord's other repair obligations under this Lease.

4.10 Walkthrough and Punch List. Tenant shall be entitled to a walkthrough and punch list with Landlord's architect with respect to Landlord's Work. The determination of the punch list shall be at the sole and exclusive approval of Landlord's architect. Landlord shall remedy all punch list items within a commercially reasonable time.

5. USE OF PREMISES

5.1 Permitted Use. Tenant shall occupy and use the Demised Premises for the Permitted Use set forth in Article 1 and for no other purpose. Service and utility areas (whether or not a part of the Demised Premises) shall be used only for the particular purpose for which they are designated. Tenant shall have access to the Demised Premises 24 hours per day, 7 days per week.

5.2 Prohibited Uses. Tenant shall not use, or suffer or permit the use of, or suffer or permit anything to be done in or anything to be brought into or kept in, the Demised Premises or any part thereof (i) which would violate any of the covenants, agreements, terms, provisions and conditions of this Lease, (ii) for any unlawful purposes or in any unlawful manner, or (iii) which, in the reasonable judgment of Landlord shall in any way (a) impair or tend to impair the appearance or reputation of the Building, (b) impair or interfere with or tend to impair or interfere with any of the Building services or the proper and economic heating, cleaning, air conditioning or other servicing of the Building or with the use of any of the other areas of the Building, or (c) occasion discomfort, inconvenience or annoyance to any of the other tenants or occupants of the Building, whether through the transmission of noise or odors or vibrations or dust or otherwise. Without limiting the generality of the foregoing, no food shall be prepared or served for consumption by the general public on or about the Demised Premises; no intoxicating liquors or alcoholic beverages shall be sold or otherwise served for consumption by the general public on or about the Demised Premises; no lottery tickets (even where the sale of such tickets is not illegal) shall be sold and no gambling, betting or wagering shall otherwise be permitted on or about the Demised Premises; no loitering shall be permitted on or about the Demised Premises; and no loading or unloading of supplies or other material to or from the Demised Premises shall be permitted on the Land except at times (excluding Business Days from 7:00 to 9:30 a.m. and from 4:00 to 6:00 p.m.) and in locations to be reasonably designated by Landlord, except for the freight elevator described in Section 7.4, which Tenant may use at any time. The Demised Premises shall be

maintained in a sanitary condition. Tenant shall suitably store all trash and rubbish in the Demised Premises or other locations designated by Landlord from time to time. All laboratory waste, Hazardous Materials and medical waste must be disposed of in compliance with Section 5.3. Tenant specifically agrees that its indemnification obligations pursuant to Section 13.2 shall extend to any claim arising from the consumption of intoxicating liquors or alcoholic beverages on or about the Demised Premises.

5.3 Hazardous Materials.

(a) Definitions.

(1) Environmental Law means any governmental statute, code ordinance, regulation, rule or order and any amendment thereto governing or regulating materials that are toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous. Environmental Laws include, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, the California Hazardous Substances Act at California Health and Safety Code Section l08100 *et seq.*, the provisions regarding hazardous waste control at California Health and Safety Code Sections 25100 through 25250.25 and the California Medical Waste Management Act at California Health and Safety Code §117600 *et seq.*

(2) Hazardous Materials shall mean any substance: (A) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, medical waste, hazardous substance, pollutant or contaminant under any Environmental Law or (B) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including gasoline, diesel fuel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.

(b) Tenant's Covenants. No Hazardous Materials shall be stored, placed, handled, used or released by Tenant or its employees, contractors, sublessees, guests or visitors at or about the Demised Premises or Property without Landlord's prior written consent, which consent shall not be withheld provided the Hazardous Materials comply with the criteria set forth in 5.3(c) for Permitted Materials. Landlord shall, within five (5) business days after receipt of the proposed HMIS, either approve the same or provide Tenant written notice of the reasons for its disapproval. Tenant shall submit to Landlord for prior approval as above any HMIS (defined in Section 5.3(c))

prior to submission to applicable governmental authority. Notwithstanding the foregoing, storage and use of routine office and janitorial supplies in usual and customary quantities and the Permitted Materials as defined in subsection (c) below are permitted without Landlord's prior written consent, provided that Tenant's activities at or about the Demised Premises and Property shall comply at all times with the laws all Environmental Laws. Tenant shall keep Landlord fully and promptly informed of all storage, placement, handling, use or release by Tenant or its employees, contractors , sublessees, guests or visitors of all Hazardous Materials. At the expiration or termination of the Lease, Tenant shall remove from the Demised Premises all Hazardous Materials brought or released in or on the Building as a result of the activities of Tenant or its employees, agents, servants, invitees, visitors, customers, contractors, sublessees, and those other persons for whom Tenant is legally responsible (collectively "Tenant Parties"). Landlord shall have the right to perform an environmental assessment of the Demised Premises after such removal, which assessment shall be conducted at Landlord's expense, unless it reveals that Tenant has not complied with the requirements set forth in this Section 5.3, in which case Tenant shall reimburse Landlord for the reasonable cost thereof within ten days after Landlord's request therefor. Nothing in this Section 5.3 shall require Tenant to indemnify Landlord for any matters arising out of or caused by the actions or omissions of Landlord, its employees, agents, contractors, licensees, or invitees.. Tenant shall be responsible and liable for the compliance with all of the provisions of this Section by all of Tenant Parties and all of Tenant's obligations under this Section (including its indemnification obligations under subsection (e) below) shall survive the expiration or termination of this Lease.

(c) Landlord hereby authorizes Tenant to use and store, in connection with its Permitted Use, those materials and medical supplies listed on the Hazardous Material Inventory Statement ("HMIS") to be provided to the City of South San Francisco by Tenant with regard to the Demised Premises (the "Permitted Materials"), provided the classes and quantities of Permitted Materials comply with all applicable laws and do not alter the legal classification of the laboratories and storage room, and storage tanks, under the Allowable Class Facilities (defined below). Tenant will operate under all applicable Federal, State and Local laws governing the use, storage and management of hazardous materials for building Occupancy Groups A3, B and H Divisions 2, 3 and 7, as allowable, including Title 22 of the CFR as defined under the Uniform Building Code and Uniform Fire Code developed by the International Fire Code Institute (the "Allowable Class Facilities"). Landlord shall have the right to approve in writing Tenant's construction and operation of said storage facilities, including, without limitation, fire suppression, seismic restraint, enclosure and landscaping features. In addition, Tenant may construct an outside storage facility for storage of up to a total of 2,000 gallons of waste materials, provided no single

tank shall exceed 1,000 gallons, such outside storage is in compliance with all applicable laws and regulations and does not cover a footprint of greater than 250 square feet. Landlord shall have the right to approve all fire, safety, and seismic restraints, as well as all other plans and specifications for said outside storage. Additional rent for said outside storage area shall be $5,000.00 per year. Any consent or approval by Landlord of Tenant's proposed use, handling and storage of the Permitted Materials and/or the installation and operation or maintenance of said tank shall not constitute an assumption of risk by Landlord respecting the same nor warranty or certification by Landlord that Tenant's proposed use, handling and storage of the Permitted Materials and/or the installation, operation or maintenance of the tanks is safe, reasonable or in compliance with Environmental Laws. All references to Hazardous Materials in this Lease shall include the Permitted Materials.

(d) Compliance. Tenant shall at Tenant's expense promptly take all actions required by any governmental agency or entity in connection with or as a result of the storage, placement, handling, use or release by Tenant Parties of Hazardous Materials at or about the Demised Premises or Property, including inspection and testing, performing all cleanup, removal and remediation work required with respect to those Hazardous Materials, complying with all closure Laws and postclosure monitoring, and filing all required reports or plans. All medical waste regulated by any Environmental Laws that is brought to the Demised Premises shall be stored in leak-proof, closeable containers, which containers shall be stored in a specified "dirty storage area" of the Demised Premises that shall be protected from leaks or any other type of contamination of the Demised Premises. Tenant shall never use any of the Landlord's trash receptacles for disposing of any medical waste. All of the foregoing work shall be performed in a good, safe and workmanlike manner by consultants qualified and licensed to undertake such work and in a manner that will not interfere with any other tenant's quiet enjoyment of the Property or Landlord's use, operation, leasing and sale of the Property. Tenant shall deliver to Landlord prior to delivery to any governmental agency, or promptly after receipt from any such agency, copies of all permits, manifests, closure or remedial action plans, notices, and all other documents relating to the storage, placement, handling, use or release by Tenant Parties of Hazardous Materials at or about the Demised Premises or Property. Upon prior written notice from Landlord, Tenant shall make available to Landlord for Landlord's inspection and copying all of Tenant's documents, materials, data, inventories and other documentation (including, without limitation, Material Safety Data Sheets relating to Hazardous Materials as may be present or suspected to be present in, on or about the Demised Premises. If any lien attaches to the Demised Premises or the Property in connection with or as a result of the storage, placement, handling, use or release by Tenant Parties of Hazardous Materials; and

Tenant does not cause the same to be released, by payment, bonding or otherwise, within ten (10) days after the attachment thereof, Landlord shall have the right but not the obligation to cause the same to be released and any sums expended by Landlord in connection therewith shall be payable by Tenant on demand. Notwithstanding anything in the foregoing to the contrary, Tenant shall not be responsible for Hazardous Materials not introduced to the Premises, the Building or the Land by Tenant Parties.

(e) Tenant shall give Landlord immediate telephone notice and prompt written notice (which means as soon as practicable and, in no event, more than one (1) day following the applicable event) of any (i) spill, discharge, dumping, or other release of any Hazardous Materials (including, without limitation, the Permitted Materials) on, in, under or from the Demised Premises, the Building, or any portion of the Project, or the groundwater thereof, (ii) any oral or written notice from any governmental agency received by Tenant of any such spill, discharge, dumping, or other release of any Hazardous Materials, and (iii) any oral or written notice of any violation, warning, deficiency, non-compliance, or other alleged or actual failure by Tenant to comply strictly with any Environmental Law and/or any requirement, provision, or stipulation of any governmental permit, license, registrations, or approval.

(f) Landlord's Rights. Subject to the provisions of Section 15.2, Landlord shall have the right, but not the obligation, to enter the Demised Premises at any reasonable time upon 24 hours notice except in case of emergency (i) to confirm Tenant's compliance with the provisions of this Section, and (ii) to perform Tenant's obligations under this Section if Tenant has failed to do so after reasonable notice to Tenant. Landlord shall also have the right to engage qualified Hazardous Materials consultants to inspect the Demised Premises and review the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials, including review of all permits, reports, plans, and other documents regarding same. Tenant shall pay to Landlord on demand the reasonable costs of Landlord's consultant's fees if Tenant is found to have violated the terms of this Section 5.3 any and all reasonable costs incurred by Landlord in performing Tenant's obligations under this section. Landlord shall use reasonable efforts to minimize any interference with Tenant's business caused by Landlord's entry into the Demised Premises, but Landlord shall not be responsible for any interference caused thereby, unless such interference arises out of or is caused by the gross negligence or willful misconduct of Landlord, its employees, agents, contractors, licensees, or invitees.

(g) Tenant's Indemnification. Tenant agrees to indemnify, defend and hold harmless Landlord and its members, managers, directors, officers,

agents and employees and their partners, members, managers, directors, officers, shareholders, employees and agents from all shall mean all costs and expenses of any kind, damages, including foreseeable and unforeseeable consequential damages, fines and penalties incurred in connection with any violation of and compliance with the Environmental Laws by Tenant Parties and all losses of any kind attributable to the diminution of value, loss of use or adverse effects on marketability or use of any portion of the Demised Premises or Property by Tenant Parties and all other claims, actions, losses, damages, liabilities, costs and expenses of every kind, including reasonable attorneys', experts' and consultants' fees and costs, incurred at any time and arising from or connection with the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials at or about the Property or Tenant's failure to comply in full with all Environmental Laws with respect to the Demised Premises and the Property.

(h) Landlord shall be responsible (at Landlord's cost and expense) for any remediation (to the extent required by law) of any Hazardous Materials placed on the Premises by Landlord or Landlord's agents or contractors and existing contamination disclosed in the environmental assessments set forth on Exhibit F attached hereto.

5.4 Licenses and Permits. If any governmental license or permit shall be required for the property and lawful conduct of Tenant's business, and if the failure to secure such license or permit would in any way affect Landlord, Tenant, at Tenant's expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Landlord. Tenant, at Tenant's expense, shall at all times comply with the terms and conditions of each such license or permit.

6. RENT

6.1 Yearly Fixed Rent. Tenant shall pay to Landlord, without any set-off or deduction, at Landlord's office, or to such other person or at such other place as Landlord may designate by notice to Tenant, the Yearly Fixed Rent set forth in Article 1. The Yearly Fixed Rent shall be paid in equal monthly installments in advance on or before the first Business Day of each calendar month during the Term of this Lease and shall be apportioned for any fraction of a month in which the Term Commencement Date or the last day of the Term of this Lease may fall.

6.2 Rent During Option Term. Yearly Fixed Rent for the five (5) year option term shall be an amount equal to the greater of (i) 95% of the fair-market rent for the first year of the option term, or (ii) 103.5% of the Yearly Fixed Rent payable (without abatement) for the last year of the original term. If the parties are unable to agree upon a fair market rent prior to ten (10) months before the commencement of the applicable option term, the matter shall be referred to

appraisal as set forth in the following sections. Yearly Fixed Rent during the option term shall increase annually commencing with the second year of the option term by three and one-half percent (3.5%) compounded annually. The term fair market rent, for purposes of this Section 6.2, shall be deemed to be the fair market rent for the Demised Premises finished to a level of completion for ready to occupy first class office space.

6.3 Appraisal. Whenever the issue of fair market rent shall be referred to appraisal, such appraisal shall be by three disinterested appraisers, one to be appointed by the Landlord, one to be appointed by the Tenant and the third to be appointed by the two appraisers so named. Within thirty (30) days after the selection of the third appraiser, the three appraisals shall be added together and their total divided by three; the resulting quotient shall be the fair market rent for the Premises. If, however, the low appraisal and/or the high appraisal are more than ten (10%) percent lower and/or higher than the middle appraisal, the low appraisal and/or high appraisal shall be disregarded, as applicable. If only one appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two; the resulting quotient shall be the fair market rent for the Premises. If both the low appraisal and the high appraisal are disregarded as stated in this paragraph, the middle appraisal shall be the fair market rent of the Premises. Each party shall pay the costs of the appraiser selected by such party, and the parties shall share equally the cost of the third appraiser. Each individual appraiser shall have at least ten years of experience in appraising fair market rents of comparable properties and shall hold one or more of the following designations: MAI of the American Institute of Real Estate Appraisers, SREA from the Society of Real Estate Appraisers or ASA from the American Society of Appraisers.

6.4 Interim Rent. If the fair market rental value per year is not determined prior to the commencement of the five year option term, the Tenant shall pay Fixed Rent as though the Fixed Rent was that Fixed Rent in effect (without abatement) during the last year of said preceding lease year period until such determination has been made. Following such determination, the Tenant shall promptly pay the Landlord the difference, if any, between the aggregate rent which would have been paid during said period and the aggregate rent actually paid. Thereafter, all rent shall be computed and paid in accordance with Section 6.2.

6.5 Taxes. Tenant shall timely file business property statements with respect to Tenant’s personal property and trade fixtures and pay when due all taxes imposed on such personal property and trade fixtures. Tenant shall also pay all real estate taxes attributable to the Demised Premises being improved to a standard in excess of first class office space.

6.6 Obligations Survive Termination. All obligations and liabilities of Tenant relating to any period prior to the termination of the Term of this Lease,

including without limitation the obligation to pay any Additional Rent due pursuant to the provisions of this Article, shall survive such termination.

6.7 Payment to Mortgagee. Landlord reserves the right to provide in any Mortgage given by it or by Prime Landlord of the Property that some or all rents, issues, and profits and all other amounts of every kind payable to the Landlord under this Lease shall be paid directly to the Mortgagee for Landlord's account and Tenant covenants and agrees that it will, after receipt by it of notice from Landlord or Mortgagee designating such Mortgagee to whom payments are to be made by Tenant, pay such amounts thereafter becoming due directly to such Mortgagee until excused therefrom by notice from such Mortgagee.

6.8 Additional Rent. Tenant shall also pay as additional rent without notice, except as required under this Lease, and without any abatement, deduction or setoff except as provided herein, all sums, impositions, costs, expenses and other payments which Tenant in any of the provisions of this Lease assumes or agrees to pay, and, in case of any nonpayment thereof, Landlord shall have in addition to any other rights and remedies, all of the rights and remedies provided by law or provided for in the Lease for the nonpayment of Yearly Fixed Rent.

6.9 Place of Payment of Rent. All payments of Rent shall be made by Tenant to Landlord without notice or demand at such place as Landlord may from time to time designate in writing. The initial place for payment of rent shall be 384 Oyster Point Blvd, So. San Francisco, CA 94080. Any extension of time for the payment of any installment of rent, or the acceptance of rent after the time at which it is due and payable shall not be a waiver of the rights of Landlord to insist on having all other payments made in the manner and at the times herein specified.

6.10 Cleaning and Utilities. Tenant shall pay for all utilities used or consumed in the Demised Premises, including without limitation water, gas, electricity, sewer, telephone, and all electricity used in heating, ventilating and air conditioning the Demised Premises. In the event such utilities are not separately billed by the applicable utility supplier, Tenant shall pay its share of the amount of such bill for the entire Building as measured by submeters or check meters measuring consumption of such utilities in the Demised Premises. In addition, Tenant shall arrange for cleaning of the Tenant space in accordance with the cleaning schedule attached hereto as Exhibit B with a cleaning contractor subject to Landlord's approval, which approval shall not be unreasonably withheld. Tenant shall pay all such costs of cleaning.

7. UTILITIES AND LANDLORD'S SERVICES

7.1 Electricity. Tenant shall purchase directly from the public utility serving the Building all electrical energy that Tenant requires for operation of the lighting fixtures, appliances and equipment servicing the Demised Premises. The

costs of initially installing any required meter, submeter or check meter and related installation equipment shall be paid by Landlord. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electrical energy furnished to the Demised Premises by reason of any requirement, act or omission of the public utility serving the Building. Notwithstanding the foregoing, the design electrical capacity for the Building is 4000 amperes of electricity, and Tenant shall be entitled to the use of half of the electricity available for Tenant spaces, i.e., a minimum and a maximum of 2000 amperes. Tenant's use of electrical energy in the Demised Premises shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Demised Premises. In order to insure that such capacity is not exceeded and to avert possible adverse effect upon the Building electrical services Tenant shall give notice to Landlord and obtain Landlord's prior written consent whenever Tenant shall connect to the Building electrical distribution system any fixtures, appliances or equipment other than lamps, typewriters, personal computers and similar small machines. Landlord's consent to the plans for Tenant's initial improvements shall, to the extent that Tenant's electrical system and loads are shown on said plans, suffice as consent for the purposes of this Section 7.1. Any feeders or risers to supply Tenant's electrical requirements, shall be installed by Landlord upon Tenant's request, at the sole cost and expense of Tenant, provided that such feeders and risers are permissible under applicable laws and insurance regulations and the installation of such feeders or risers will not cause permanent damage or injury to the Building or cause or create a dangerous condition or unreasonably interfere with other tenants of the Building. Tenant agrees that it will not make any alteration or addition to the electrical equipment in the Demised Premises without the prior written consent of Landlord in each instance first obtained, which consent will not be unreasonably withheld. Landlord, at Tenant's expense, shall purchase, install and replace all light fixtures, bulbs, tubes, lamps, lenses, globes, ballasts and switches used in the Demised Premises.

7.2 Water Charges. Landlord shall furnish cold water for ordinary cleaning, toilet, drinking purposes in accordance with Exhibit A-l and hot and cold water for lavatory purposes. Tenant shall pay for its share of water and related sewer charges in accordance with Section 6.10.

7.3 Heat and Air Conditioning. Landlord shall furnish to and distribute in the common areas of the Building heat and air conditioning as normal seasonal changes may require on Business Days from 8:00 a.m. to 6:00 p.m. and on Saturdays from 9:00 a.m. to 1:00 p.m., provided Landlord may run common area HVAC on an economy mode on Saturdays. Tenant agrees to lower and close the blinds or drapes when necessary because of the sun's position whenever the air conditioning system is in operation, and to cooperate fully with Landlord with regard to, and to abide by all the regulations and requirements which Landlord may prescribe for the proper functioning and protection of, the heating and air conditioning system. Without limiting the generality of the foregoing, all windows

in the Demised Premises must remain closed at all times notwithstanding the fact that such windows may be operable. The air conditioning system servicing the Building is designed to provide cooling based upon an occupancy of not more than one person per one hundred (100) square feet of floor area, and upon a combined lighting and standard electrical load not to exceed 3.0 watts per square foot or 2,000 amperes for the entire Demised Premises. In the event Tenant exceeds such condition or introduces into the Demised Premises equipment which overloads such system, or in any other way causes such system not to adequately perform its proper functions, supplementary systems may at Landlord's option be provided by Landlord at Tenant's expense. Tenant shall be responsible for furnishing heat and air conditioning to the Demised Premises.

7.4 Elevator Service. Landlord shall provide non exclusive passenger elevator service consisting of two (2) elevators to the Demised Premises on Business Days from 8:00 a.m. to 6:00 p.m. and on a reduced basis at all other times. Freight elevator service shall be available in common with other tenants on Business Days from 9:30 a.m. to 4:00 p.m. and at other times at reasonable charge. Tenant shall be responsible for constructing a freight elevator exclusively to serve the Demised Premises.

7.5 Cleaning. Landlord shall furnish cleaning services to the common areas of the Building substantially in accordance with the specifications attached hereto as Exhibit B and made a part hereof.

7.6 Repairs and Other Services. Except as otherwise provided in Articles 8 and 16, and subject to Tenant's obligations in Article 12 and elsewhere in this Lease, Landlord shall at Landlord's expense (a) keep and maintain the roof, exterior walls, structural floor slabs and columns of the Building in as good condition and repair as they are in on the Term Commencement Date, reasonable use and wear excepted, (b) keep and maintain in workable condition the Building's sanitary, electrical, heating, air conditioning and other systems, (c) keep all walkways on the Property clean and remove all snow and ice therefrom, (d) provide grounds maintenance to all landscaped areas, (e) arrange for the extermination of rodents and vermin in the Building (other than rodents arising out of Tenant's small animal facility), and (f) keep and maintain the parking lot adjacent to the Building in good condition and repair.

7.7 Landlord's Further Responsibilities.

(a) Landlord shall be responsible at its sole cost and expense for the removal of all trash and garbage (excluding Hazardous Materials, laboratory, biological and animal waste) from the designated containers outside of the Building.

(b) Landlord shall allow Tenant to have full access to and use of the largest conference room on the third floor of the Building up to eight (8) days per year, as reasonably agreed to in advance by Landlord and Tenant and upon payment of a reasonable fee for each such use.

(c) Landlord shall comply with all obligations imposed on it in the CCR's (defined in Section 27.12) and shall pay its share of any future costs of providing BART shuttle service.

7.8 Interruption or Curtailment of Services. Landlord reserves the right to interrupt, curtail, stop or suspend the furnishing of services and the operation of any Building system, when necessary by reason of accident or emergency, or of repairs, alterations, replacements or improvements in the reasonable judgment of Landlord desirable or necessary to be made, or of difficulty or inability in securing supplies or labor, or of strikes, or of any other cause beyond the reasonable control of Landlord, whether such other cause be similar or dissimilar to those hereinabove specifically mentioned, until said cause has been removed. Landlord shall use reasonable efforts to minimize interruption to Tenant by any such interruption or curtailment of services. Landlord shall have no responsibility or liability for any such interruption, curtailment, stoppage, or suspension of services or systems, except that Landlord shall exercise reasonable diligence to eliminate the cause of same. Notwithstanding the foregoing, if utilities or Building services are interrupted due to the fault of Landlord (Tenant acknowledging that Landlord shall have no responsibility for failure of municipal or public utility suppliers to supply utilities to the Building), and such disruption continues for more than seven (7) days, rent shall abate if the Demised Premises are unusable and Tenant in fact vacates the Demised Premises.

8. CHANGES OR ALTERATIONS BY LANDLORD

Landlord reserves the right, exercisable by itself or its nominee, including without limitation Prime Landlord, at any time and from time to time without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor or otherwise affecting Tenant's obligations under this Lease, to make such changes, alterations, additions, improvements, repairs or replacements in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Building, provided, however, that there be no unreasonable obstruction of the right of access to, or unreasonable interference with the use and enjoyment of, the Demised Premises by Tenant, except that Landlord shall not be obligated to employ labor at so-called "over-time" or other premium pay rates. Nothing contained in this Article shall be deemed to relieve Tenant of any duty, obligation or liability of Tenant with respect to making or causing to be made

any repair, replacement or improvement or complying with any law, order or requirement of any governmental or other authority. Landlord reserves the right to prior to the Commencement Date create two (2) addresses for the Building. Neither this Lease nor any use by Tenant shall give Tenant any right or easement or the use of any door or any passage or any concourse connecting with any other building or to any public convenience, and the use of such doors, passages and concourses and of such conveniences may be regulated or discontinued at any time and from time to time by Landlord without notice to Tenant and without affecting the obligations of Tenant hereunder or incurring any liability to Tenant therefor.

9. FIXTURES, EQUIPMENT AND IMPROVEMENTS — REMOVAL BY TENANT

All fixtures, equipment, leasehold improvements and appurtenances attached to or built into the Demised Premises prior to or during the Term, whether by Landlord at its expense or at the expense of Tenant (either or both) or by Tenant shall be and remain part of the Demised Premises and shall not be removed by Tenant at the end of the Term unless otherwise expressly provided by notice from Landlord to Tenant. Upon the request of Landlord, Tenant will remove such fixtures, equipment, leasehold improvements and appurtenances as are directed by Landlord and shall restore any damage caused by such removal. Notwithstanding the foregoing to the contrary, Tenant may, in connection with the initial Tenant improvements or any other fixtures, alterations or additions to the Demised Premises, upon presentation of detailed plans and specifications therefor, request in writing that Landlord advise Tenant which of said improvements, alterations or additions Landlord will require Tenant to remove at the end of the Term. Landlord shall advise Tenant in writing within thirty (30) days after receipt of such written request and the accompanying plans and specifications. If Landlord shall, in said written notice, require Tenant to remove an item at the end of the Term, Landlord shall have the right to rescind that decision and require Tenant to leave said item in place at the end of the Term by subsequent written notice to Tenant. Tenant shall remove the fixtures and equipment on Exhibit H and shall remediate all environmental contamination and Hazardous Materials associated with said items. All such removal shall be done in a good and workmanlike manner, and Tenant shall repair and restore any damage to the Building caused by such removal. In addition, any duct work, controls and rooftop exhaust equipment associated with the exhaust hoods must also be removed. Tenant shall structurally in-fill patch, flash and cap the roof to a weather-tight condition consistent with the four-ply built-up construction so as not to void the roof warranty. The in-wall and above ceiling copper and plastic piping associated with the vacuum compressed air or DI system and any specialty gas piping must be removed and remediated if any of the same is shown to be contaminated as provided in the environmental inspection of the Demised Premises made pursuant to Section 5.3(b). Any contaminated rooftop HVAC units and associated duct work shall also require removal at the Landlord’s discretion. Also, office workstations must be removed and remediated.

10. ALTERATIONS AND IMPROVEMENTS BY TENANT

Tenant shall make no alterations, decorations, installations, removals, additions or improvements in or to the Demised Premises without Landlord's prior written consent and then only by contractors or mechanics approved by Landlord. No such installations or other work shall be undertaken or begun by Tenant until Landlord has approved written plans and specifications therefor; and no amendments or additions to such plans and specifications shall be made without prior written consent of Landlord. Such approval shall not be unreasonably withheld provided such installations or work are non-structural, do not affect the exterior of the Building, and do not interfere with or impair utilities and systems in the Building. Notwithstanding the foregoing, Landlord's consent shall not be required for any alteration, addition or improvement that either (a) costs leas than Twenty-Five Thousand Dollars ($25,000.00) or (b) satisfies all of the following criteria: (i) is of a cosmetic nature such as painting, wallpapering, hanging pictures and installing carpeting, (ii) is not visible from the exterior of the Premises or Building, and (iii) will not affect the systems or structure of the Building, provided, however, in any such instance Tenant provides plans and specifications for such work not less than ten (10) days before commencing such work. Any such alterations, decorations, installations, removals, additions and improvements shall be done at the sole expense of Tenant and at such times and in such manner as Landlord may from time to time reasonably designate. Subject to the terms of Section 9 herein, if Tenant shall make any alterations, decorations, installations, removals, additions or improvements, then Landlord may elect to require Tenant at the expiration of this Lease to restore the Demised Premises to substantially the same condition as existed at the Term Commencement Date.

11. TENANT'S CONTRACTORS — MECHANICS' AND OTHER LIENS — STANDARD OF TENANT'S PERFORMANCE — COMPLIANCE WITH LAWS

Whenever Tenant shall make any alterations, decorations, installations, removals, additions or improvements or do any other work in or to the Demised Premises, Tenant will strictly observe the following covenants and agreements:

(a) In no event shall any material or equipment be incorporated in or added to the Demised Premises in connection with any such alteration, decoration, installation, addition or improvement which is subject to any lien, charge, mortgage or other encumbrance of any kind whatsoever or is subject to any security interest or any form of title retention agreement. Any mechanic's lien filed against the Demised Premises or the Building for work claimed to have been done for, or materials claimed to have been furnished to Tenant shall be discharged by Tenant within twenty (20) days thereafter, at the expense of Tenant, by filing the bond required by law or otherwise. If

Tenant fails so to discharge any lien, Landlord may do so at Tenant's expense and Tenant shall reimburse Landlord for any expense or cost incurred by Landlord in so doing within fifteen (15) days after rendition of a bill therefor.

(b) All installations or work done by Tenant under this or any other Article of this Lease shall be at its own expense (unless expressly otherwise provided) and shall at all times comply with (i) laws, rules, orders and regulations of governmental authorities having jurisdiction thereof and (ii) plans and specifications prepared by and at the expense of Tenant theretofore submitted to Landlord for its prior written approval.

(c) Tenant shall procure all necessary permits before undertaking any work in the Demised Premises; do all such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements, and defend, save harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by or growing out of such work.

(d) Tenant shall notify Landlord no later than ten (10) days prior to starting work on any alterations so that Landlord shall have the opportunity to post a "Notice of nonresponsibility" at the Demised Premises and record said notice in the county in which, the Property is located pursuant to California Civil Code Section 3094.

(e) all contractors and subcontractors shall be approved by Landlord, which approval shall not be unreasonably withheld, and all work by Tenant shall be performed by such contractors and subcontractors and in such manner as to maintain harmonious labor relations.

12. REPAIRS BY TENANT

Tenant, at its expense, shall keep or cause to be kept, all and singular, the Demised Premises in good repair, order and condition, reasonable use and wear thereof and damage by fire or by unavoidable casualty excepted. Without limiting the generality of the foregoing, Tenant shall keep all interior windows and other glass whole, and shall replace the same whenever broken with glass of the same quality and shall repair or replace all exterior windows if damaged by neglect or wrongdoing of Tenant. Tenant hereby waives the benefits of California Civil Code Section 1932(1).

13. INSURANCE, INDEMNIFICATION, EXONERATION AND EXCULPATION

13.1 Tenant's Insurance

(a) Liability Insurance. Tenant shall maintain in full force throughout the Term commercial general liability and property damage

insurance providing coverage on an occurrence form basis with limits of not less than Five Million Dollars ($5,000,000.00) each occurrence for bodily injury and property damage combined, Five Million Dollars ($5,000,000.00) annual general aggregate, and Five Million Dollars ($5,000,000.00) products and completed operations (if applicable) annual aggregate. Tenant's liability insurance policy or policies shall: (i) include premises and operations liability coverage, automobile, products and completed operations liability coverage (if applicable), broad form property damage coverage including completed operations (if applicable), blanket contractual liability coverage with, to the maximum extent possible, coverage for the indemnification obligations of Tenant under this Lease, and personal and advertising injury coverage; (ii) provide that the insurance company has the duty to defend all insureds under the policy; (iii) provide that defense costs are paid in addition to and do not deplete any of the policy limits; (iv) cover liabilities arising out of or incurred in connection with Tenant's use or occupancy of the Premises or the Property; and (v) extend coverage to cover liability for the actions of Tenant's employees, contractors, sublessees, guests and visitors. Tenant's required insurance may be maintained by a combination of underlying and "umbrella" coverage.

(b) Leasehold Improvements Personal Property Insurance. Tenant shall at all times maintain in effect with respect to Tenant's leasehold improvements and fixtures, equipment and personal property located at or within the Demised Premises, builder's risk and commercial property insurance providing coverage, at a minimum, for "broad form" perils, to the extent of 100% of the full replacement cost of covered property. Tenant may carry such insurance under a blanket policy, provided that such policy provides equivalent coverage to a separate policy. During the Term, the proceeds from any such policies of insurance shall be used for the repair or replacement of such leasehold improvements, fixtures, equipment and personal property so insured. Landlord shall be provided coverage under such insurance to the extent of its insurable interest and, if requested by Landlord, both Landlord and Tenant shall sign all documents reasonably necessary or proper in connection with the settlement of any claim or loss under such insurance. Landlord shall have no obligation to carry insurance on any such Tenant's leasehold improvements or on Tenant's fixtures, equipment or personal property.

(c) Workmen's Compensation Insurance. Tenant shall maintain worker's compensation insurance as required by law and employer's liability insurance in an amount not less than Five Hundred Thousand Dollars ($500,000).

(d) Business Interruption/Extra Expense Insurance. Tenant shall maintain loss of income, business interruption and extra expense insurance

in such amounts as will reimburse Tenant for direct or indirect loss of earnings and incurred costs attributable to the perils commonly covered by Tenant's property insurance described above but in no event less than One Million Five Hundred Thousand Dollars ($1,500,000.00). Such insurance shall be carried with the same insurer that issues the insurance for the personal property.

(e) Other Coverage. Tenant, at its cost, shall maintain such other insurance as Landlord may reasonably require from time to time, but in no event may Landlord require any other insurance which is (i) not then being required of comparable tenants leasing comparable amounts of space in comparable buildings in the vicinity of the Building or (ii) not then available at commercially reasonable rates.

(f) Insurance Criteria. Each policy of insurance required under this Section shall: (i) be in a form, and written by an insurer, reasonably acceptable to Landlord, (ii) be maintained at Tenant's sole cost and expense, and (iii) require at least thirty (30) days' written notice to Landlord prior to any cancellation, nonrenewal or modification of insurance coverage. Insurance companies issuing such policies shall have rating classifications of "A" or better and financial size category ratings of "XIII" or better according to the latest edition of the A.M. Best Key Rating Guide. All insurance companies issuing such policies shall be licensed to do business in the State of California. Any deductible amount under such insurance shall not exceed maximum deductible amounts currently required under similar leases for buildings in the vicinity of the Building, with Tenant having the burden of proof. Tenant shall provide to Landlord, upon request, evidence that the insurance required to be carried by Tenant pursuant to this Section, including any endorsement affecting the additional insured status, is in full force and effect and that premiums therefore have been paid.

(g) Increase in Amount of Insurance. Tenant shall increase the amounts of insurance as required by any Mortgagee, and, not more frequently than once every three (3) years, as recommended by Landlord's insurance broker, if, in the reasonable opinion of either of them, the amount of insurance then required under this Lease is not adequate. Any limits set forth in this Lease on the amount or type of coverage required by Tenant's insurance shall not limit the liability of Tenant under this Lease.

(h) Insurance Provisions. Each policy of liability insurance required by this Section shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that it is primary to and not contributing with, any policy of insurance carried by Landlord or Prime Landlord covering the same loss; (iii) provide that any failure to comply with the reporting provisions shall not affect coverage provided to Landlord, Prime Landlord,

their officers, directors, shareholders, members, property managers and mortgagees; and (iv) name Prime Landlord, Mortgagees, Landlord, their officers, directors, employees, shareholders, members, property managers and such other parties in interest as Landlord may from time to time reasonably designate to Tenant in writing, as additional insureds. Such additional insureds shall be provided the same extent of coverage as provided to Tenant under such policies. All endorsements affecting such additional insured status shall be acceptable to Landlord and shall be at least as broad as additional insured endorsement form number CG 20 11 11 85 promulgated by the Insurance Services Office.

(i) Evidence of Coverage. Prior to occupancy of the Premises by Tenant, and not less than thirty (30) days prior to the expiration of any policy thereafter, Tenant shall furnish to Landlord a certificate of insurance reflecting that the insurance required by this Section is in force accompanied by an endorsement showing the required additional insureds satisfactory to Landlord in substance and form. Notwithstanding the requirements of this paragraph, Tenant shall, at Landlord's request, provide to Landlord within a commercially reasonable time a certified copy of each insurance policy required to be in force at any time pursuant to the requirements of this Lease or its Exhibits. Tenant's failure to furnish Landlord with such certificates of insurance within a reasonable time (not to exceed ten (10) days) after Landlord's request shall be deemed a material default under this Lease.

13.2 General. Tenant will save Landlord harmless, and will exonerate and indemnify Landlord and Prime Landlord, from and against any and all claims, liabilities, penalties, damages or expenses (including without limitation reasonable attorneys' fees) asserted against or incurred by Landlord or Prime Landlord:

(a) on account of or based upon any injury to person, or loss of or damage to property sustained or occurring on the Demised Premises on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever (other than Landlord, Prime Landlord or their agents, contractors or employees);

(b) on account of or based upon any injury to person or loss of or damage to property, sustained or occurring elsewhere (other than on the Demised Premises) in or about the Building (and, in particular, without limiting the generality of the foregoing on or about the elevators, stairways, public corridors, sidewalks, roof, or other appurtenances and facilities used in connection with the Building or Demised Premises) arising out of the use or occupancy of the Building or Demised Premises by Tenant, or any person claiming by, through or under Tenant;

(c) on account of or based upon (including moneys due on account of) any work or thing whatsoever done (other than by Landlord, Prime Landlord or their contractors, or agents or employees of any such party) in the Demised Premises during the Term of this Lease and during the period of time, if any, prior to the Term Commencement Date that Tenant may have been given access to the Demised Premises; and

(d) on account of or resulting from the failure of Tenant to perform and discharge any of its covenants and obligations under this Lease;

and, in case any action or proceeding be brought against Landlord or Prime Landlord by reason of any of the foregoing, Tenant upon notice from Landlord shall at Tenant's expense resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Landlord, it being agreed that such counsel as may act for insurance underwriters of Tenant engaged in such defense shall be deemed satisfactory.

13.3 Property of Tenant. In addition to and not in limitation of the foregoing, and subject only to provisions of applicable law, Tenant covenants and agrees that all merchandise, furniture, fixtures and property of every kind, nature and description which may be in or upon the Demised Premises or elsewhere on the Property during the Term of this Lease, shall be at the sole risk and hazard of Tenant, and that if the whole or any part thereof shall be damaged, destroyed, stolen or removed from any cause or reason whatsoever other than the negligence or misconduct of Landlord or Prime Landlord or their contractors, or agents or employees of any such party, no part of said damage or loss shall be charged to, or borne by Landlord or Prime Landlord.

13.4 Bursting of Pipes, etc. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, seismic events, earthquakes, falling plaster or tiles, steam, gas, electricity, electrical disturbance, water, rain or snow or leaks from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or caused by any other cause of whatever nature, unless caused by or due to the negligence of Landlord, its agents, servants or employees; nor shall Landlord or its agents be liable for any such damage caused by other tenants or persons in the Building or caused by operations in construction of any private, public or quasi-public work; nor shall Landlord be liable for any latent defect in the Demised Premises or elsewhere in the Building.

13.5 Landlord's Insurance. Landlord shall, at its sole expense, carry so-called "all risk" full replacement cost casualty insurance on the Building (exclusive of Tenant's leasehold improvements, fixtures and equipment).

14. ASSIGNMENT, MORTGAGING, SUBLETTING, ETC.

14.1 Generally. Tenant shall not voluntarily, involuntarily or by operation of law assign, transfer, mortgage or otherwise encumber this Lease or any interest of Tenant therein, in the whole or in part of the Premises or permit the Premises or any part thereof to be used or occupied by others, without the prior written consent of Landlord and Landlord's mortgagee. Except in connection with a public stock offering, a transfer of any of Tenant's stock or a transfer or change of control of Tenant (if Tenant is a corporation), or a change in the composition of persons or entities owning any interest in Tenant (if Tenant is not a corporation), or any transfer of Tenant's interest in the Lease by operation of law or by merger or consolidation of Tenant with or into any other entity, firm or corporation, shall be deemed an assignment for purposes of this Article 14. Notwithstanding anything to the contrary in this Lease, except with respect to Corporate Transfers (hereinafter defined) to a Competitor (as defined in Section 14.2), Tenant shall not be required to obtain Landlord's consent, and the terms of Sections 14.2 and 14.3 of this Lease shall not apply, to any transfer of Tenant's stock or a transfer or change of control of Tenant or other transfer to an entity which controls, is controlled by or is under common control with Tenant or any successor to Tenant or which succeeds to substantially all of Tenant's assets and business by merger, consolidation, reorganization or purchase or in connection with an initial public offering (collectively referred to as "Corporate Transfers"). Tenant shall give Landlord written notice at least thirty (30) days prior to the effective date of such Corporate Transfer. As used herein, the terms "controlled" or "controls" or "control" shall mean ownership of at least fifty-one percent (51%) of voting control of the relevant entity.

14.2 Landlord's Options. In connection with any request by Tenant for Landlord's consent to assignment or subletting, Tenant shall submit to Landlord in writing ("Tenant's Sublease Notice") (i) the name of the proposed assignee or subtenant, (ii) such information as to its financial responsibility and standing as Landlord may reasonably require, and (iii) all of the terms and provisions upon which the proposed assignment or subletting is to be made. Within ten (10) business days after receipt from Tenant of Tenant's Sublease Notice and receipt of the information required hereunder, Landlord shall have the following options: (a) reasonably withholding its consent if the proposed sublease is at least 10,000 rentable square feet, or if the proposed sublease is less than 10,000 rentable square feet, withholding consent in its sole and absolute discretion; (b) withholding consent if the proposed assignee or sublessee is a "Competitor" (as that term is hereinafter defined); (c) if the request is made after the third (3rd) anniversary of the commencement of the Term and is to sublet a portion of the Premises, to elect to match said offer and sublease the Demised Premises or relevant portion thereof on the same terms and conditions as set forth in Tenant's Sublease Notice; (d) if the request is made after the third (3rd) anniversary of the commencement of the Term and is to assign this Lease or sublet all of the Premises, elect to match said offer

and accept an assignment of this Lease on the same terms and conditions set forth in Tenant's Sublease Notice, or (e) consenting to the proposed assignment or such leasing. The term "Competitor," as used herein shall mean any person or entity engaged in the manufacture or sale of instruments for DNA sequencing or amplification, including, without limitation, the following businesses and any affiliates, subsidiaries, parents or successors thereto: PE Corp., Applera Corporation, PE Biosystems, Inc., Applied Biosystems, Inc., Celera Genomics, Inc., Celera Genomics Group, F. Hoffmann-LaRoche Ltd., Hoffmann-LaRoche, Inc., Roche Diagnostics Corporation, Roche Molecular Systems, Inc., Amersham Pharmacia Biotech, Ltd., Molecular Dynamics, Inc., Perkin Elmer Corporation, Strategene, Hybade Ltd., Ericomp, Techne Corporation, MWG Biotech AG, Whatman Biometra, Labreco, Inc., Bio-Rad Laboratories, Inc., and Cepheid. In the event Landlord shall exercise either option (c) or (d) above, Tenant shall sublease the Demised Premises or relevant portion thereof or assign this Lease to Tenant upon the terms and conditions set forth in said Tenant's Sublease Notice. In the event Landlord elects to match this offer in Tenant's Sublease Notice as set forth in clause (d) above, Tenant shall remain responsible for removal of leasehold improvements and equipment as required in Sections 9 and 10 at the end of the Term or earlier termination of this Lease.

14.3 Conditions. Any subletting or assignment pursuant to this Article shall be subject to and conditioned upon the following:

(a) at the time of any proposed subletting or assignment, Tenant shall not be in default under any of the terms, covenants, or conditions of this Lease beyond applicable grace periods;

(b) the sublessee or assignee shall conduct its business in accordance with the Permitted Use;

(c) prior to occupancy, Tenant and its assignee or sublessee shall execute, acknowledge and deliver to Landlord a fully executed counterpart of a written assignment of lease or a written sublease, as the case may be, by the terms of which:

(1) in case of an assignment of this Lease in its entirety, Tenant shall assign to such assignee Tenant's entire interest in this Lease, together with all prepaid rents hereunder, and the assignee shall accept said assignment and assume and agree to perform directly for the benefit of Landlord, all of the terms, covenants and conditions of this Lease on Tenant's part to be performed; or

(2) in case of a subletting, the sublessee thereunder shall agree to be bound by and to perform all of the terms, covenants and conditions of this Lease on the Tenant's part to be performed, except

the payments of rents, charges and other sums reserved hereunder, which Tenant shall continue to be obligated to pay and shall pay to Landlord;

(d) Tenant shall pay to Landlord monthly one-half of the excess of the rents and other charges received by Tenant pursuant to the assignment or sublease over the rents and other charges reserved to Landlord under this Lease attributable to the space assigned or sublet, less the reasonable costs and expenses of subleasing and less the unamortized cost of Tenant's leasehold improvements (but not trade fixtures or equipment) paid for by Tenant, which cost shall be amortized over a ten year basis commencing on the Term Commencement Date;

(e) Tenant and any guarantor of Tenant's obligations hereunder (hereinafter "Guarantor") shall acknowledge that, notwithstanding such assignment or sublease and consent of Landlord thereto, Tenant and Guarantor shall not be released or discharged from any liability whatsoever under this Lease and will continue to be liable with the same force and effect as though no assignment or sublease had been made; and

(f) Tenant shall pay Landlord's reasonable costs including but not limited to attorney's fees and Landlord's administrative and overhead costs, incurred in connection with each such assignment or subletting.

14.4 Landlord's Consent. Landlord shall not unreasonably withhold its consent to a sublease of at least 10,000 rentable square feet or assignment pursuant to the preceding Section 14.1, subject to Landlord's options in subclauses (c) and (d) of Section 14.2. If Landlord elects to pursue its option under Section 14.2 to match the terms of Tenant's Sublease Notice, this Section 14.4 is not relevant. Landlord's failure to consent shall be deemed unreasonable if the conditions set forth in Subsections 14.3(a)-(f) are met, Landlord's Mortgagee has consented thereto and if:

(a) The proposed assignment or subletting is made to a party other than a Competitor; or

(b) The proposed assignee or subtenant has a good credit rating, which shall be at least equal to that of Tenant as of the Term Commencement Date, and demonstrable ability to comply with the terms and conditions of this Lease, a good reputation in the community, and the proposed use by such subtenant or assignee (even though Permitted Use) could not in Landlord's reasonable opinion be expected to detract from the character of the Building at the time of the proposed assignment or sublease.

14.5 No Waiver. The consent by Landlord to an assignment or subletting shall not in any way be construed to relieve Tenant from obtaining the express consent of Landlord to any further assignment or subletting for the use of all or any

part of the Premises, nor shall the collection of rent by Landlord from any assignee, sublessee or other occupant after default by Tenant be deemed a waiver of this covenant or the acceptance of such assignee, sublessee or occupant as tenant or a release of Tenant from the further performance by Tenant of the obligations in this Lease on Tenant's part to be performed.

15. MISCELLANEOUS COVENANTS

15.1 Rules and Regulations. Tenant and Tenant's servants, employees, agents, visitors and licensees will faithfully observe such Rules and Regulations as are attached hereto as Exhibit C and made a part hereof or as Landlord hereafter at any time or from time to time may make and may communicate in writing to Tenant and which in the reasonable judgment of Landlord shall be necessary for the reputation, safety, care or appearance of the Property, or the preservation of good order therein, or the operation or maintenance of the Property, or the equipment thereof, or the comfort of tenants or others in the Building, provided, however, that in the case of any conflict between the provisions of this Lease and any such Rules and Regulations, the provisions of this Lease shall control, and provided further that nothing contained in this Lease shall be construed to impose upon Landlord any duty or obligation to enforce such Rules and Regulations or the terms, covenants or conditions in any other lease as against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors, invitees or licensees.

15.2 Access to Premises. Tenant shall: (i) permit Landlord to erect, use and maintain pipes, ducts and conduits in and through the Demised Premises, provided the same do not materially reduce the floor area or materially adversely affect the appearance thereof; (ii) permit the Landlord and any Mortgagee to have free and unrestricted access to and to enter upon the Demised Premises at all reasonable hours (upon 24 hours prior notice except in case of emergency) for the purposes of inspection or of making repairs, replacements or improvements in or to the Demised Premises or the Building or equipment (including, without limitation, sanitary, electrical, heating, air conditioning or other systems) or of complying with all laws, orders and requirements of governmental or other authority or of exercising any right reserved to Landlord by this Lease (including the right during the progress of any such repairs, replacements or improvements or while performing work and furnishing materials in connection with compliance with any such laws, orders or requirements to take upon or through, or to keep and store within, the Demised Premises all necessary materials, tools and equipment); and (iii) permit Landlord, at reasonable times and upon 24 hours prior notice, to show the Demised Premises during ordinary business hours to any Mortgagee, prospective purchaser of any interest of Landlord in the Property, prospective Mortgagee, or prospective assignee of any Mortgage, and during the period of twelve months next preceding the Termination Date to any person contemplating the leasing of the Demised Premises or any part thereof. If Tenant shall not be

personally present to open and permit any entry into the Demised Premises at any time when for any reason an entry therein shall be necessary or permissible pursuant to the terms of this Lease or by law, Landlord or Landlord's agents must nevertheless be able to gain such entry by contacting a responsible representative of Tenant, whose name, address and telephone number shall be furnished by Tenant. Provided that Landlord shall not be obligated to employ labor at so-called "over-time" or other premium pay rates, Landlord shall exercise its rights of access to the Demised Premises permitted under any of the terms and provisions of this Lease in such manner as to minimize to the extent practicable interference with Tenant's use and occupation of the Demised Premises. Notwithstanding the foregoing, any entry (other than in case of emergency) by Landlord, any Mortgagee or any of their agents or representatives shall be subject to Tenant's reasonable security requirements, including but not limited to the requirement that a representative of Tenant accompany such parties when in certain parts of the Demised Premises.

15.3 Accidents to Sanitary and other Systems. Tenant shall give to Landlord prompt notice of any fire or accident in the Demised Premises or in the Building and of any damage to, or defective condition in, any part or appurtenance of the Building's sanitary, electrical, heating and air conditioning or other systems located in, or passing through, the Demised Premises.

15.4 Signs, Blinds and Drapes. Tenant shall not place any signs on the exterior of the Building (except as provided in Section 27.11) or on or in any window, public corridor or door visible from the exterior of the Demised Premises. No drapes or blinds may be put on or in any exterior window nor may any Building drapes or blinds be removed by Tenant.

15.5 Estoppel Certificate. Tenant shall at any time and from time to time upon not less than ten business (10) days' prior notice by Landlord, Prime Landlord or by a Mortgagee to Tenant, execute, acknowledge and deliver to the party making such request a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the dates to which Rent has been paid in advance, if any, and stating whether or not to the actual knowledge and belief of the signer of such certificate Landlord is in default in performance of any covenant, agreement, term, provisions or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser of any interest in the Property, any Mortgagee or prospective Mortgagee, any lessee or prospective lessee thereof, any prospective assignee of any Mortgage, or any other party designated by Landlord. The form of any such estoppel certificate requested by a Mortgagee shall be reasonably satisfactory to such Mortgagee.

15.6 Requirements of Law — Fines and Penalties. Tenant at its sole expense shall comply with all laws, rules, orders and regulations of Federal, State, County and Municipal Authorities and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to and arising out of Tenant's use or occupancy of the Demised Premises. If Tenant receives notice of any violation of law, ordinance, order or regulation applicable to the Demised Premises, it shall give prompt notice thereof to Landlord. Without limiting the generality of the foregoing, Tenant shall be responsible for compliance with requirements imposed by the Americans with Disabilities Act relative to the Demised Premises, including without limitation all such requirements applicable to removing barriers, furnishing auxiliary aids and ensuring that, whenever alterations are made, the affected portions of the Demised Premises are readily accessible to and usable by individuals with disabilities. Notwithstanding anything in the foregoing to the contrary, if the requirement of additional work in the Demised Premises is caused by governmental action solely as result of work being done by Landlord in parts of the Building other than the Demised Premises, then Landlord shall be responsible for the cost of such ADA work. Conversely, if additional ADA work in the Building is caused by governmental action solely as a result of work in the Demised Premises by Tenant, then Tenant shall be responsible for the cost of such ADA work.

15.7 Tenant's Acts — Effect on Insurance. Tenant shall not do or permit to be done any act or thing upon the Demised Premises or elsewhere in the Building which will invalidate or be in conflict with any insurance policies covering the Building and the fixtures and property therein and shall not do, or permit to be done, any act or thing upon the Demised Premises which shall subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or operation being conducted on the Demised Premises or for any other reason. Subject to the terms of this Lease and except as otherwise specifically set forth to the contrary herein, Tenant at its own expense shall comply with all applicable provisions of the California Health and Safety Code and all regulations promulgated thereunder and with all rules, orders, regulations or requirements of the underwriter(s) of the fire and other hazard insurance for the Property and the Demised Premises and shall not do, or permit anything to be done, in or upon the Demised Premises, or bring or keep anything therein, that is not permitted by the City of South San Francisco Fire Department, or other authority having jurisdiction, and then only in such quantity and manner of storage as will not increase the rate for any insurance applicable to the Building. If by reason of failure of Tenant to comply with the provisions hereof the insurance rate applicable to any policy of insurance shall at any time thereafter be higher than it otherwise would be, then Tenant shall reimburse Landlord for that part of any insurance premiums thereafter paid by Landlord, which shall have been charged because of such failure by Tenant.

15.8 Miscellaneous. Tenant shall not suffer or permit the Demised Premises or any fixtures, equipment or utilities therein or serving the same, to be overloaded, damaged or defaced.

16. DAMAGE BY FIRE, ETC.

In the event of loss of, or damage to, the Demised Premises or the Building by fire or other casualty, the rights and obligations of the parties hereto shall be as follows:

(a) If the Demised Premises, or any part thereof, shall be damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord, and Landlord, upon receiving such notice and the insurance proceeds for such casualty, shall proceed in a commercially reasonable manner, subject to unavoidable delays, to repair, or cause to be repaired, such damage to the extent hereinafter provided. Landlord shall be responsible to restore only to the "cold shell" condition as set forth on Exhibit A-l, and Tenant shall be responsible for restoration of all leasehold improvements beyond such cold shell. If the Demised Premises or any part thereof shall be rendered untenantable by reason of such damage, whether to the Demised Premises or to the Building, Yearly Fixed Rent shall proportionately abate for the period from the date of such damage to the date when such damage shall have been repaired by Landlord to the condition set forth on Exhibit A-l.

(b) If, as a result of fire or other casualty, the whole or a substantial portion of the Building is rendered untenantable and the nature and extent of the damage is such that in Landlord's opinion, taking into account a reasonable time for adjusting loss and obtaining plans and permits for restoration, the Demised Premises cannot be made tenantable within 180 days after such event, Landlord, within ninety (90) days from the date of such fire or casualty, may terminate this Lease by notice to Tenant, specifying a date not less than thirty (30) nor more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. If Landlord does not so elect to terminate this Lease, then Landlord shall (to the extent that proceeds of insurance required to be carried by Landlord, net of any portion thereof retained by a Mortgagee, are made available for such purpose) proceed with diligence to repair the damage to the Demised Premises and all facilities serving the same, if any, which shall have occurred, and the Yearly Fixed Rent shall meanwhile proportionately abate, all as provided in Paragraph (a) of this Section. However, if such damage is not repaired and the Demised Premises restored to substantially the same condition as they were prior to such damage within one (1) year from the date of such damage, Tenant within thirty (30) days from the expiration of such one (1) year period or from the expiration of any extension thereof by reason of unavoidable delays as hereinafter provided, may terminate this Lease by

notice to Landlord, specifying a date not more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. The period within which the required repairs may be accomplished shall be extended by the number of days, lost as a result of unavoidable delays, which term shall be defined to include all delays referred to in Article 24.

(c) If the Demised Premises shall be rendered untenantable by fire or other casualty during the last two (2) years of the Term of this Lease, Landlord may terminate this Lease effective as of the date of such fire or other casualty upon notice to Tenant given within ninety (90) days after such fire or other casualty. Notwithstanding the foregoing to the contrary, in the event Landlord exercises the foregoing termination right, if Tenant has available to it the option to extend and validly exercises said option, Tenant may defeat said termination notice by the valid exercise of said option term so as to add an additional five years on to the Term of this Lease.

(d) Landlord shall not be required to repair or replace any of Tenant's leasehold improvements, fixtures, business machinery, equipment, cabinet work, furniture, personal property or other installations (all of which shall, however, be restored by Tenant within a reasonable time after Landlord shall have completed any repair or restoration required under the terms of this Article), and no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building.

(e) The provisions of this Article shall be considered an express agreement governing any instance of damage or destruction of the Building or the Demised Premises by fire or other casualty, and any law now or hereafter in force providing for such a contingency in the absence of express agreement shall have no application.

(f) In the event of any termination of this Lease pursuant to this Article, the Term of this Lease shall expire as of the effective termination date as fully and completely as if such date were the date originally fixed herein for the end of the Term of this Lease. Tenant shall have access to the Demised Premises for a period of fifteen (15) days after the date of termination in order to remove Tenant's personal property.

(g) Landlord's Architect's certificate, given in good faith, shall be deemed conclusive of the statements therein contained and binding upon Tenant with respect to the performance and completion of any repair or restoration work undertaken by Landlord pursuant to this Article or Article 18.

17. WAIVER OF SUBROGATION

In any case in which Tenant shall be obligated under any provision of this Lease to pay to Landlord or Prime Landlord any loss, cost, damage, liability, or expense suffered or incurred by Landlord or Prime Landlord, Landlord shall allow to Tenant as an offset against the amount thereof (i) the net proceeds of any insurance collected by Landlord for or on account of such loss, cost, damage, liability, or expense, provided that the allowance of such offset does not invalidate the policy or policies under which such proceeds were payable and (ii) if such loss, cost, damage, liability or expense shall have been caused by a peril against which Landlord has agreed to procure insurance coverage under the terms of this Lease, the amount of such insurance coverage, if not actually procured by Landlord.

In any case in which Landlord or Prime Landlord shall be obligated under any provision of this Lease to pay to Tenant any loss, cost, damage, liability or expense suffered or incurred by Tenant, Tenant shall allow to Landlord as an offset against the amount thereof (i) the net proceeds of any insurance collected by Tenant for or on account of such loss, cost, damage, liability, or expense, provided that the allowance of such offset does not invalidate the policy or policies under which such proceeds were payable and (ii) if such loss, cost, damage, liability or expense shall have been caused by a peril against which Tenant has agreed to procure insurance coverage under the terms of this Lease, the amount of such insurance coverage, if not actually procured by Tenant.

The parties hereto shall each endeavor to procure an appropriate clause in, or endorsement on, any fire or extended coverage insurance policy covering the Demised Premises and the Building and personal property, fixtures and equipment located thereon or therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery, and having obtained such clauses and/or endorsements of waiver of subrogation or consent to a waiver of right of recovery each party hereby agrees that it will not make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other perils covered by such fire and extended coverage insurance; provided, however, that the release, discharge, exoneration and covenant not to sue herein contained shall be limited by the terms and provisions of the waiver of subrogation clauses and/or endorsements or clauses and/or endorsements consenting to a waiver of right of recovery and shall be co-extensive therewith. If either party may obtain such clause or endorsement only upon payment of an additional premium, such party shall promptly so advise the other party and shall be under no obligation to obtain such clause or endorsement unless such other party pays the premium.

18. CONDEMNATION — EMINENT DOMAIN

In the event that the whole or more than 40% of the Building shall be taken or appropriated by eminent domain or shall be condemned for any public or quasi-public use, or (by virtue of any such taking, appropriation or condemnation) shall suffer any damage (direct, indirect or consequential) for which Landlord or Tenant shall be entitled to compensation then (and in any such event) this Lease and the Term hereof may be terminated at the election of Landlord by a notice in writing of its election so to terminate which shall be given by Landlord to Tenant within sixty (60) days following the date on which Landlord shall have received notice of such taking, appropriation or condemnation. In the event that more than fifty percent (50%) of the floor area of the Demised Premises or a substantial part of the means of access thereto within the perimeter of the Property so as to substantially interfere with the use of the Demised Premises shall be so taken, appropriated or condemned, then (and in any such event) this Lease and the Term hereof may be terminated at the election of Tenant by a notice in writing of its election so to terminate which shall be given by Tenant to Landlord within sixty (60) days following the date on which Tenant shall have received notice of such taking, appropriation or condemnation. Tenant hereby waives the benefits of California Code of Civil Procedure Section 12165.130.

Upon the giving of any such notice of termination (either by Landlord or Tenant) this Lease and the Term hereof shall terminate on or retroactively as of the date on which Tenant shall be required to vacate any part of the Demised Premises or shall be deprived of a substantial part of the means of access thereto, provided, however, that Landlord may in Landlord's notice elect to terminate this Lease and the Term hereof retroactively as of the date on which such taking, appropriation or condemnation became legally effective. In the event of any such termination, this Lease and the Term hereof shall expire as of the effective termination date as fully and completely as if such date were the date originally fixed herein for the end of the Term of this Lease. If neither party (having the right so to do) elects to terminate Landlord will, with reasonable diligence and at Landlord's expense, restore the remainder of the Demised Premises, or the remainder of the means of access thereto, as nearly as practicably may be to the same condition as obtained prior to such taking, appropriation or condemnation in which event (i) a just proportion of the Yearly Fixed Rent, according to the nature and extent of the taking, appropriation or condemnation and the resulting permanent injury to the Demised Premises and the means of access thereto, shall be permanently abated, and (ii) a just proportion of the remainder of the Yearly Fixed Rent, according to the nature and extent of the taking, appropriation or condemnation and the resultant injury sustained by the Demised Premises and the means of access thereto, shall be abated until what remains of the Demised Premises and the means of access thereto shall have been restored as fully as may be possible for permanent use and occupation by Tenant hereunder. Except for any award specifically reimbursing Tenant for moving or relocation expenses and Tenant's moveable personal property

(but not leasehold improvements), there are expressly reserved to Landlord all rights to compensation and damages created, accrued or accruing by reason of any such taking, appropriation or condemnation, in implementation and in confirmation of which Tenant does hereby acknowledge that Landlord shall be entitled to receive and retain all such compensation and damages, grants to Landlord all and whatever rights (if any) Tenant may have to such compensation and damages, and agrees to execute and deliver all and whatever further instruments of assignment as Landlord may from time to time request. In the event of any taking of the Demised Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby, and (ii) Tenant shall be entitled to receive for itself any award made for such use, provided, that if any taking is for a period extending beyond the Term of this Lease, such award shall be apportioned between Landlord and Tenant as of the Termination Date.

19. DEFAULT

19.1 Events of Default. Occurrence of any of the following events shall constitute an Event of Default under this Lease: (a) Tenant shall neglect or fail to perform or observe any of the Tenant's covenants herein, including (without limitation) the covenants with regard to the payment when due of Rent, which default continues, in the case of payment of Rent, for thirty (30) days after notice of default or, in the case of defaults other then payment of Rent, for twenty (20) days after such notice of default (provided that if more time, but not more than 30 additional days) is required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion); or (b) Tenant shall default in payment of Rent more than two (2) times in any consecutive twelve (12) month period; or (c) Tenant shall be involved in financial difficulties as evidenced by an admission in writing by Tenant of Tenant's inability to pay its debts generally as they become due, or by the making or offering to make a composition of its debts with its creditors; or (d) Tenant shall make an assignment or trust mortgage, or other conveyance or transfer of like nature, of all or a substantial part of its property for the benefit of its creditors; or (e) the leasehold hereby created shall be taken on execution or by other process of law and shall not be revested in Tenant within sixty (60) days thereafter; or (f) a receiver, sequester, trustee or similar officer shall be appointed by a court of competent jurisdiction to take charge of all or a substantial part of Tenant's property and such appointment shall not be vacated within sixty (60) days; or (g) any proceeding shall be instituted by or against Tenant pursuant to any of the provisions of any Act of Congress or State law relating to bankruptcy, reorganization, arrangements, compositions or other relief from creditors, and, in the case of any such proceeding instituted against it, if Tenant shall fail to have such proceeding dismissed within thirty (30) days or if Tenant is adjudged bankrupt or insolvent as a result of any such proceeding; or (h) any event shall occur or any contingency shall arise whereby this Lease, or the term and estate thereby created, would (by operation of law or otherwise) devolve upon or

pass to any person, firm or corporation other than Tenant, except as expressly permitted under Article 14 hereof.

19.2 Remedies Available upon Default. Upon the occurrence of an Event of Default, Landlord shall have the following remedies, which shall not be exclusive but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by law:

(a) Landlord may terminate Tenant's right to possession of the Premises at any time by written notice to Tenant. Tenant expressly acknowledges that in the absence of such written notice from Landlord, no other act of Landlord, including re-entry into the Premises, efforts to relet the Premises, reletting of the Premises for Tenant's account, storage of Tenant's personal property and trade fixtures, acceptance of keys to the Premises from Tenant or exercise of any other rights and remedies under this Section, shall constitute an acceptance of Tenant's surrender of the Premises or constitute a termination of this Lease or of Tenant's right to possession of the Premises. Upon such termination in writing of Tenant's right to possession of the Premises, as herein provided, this Lease shall terminate and Landlord shall be entitled to recover damages from Tenant as provided in California Civil Code Section 1951.2 and any other applicable existing or future Law providing for recovery of damages for such breach, including the worth at the time of award of the amount by which the rent which would be payable by Tenant hereunder for the remainder of the Term after the date of the award of damages, including Additional Rent as reasonably estimated by Landlord, exceeds the amount of such rental loss as Tenant proves could have been reasonably avoided, discounted at the discount rate published by the Federal Reserve Bank of San Francisco for member banks at the time of the award plus one percent (1%).

(b) Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations).

(c) Landlord may immediately, or at any time thereafter, without notice, cure said Event of Default for the account of Tenant. If Landlord at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of Tenant to comply with any provision hereof, or if Landlord is compelled to or does incur any expense, including without limitation reasonable attorneys' fees, in instituting, prosecuting and/or defending any action or proceeding arising by reason of any default of Tenant hereunder, Tenant shall on demand pay to Landlord by way of reimbursement the sum or sums so paid

by Landlord with all interest, costs and damages together with interest at the Interest Rate for the period such sums remain outstanding.

(d) Landlord may remove all of Tenant's property from the Premises, and such property may be stored by Landlord in a public warehouse or elsewhere at the sole cost and for the account of Tenant. If Landlord does not elect to store any or all of Tenant's property left in the Premises, Landlord may consider such property to be abandoned by Tenant, and Landlord may thereupon dispose of such property in the manner and as prescribed by California Civil Code Section 1980 et seq. Any proceeds realized by Landlord on the disposal of any such property shall be applied first to offset all expenses of storage and sale, then credited against Tenant's outstanding obligations to Landlord under this Lease, and any balance remaining after satisfaction of all obligations of Tenant under this Lease shall be delivered to Tenant.

(e) The damages recoverable by Landlord pursuant to this Section shall in all events include reimbursement of any concessions made by Landlord in connection with the leasing of the Demised Premises to Tenant, including without limitation (a) abated Rent, (b) allowances or improvements in excess of any Building standard work, (c) sums paid to any former landlord of Tenant under a so-called "take-over", lease assumption or similar agreement and (d) signing bonuses and other incentive payments. Any allowances, abated rent, signing bonuses, incentive payments or takeover payments shall be deemed commercially reasonable if recommended to Landlord by a reputable commercial real estate broker as being appropriate and necessary for the leasing of said Premises to a creditworthy tenant.

19.3 Grace Period. Notwithstanding anything to the contrary in this Article contained, Landlord agrees not to take any action to terminate this Lease (a) for default by Tenant in the payment when due of Rent, if Tenant shall cure such default within five (5) days after written notice thereof given by Landlord to Tenant, unless there has been two (2) or more defaults in any 12-month period as set forth in Section 19.1(b), or (b) for default by Tenant in the performance of any other covenant, if Tenant shall cure such default within a period of thirty (30) days after written notice thereof given by Landlord to Tenant (except where the nature of the default is such that remedial action should appropriately take place sooner, as indicated in such written notice), or with respect to covenants other than to pay a sum of money within such additional period as may reasonably be required to cure such default if (because of governmental restrictions or any other cause beyond the reasonable control of Tenant) the default is of such a nature that it cannot be cured within such thirty (30)-day period, provided, however, (1) that there shall be no extension of time beyond such thirty (30)-day period for the curing of any such default unless, not more than ten (10) days after the receipt of the notice of default, Tenant in writing (i) shall specify the cause on account of which the default cannot

be cured during such period and shall advise Landlord of its intention duly to institute all steps necessary to cure the default and (ii) shall as soon as may be reasonable duly institute and thereafter diligently prosecute to completion all steps necessary to cure such default and, (2) that no notice of the opportunity to cure a default need be given, and no grace period whatsoever shall be allowed to Tenant, if the default is incurable or if the covenant or condition the breach of which gave rise to the default had, by reason of a breach on a prior occasion, been the subject of a notice hereunder to cure such default.

20. END OF TERM — ABANDONED PROPERTY

Upon the expiration or other termination of the Term of this Lease, Tenant shall peaceably quit and surrender to Landlord the Demised Premises and all alterations and additions thereto which Tenant is not entitled or required to remove under the provisions of this Lease, broom clean in good order, repair and condition excepting only reasonable use and wear and damage by fire or other casualty for which, under other provisions of this Lease, Tenant has no responsibility of repair or restoration. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease. If the last day of the Term of this Lease or any renewal thereof falls on a day other than a Business Day, this Lease shall expire on the Business Day immediately following. Tenant shall pay twice the amount of Rent applicable to each month (or fraction thereof) during which Tenant remains in possession of any part of the Demised Premises in violation of the foregoing covenants, without prejudice to eviction and any other remedy available to Landlord on account thereof.

Any personal property in which Tenant has an interest which shall remain in the Building or on the Demised Premises after the expiration or termination of the Term of this Lease shall be conclusively deemed to have been abandoned, and may be disposed of in such manner as Landlord may see fit; provided, however, notwithstanding the foregoing, that Tenant will, upon request of Landlord made not later than ten (10) days after the expiration or termination of the Term hereof, promptly remove from the Building any such personal property or, if any part thereof shall be sold, that Landlord may receive and retain the proceeds of such sale and apply the same, at its option, against the expenses of the sale, the cost of moving and storage, any arrears of Rent payable hereunder by Tenant to Landlord and any damages to which Landlord may be entitled under Article 19 hereof or pursuant to law, with the balance if any, to be paid to Tenant.

21. RIGHTS OF MORTGAGEES

21.1 Entry and Possession. Upon entry and taking possession of the Property by a Mortgagee, for the purpose of foreclosure or otherwise, such Mortgagee shall have all the rights of Landlord, and shall be liable to perform all

the obligations of Landlord arising and accruing during the period of such possession by such Mortgagee.

21.2 Right to Cure. No act or failure to act on the part of Landlord which would entitle Tenant under the terms of this Lease, or by law, to be relieved of Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) Tenant shall have first given written notice of Landlord's act or failure to act to first Mortgagees of record, if any, and to any other Mortgagees of whom Tenant has been given written notice, specifying the act or failure to act on the part of Landlord which could or would give basis to Tenant's rights; and (ii) such Mortgagees, after receipt of such notice, have failed or refused to correct or cure the condition complained of within 30 days thereafter for a monetary default and 60 days for a non-monetary default, but nothing contained in this paragraph shall be deemed to impose any obligation on any such Mortgagees to correct or cure any such condition.

21.3 Prepaid Rent. No Rent shall be paid more than thirty (30) days prior to the due dates thereof and, as to a first Mortgagee of record and any other Mortgagees of whom Tenant has been given written notice, payments made in violation of this provision shall (except to the extent that such Rent is actually received by such Mortgagee) be a nullity as against such Mortgagee and Tenant shall be liable for the amount of such payments to such Mortgagee.

21.4 Continuing Offer. The covenants and agreements contained in this Lease with respect to the rights, powers and benefits of a Mortgagee (particularly, without limitation thereby, the covenants and agreements contained in this Article) constitute a continuing offer to any person, corporation or other entity, which by accepting or requiring an assignment of this Lease or by entry or foreclosure assumes the obligations herein set forth with respect to such Mortgagee; every such Mortgagee is hereby constituted a party to this Lease as an obligee hereunder to the same extent as though its name was written hereon as such; and such Mortgagee shall be entitled to enforce such provisions in its own name.

21.5 Subordination. This lease shall be subordinate to all mortgages encumbering the Land and/or Building, but Tenant shall nevertheless have the benefit of the non-disturbance provisions hereinafter set forth, and Tenant agrees, at the request of Landlord or any Mortgagee, to execute and deliver promptly any certificate or other instrument which Landlord or such Mortgagee may reasonably request subordinating this Lease and all rights of Tenant hereunder to any Mortgage, and to all advances made under such Mortgage and/or agreeing to attorn to such Mortgagee in the event that it succeeds to Landlord's interest in the Property. Landlord shall provide that (i) the holder of each such Mortgage shall execute and deliver to Tenant a non-disturbance agreement to the effect that, in the event of any foreclosure of such Mortgage, such holder will not name Tenant as a party defendant to such foreclosure nor disturb its possession under the Lease, or

(ii) each such Mortgage shall contain provisions substantially to the same effect as those contained in such a non-disturbance agreement. The form of the non-disturbance agreement shall be a commercially reasonable form reflecting then current commercial lending practices for loans of the size and type as that related to the Building. Tenant agrees that a subordination, non-disturbance and attornment agreement substantially in form as that attached hereto shall be deemed commercially reasonable. In addition if the Prime Lease shall be terminated due to foreclosure of the mortgage made by Prime Landlord in favor of its mortgagee or due to such mortgagee's acceptance of a deed in lieu of foreclosure, Tenant shall attorn to mortgagee as landlord hereunder and this lease shall continue in full force and effect for its remaining term as a direct lease between Tenant and such mortgagee without the necessity of any additional act or agreement; provided, however, if requested by such Mortgagee, Tenant shall execute and deliver a new lease with such mortgagee on the same terms and conditions as set forth herein except that the term of such new lease shall be equal to the then remaining term hereunder. Landlord represents and warrants that as of the date of this Lease, Bank of America is the sole mortgagee of the Land and Building.

21.6 Limitations on Liability. Nothing contained in the foregoing Section 21.6 or in any such non-disturbance agreement or non-disturbance provision shall however, affect the prior rights of the holder of any Mortgage with respect to the proceeds of any award in condemnation or of any fire insurance policies affecting the Building, or impose upon any such holder any liability (i) for the erection or completion of the Building, or (ii) in the event of damage or destruction to the Building or the Demised Premises by fire or other casualty, for any repairs, replacements, rebuilding or restoration except such repairs, replacements, rebuilding or restoration as can reasonably be accomplished from the net proceeds of insurance actually received by, or made available to, such holder, or (iii) for any default by Landlord under the Lease occurring prior to any date upon which such holder shall become Tenant's landlord (unless and to the extent said default continues after such date upon which the holder becomes Tenant's landlord, in which event such mortgagee shall be responsible for correcting such default continuing after such date), or (iv) for any credits, offsets or claims against the Rent as a result of any acts or omissions of Landlord committed or omitted prior to such date, or (v) for return of any security deposit or other funds unless the same shall have been received by such holder, and any such agreement or provision may so state.

22. QUIET ENJOYMENT

Landlord covenants that if, and so long as, Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Demised Premises from and against the claims of all persons claiming by, through or under Landlord subject, nevertheless, to the covenants, agreements,

terms, provisions and conditions of this Lease and to all Mortgages to which this Lease is subject and subordinate.

Without incurring any liability to Tenant, Landlord may permit access to the Demised Premises and open the same, whether or not Tenant shall be present, upon any demand of any receiver, trustee, assignee for the benefit of creditors, sheriff, marshall or court officer entitled to, or reasonably purporting to be entitled to, such access for the purpose of taking possession of, or removing Tenant's property or for any other lawful purpose (but this provision and any action by Landlord hereunder shall not be deemed a recognition by Landlord that the person or official making such demand has any right or interest in or to this Lease, or in or to the Demised Premises), or upon demand of any representative of the fire, police, building, sanitation or other department of the city, county, state or federal governments.

23. ENTIRE AGREEMENT—WAIVER—SURRENDER

23.1 Entire Agreement. This Lease and the Exhibits made a part hereof contain the entire and only agreement between the parties and any and all statements and representations, written and oral, including previous correspondence and agreements between the parties hereto, are merged herein. Tenant acknowledges that all representations and statements upon which it relied in executing this Lease are contained herein and that Tenant in no way relied upon any other statements or representations, written or oral. Any executory agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Lease in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought. Nothing herein shall prevent the parties from agreeing to amend this Lease and the Exhibits made a part hereof as long as such amendment shall be in writing and shall be duly signed by both parties.

23.2 Waiver by Landlord. The failure of Landlord to seek redress for violation, or to insist upon the strict performance, of any covenant or condition of this Lease, or any of the Rules and Regulations promulgated hereunder, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of such Rules and Regulations against Tenant and/or any other tenant or subtenant in the Building shall not be deemed a waiver of any such Rules and Regulations. No provisions of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or

payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

23.3 Surrender. No act or thing done by Landlord during the term hereby demised shall be deemed an acceptance of a surrender of the Demised Premises, and no agreement to accept such surrender shall be valid, unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of the Demised Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of the Lease or a surrender of the Demised Premises. In the event that Tenant at any time desires to have Landlord underlet the Demised Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive the keys for such purposes without releasing Tenant from any of the obligations under this Lease, and Tenant hereby relieves Landlord of any liability for loss of or damage to any of Tenant's effects in connection with such underletting.

24. INABILITY TO PERFORM — EXCULPATORY CLAUSE

Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant to pay Rent hereunder and perform all other covenants, agreements, terms, provisions and conditions hereunder on the part of Tenant to be performed shall in no way be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease or is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make or is delayed in making any repairs, replacements, additions, alterations, improvements or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from doing so by reason of any cause whatsoever beyond Landlord's reasonable control, including but not limited to governmental preemption in connection with a national emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any governmental agency or by reason of strikes, labor troubles, shortages of labor or materials or conditions of supply and demand which have been or are affected by war, hostilities or other similar or dissimilar emergency. In each such instance of inability of Landlord to perform, Landlord shall exercise reasonable diligence to eliminate the cause of such inability to perform.

Tenant shall neither assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's or Prime Landlord's interest in the Building of which the Demised Premises are a part and in the rents, issues and profits thereof, and Tenant agrees to look solely to such interest for the satisfaction of any liability of Landlord under this Lease, it being specifically agreed that in no event shall Landlord (which term shall include, without limitation any of the officers, trustees, directors, partners, beneficiaries, joint venturers, managers, members, stockholders or other principals or representatives, disclosed or

undisclosed, of Landlord or any managing agent) ever be personally liable for any such liability. This paragraph shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or to take any other action which shall not involve the personal liability of Landlord to respond in monetary damages from Landlord's assets other than the Landlord's interest in said real estate, as aforesaid. In no event shall Landlord ever be liable for consequential damages.

25. BILLS AND NOTICES

Any notices required under this Lease shall be in writing and delivered by hand or mailed by registered or certified mail or by nationally recognized overnight delivery service (such as Federal Express) for next business day delivery to Landlord or Tenant at the addresses set forth in Article 1. Either party may at any time change the Address for such notices, consents, requests, bills, demands or statements by delivering or mailing, as aforesaid, to the other party a notice stating the change and setting forth the changed Address, provided such changed Address is within the United States.

All bills and statements for reimbursement or other payments or charges due from Tenant to Landlord hereunder shall be due and payable in full fifteen (15) days, unless herein otherwise provided, after submission thereof by Landlord to Tenant. Tenant's failure to make timely payment of any amounts indicated by such bills and statements within applicable notice and grace periods, whether for work done by Landlord at Tenant's request, reimbursement provided for by this Lease or for any other sums properly owing by Tenant to Landlord, shall be treated as a default in the payment of Rent, in which event Landlord shall have all rights and remedies provided in this Lease for the nonpayment of Rent.

26. SUCCESSORS AND ASSIGNS

The covenants, agreements, terms, provisions and conditions of this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party hereto is named or referred to, except that no violation of the provisions of Article 14 hereof shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 19 hereof.

If in connection with or as a consequence of the sale, transfer or other disposition of the real estate (Land and/or Building, either or both, as the case may be) of which the Demised Premises are a part Landlord ceases to be the owner of the reversionary interest in the Demised Premises, Landlord shall be entirely freed and relieved from the performance and observance thereafter of all covenants and obligations hereunder accruing thereafter on the part of Landlord to be performed

and observed, it being understood and agreed in such event (and it shall be deemed and construed as a covenant running with the land) that the person succeeding to Landlord's ownership of said reversionary interest shall thereupon and thereafter assume, and perform and observe, any and all of such covenants and obligations of Landlord.

27. MISCELLANEOUS

27.1 Separability. If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is for any reason held invalid or unenforceable, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

27.2 Captions. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Lease nor the intent of any provisions thereof.

27.3 Broker. Each party represents and warrants that it has not directly or indirectly dealt, with respect to the leasing of space in the Building, with any broker or had its attention called to the Demised Premises or other space to let in the Building, by any broker other than the Broker (if any) listed in Article 1 whose commission shall be the responsibility of Landlord. Each party agrees to exonerate and save harmless and indemnify the other against any claims for a commission by any other broker, person or firm, with whom such party has dealt in connection with the execution and delivery of this Lease or out of negotiations between Landlord and Tenant with respect to the leasing of other space in the Building.

27.4 Governing Law. This Lease is made pursuant to, and shall be governed by, and construed in accordance with, the laws of the State of California.

27.5 Assignment of Lease and/or Rents. With reference to any assignment by Landlord or Prime Landlord of its interest in this Lease and/or the Rent payable hereunder, conditional in nature or otherwise, which assignment is made to or held by a bank, trust company, insurance company or other institutional lender holding a Mortgage on the Building, Landlord and Tenant agree:

(a) that the execution thereof by Landlord and acceptance thereof by such Mortgagee shall never be deemed an assumption by such Mortgagee of any of the obligations of the Landlord hereunder, unless such Mortgagee shall, by written notice sent to the Tenant, specifically otherwise elect; and

(b) that, except as aforesaid, such Mortgagee shall be treated as having assumed the Landlord's obligations hereunder only upon foreclosure of such Mortgagee's Mortgage and the taking of possession of the Demised

Premises after having given notice of its intention to succeed to the interest of the Landlord under this Lease.

27.6 Memorandum of Lease. Neither party shall record this Lease; provided, however, that either party shall at the request of the other, execute and deliver a recordable memorandum of this Lease setting forth the parties to this Lease, a description of the Demised Premises and the term of this Lease for recordation in the Official records of the County of San Mateo.

27.7 Arbitration of Certain Matters. At the election of either party, if any dispute as to the rentable square footage of the Demised Premises, the allocation of real estate taxes or operating expenses under Sections 6.5 and 6.6, the abatement of Yearly Fixed Rent pursuant to Article 16 or the abatement of Yearly Fixed Rent pursuant to Article 18 remains unresolved 30 days after written complaint by Tenant has been delivered to Landlord as to an allocation, reduction, apportionment or abatement made or proposed by Landlord, the matter may be submitted to binding arbitration pursuant to California Code of Civil Procedure Section 1280 et seq.

27.8 Sublease. Notwithstanding anything to the contrary herein, Landlord and Tenant acknowledge that this is a sublease and that Landlord derives its estate to the Demised Premises through the Prime Lease. Landlord represents and warrants that, as of the date hereof, Prime Landlord and Landlord are under common control. At such time as Landlord and Prime Landlord are no longer under common control, the responsibility for furnishing services, repairs, restoration and other similar functions of Landlord shall be performed by Prime Landlord, and Landlord shall be required to use reasonable efforts to enforce the provisions of the Prime Lease relating thereto, but without obligation to provide such services, repairs, restoration, and the like. Landlord shall have the right, but not the obligation, to assign this Lease to Prime Landlord, and after such assignment this Lease shall no longer be a sublease, but rather a direct lease between Tenant and Prime Landlord.

27.9 Holdover. If for any reason Tenant retains possession of the Premises or any part thereof after the termination of the Term or any extension thereof, such holding over shall constitute a tenancy from month to month, terminable by either party upon thirty (30) days prior written notice to the other party, and Tenant shall pay Landlord monthly rental during the month to month tenancy computed as the rent (including Yearly Fixed Rent and all additional rent) payable hereunder for the final month of the last year of the Term prior to such holding over plus fifty (50%) percent of said rent. The month to month tenancy shall otherwise be on the same terms and conditions as set forth in this Lease, as far as applicable.

27.10 Lease Amendments. Tenant acknowledges that amendments to this Lease may be required in connection with the financing of the Land or Building and

Tenant hereby agrees that it will enter into any reasonable modifications requested by a mortgagee in connection with such financing, provided the same do not (a) increase the Yearly Fixed Rent or additional rents payable by Tenant or increase Tenant's financial obligations hereunder; (b) reduce or extend the Term hereof; (c) change the Permitted Use; or (d) otherwise materially impair Tenant's rights hereunder.

27.11 Signage. Tenant shall be entitled to maintain exterior Building signage in accordance with the sign criteria attached hereto as Exhibit D. Landlord shall use commercially reasonable efforts to ensure that, subject to any contrary requirements of law or the OCR's, Tenant has proportional directional and monument signage within the project.

Tenant may maintain a sign on the northern elevation of the Building of equal size to the sign on the western elevation to be maintained by Landlord, which signs shall be the exclusive company signs on the facades of the Building. If additional signage rights are obtained for the roof or facade, the signage shall be shared on a pro rata basis based on square footage leased. Nothing herein shall be deemed to grant Tenant permission to install signs other than in accordance with the attached sign criteria and all applicable laws, regulations and private restrictions.

Tenant may maintain a sign on the right hand wall of the Building lobby of comparable size and design to Landlord's lobby wall sign.

27.12 Sierra Point CCRs. This Lease shall be subject to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sierra Point recorded in the Official Records of San Mateo on October 23, 1998, as Document No. 98-172218, as amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sierra Point recorded in the Official Records of San Mateo on August 6, 1999, as Document No. 1999-134787 (as amended, the "CCRs"). Tenant shall comply with the CCRs.

27.13 Financial Statements. Tenant shall furnish Landlord with complete audited financial statements within ninety (90) days after the close of each fiscal year of Tenant prepared by a certified public accountant (but not necessarily certified statements) and shall, upon written request from Landlord, provide copies of Tenant's quarterly unaudited financial statements within fifteen (15) days after Landlord's request.

27.14 Communications Dish. Tenant shall have the right to install, maintain and operate, at Tenant's sole cost and expense (without rental charge from Landlord), communications dishes or antennae, which receive and/or send signals (hereinafter called the *"Communications Dishes" on* the roof of the Building and fully contained (both vertically and horizontally) within the screens over the

portion of the third floor leased to the Tenant, and to run lines and conduits and cables necessary for the operations of the Communications Dishes from the roof of the Building into the Premises, provided that (and in the event Tenant makes such installation, Tenant hereby covenants and agrees that): (a) such installation is performed in accordance with all laws and requirements of public authorities and does not cause structural damage to the Building, (b) Tenant indemnifies and holds Landlord harmless from (i) any liability, cost or expense incurred by Landlord in connection with the erection, installation, maintenance and operations of the Communications Dishes and any related equipment installed by Tenant pursuant to the provisions of this Section 27.14 and (ii) any and all claims, costs, damages and expenses (including reasonable attorneys' fees) arising out of accidents, damage, injury or loss to any and all persons and property resulting from or arising in connection with the erection, installation, maintenance and operations of the Communications Dishes (including without limitation claims or damages due to interference with other signals or its own signal clarity and other claims or damages), (c) Tenant promptly reimburses Landlord for repairs made necessary by any damage caused to the roof or other portions of the Building by reason of such installation, including, without limitation, any repairs, restorations, maintenance, renewals or replacement of the roof necessitated by or in any way caused by or relating to such installations, (d) Tenant removes such installations and lines and repairs any resulting damage to the Building and restores the affected portion of the roof and the Building to a condition that is in all material respects the same as the condition which existed prior to any such installation, ordinary wear and tear and damage by casualty excepted, all at or prior to the expiration of the Term of this Lease, (e) Tenant shall not install the Communications Dishes without Landlord's prior approval of the manner of such installation and detailed plans and specifications for such installation, which approval shall not be unreasonably withheld, delayed or conditioned, (f) said Communication Dishes may not be used by anyone other than the Tenant and any Corporate Transferees lawfully occupying the Demised Premises and specifically may not be used by anyone in the business of broadcasting or providing wireless communications, (g) the electric current necessary to operate the Communications Dishes shall be obtained by Tenant from the public utility furnishing electric to the Premises and Landlord shall have no obligation to furnish any electric current in connection therewith, and (h) the installation of the Communications Dishes or their operation not interfere with Building operations or the use by other tenants or occupants of antennae or communication dishes installed by such tenants or occupants prior. Tenant shall have access to the roof as reasonably required in connection with the operation, installation and maintenance of the Communications Dishes; provided, however, Tenant shall always be accompanied on the roof by a representative of Landlord. Tenant agrees that Landlord shall have the right, at Landlord's sole cost and expense, to relocate the Communications Dishes, provided that such relocation does not affect the functioning of the Communications Dishes. Landlord makes no representation whether or not the roof of the Building is suitable for or conductive

to the operation of a Communications Dish and Tenant hereby agrees that Landlord shall have no liability to Tenant in the event that the Communications Dishes shall not operate in a manner satisfactory to Tenant.

28. SECURITY DEPOSIT

28.1 Security Deposit. Subject to Section 28.2 below, Tenant has deposited with Landlord the Security Deposit described in Article 1 hereof as security for the faithful performance and observance by Tenant of the terms, provisions, covenants and conditions of this Lease, and it is agreed that if an Event of Default by Tenant exists in respect of any of the terms, provisions, covenants and conditions of this Lease, including, but not limited to, the payment of Rent, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any Rent or any other sum as to which there exists an Event of Default by Tenant or for any sum which Landlord may expend or may be required to expend by reason of Tenant's Event of Default in respect of any of the terms, provisions, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other re- entry by Landlord. Upon the expiration or earlier termination of this Lease, and providing there exists no default or Event of Default hereunder, any remaining balance of the Security Deposit (including, without limitation, any and all interest accrued thereon) and the Letter of Credit (as defined below) shall be returned by Landlord to Tenant after the date fixed as the end of the Term and not later than thirty (30) days after delivery of entire possession of the Premises to Landlord as provided hereunder. In the event of a sale of the Land and Building or leasing of the Building, of which the Premises form a part, Landlord shall have the right to transfer the security to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return of such security, and Tenant agrees to look solely to the new Landlord for the return of said security, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Landlord. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. In the event Landlord applies or retains any portion or all of the security deposited pursuant to the terms of this Section 28.1, Tenant shall forthwith restore the amount so applied or retained so that at all times the amount deposited shall be the full amount of the security deposit required at the relevant time. Landlord shall not be responsible for the payment of any interest on the Security Deposit.

28.2 Letter of Credit. In satisfaction of the Security Deposit obligation contained in Section 28.1 above, Tenant shall deliver to Landlord, and shall maintain in effect at all times during the Initial Term following delivery thereof, a clean, unconditional and irrevocable letter of credit, in substantially the form

annexed hereto as Exhibit E (the "Letter of Credit") in the amount of the Security Deposit described in Article 1 hereof issued by Imperial Bank or another banking corporation ("Bank") reasonably satisfactory to Landlord. Such letter of credit shall have an expiration date no earlier than the first anniversary of the date of issuance thereof and it shall be automatically renewed from year-to-year unless terminated by the Bank by notice to Landlord given not less than forty-five (45) days prior to the then expiration date therefor. It is agreed that in the event there exists an Event of Default in respect of any of the terms, covenants or provisions of this Lease, including, but not limited to, the payment of Rent, or if any letter of credit is terminated by the Bank and is not replaced within thirty (30) days prior to its termination or expiration that (A) Landlord shall have the right to require the Bank to make payment to Landlord of so much of the entire proceeds of the letter of credit as shall be reasonably necessary to cure the Event of Default (or the entire proceeds if notice of termination is given as aforesaid and the letter of credit is not replaced as aforesaid), and (B) Landlord may apply said sum so paid to it by the Bank to the extent required for the payment of Rent or any other sum as to which an Event of Default by Tenant exists or for any sum which Landlord may expend or may be required to expend by reason of an Event of Default by Tenant in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Landlord, without thereby waiving any other rights or remedies of Landlord with respect to such Event of Default. If Landlord applies any part of the proceeds of a letter of credit, Tenant, upon demand, shall deposit with Landlord promptly the amount so applied or retained (or increase the amount of the letter of credit) so that the Landlord shall have the full deposit on hand at all times during the Term. If, subsequent to a letter of credit being drawn upon, a new letter of credit meeting all the requirements set forth in this Section 28.2 is delivered to Landlord, any proceeds of the former letter of credit then held by Landlord shall be promptly returned to Tenant. If Tenant shall fully and faithfully comply with all of the terms, covenants and provisions of this Lease, any letter of credit, or any remaining portion of any sum collected by Landlord hereunder from the Bank, together with any other portion or sum held by Landlord as security, shall be returned to Tenant within thirty (30) days after the last day of the Initial Term of this Lease. In the event of an assignment by Landlord of its interest under this Lease, Landlord shall have the right to transfer the security to the assignee, and Tenant agrees to look to the new Landlord solely for the return of said security and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Landlord.

28.3 Reduction of Security Deposit. Provided Tenant is not then in default and there has never been an Event of Default under this Lease, the Security Deposit will be reduced to an amount equal to six (6) months Yearly Fixed Rent upon the later of (a) the commencement of the twenty-fifth month of the Lease Term or (b) the date on which Tenant has sustained for a period of six months a tangible

net worth in a total amount including cash and cash balances equal to or exceeding $30,000,000, as set forth in audited financial statements provided by Tenant, which financial statements shall be computed in accordance with generally accepted accounting principles. The date upon which Tenant is entitled to such a reduction in the Letter of Credit is hereinafter deemed the Reduction Date. Provided Tenant has met the conditions of this Section 28.3, upon the written request of Tenant made on or after the Reduction Date, Landlord shall exchange the Letter of Credit for a replacement letter of credit provided by Tenant in the amount equal to six (6) months Yearly Fixed Rent upon the same terms and conditions as the Letter of Credit.

29. SALE OF BUILDING

29.1 Except as otherwise provided, provided Tenant is not in default hereunder beyond any applicable notice and cure period, and the named Tenant Genesoft, Inc. is occupying not less than 50% of the Demised Premises, Landlord shall, prior to marketing the Building for sale to an unaffiliated third party, provide a pre-sale notice to Tenant advising Tenant of Landlord's intention to market the Building. Landlord will refrain from marketing the Building for a period of thirty (30) days, during which time Tenant may submit an offer to purchase to Landlord for Landlord's consideration without any obligation. Nothing herein shall require Landlord to accept any such offer submitted by Tenant. Notwithstanding the foregoing, said pre-sale notice shall not apply to (a) an unsolicited offer to purchase submitted to Landlord without marketing efforts by Landlord, (b) a deed of trust or mortgage and to the foreclosure of the same or the granting of a deed in lieu of foreclosure, or (c) a sale of the Building to an affiliate of Landlord or to anyone owning an equity interest in Landlord, or to the sale or transfer of equity interests in Landlord. The provisions of this Section 29 are (a) personal to Genesoft, Inc. and its Corporate Transferrees (but not to any assignee thereof) and shall apply only to the first sale of the Building to which this Section 29 applies, but not to any subsequent sale. Tenant agrees that a foreclosure or deed in lieu of foreclosure of a mortgage or deed of trust shall extinguish this Section 29.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed under seal, all as of the day and year first above written.

MJ RESEARCH COMPANY, INC.

By /s/ Illegible
Its PRESIDENT
title (duly-authorized)

GENESOFT, INC.

By /s/ David B. Singer
Its President & CEO
title (duly-authorized)

FIRST AMENDMENT TO LEASE

This Agreement made as of this 5th day of December, 2002, between MJ Research, Incorporated ("Landlord") and Genesoft, Inc. ("Tenant").

Whereas, Landlord and Tenant are parties to a certain lease dated as of October 6, 2000 with respect to premises at 7000 Shoreline Court, South San Francisco, California (the "Lease") and

Whereas, Tenant has requested that Landlord partially defer certain payments of Fixed Rent as more particularly set forth herein, and

Whereas, Landlord is willing to do so upon the terms and conditions set forth herein,

Now, therefore, the parties agree as follows:

1. Yearly Fixed Rent, as defined in the Lease, shall continue to accrue and be owed at the rates set forth in the Lease.

2. Provided Tenant is not otherwise in default under the Lease, Landlord agrees to defer temporarily (with respect to the Rent Deferred Space as hereinafter defined) receipt of Fixed Rent in excess of $3.00 per rentable square foot per month for the months of December, 2002 and January through June, 2003 (the "Deferral Period"), but only with respect to 38,229 s.f. of the Premises (the "Rent Deferred Space"). Said deferred rent shall be hereinafter referred to as the "Deferred Rent." All Deferred Rent shall continue to accrue and be fully earned by Landlord, who, as a convenience to Tenant, has agreed to defer receipt of payment of the same, subject to the conditions of this Agreement. Tenant shall continue to pay when due during the Deferral Period Fixed Rent at the rate of $3.00/s.f./month and any additional rent or charges due under the Lease with respect to the Rent Deferred Space. Tenant shall also pay in full all Fixed Rent and other charges, without deferral of any kind, on the portion of the Premises other than the Rent Deferred Space.

3. The parties agree that the total amount of Fixed Rent deferred under this Agreement is $425,488.77. Tenant may defer payment of the entire December payment of Fixed Rent with respect to the Rent Deferred Space ($172,030.50), and the balance of the Deferred Rent shall be deferred on a monthly basis of $38,190.77 per month for January and February, 2003, and $44,211.84 per month for March through June, 2003. All Deferred Rent shall be due and payable in full on July 1, 2003. Notwithstanding the foregoing, if after the date hereof there shall occur an Event of Default, all Deferred Rent theretofore accrued but unpaid shall be immediately due and payable, and Fixed Rent shall no longer be deferred.

4. Article 28 is hereby modified to provide as follows:

(a) In case of an Event of Default, Landlord may draw upon the letter of credit to the extent of any Deferred Rent in addition to any other damages or costs for which Landlord has the right to so draw; and

(b) Section 28.3 is hereby deleted from the Lease.

5. Section 2.4 of the Lease is modified to delete subsection (b) thereof and also to delete the words "(other than the security desk)" from the last paragraph of Section 2.4.

6. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease.

7. Tenant hereby confirms that the Lease is in full force and effect, that it has no claims against Landlord or right to offset against rent or other charges, and the Landlord is not in default of its obligations under the Lease.

8. This Agreement shall be null and void unless the Tenant pays all December rent (not deferred by this Agreement) on or before December 6, 2002.

Executed under seal as of the date first set forth above.

MJ Research, Incorporated

By: /s/ Illegible
Duly Authorized

Genesoft, Inc.

By: /s/ David B. Singer
Duly Authorized

David B. Singer
Chairman and CEO
Genesoft, Inc.

SECOND AMENDMENT TO LEASE

This Agreement made as of this 25th day of March, 2004 between MJ Research, Incorporated ("Landlord") and Genome Therapeutics Corporation ("Tenant").

WHEREAS, Landlord and Genesoft, Inc. executed a certain Agreement of Lease dated as of October 6, 2000, as amended by a First Amendment to Lease dated December 5, 2002 (the "Lease"), and

WHEREAS, Genome Therapeutics Corporation is the successor by merger to Genesoft, Inc., and

WHEREAS, the parties desire to further amend the Lease.

NOW, THEREFORE, for consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Lease as follows:

1. Section 16(a) and 16(b) of the Lease are deleted and replaced with the following Section 16(a) and 16(b):

"(a) If the Demised Premises, or any part thereof, shall be damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord, and Landlord, upon receiving such notice and the insurance proceeds for such casualty, shall proceed in a commercially reasonable manner, subject to unavoidable delays, to repair, or cause to be repaired, such damage to the extent hereinafter provided. Landlord shall be responsible to restore only to the "cold shell" condition as set forth on Exhibit A-1, and Tenant shall be responsible for restoration of all leasehold improvements beyond such cold shell (the "TI"). Notwithstanding the preceding sentence to the contrary, solely with respect to the portion of the Demised Premises subleased pursuant to that certain Sublease (the " Fluidigm Sublease") dated as of April 1, 2004 between Tenant and Fluidigm Corporation (the "Fluidigm Space"), provided that if within thirty (30) days of the date of the casualty, Landlord is furnished with (a) a full set of the approved working construction plans, in electronic form, used by Tenant in Tenant's construction of the TI (the "TI Plans"), together with a full release or assignment of rights to use said plans, and (b) the proceeds of insurance required to be carried by Tenant under Section 13.1(b) with respect to the TI, which proceeds, together with any other sums contributed by Tenant or any subtenant thereof, shall be sufficient to pay for the full cost of reconstructing the TI in the Fluidigm Space, Landlord shall also reconstruct the TI in the Fluidigm Space. Tenant agrees to maintain separate insurance required under Section 13.1(b) of the Lease for the TI in the Fluidigm Space, and, if Landlord has agreed to reconstruct said TI, to make the proceeds thereof available to Landlord. Tenant shall cooperate, at no expense to Tenant, in making available such TI

Plans as may be in the possession or control of Tenant. Landlord shall be under no obligation to furnish the TI Plans. If the foresaid conditions are met with respect to reconstructing the TI in the Fluidigm Space, for purposes of Sections 16(a) and 16(b), the term Demised Premises shall be deemed to be the "cold shell" as to the space leased by Tenant exclusive of the Fluidigm Space and both cold shell and TI with respect to the Fluidigm Space; if said conditions are not met, all restoration shall be to a cold shell. If the Demised Premises or any part thereof shall be rendered untenantable by reason of such damage, whether to the Demised Premises or to the Building, Yearly Fixed Rent shall proportionately abate for the period from the date of such damage to the date when the Demised Premises shall have been restored by Landlord.

(b) If, as a result of fire or other casualty, the whole or a substantial portion of the Building is rendered untenantable, within ninety (90) days from the date of such fire or casualty, Landlord shall notify Tenant and the lessee under the Fluidigm Sublease of its opinion of the time required to restore the Demised Premises, taking into account a reasonable time for adjusting loss and obtaining plans and permits for restoration. If in Landlord's opinion the Demised Premises cannot be made tenantable within one (1) year after such event, Landlord, within ninety (90) days from the date of such fire or casualty, may terminate this Lease by notice to Tenant, specifying a date not less than thirty (30) nor more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. In addition, if in Landlord's opinion said estimated time for restoration exceeds one (1) year and Landlord does not elect to terminate this Lease, Tenant shall, by notice given to Landlord within fifteen (15) days of Landlord's notice as aforesaid, elect (a) to terminate this Lease or (b) accept Landlord's estimated restoration period (the "Longer Restoration Period"). If Tenant accepts a Longer Restoration Period, Tenant's right to terminate as hereinafter provided shall be effective only if actual restoration takes more than 60 days beyond such estimated Longer Restoration Period, such termination to be elected within 30 days after the expiration of said estimated Longer Restoration Period plus 60 days. If neither Landlord or Tenant elects to terminate this Lease as provided above, then Landlord shall (to the extent that proceeds of insurance required to be carried by Landlord, net of any portion thereof retained by a Mortgagee, plus any sums contributed by Tenant or any subtenant of Tenant, are made available for such purpose) proceed with diligence to repair the damage to the Demised Premises and all facilities serving the same, if any, which shall have occurred, and the Yearly Fixed Rent shall meanwhile proportionately abate, all as provided in Paragraph (a) of this Section. However, if such damage is not repaired and the Demised Premises restored to substantially the same condition as they were prior to such damage within one (1) year (or, if elected, the Longer Restoration Period plus 60 days) from the date of such damage,

Tenant, within thirty (30) days from the expiration of the later of such one (1) year period (or, if elected, the Longer Restoration Period plus 60 days), or from the expiration of any extension thereof by reason of the delays set forth in the following sentence, may terminate this Lease by notice to Landlord, specifying a date not more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. The period within which the required repairs may be accomplished shall be extended by the number of days, lost as a result of unavoidable delays, which term shall be defined to mean all delays referred to in Article 24. ”

Except as modified hereby, the Lease is ratified and confirmed in full force and effect.

Executed under the date first set forth above.

MJ RESEARCH INCORPORATED

By: /s/ [ILLEGIBLE]
VP, Finance, Duly authorized

GENOME THERAPEUTICS CORPORATION

By: /s/ [ILLEGIBLE]
, Duly authorized

AGREEMENT OF LEASE

AGREEMENT OF LEASE made as of the ____ day of November, 1999, by and between Mountain Cove Tech Center, L.L.C., a Delaware limited liability company (hereinafter referred to as "Landlord") and MJ Research Company, Inc. (hereinafter referred to as "Tenant").

W I T N E S S E T H:

Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the entire land and building (the "Building") in South San Francisco a portion, as shown on the plan attached hereto as Exhibit A and made a part hereof (hereinafter referred to as the "Premises" or the "Demised Premises").

1. REFERENCE DATA

1.1 Definitions. Each reference in this Lease to any of the terms and titles contained in this Article shall be deemed and construed to incorporate the data stated following that term or title in this Article.

1)	Additional Rent:	Sums or other charges payable by Tenant to Landlord under this Lease, other than Yearly Fixed Rent, all of which shall be payable as additional rent under this Lease.
2)	Broker:	
3)	Business Day:	All days except Saturdays, Sundays, days defined as "legal holidays" for the entire state under the laws of the State of California, and such other days as Tenant presently or in the future recognizes as holidays for Tenant's general staff.
4)	Environmental Laws	As defined in Section 5.3 (a) (1).
5)	Event of Default:	The occurrence of an event listed in Section 19.1.
6)	Hazardous Materials	As defined in Section 5.3 (a) (1).
7)	Interest Rate	2 1/2% per month or the maximum interest rate Landlord is permitted to charge Tenant under applicable law, whichever is less.
8)	Land:	The parcel of land on which the Building is situated.
9)	Landlord's Address:	
10)	Landlord's Architect:	Any licensed architect from time to time designated by Landlord.

11)	Lease Year:	A twelve (12) month period beginning on the Term Commencement Date and each succeeding twelve (12) month period during the Term of this Lease, except that if the Term Commencement Date shall be other than the first day of a calendar month, the first Lease Year shall include the partial calendar month in which the Term Commencement Date occurs as well as the succeeding twelve (12) full calendar months.
12)	Mortgage:	A mortgage, deed of trust, trust indenture, or other security instrument of record creating an interest in or affecting title to the Land or Building or any part thereof, and any and all renewals, modifications, consolidations or extensions of any such instrument.
13)	Mortgagee:	The holder of any Mortgage.
14)	Operating Expense Base:	
15)	Property:	The Land and Building.
16)	Rent:	Yearly Fixed Rent and Additional Rent.
17)	Rentable Area of the Demised Premises:	141,677 square feet.
18)	Tax Base:	
19)	Tenant's Address:	Until the Term Commencement Date, _____, and thereafter, the Demised Premises.
20)	Tenant's Operating Expense Share:	100%
21)	Tenant's Tax Share:	100%
22)	Term Commencement Date:	As defined in Section 3.2.
23)	Term of this Lease:	As defined in Section 3.1.
24)	Termination Date:	As defined in Section 3.1.
25)	Use of Demised Premises:	
26)	Yearly Fixed Rent:	

1.2 Exhibits. The following exhibits are attached hereto and made a part hereof:

A - Plan of Demised Premises
A-l - Plans and Specifications for Landlord's Work
B - Cleaning Specifications
C - Rules and Regulations

2. DESCRIPTION OF DEMISED PREMISES

2.1 Demised Premises. The Demised Premises are that portion of the Building as described above (as the same may from time to time be constituted after changes therein, additions thereto and eliminations therefrom pursuant to rights of Landlord hereinafter reserved).

2.2 Appurtenant Rights. Tenant shall have, as appurtenant to the Demised Premises, rights to use in common, subject to reasonable rules from time to time made by Landlord of which Tenant is given notice, those common roadways, walkways, elevators, hallways and stairways necessary for access to that portion of the Building occupied by the Demised Premises.

2.3 Reservations. All the perimeter walls of the Demised Premises except the inner surfaces thereof, any balconies, terraces or roofs adjacent to the Demised Premises, and any space in or adjacent to the Demised Premises used for serving other portions of the Building exclusively or in common with the Demised Premises, including without limitation (where applicable) shafts, stacks, pipes, conduits, wires and appurtenant fixtures, fan rooms, ducts, electric or other utilities, sinks or other Building facilities, and the use thereof, as well as the right of access through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are expressly reserved to Landlord.

3. TERM OF LEASE

3.1 Term. The Term of this Lease is ten (10) years (or until such Term shall sooner cease or expire) commencing on the Term Commencement Date and ending on the day immediately prior to the 10th anniversary thereof, except that if the Term Commencement Date shall be other than the first day of a calendar month, the Term of this Lease shall end on the last day of the calendar month in which said 10th anniversary of the Term Commencement Date shall fall (which date on which the Term of this Lease is scheduled to expire is hereinafter referred to as the "Termination Date").

3.2 Term Commencement Date. The Term Commencement Date shall be the earlier of (a) the date on which, pursuant to permission therefor duly given by Landlord, Tenant undertakes Use of the Demised Premises for the purposes set forth in Article 1, or (b) the date on which the Demised Premises are ready for Tenant's occupancy in accordance with the provisions of Section 4.2.

4. PREPARATION OF PREMISES; TENANT'S ACCESS

4.1 Plans and Specifications. Landlord shall lay out the Demised Premises for Tenant's occupancy in accordance with the plans and specifications (the "Plans") referenced in Exhibit A-l attached hereto and made a part hereof.

4.2 When Premises Deemed Ready. The Demised Premises shall be conclusively deemed ready for Tenant's occupancy after Landlord gives notice to Tenant that the installations to be done by Landlord in the Demised Premises (as set forth in Section 4.1) have been substantially completed by Landlord. Such work shall not be deemed incomplete if only minor or insubstantial details of construction or mechanical adjustments remain to be done, or if a delay is caused in whole or in part by Tenant. Landlord's Architect's certificate of substantial completion, as hereinabove stated, given in good faith, or of any other facts pertinent to such work, shall be deemed conclusive of the statements therein contained and binding upon Tenant.

4.3 Conclusiveness of Landlord's Performance. Tenant shall be conclusively deemed to have agreed that Landlord has performed all of its obligations under this Article 4 unless not later than the end of the second calendar month next beginning after the Landlord's notice of substantial completion under Section 4.2 Tenant shall give Landlord written notice specifying the respects in which Landlord has not performed such obligations.

4.4 Entry by Tenant; Interference With Construction. Tenant may enter the Demised Premises prior to the Term Commencement Date to undertake such work as is to be performed by Tenant pursuant and subject to this Lease in order to prepare the Demised Premises for Tenant's occupancy. Such entry shall be deemed to be pursuant to a license from Landlord to Tenant and shall be at the risk of Tenant. In no event shall Tenant interfere with any construction being performed by or on behalf of Landlord in or around the Building; without limiting the generality of the foregoing, Tenant shall comply with all instructions issued by Landlord's contractors relative to the moving of Tenant's equipment and other property into the Demised Premises and shall pay any fees or costs imposed in connection therewith.

5. USE OF PREMISES

5.1 Permitted Use. Tenant shall continuously during the Term of this Lease occupy and use the Demised Premises for the permitted Use set forth in Article 1 and for no other purpose. Service and utility areas (whether or not a part of the Demised Premises) shall be used only for the particular purpose for which they are designated.

5.2 Prohibited Uses. Tenant shall not use, or suffer or permit the use of, or suffer or permit anything to be done in or anything to be brought into or kept in, the Demised Premises or any part thereof (i) which would violate any of the covenants, agreements, terms, provisions and conditions of this Lease, (ii) for any unlawful purposes or in any unlawful manner, or (iii) which, in the reasonable judgment of Landlord shall in any way (a) impair or tend to impair the appearance or reputation of the Building, (b) impair or interfere with or tend to impair or interfere with any of the Building services or the proper and economic heating, cleaning, air conditioning or other servicing of the Building or with the use of any of the other areas of the Building, or (c) occasion discomfort, inconvenience or annoyance to any of the other tenants or occupants of the Building, whether through the transmission of noise or odors or vibrations or dust or otherwise. Without limiting the generality of the foregoing, no food shall be prepared or served for consumption by the general public on or about the Demised Premises; no intoxicating liquors or alcoholic beverages shall be sold or otherwise served for consumption by the general public on or about the Demised Premises; no lottery tickets (even where the sale of such tickets

is not illegal) shall be sold and no gambling, betting or wagering shall otherwise be permitted on or about the Demised Premises; no loitering shall be permitted on or about the Demised Premises; and no loading or unloading of supplies or other material to or from the Demised Premises shall be permitted on the Land except at times (excluding Business Days from 7:00 to 9:30 a.m. and from 4:00 to 6:00 p.m.) and in locations to be designated by Landlord. The Demised Premises shall be maintained in a sanitary condition. Tenant shall suitably store all trash and rubbish in the Demised Premises or other locations designated by Landlord from time to time. Tenant specifically agrees that its indemnification obligations pursuant to Section 13.3 shall extend to any claim arising from the consumption of intoxicating liquors or alcoholic beverages on or about the Demised Premises.

5.3 Hazardous Materials.

(a) Definitions.

(1) Environmental Law means any governmental statute, code, ordinance, regulation, rule or order and any amendment thereto governing or regulating materials that are toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous. Environmental Laws include, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the California Hazardous Substances Act at California Health and Safety Code Section 108100 *et seq.*, the provisions regarding hazardous waste control at California Health and Safety Code Sections 25100 through 25250.25 and the California Medical Waste Management Act at California Health and Safety Code 117600 *et seq.*

(2) Hazardous Materials shall mean any substance: (A) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Law or (B) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including gasoline, diesel fuel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.

(b) Tenant's Covenants. No Hazardous Materials shall be stored, placed, handled, used or released by Tenant or its employees, contractors, sublessees, guests or visitors at or about the Demised Premises or Property without Landlord's prior written consent, which consent may be granted, denied, or conditioned upon compliance with Landlord's requirements, all in Landlord's absolute discretion. Notwithstanding the foregoing, normal quantities and use of those Hazardous Materials customarily used in the conduct of general office activities, such as copier fluids and cleaning supplies may be used and stored at the Demised Premises without Landlord's prior written consent, provided that Tenant's activities at or about the Demised Premises and Property shall comply at all times with the laws all Environmental Laws. Tenant shall keep Landlord fully and promptly informed of all storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials, other than Hazardous Materials permitted by the preceding sentence. At the expiration or termination of the Lease, Tenant shall promptly remove all Hazardous Materials from the Demised Premises. Tenant shall be responsible

and liable for the compliance with all of the provisions of this Section by all of Tenant's employees, contractors, sublessees, guests and visitors and all of Tenant's obligations under this Section (including its indemnification obligations under subsection (e) below) shall survive the expiration or termination of this Lease.

(c) Compliance. Tenant shall at Tenant's expense promptly take all actions required by any governmental agency or entity in connection with or as a result of the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials at or about the Demised Premises or Property, including inspection and testing, performing all cleanup, removal and remediation work required with respect to those Hazardous Materials, complying with all closure Laws and postclosure monitoring, and filing all required reports or plans. [Insert if applicable: 'All medical waste regulated by any Environmental Laws that is brought to the Demised Premises shall be stored in leak-proof, closeable containers, which containers shall be stored in a specified "dirty storage area" of the Demised Premises that shall be protected from leaks or any other type of contamination of the Demised Premises. Tenant shall never use any of the Landlord's trash receptacles for disposing of any medical waste.'] All of the foregoing work shall be performed in a good, safe and workmanlike manner by consultants qualified and licensed to undertake such work and in a manner that will not interfere with any other tenant's quiet enjoyment of the Property or Landlord's use, operation, leasing and sale of the Property. Tenant shall deliver to Landlord prior to delivery to any governmental agency, or promptly after receipt from any such agency, copies of all permits, manifests, closure or remedial action plans, notices, and all other documents relating to the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials at or about the Demised Premises or Property. If any lien attaches to the Demised Premises or the Property in connection with or as a result of the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials, and Tenant does not cause the same to be released, by payment, bonding or otherwise, within ten (10) days after the attachment thereof, Landlord shall have the right but not the obligation to cause the same to be released and any sums expended by Landlord in connection therewith shall be payable by Tenant on demand.

(d) Landlord's Rights. Landlord shall have the right, but not the obligation, to enter the Demised Premises at any reasonable time (i) to confirm Tenant's compliance with the provisions of this Section, and (ii) to perform Tenant's obligations under this Section if Tenant has failed to do so after reasonable notice to Tenant. Landlord shall also have the right to engage qualified Hazardous Materials consultants to inspect the Demised Premises and review the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials, including review of all permits, reports, plans, and other documents regarding same. Tenant shall pay to Landlord on demand the costs of Landlord's consultants' fees and all costs incurred by Landlord in performing Tenant's obligations under this section. Landlord shall use reasonable efforts to minimize any interference with Tenant's business caused by Landlord's entry into the Demised Premises, but Landlord shall not be responsible for any interference caused thereby.

(e) Tenant's Indemnification. Tenant agrees to indemnify, defend and hold harmless Landlord and its members, managers, directors, officers, agents and employees and their partners, members, managers, directors, officers, shareholders, employees and agents from all shall mean all costs and expenses of any kind, damages, including foreseeable and unforeseeable consequential damages, fines and penalties incurred in connection with any violation of and compliance with the Environmental Laws and all losses of any kind attributable to the diminution of value, loss of use or adverse effects on marketability or use of any portion of the Demised Premises or Property and all other claims, actions, losses, damages, liabilities, costs and expenses of every kind, including reasonable attorneys', experts' and consultants' fees and costs, incurred at any time and arising from or connection with the storage, placement, handling, use or release by Tenant or its employees, contractors, sublessees, guests or visitors of Hazardous Materials at or about the Property or Tenant's failure to comply in full with all Environmental Laws with respect to the Demised Premises and the Property.

5.4 Licenses and Permits. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business, and if the failure to secure such license or permit would in any way affect Landlord, Tenant, at Tenant's expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Landlord. Tenant, at Tenant's expense, shall at all times comply with the terms and conditions of each such license or permit.

6. RENT

6.1 Yearly Fixed Rent. Tenant shall pay to Landlord, without any set-off or deduction, at Landlord's office, or to such other person or at such other place as Landlord may designate by notice to Tenant, the Yearly Fixed Rent set forth in Article 1. The Yearly Fixed Rent shall be paid in equal monthly installments in advance on or before the first Business Day of each calendar month during the Term of this Lease and shall be apportioned for any fraction of a month in which the Term Commencement Date or the last day of the Term of this Lease may fall.

6.2 Taxes. Tenant shall pay to Landlord as Additional Rent Tenant's Tax Share of all real estate taxes imposed against the Property during any calendar year (including without limitation all so-called linkage and impact fees, betterment assessments, fire and police service availability fees and similar charges for customary governmental services and charges in lieu of such taxes, assessment district assessments, governmental charges, fees or assessments for traffic or transit mitigation, personal property taxes assessed on personal property of Landlord used in the operation of the Property, increases in the foregoing due to changes in values, tax rate, alterations made by Tenant or other factors and the reasonable cost of contesting by appropriate proceedings the amount or validity of any of the foregoing) in excess of the Tax Base, prorated with respect to any portion of a calendar year in which the Term of this Lease begins or ends. As soon as Tenant's share of real estate taxes with respect to any calendar year can be determined, the same will be certified by Landlord to Tenant (which certification shall be accompanied by copies of the relevant tax bills) and will become payable to Landlord within ten (10) days thereafter. If Landlord shall receive any refund of real estate taxes of which Tenant has paid a portion pursuant to this Section, then, out of any balance remaining after deducting Landlord's

expenses incurred in obtaining such refund, Landlord shall pay to Tenant the same proportionate share of said balance, prorated as set forth above. Tenant shall, if as and when demanded by Landlord and with each monthly installment of Fixed Rent, make tax fund payments to Landlord. "Tax fund payments" refer to such payments as Landlord shall determine to be sufficient to provide in the aggregate a fund adequate to pay, when they become due and payable, all payments required from Tenant under this Section. In the event that tax fund payments are so demanded, and if the aggregate of said tax fund payments is not adequate to pay Tenant's share of such taxes, Tenant shall pay to Landlord the amount by which such aggregate is less than the amount of said share, such payment to be due and payable at the time set forth above. Any surplus tax fund payments shall be accounted for to Tenant after payment by Landlord of the taxes on account of which they were made, and may be credited by Landlord against future tax fund payments or refunded to Tenant at Landlord's option.

In addition, Tenant shall timely file business property statements with respect to Tenant's personal property and trade fixtures and pay when due all taxes imposed on such personal property and trade fixtures.

6.3 Operating Expenses. Tenant shall pay to Landlord as Additional Rent Tenant's Operating Expense Share of all costs and expenses incurred by Landlord during any calendar year in the operation and maintenance of the Building and the Land in accordance with generally accepted operational and maintenance procedures in excess of the Operating Expense Base, including, without limiting the generality of the foregoing, all such costs and expenses in connection with (1) insurance, license fees, janitorial service, landscaping and snow removal, (2) wages, salaries, management fees, employee benefits, payroll taxes, on-site office expenses, administrative and auditing expenses, and equipment and materials for the operation, management and maintenance of the Property, (3) any capital expenditure (amortized, with interest, on such reasonable basis as Landlord shall determine) made by Landlord for the purpose of reducing other operating expenses or complying with any governmental requirement, (4) the furnishing of heat, air conditioning, electricity and other utilities, and any other service to the extent to which Landlord is not reimbursed by tenants, and (5) the furnishing of the repairs and services referred to in Article 7 (the foregoing being hereinafter referred to as "operating expenses"). If, during any portion of a calendar year for which operating expenses are being computed pursuant to this Section, less than the entire rentable area of the Building is occupied or Landlord is not supplying all occupants with the same services being supplied hereunder, such costs and expenses shall be reasonably extrapolated in order to take into account the costs and expenses which would have been incurred had the entire rentable area of the Building been occupied and had such services been supplied to all occupants. As soon as Tenant's share of operating expenses with respect to any calendar year can be determined, the same will be certified by Landlord to Tenant and will become payable to Landlord within ten (10) days following such certification, subject to proration with respect to any portion of a calendar year in which the Term of this Lease begins or ends. Tenant shall, if as and when demanded by Landlord and with each monthly installment of Yearly Fixed Rent, make operating fund payments to Landlord. "Operating fund payments" refer to such payments as Landlord shall determine to be sufficient to provide in the aggregate a fund adequate to pay, when they become due and payable, all payments required from Tenant under this Section. In the event that operating fund payments are so demanded, and if the aggregate of said operating fund payments

is not adequate to pay Tenant's share of operating expenses, Tenant shall pay to Landlord the amount by which such aggregate is less than the amount of said share, such payment to be due and payable at the time set forth above. Any surplus operating fund payments shall be accounted for to Tenant after such surplus has been determined, and may be credited by Landlord against future operating fund payments or refunded to Tenant at Landlord's option.

6.4 Obligations Survive Termination. All obligations and liabilities of Tenant relating to any period prior to the termination of the Term of this Lease, including without limitation the obligation to pay any Additional Rent due pursuant to the provisions of this Article, shall survive such termination.

6.5 Payment to Mortgagee. Landlord reserves the right to provide in any Mortgage given by it of the Property that some or all rents, issues, and profits and all other amounts of every kind payable to the Landlord under this Lease shall be paid directly to the Mortgagee for Landlord's account and Tenant covenants and agrees that it will, after receipt by it of notice from Landlord or Mortgage designating such Mortgagee to whom payments are to be made by Tenant, pay such amounts thereafter becoming due directly to such Mortgagee until excused therefrom by notice from such Mortgagee.

7. UTILITIES AND LANDLORD'S SERVICES

7.1 Electricity. Tenant shall purchase directly from the public utility serving the Building all electrical energy that Tenant requires for operation of the lighting fixtures, appliances and equipment servicing the Demised Premises. The costs of initially installing any required meter and related installation equipment shall be paid by Landlord. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electrical energy furnished to the Demised Premises by reason of any requirement, act or omission of the public utility serving the Building. Tenant's use of electrical energy in the Demised Premises shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Demised Premises. In order to insure that such capacity is not exceeded and to avert possible adverse effect upon the Building electrical services Tenant shall give notice to Landlord and obtain Landlord's prior written consent whenever Tenant shall connect to the Building electrical distribution system any fixtures, appliances or equipment other than lamps, typewriters, personal computers and similar small machines. Any additional feeders or risers to supply Tenant's electrical requirements in addition to those originally installed and all other equipment proper and necessary in connection with such feeders or risers, shall be installed by Landlord upon Tenant's request, at the sole cost and expense of Tenant, provided that such additional feeders and risers are permissible under applicable laws and insurance regulations and the installation of such feeders or risers will not cause permanent damage or injury to the Building or cause or create a dangerous condition or unreasonably interfere with other tenants of the Building. Tenant agrees that it will not make any alteration or addition to the electrical equipment in the Demised Premises without the prior written consent of Landlord in each instance first obtained, which consent will not be unreasonably withheld. Landlord, at Tenant's expense, shall purchase, install and replace all light fixtures, bulbs, tubes, lamps, lenses, globes, ballasts and switches used in the Demised Premises.

7.2 Water Charges. Landlord shall furnish hot and cold water for ordinary cleaning, toilet, lavatory and drinking purposes. If Tenant requires, uses or consumes water for any purpose other than for such purposes, Landlord may (i) assess a reasonable charge for the additional water so used or consumed by Tenant or (ii) install a water meter and thereby measure Tenant's water consumption for all purposes. In the latter event, Landlord shall pay the cost of the meter and the cost of installing any equipment required in connection therewith, and Tenant shall keep said meter and installation equipment in good working order and repair, and shall pay for water consumed, as shown on said meter, together with the sewer charge based on said meter charges, as and when bills are rendered. On default in making such payment Landlord may pay such charges and collect the same from Tenant.

7.3 Heat and Air Conditioning. Landlord shall furnish to and distribute in the Demised Premises heat and air conditioning as normal seasonal changes may require on Business Days from 8:00 a.m. to 6:00 p.m. when reasonably required for the comfortable occupancy of the Demised Premises by Tenant. Tenant agrees to lower and close the blinds or drapes when necessary because of the sun's position whenever the air conditioning system is in operation, and to cooperate fully with Landlord with regard to, and to abide by all the regulations and requirements which Landlord may prescribe for the proper functioning and protection of, the heating and air conditioning system. Without limiting the generality of the foregoing, all windows in the Demised Premises must remain closed at all times notwithstanding the fact that such windows may be operable. The air conditioning system servicing the Building is designed to provide cooling based upon an occupancy of not more than one person per one hundred (100) square feet of floor area, and upon a combined lighting and standard electrical load not to exceed 3.0 watts per square foot. In the event Tenant exceeds such condition or introduces into the Demised Premises equipment which overloads such system, or in any other way causes such system not to adequately perform its proper functions, supplementary systems may at Landlord's option be provided by Landlord at Tenant's expense.

7.4 Additional Heat and Air Conditioning Services. Landlord shall, upon reasonable advance written notice from Tenant of its requirements in that regard, received before 3:00 p.m. on the preceding Business Day, furnish additional heat or air conditioning services to the Demised Premises on days and at times other than as provided in this Article. Tenant will pay to Landlord a reasonable charge for any such additional heat or air conditioning service required by Tenant.

7.5 Elevator Service. Landlord shall provide passenger elevator service to the Demised Premises on Business Days from 8:00 a.m. to 6:00 p.m. and on a reduced basis at all other times. Freight elevator service shall be available in common with other tenants on Business Days from 9:30 a.m. to 4:00 p.m. and at other times at reasonable charge.

7.6 Cleaning. Landlord shall furnish cleaning services to the Building substantially in accordance with the specifications attached hereto as Exhibit B and made a part hereof.

7.7 Repairs and Other Services. Except as otherwise provided in Articles 16 and 18, and subject to Tenant's obligations in Article 12 and elsewhere in this Lease, Landlord shall (a) keep and maintain the roof, exterior walls, structural floor slabs and columns of the Building in

as good condition and repair as they are in on the Term Commencement Date, reasonable use and wear excepted, (b) keep and maintain in workable condition the Building's sanitary, electrical, heating, air conditioning and other systems, (c) keep all walkways on the Property clean and remove all snow and ice therefrom, (d) provide grounds maintenance to all landscaped areas and (e) arrange for the extermination of rodents and vermin in the Building.

7.8 Interruption or Curtailment of Services. Landlord reserves the right to interrupt, curtail, stop or suspend the furnishing of services and the operation of any Building system, when necessary by reason of accident or emergency, or of repairs, alterations, replacements or improvements in the reasonable judgment of Landlord desirable or necessary to be made, or of difficulty or inability in securing supplies or labor, or of strikes, or of any other cause beyond the reasonable control of Landlord, whether such other cause be similar or dissimilar to those hereinabove specifically mentioned, until said cause has been removed. Landlord shall have no responsibility or liability for any such interruption, curtailment, stoppage, or suspension of services or systems, except that Landlord shall exercise reasonable diligence to eliminate the cause of same.

8. CHANGES OR ALTERATIONS BY LANDLORD

Landlord reserves the right, exercisable by itself or its nominee, at any time and from time to time without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor or otherwise affecting Tenant's obligations under this Lease, to make such changes, alterations, additions, improvements, repairs or replacements in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Building, provided, however, that there be no unreasonable obstruction of the right of access to, or unreasonable interference with the use and enjoyment of, the Demised Premises by Tenant, except that Landlord shall not be obligated to employ labor at so-called "over-time" or other premium pay rates. Nothing contained in this Article shall be deemed to relieve Tenant of any duty, obligation or liability of Tenant with respect to making or causing to be made any repair, replacement or improvement or complying with any law, order or requirement of any governmental or other authority. Landlord reserves the right to from time to time change the address of the Building. Neither this Lease nor any use by Tenant shall give Tenant any right or easement or the use of any door or any passage or any concourse connecting with any other building or to any public convenience, and the use of such doors, passages and concourses and of such conveniences may be regulated or discontinued at any time and from time to time by Landlord without notice to Tenant and without affecting the obligations of Tenant hereunder or incurring any liability to Tenant therefor.

9. FIXTURES, EQUIPMENT AND IMPROVEMENTS — REMOVAL BY TENANT

All fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises prior to or during the Term, whether by Landlord at its expense or at the expense of Tenant (either or both) or by Tenant shall be and remain part of the Demised Premises and shall not be removed by Tenant at the end of the Term unless otherwise expressly

provided in this Lease. Where not built into the Demised Premises, and if furnished and installed by and at the sole expense of Tenant, all removable electric fixtures, air conditioning, carpets, drinking or tap water facilities, furniture, or trade fixtures or business equipment shall not be deemed to be included in such fixtures, equipment, improvements and appurtenances and may be, and upon the request of Landlord will be, removed by Tenant upon the condition that such removal shall not materially damage the Demised Premises or the Building and that the cost of repairing any damage to the Demised Premises or the Building arising from such removal shall be paid by Tenant, provided, however, that any of such items toward which Landlord shall have granted any allowance or credit to Tenant shall be deemed not to have been furnished and installed in the Demised Premises by or at the sole expense of Tenant.

10. ALTERATIONS AND IMPROVEMENTS BY TENANT

Tenant shall make no alterations, decorations, installations, removals, additions or improvements in or to the Demised Premises without Landlord's prior written consent and then only by contractors or mechanics approved by Landlord. No such installations or other work shall be undertaken or begun by Tenant until Landlord has approved written plans and specifications therefor; and no amendments or additions to such plans and specifications shall be made without prior written consent of Landlord. Any such alterations, decorations, installations, removals, additions and improvements shall be done at the sole expense of Tenant and at such times and in such manner as Landlord may from time to time designate. If Tenant shall make any alterations, decorations, installations, removals, additions or improvements, then Landlord may elect to require Tenant at the expiration of this Lease to restore the Demised Premises to substantially the same condition as existed at the Term Commencement Date.

11. TENANT'S CONTRACTORS — MECHANICS' AND OTHER LIENS — STANDARD OF TENANT'S PERFORMANCE — COMPLIANCE WITH LAWS

Whenever Tenant shall make any alterations, decorations, installations, removals, additions or improvements or do any other work in or to the Demised Premises, Tenant will strictly observe the following covenants and agreements:

(a) In no event shall any material or equipment be incorporated in or added to the Demised Premises in connection with any such alteration, decoration, installation, addition or improvement which is subject to any lien, charge, mortgage or other encumbrance of any kind whatsoever or is subject to any security interest or any form of title retention agreement. Any mechanic's lien filed against the Demised Premises or the Building for work claimed to have been done for, or materials claimed to have been furnished to Tenant shall be discharged by Tenant within ten (10) days thereafter, at the expense of Tenant, by filing the bond required by law or otherwise. If Tenant fails so to discharge any lien, Landlord may do so at Tenant's expense and Tenant shall reimburse Landlord for any expense or cost incurred by Landlord in so doing within fifteen (15) days after rendition of a bill therefor.

(b) All installations or work done by Tenant under this or any other Article of this Lease shall be at its own expense (unless expressly otherwise provided) and shall at all times comply with (i) laws, rules, orders and regulations of governmental authorities having

jurisdiction thereof and (ii) plans and specifications prepared by and at the expense of Tenant theretofore submitted to Landlord for its prior written approval.

(c) Tenant shall procure all necessary permits before undertaking any work in the Demised Premises; do all such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements, and defend, save harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by or growing out of such work.

(d) No work shall be commenced prior to the time Landlord has posted a "Notice of nonresponsibility" at the Demised Premises and recorded said notice in the county in which the Property is located pursuant to California Civil Code Section 3094.

12. REPAIRS BY TENANT

Tenant, at its expense, shall keep or cause to be kept all and singular the Demised Premises in such repair, order and condition as the same are in on the Term Commencement Date or may be put in during the Term hereof, reasonable use and wear thereof and damage by fire or by unavoidable casualty excepted. Without limiting the generality of the foregoing, Tenant shall keep all windows and other glass whole, and shall replace the same whenever broken with glass of the same quality. Tenant hereby waives the benefits of California Civil Code Section 1932(1).

13. INSURANCE, INDEMNIFICATION, EXONERATION AND EXCULPATION

13.1 Tenant's Insurance

(a) Liability Insurance. Tenant shall maintain in full force throughout the Term commercial general liability and property damage insurance providing coverage on an occurrence form basis with limits of not less than Two Million Dollars ($2,000,000.00) each occurrence for bodily injury and property damage combined, Two Million Dollars ($2,000,000.00) annual general aggregate, and Two Million Dollars ($2,000,000.00) products and completed operations annual aggregate. Tenant's liability insurance policy or policies shall: (i) include premises and operations liability coverage, automobile, products and completed operations liability coverage, broad form property damage coverage including completed operations, blanket contractual liability coverage with, to the maximum extent possible, coverage for the indemnification obligations of Tenant under this Lease, and personal and advertising injury coverage; (ii) provide that the insurance company has the duty to defend all insureds under the policy; (iii) provide that defense costs are paid in addition to and do not deplete any of the policy limits; (iv) cover liabilities arising out of or incurred in connection with Tenant's use or occupancy of the Premises or the Property; and (v) extend coverage to cover liability for the actions of Tenant's employees, contractors, sublessees, guests and visitors.

(b) Personal Property Insurance. Tenant shall at all times maintain in effect with respect to tenant improvements and Tenant's trade fixtures and personal property located at or within the Demised Premises, commercial property insurance providing coverage, at a minimum, for "broad

form" perils, to the extent of 100% of the full replacement cost of covered property. Tenant may carry such insurance under a blanket policy, provided that such policy provides equivalent coverage to a separate policy. During the Term, the proceeds from any such policies of insurance shall be used for the repair or replacement of such tenant improvements, trade fixtures and personal property so insured. Landlord shall be provided coverage under such insurance to the extent of its insurable interest and, if requested by Landlord, both Landlord and Tenant shall sign all documents reasonably necessary or proper in connection with the settlement of any claim or loss under such insurance. Landlord shall have no obligation to carry insurance on any such tenant improvements or on Tenant's trade fixtures or personal property.

(c) Workmen's Compensation Insurance. Tenant shall maintain worker's compensation insurance as required by law and employer's liability insurance in an amount not less than Five Hundred Thousand Dollars ($500,000).

(d) Business Interruption/Extra Expense Insurance. Tenant shall maintain loss of income, business interruption and extra expense insurance in such amounts as will reimburse Tenant for direct or indirect loss of earnings and incurred costs attributable to the perils commonly covered by Tenant's property insurance described above but in no event less than One Million Dollars ($1,000,000). Such insurance shall be carried with the same insurer that issues the insurance for the personal property.

(e) Other Coverage. Tenant, at its cost, shall maintain such other insurance as Landlord may reasonably require from time to time, but in no event may Landlord require any other insurance which is (i) not then being required of comparable tenants leasing comparable amounts of space in comparable buildings in the vicinity of the Building or (ii) not then available at commercially reasonable rates.

(f) Insurance Criteria. Each policy of insurance required under this Section shall: (i) be in a form, and written by an insurer, reasonably acceptable to Landlord, (ii) be maintained at Tenant's sole cost and expense, and (iii) require at least thirty (30) days' written notice to Landlord prior to any cancellation, nonrenewal or modification of insurance coverage. Insurance companies issuing such policies shall have rating classifications of "A" or better and financial size category ratings of "XIII" or better according to the latest edition of the A.M. Best Key Rating Guide. All insurance companies issuing such policies shall be licensed to do business in the State of California. Any deductible amount under such insurance shall not exceed $5,000. Tenant shall provide to Landlord, upon request, evidence that the insurance required to be carried by Tenant pursuant to this Section, including any endorsement affecting the additional insured status, is in full force and effect and that premiums therefore have been paid.

(g) Increase in Amount of Insurance. Tenant shall increase the amounts of insurance as required by any Mortgagee, and, not more frequently than once every three (3) years, as recommended by Landlord's insurance broker, if, in the opinion of either of them, the amount of insurance then required under this Lease is not adequate. Any limits set forth in this Lease on the amount or type of coverage required by Tenant's insurance shall not limit the liability of Tenant under this Lease.

(h) Insurance Provisions. Each policy of liability insurance required by this Section shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that it is primary to and not contributing with, any policy of insurance carried by Landlord covering the same loss; (iii) provide that any failure to comply with the reporting provisions shall not affect coverage provided to Landlord, its members, property managers and mortgagees; and (iv) name Landlord, its members, property managers and such other parties in interest as Landlord may from time to time reasonably designate to Tenant in writing, as additional insureds. Such additional insureds shall be provided the same extent of coverage as provided to Tenant under such policies. All endorsements affecting such additional insured status shall be acceptable to Landlord and shall be at least as broad as additional insured endorsement form number CG 20 11 11 85 promulgated by the Insurance Services Office.

(i) Evidence of Coverage. Prior to occupancy of the Premises by Tenant, and not less than thirty (30) days prior to the expiration of any policy thereafter, Tenant shall furnish to Landlord a certificate of insurance reflecting that the insurance required by this Section is in force accompanied by an endorsement showing the required additional insureds satisfactory to Landlord in substance and form. Notwithstanding the requirements of this paragraph, Tenant shall, at Landlord's request, provide to Landlord a certified copy of each insurance policy required to be in force at any time pursuant to the requirements of this Lease or its Exhibits. Tenant's failure to furnish Landlord with such certificates of insurance shall be deemed a material default under this Lease.

13.2 General. Tenant will save Landlord harmless, and will exonerate and indemnify Landlord, from and against any and all claims, liabilities, penalties, damages or expenses (including without limitation reasonable attorneys' fees) asserted against or incurred by Landlord:

(a) on account of or based upon any injury to person, or loss of or damage to property sustained or occurring on the Demised Premises on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever (other than Landlord or its agents, contractors or employees);

(b) on account of or based upon any injury to person or loss of or damage to property, sustained or occurring elsewhere (other than on the Demised Premises) in or about the Building (and, in particular, without limiting the generality of the foregoing on or about the elevators, stairways, public corridors, sidewalks, roof, or other appurtenances and facilities used in connection with the Building or Demised Premises) arising out of the use or occupancy of the Building or Demised Premises by Tenant, or any person claiming by, through or under Tenant;

(c) on account of or based upon (including moneys due on account of) any work or thing whatsoever done (other than by Landlord or its contractors, or agents or employees of either) in the Demised Premises during the Term of this Lease and during the period of time, if any, prior to the Term Commencement Date that Tenant may have been given access to the Demised Premises; and

(d) on account of or resulting from the failure of Tenant to perform and discharge any of its covenants and obligations under this Lease;

and, in case any action or proceeding be brought against Landlord by reason of any of the foregoing, Tenant upon notice from Landlord shall at Tenant's expense resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Landlord, it being agreed that such counsel as may act for insurance underwriters of Tenant engaged in such defense shall be deemed satisfactory.

13.3 Property of Tenant. In addition to and not in limitation of the foregoing, and subject only to provisions of applicable law, Tenant covenants and agrees that all merchandise, furniture, fixtures and property of every kind, nature and description which may be in or upon the Demised Premises or elsewhere on the Property during the Term of this Lease, shall be at the sole risk and hazard of Tenant, and that if the whole or any part thereof shall be damaged, destroyed, stolen or removed from any cause or reason whatsoever other than the negligence or misconduct of Landlord, no part of said damage or loss shall be charged to, or borne by Landlord.

13.4 Bursting of Pipes, etc. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster or tiles, steam, gas, electricity, electrical disturbance, water, rain or snow or leaks from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or caused by any other cause of whatever nature, unless caused by or due to the negligence of Landlord, its agents, servants or employees; nor shall Landlord or its agents be liable for any such damage caused by other tenants or persons in the Building or caused by operations in construction of any private, public or quasi-public work; nor shall Landlord be liable for any latent defect in the Demised Premises or elsewhere in the Building.

14. ASSIGNMENT, MORTGAGING, SUBLETTING, ETC.

Tenant covenants and agrees that neither this Lease nor the term and estate hereby granted nor any interest herein or therein, will be assigned, mortgaged, pledged, encumbered or otherwise transferred (whether voluntarily or by operation of law), and that neither the Demised Premises, nor any part thereof, will be encumbered in any manner by reason of any act or omission on the part of Tenant, without the prior written consent of Landlord in every case.

In connection with any request by Tenant for such consent, Tenant shall submit to Landlord, in writing, a statement containing the name of the proposed assignee, such information as to its financial responsibility and standing as Landlord may require, and all of the terms and provisions upon which the proposed transaction is to take place. Tenant shall reimburse Landlord promptly, as Additional Rent, for reasonable legal and other expense incurred by Landlord in connection with any request by Tenant for any consent required under the provisions of this Article.

The listing of any name other than that of Tenant, whether on the doors of the Demised Premises or on the Building directory, or otherwise, shall not operate to vest any right or interest

in this Lease or in the Demised Premises or be deemed to be the written consent of Landlord mentioned in this Article, it being expressly understood that any such listing is a privilege extended by Landlord revocable at will by written notice to Tenant.

If this Lease be assigned, Landlord may at any time and from time to time, collect rent and other charges from the assignee, and apply the net amount collected to the Rent and other charges herein reserved, but no such collection shall be deemed a waiver of this covenant, or the acceptance of the assignee as a tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment. Tenant shall remain fully and primarily liable for all its obligations hereunder notwithstanding any assignment.

Notwithstanding anything herein to the contrary, Tenant may assign this lease to an Affiliate, meaning, for purposes hereof, a corporation or other entity controlling, controlled by or under common control with Tenant. In addition, Tenant may, without Landlord's consent, sublease any or all of the Demised Premises, and any so-called "subleasing profits" or subrents in excess of the rent reserved herein shall belong to Tenant. Landlord shall, upon request of Tenant, not unreasonably withhold its consent to a nondisturbance agreement for the benefit of any such subtenants.

15. MISCELLANEOUS COVENANTS

15.1 Rules and Regulations. Tenant and Tenant's servants, employees, agents, visitors and licensees will faithfully observe such Rules and Regulations as are attached hereto as Exhibit C and made a part hereof or as Landlord hereafter at any time or from time to time may make and may communicate in writing to Tenant and which in the reasonable judgment of Landlord shall be necessary for the reputation, safety, care or appearance of the Property, or the preservation of good order therein, or the operation or maintenance of the Property, or the equipment thereof, or the comfort of tenants or others in the Building, provided, however, that in the case of any conflict between the provisions of this Lease and any such Rules and Regulations, the provisions of this Lease shall control, and provided further that nothing contained in this Lease shall be construed to impose upon Landlord any duty or obligation to enforce such Rules and Regulations or the terms, covenants or conditions in any other lease as against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors, invitees or licensees. Notwithstanding Paragraph 22 of Exhibit C, Landlord shall be required to arrange for extermination of vermin within the Building pursuant to Section 7.7.

15.2 Access to Premises. Tenant shall: (i) permit Landlord to erect, use and maintain pipes, ducts and conduits in and through the Demised Premises, provided the same do not materially reduce the floor area or materially adversely affect the appearance thereof; (ii) permit the Landlord and any Mortgagee to have free and unrestricted access to and to enter upon the Demised Premises at all reasonable hours for the purposes of inspection or of making repairs, replacements or improvements in or to the Demised Premises or the Building or equipment (including, without limitation, sanitary, electrical, heating, air conditioning or other systems) or

of complying with all laws, orders and requirements of governmental or other authority or of exercising any right reserved to Landlord by this Lease (including the right during the progress of any such repairs, replacements or improvements or while performing work and furnishing materials in connection with compliance with any such laws, orders or requirements to take upon or through, or to keep and store within, the Demised Premises all necessary materials, tools and equipment); and (iii) permit Landlord, at reasonable times, to show the Demised Premises during ordinary business hours to any Mortgagee, prospective purchaser of any interest of Landlord in the Property, prospective Mortgagee, or prospective assignee of any Mortgage, and during the period of twelve months next preceding the Termination Date to any person contemplating the leasing of the Demised Premises or any part thereof. If during the last three (3) months of the Term, Tenant shall have removed all of Tenant's property therefrom, Landlord may immediately enter and alter, renovate and redecorate the Demised Premises, without elimination or abatement of rent, or incurring liability to Tenant for any compensation, and such acts shall have no effect upon this Lease. If Tenant shall not be personally present to open and permit any entry into the Demised Premises at any time when for any reason an entry therein shall be necessary or permissible, Landlord or Landlord's agents must nevertheless be able to gain such entry by contacting a responsible representative of Tenant, whose name, address and telephone number shall be furnished by Tenant. Provided that Landlord shall not be obligated to employ labor at so-called "over-time" or other premium pay rates, Landlord shall exercise its rights of access to the Demised Premises permitted under any of the terms and provisions of this Lease in such manner as to minimize to the extent practicable interference with Tenant's use and occupation of the Demised Premises. If an excavation shall be made upon land adjacent to the Demised Premises or shall be authorized to be made, Tenant shall afford, to the person causing or authorized to cause such excavation (subject to the same provisions applicable hereunder in the case of work to be performed by Landlord), license to enter upon the Demised Premises for the purpose of doing such work as said person shall deem necessary to preserve the Building from injury or damage and to support the same by proper foundations without any claim for damage or indemnity against Landlord, or diminution or abatement of Rent.

15.3 Accidents to Sanitary and other Systems. Tenant shall give to Landlord prompt notice of any fire or accident in the Demised Premises or in the Building and of any damage to, or defective condition in, any part or appurtenance of the Building's sanitary, electrical, heating and air conditioning or other systems located in, or passing through, the Demised Premises.

15.4 Signs, Blinds and Drapes. Tenant shall not place any signs on the exterior of the Building or on or in any window, public corridor or door visible from the exterior of the Demised Premises. No drapes or blinds may be put on or in any window nor may any Building drapes or blinds be removed by Tenant.

15.5 Estoppel Certificate. Tenant shall at any time and from time to time upon not less than ten (10) days' prior notice by Landlord or by a Mortgagee to Tenant, execute, acknowledge and deliver to the party making such request a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the dates to which Rent has been paid in advance, if any, and stating whether or not to the best knowledge of the signer of such certificate Landlord is in default in performance of any covenant, agreement, term,

provisions or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser of any interest in the Property, any Mortgagee or prospective Mortgagee, any lessee or prospective lessee thereof, any prospective assignee of any Mortgage, or any other party designated by Landlord. The form of any such estoppel certificate requested by a Mortgagee shall be satisfactory to such Mortgagee.

15.6 Requirements of Law — Fines and Penalties. Tenant at its sole expense shall comply with all laws, rules, orders and regulations of Federal, State, County and Municipal Authorities and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to and arising out of Tenant's use or occupancy of the Demised Premises. If Tenant receives notice of any violation of law, ordinance, order or regulation applicable to the Demised Premises, it shall give prompt notice thereof to Landlord. Without limiting the generality of the foregoing, Tenant shall be responsible for compliance with requirements imposed by the Americans with Disabilities Act relative to the Demised Premises, including without limitation all such requirements applicable to removing barriers, furnishing auxiliary aids and ensuring that, whenever alterations are made, the affected portions of the Demised Premises are readily accessible to and usable by individuals with disabilities.

15.7 Tenant's Acts — Effect on Insurance. Tenant shall not do or permit to be done any act or thing upon the Demised Premises or elsewhere in the Building which will invalidate or be in conflict with any insurance policies covering the Building and the fixtures and property therein and shall not do, or permit to be done, any act or thing upon the Demised Premises which shall subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or operation being conducted on the Demised Premises or for any other reason. Tenant at its own expense shall comply with all applicable provisions of the California Health and Safety Code and all regulations promulgated thereunder and with all rules, orders, regulations or requirements of the underwriter(s) of the fire and other hazard insurance for the Property and the Demised Premises and shall not (i) do, or permit anything to be done, in or upon the Demised Premises, or bring or keep anything therein, except as now or hereafter permitted by the City of South San Francisco Fire Department, or other authority having jurisdiction, and then only in such quantity and manner of storage as will not increase the rate for any insurance applicable to the Building, or (ii) use the Demised Premises in a manner which shall increase such insurance rates on the Building or on property located therein, over that applicable when Tenant first took occupancy of the Demised Premises hereunder. If by reason of failure of Tenant to comply with the provisions hereof the insurance rate applicable to any policy of insurance shall at any time thereafter be higher than it otherwise would be, then Tenant shall reimburse Landlord for that part of any insurance premiums thereafter paid by Landlord, which shall have been charged because of such failure by Tenant.

15.8 Miscellaneous. Tenant shall not suffer or permit the Demised Premises or any fixtures, equipment or utilities therein or serving the same, to be overloaded, damaged or defaced.

16. DAMAGE BY FIRE, ETC.

In the event of loss of, or damage to, the Demised Premises or the Building by fire or other casualty, the rights and obligations of the parties hereto shall be as follows:

(a) If the Demised Premises, or any part thereof, shall be damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord, and Landlord, upon receiving such notice, shall proceed promptly and with due diligence, subject to unavoidable delays, to repair, or cause to be repaired, such damage. If the Demised Premises or any part thereof shall be rendered untenantable by reason of such damage, whether to the Demised Premises or to the Building, Yearly Fixed Rent shall proportionately abate for the period from the date of such damage to the date when such damage shall have been repaired.

(b) If, as a result of fire or other casualty, the whole or a substantial portion of the Building is rendered untenantable, Landlord, within ninety (90) days from the date of such fire or casualty, may terminate this Lease by notice to Tenant, specifying a date not less than thirty (30) nor more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. If Landlord does not so elect to terminate this Lease, then Landlord shall (to the extent that insurance proceeds, net of any portion thereof retained by a Mortgagee, are made available for such purpose) proceed with diligence to repair the damage to the Demised Premises and all facilities serving the same, if any, which shall have occurred, and the Yearly Fixed Rent shall meanwhile proportionately abate, all as provided in Paragraph (a) of this Section. However, if such damage is not repaired and the Demised Premises restored to substantially the same condition as they were prior to such damage within nine (9) months from the date of such damage, Tenant within thirty (30) days from the expiration of such nine (9) month period or from the expiration of any extension thereof by reason of unavoidable delays as hereinafter provided, may terminate this Lease by notice to Landlord, specifying a date not more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. The period within which the required repairs may be accomplished shall be extended by the number of days, not to exceed one hundred eighty (180) days, lost as a result of unavoidable delays, which term shall be defined to include all delays referred to in Article 24.

(c) If the Demised Premises shall be rendered untenantable by fire or other casualty during the last two (2) years of the Term of this Lease, Landlord may terminate this Lease effective as of the date of such fire or other casualty upon notice to Tenant given within ninety (90) days after such fire or other casualty.

(d) Landlord shall not be required to repair or replace any of Tenant’s business machinery, equipment, cabinet work, furniture, personal property or other installations (all of which shall, however, be restored by Tenant within thirty (30) days after Landlord shall have completed any repair or restoration required under the terms of this Article), and no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building.

(e) The provisions of this Article shall be considered an express agreement governing any instance of damage or destruction of the Building or the Demised Premises by fire or other casualty, and any law now or hereafter in force providing for such a contingency in the absence of express agreement shall have no application.

(f) In the event of any termination of this Lease pursuant to this Article, the Term of this Lease shall expire as of the effective termination date as fully and completely as if such date were the date originally fixed herein for the end of the Term of this Lease. Tenant shall have access to the Demised Premises for a period of fifteen (15) days after the date of termination in order to remove Tenant's personal property.

(g) Landlord's Architect's certificate, given in good faith, shall be deemed conclusive of the statements therein contained and binding upon Tenant with respect to the performance and completion of any repair or restoration work undertaken by Landlord pursuant to this Article or Article 18.

17. WAIVER OF SUBROGATION

In any case in which Tenant shall be obligated under any provision of this Lease to pay to Landlord any loss, cost, damage, liability, or expense suffered or incurred by Landlord, Landlord shall allow to Tenant as an offset against the amount thereof the net proceeds of any insurance collected by Landlord for or on account of such loss, cost, damage, liability or expense, provided that the allowance of such offset does not invalidate or prejudice the policy or policies under which such proceeds were payable.

In any case in which Landlord shall be obligated under any provision of this Lease to pay to Tenant any loss, cost, damage, liability or expense suffered or incurred by Tenant, Tenant shall allow to Landlord as an offset against the amount thereof (i) the net proceeds of any insurance collected by Tenant for or on account of such loss, cost, damage, liability, or expense, provided that the allowance of such offset does not invalidate the policy or policies under which such proceeds were payable and (ii) if such loss, cost, damage, liability or expense shall have been caused by a peril against which Tenant has agreed to procure insurance coverage under the terms of this Lease, the amount of such insurance coverage, if not actually procured by Tenant.

The parties hereto shall each endeavor to procure an appropriate clause in, or endorsement on, any fire or extended coverage insurance policy covering the Demised Premises and the Building and personal property, fixtures and equipment located thereon or therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery, and having obtained such clauses and/or endorsements of waiver of subrogation or consent to a waiver of right of recovery each party hereby agrees that it will not make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other perils covered by such fire and extended coverage insurance; provided, however, that the release, discharge, exoneration and covenant not to sue herein contained shall be limited by the terms and provisions of the waiver of subrogation clauses and/or endorsements or clauses and/or endorsements consenting to a waiver of right of recovery and shall be co-extensive therewith. If either party may obtain such clause or endorsement only

upon payment of an additional premium, such party shall promptly so advise the other party and shall be under no obligation to obtain such clause or endorsement unless such other party pays the premium.

18. CONDEMNATION — EMINENT DOMAIN

In the event that the whole or any part of the Building shall be taken or appropriated by eminent domain or shall be condemned for any public or quasi-public use, or (by virtue of any such taking, appropriation or condemnation) shall suffer any damage (direct, indirect or consequential) for which Landlord or Tenant shall be entitled to compensation then (and in any such event) this Lease and the Term hereof may be terminated at the election of Landlord by a notice in writing of its election so to terminate which shall be given by Landlord to Tenant within sixty (60) days following the date on which Landlord shall have received notice of such taking, appropriation or condemnation. In the event that more than fifty percent (50%) of the floor area of the Demised Premises or a substantial part of the means of access thereto within the perimeter of the Property so as to substantially interfere with the use of the Demised Premises shall be so taken, appropriated or condemned, then (and in any such event) this Lease and the Term hereof may be terminated at the election of Tenant by a notice in writing of its election so to terminate which shall be given by Tenant to Landlord within sixty (60) days following the date on which Tenant shall have received notice of such taking, appropriation or condemnation. Tenant hereby waives the benefits of California Code of Civil Procedure Section 12165.130.

Upon the giving of any such notice of termination (either by Landlord or Tenant) this Lease and the Term hereof shall terminate on or retroactively as of the date on which Tenant shall be required to vacate any part of the Demised Premises or shall be deprived of a substantial part of the means of access thereto, provided, however, that Landlord may in Landlord's notice elect to terminate this Lease and the Term hereof retroactively as of the date on which such taking, appropriation or condemnation became legally effective. In the event of any such termination, this Lease and the Term hereof shall expire as of the effective termination date as fully and completely as if such date were the date originally fixed herein for the end of the Term of this Lease. If neither party (having the right so to do) elects to terminate Landlord will, with reasonable diligence and at Landlord's expense, restore the remainder of the Demised Premises, or the remainder of the means of access thereto, as nearly as practicably may be to the same condition as obtained prior to such taking, appropriation or condemnation in which event (i) a just proportion of the Yearly Fixed Rent, according to the nature and extent of the taking, appropriation or condemnation and the resulting permanent injury to the Demised Premises and the means of access thereto, shall be permanently abated, and (ii) a just proportion of the remainder of the Yearly Fixed Rent, according to the nature and extent of the taking, appropriation or condemnation and the resultant injury sustained by the Demised Premises and the means of access thereto, shall be abated until what remains of the Demised Premises and the means of access thereto shall have been restored as fully as may be for permanent use and occupation by Tenant hereunder. Except for any award specifically reimbursing Tenant for moving or relocation expenses, there are expressly reserved to Landlord all rights to compensation and damages created, accrued or accruing by reason of any such taking, appropriation or condemnation, in implementation and in confirmation of which Tenant does hereby acknowledge that Landlord shall be entitled to receive and retain all such compensation

and damages, grants to Landlord all and whatever rights (if any) Tenant may have to such compensation and damages, and agrees to execute and deliver all and whatever further instruments of assignment as Landlord may from time to time request. In the event of any taking of the Demised Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby, and (ii) Tenant shall be entitled to receive for itself any award made for such use, provided, that if any taking is for a period extending beyond the Term of this Lease, such award shall be apportioned between Landlord and Tenant as of the Termination Date.

19. DEFAULT

19.1 Events of Default. Occurrence of any of the following events shall constitute an Event of Default under this Lease: (a) Tenant shall neglect or fail to perform or observe any of the Tenant's covenants herein, including (without limitation) the covenants with regard to the payment when due of Rent; or (b) Tenant shall be involved in financial difficulties as evidenced by an admission in writing by Tenant of Tenant's inability to pay its debts generally as they become due, or by the making or offering to make a composition of its debts with its creditors; or (c) Tenant shall make an assignment or trust mortgage, or other conveyance or transfer of like nature, of all or a substantial part of its property for the benefit of its creditors; or (d) the leasehold hereby created shall be taken on execution or by other process of law and shall not be revested in Tenant within sixty (60) days thereafter; or (e) a receiver, sequester, trustee or similar officer shall be appointed by a court of competent jurisdiction to take charge of all or a substantial part of Tenant's property and such appointment shall not be vacated within sixty (60) days; or (f) any proceeding shall be instituted by or against Tenant pursuant to any of the provisions of any Act of Congress or State law relating to bankruptcy, reorganization, arrangements, compositions or other relief from creditors, and, in the case of any such proceeding instituted against it, if Tenant shall fail to have such proceeding dismissed within thirty (30) days or if Tenant is adjudged bankrupt or insolvent as a result of any such proceeding; or (g) any event shall occur or any contingency shall arise whereby this Lease, or the term and estate thereby created, would (by operation of law or otherwise) devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted under Article 14 hereof; or (h) Tenant shall vacate all or substantially all of the Demised Premises.

19.2 Remedies Available upon Default. Upon the occurrence of an Event of Default, Landlord shall have the following remedies, which shall not be exclusive but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by law:

(c) Landlord may terminate Tenant's right to possession of the Premises at any time by written notice to Tenant. Tenant expressly acknowledges that in the absence of such written notice from Landlord, no other act of Landlord, including re-entry into the Premises, efforts to relet the Premises, reletting of the Premises for Tenant's account, storage of Tenant's personal property and trade fixtures, acceptance of keys to the Premises from Tenant or exercise of any other rights and remedies under this Section, shall constitute an acceptance of Tenant's surrender of the Premises or constitute a termination of this Lease or of Tenant's right to possession of the Premises. Upon such termination in writing of Tenant's right to possession of the Premises, as herein provided, this Lease shall terminate and Landlord shall be entitled to recover damages from Tenant as provided in California Civil Code Section 1951.2 and any other applicable existing or future Law providing for

recovery of damages for such breach, including the worth at the time of award of the amount by which the rent which would be payable by Tenant hereunder for the remainder of the Term after the date of the award of damages, including Additional Rent as reasonably estimated by Landlord, exceeds the amount of such rental loss as Tenant proves could have been reasonably avoided, discounted at the discount rate published by the Federal Reserve Bank of San Francisco for member banks at the time of the award plus one percent (1%).

(d) Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations).

(e) Landlord may immediately, or at any time thereafter, without notice, cure said Event of Default for the account of Tenant. If Landlord at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of Tenant to comply with any provision hereof, or if Landlord is compelled to or does incur any expense, including without limitation reasonable attorneys' fees, in instituting, prosecuting and/or defending any action or proceeding arising by reason of any default of Tenant hereunder, Tenant shall on demand pay to Landlord by way of reimbursement the sum or sums so paid by Landlord with all interest, costs and damages together with interest at the Interest Rate for the period such sums remain outstanding.

(f) Landlord may remove all of Tenant's property from the Premises, and such property may be stored by Landlord in a public warehouse or elsewhere at the sole cost and for the account of Tenant. If Landlord does not elect to store any or all of Tenant's property left in the Premises, Landlord may consider such property to be abandoned by Tenant, and Landlord may thereupon dispose of such property in the manner and as prescribed by California Civil Code Section 1980 *et seq.* Any proceeds realized by Landlord on the disposal of any such property shall be applied first to offset all expenses of storage and sale, then credited against Tenant's outstanding obligations to Landlord under this Lease, and any balance remaining after satisfaction of all obligations of Tenant under this Lease shall be delivered to Tenant.

(e) The damages recoverable by Landlord pursuant to this Section shall in all events include reimbursement of any concessions made by Landlord in connection with the leasing of the Demised Premises to Tenant, including without limitation (a) abated Rent, (b) allowances or improvements in excess of any Building standard work, (c) sums paid to any former landlord of Tenant under a so-called "take-over", lease assumption or similar agreement and (d) signing bonuses and other incentive payments.

19.3 Grace Period. Notwithstanding anything to the contrary in this Article contained, Landlord agrees not to take any action to terminate this Lease (a) for default by Tenant in the payment when due of Rent, if Tenant shall cure such default within five (5) days after written notice thereof given by Landlord to Tenant, or (b) for default by Tenant in the performance of any other covenant, if Tenant shall cure such default within a period of thirty (30) days after written notice thereof given by Landlord to Tenant (except where the nature of the default is such that remedial action should appropriately take place sooner, as indicated in such written notice),

or with respect to covenants other than to pay a sum of money within such additional period as may reasonably be required to cure such default if (because of governmental restrictions or any other cause beyond the reasonable control of Tenant) the default is of such a nature that it cannot be cured within such thirty (30)-day period, provided, however, (1) that there shall be no extension of time beyond such thirty (30)-day period for the curing of any such default unless, not more than ten (10) days after the receipt of the notice of default, Tenant in writing (i) shall specify the cause on account of which the default cannot be cured during such period and shall advise Landlord of its intention duly to institute all steps necessary to cure the default and (ii) shall as soon as may be reasonable duly institute and thereafter diligently prosecute to completion all steps necessary to cure such default and, (2) that no notice of the opportunity to cure a default need be given, and no grace period whatsoever shall be allowed to Tenant, if the default is incurable or if the covenant or condition the breach of which gave rise to the default had, by reason of a breach on a prior occasion, been the subject of a notice hereunder to cure such default.

20. END OF TERM — ABANDONED PROPERTY

Upon the expiration or other termination of the Term of this Lease, Tenant shall peaceably quit and surrender to Landlord the Demised Premises and all alterations and additions thereto which Tenant is not entitled or required to remove under the provisions of this Lease, broom clean in good order, repair and condition excepting only reasonable use and wear and damage by fire or other casualty for which, under other provisions of this Lease, Tenant has no responsibility of repair or restoration. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease. If the last day of the Term of this Lease or any renewal thereof falls on a day other than a Business Day, this Lease shall expire on the Business Day immediately preceding. Tenant shall pay twice the amount of Rent applicable to each month (or fraction thereof) during which Tenant remains in possession of any part of the Demised Premises in violation of the foregoing covenants, without prejudice to eviction and any other remedy available to Landlord on account thereof.

Any personal property in which Tenant has an interest which shall remain in the Building or on the Demised Premises after the expiration or termination of the Term of this Lease shall be conclusively deemed to have been abandoned, and may be disposed of in such manner as Landlord may see fit; provided, however, notwithstanding the foregoing, that Tenant will, upon request of Landlord made not later than ten (10) days after the expiration or termination of the Term hereof, promptly remove from the Building any such personal property or, if any part thereof shall be sold, that Landlord may receive and retain the proceeds of such sale and apply the same, at its option, against the expenses of the sale, the cost of moving and storage, any arrears of Rent payable hereunder by Tenant to Landlord and any damages to which Landlord may be entitled under Article 19 hereof or pursuant to law, with the balance if any, to be paid to Tenant.

21. RIGHTS OF MORTGAGEES

21.1 (Intentionally omitted)

21.2 Entry and Possession. Upon entry and taking possession of the Property by a Mortgagee, for the purpose of foreclosure or otherwise, such Mortgagee shall have all the rights of Landlord, and shall be liable to perform all the obligations of Landlord arising and accruing during the period of such possession by such Mortgagee.

21.3 Right to Cure. No act or failure to act on the part of Landlord which would entitle Tenant under the terms of this Lease, or by law, to be relieved of Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) Tenant shall have first given written notice of Landlord's act or failure to act to first Mortgagees of record, if any, and to any other Mortgagees of whom Tenant has been given written notice, specifying the act or failure to act on the part of Landlord which could or would give basis to Tenant's rights; and (ii) such Mortgagees, after receipt of such notice, have failed or refused to correct or cure the condition complained of within a reasonable time thereafter, but nothing contained in this paragraph shall be deemed to impose any obligation on any such Mortgagees to correct or cure any such condition. "Reasonable time" as used above means and includes a reasonable time to obtain possession of the Land and Building if any such Mortgagee elects to do so and a reasonable time to correct or cure the condition if such condition is determined to exist.

21.4 Prepaid Rent. No Rent shall be paid more than thirty (30) days prior to the due dates thereof and, as to a first Mortgagee of record and any other Mortgagees of whom Tenant has been given written notice, payments made in violation of this provision shall (except to the extent that such Rent is actually received by such Mortgagee) be a nullity as against such Mortgagee and Tenant shall be liable for the amount of such payments to such Mortgagee.

21.5 Continuing Offer. The covenants and agreements contained in this Lease with respect to the rights, powers and benefits of a Mortgagee (particularly, without limitation thereby, the covenants and agreements contained in this Article) constitute a continuing offer to any person, corporation or other entity, which by accepting or requiring an assignment of this Lease or by entry or foreclosure assumes the obligations herein set forth with respect to such Mortgagee; every such Mortgagee is hereby constituted a party to this Lease as an obligee hereunder to the same extent as though its name was written hereon as such; and such Mortgagee shall be entitled to enforce such provisions in its own name.

21.6 Subordination. Notwithstanding the foregoing provisions of this Article, Tenant agrees, at the request of Landlord or any Mortgagee, to execute and deliver promptly any certificate or other instrument which Landlord or such Mortgagee may request subordinating this Lease and all rights of Tenant hereunder to any Mortgage, and to all advances made under such Mortgage and/or agreeing to attorn to such Mortgagee in the event that it succeeds to Landlord's interest in the Property.

21.7 Limitations on Liability. Nothing contained in the foregoing Section 21.6 or in any such non-disturbance agreement or non-disturbance provision shall however, affect the prior rights of the holder of any Mortgage with respect to the proceeds of any award in condemnation or of any fire insurance policies affecting the Building, or impose upon any such holder any liability (i) for the erection or completion of the Building, or (ii) in the event of damage or

destruction to the Building or the Demised Premises by fire or other casualty, for any repairs, replacements, rebuilding or restoration except such repairs, replacements, rebuilding or restoration as can reasonably be accomplished from the net proceeds of insurance actually received by, or made available to, such holder, or (iii) for any default by Landlord under the Lease occurring prior to any date upon which such holder shall become Tenant's landlord, or (iv) for any credits, offsets or claims against the Rent as a result of any acts or omissions of Landlord committed or omitted prior to such date, or (v) for return of any security deposit or other funds unless the same shall have been received by such holder, and any such agreement or provision may so state.

22. QUIET ENJOYMENT

Landlord covenants that if, and so long as, Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Demised Premises from and against the claims of all persons claiming by, through or under Landlord subject, nevertheless, to the covenants, agreements, terms, provisions and conditions of this Lease and to all Mortgages to which this Lease is subject and subordinate.

Without incurring any liability to Tenant, Landlord may permit access to the Demised Premises and open the same, whether or not Tenant shall be present, upon any demand of any receiver, trustee, assignee for the benefit of creditors, sheriff, marshall or court officer entitled to, or reasonably purporting to be entitled to, such access for the purpose of taking possession of, or removing Tenant's property or for any other lawful purpose (but this provision and any action by Landlord hereunder shall not be deemed a recognition by Landlord that the person or official making such demand has any right or interest in or to this Lease, or in or to the Demised Premises), or upon demand of any representative of the fire, police, building, sanitation or other department of the city, county, state or federal governments.

23. ENTIRE AGREEMENT — WAIVER — SURRENDER

23.1 Entire Agreement. This Lease and the Exhibits made a part hereof contain the entire and only agreement between the parties and any and all statements and representations, written and oral, including previous correspondence and agreements between the parties hereto, are merged herein. Tenant acknowledges that all representations and statements upon which it relied in executing this Lease are contained herein and that Tenant in no way relied upon any other statements or representations, written or oral. Any executory agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Lease in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought. Nothing herein shall prevent the parties from agreeing to amend this Lease and the Exhibits made a part hereof as long as such amendment shall be in writing and shall be duly signed by both parties.

23.2 Waiver by Landlord. The failure of Landlord to seek redress for violation, or to insist upon the strict performance, of any covenant or condition of this Lease, or any of the Rules and Regulations promulgated hereunder, shall not prevent a subsequent act, which would have

originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of such Rules and Regulations against Tenant and/or any other tenant or subtenant in the Building shall not be deemed a waiver of any such Rules and Regulations. No provisions of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

23.3 Surrender. No act or thing done by Landlord during the term hereby demised shall be deemed an acceptance of a surrender of the Demised Premises, and no agreement to accept such surrender shall be valid, unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of the Demised Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of the Lease or a surrender of the Demised Premises. In the event that Tenant at any time desires to have Landlord underlet the Demised Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive the keys for such purposes without releasing Tenant from any of the obligations under this Lease, and Tenant hereby relieves Landlord of any liability for loss of or damage to any of Tenant's effects in connection with such underletting.

24. INABILITY TO PERFORM — EXCULPATORY CLAUSE

Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant to pay Rent hereunder and perform all other covenants, agreements, terms, provisions and conditions hereunder on the part of Tenant to be performed shall in no way be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease or is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make or is delayed in making any repairs, replacements, additions, alterations, improvements or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from doing so by reason of any cause whatsoever beyond Landlord's reasonable control, including but not limited to governmental preemption in connection with a national emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any governmental agency or by reason of strikes, labor troubles, shortages of labor or materials or conditions of supply and demand which have been or are affected by war, hostilities or other similar or dissimilar emergency. In each such instance of inability of Landlord to perform, Landlord shall exercise reasonable diligence to eliminate the cause of such inability to perform.

Tenant shall neither assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's interest in the Building of which the Demised Premises are a part and in the rents, issues and profits thereof, and Tenant agrees to look solely to

such interest for the satisfaction of any liability of Landlord under this Lease, it being specifically agreed that in no event shall Landlord (which term shall include, without limitation any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or representatives, disclosed or undisclosed, of Landlord or any managing agent) ever be personally liable for any such liability. This paragraph shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or to take any other action which shall not involve the personal liability of Landlord to respond in monetary damages from Landlord's assets other than the Landlord's interest in said real estate, as aforesaid. In no event shall Landlord ever be liable for consequential damages.

25. BILLS AND NOTICES

Any notice, consent, request, bill, demand or statement hereunder by either party to the other party shall be in writing and, if received at Landlord's or Tenant's Address, shall be deemed to have been duly given when either delivered or served personally or mailed in a postpaid envelope, deposited in the United States mails addressed to the respective party at its Address as stated in Article 1 or if any Address for notices shall have been duly changed as hereinafter provided, if mailed as aforesaid to the party at such changed Address. Either party may at any time change the Address for such notices, consents, requests, bills, demands or statements by delivering or mailing, as aforesaid, to the other party a notice stating the change and setting forth the changed Address, provided such changed Address is within the United States.

All bills and statements for reimbursement or other payments or charges due from Tenant to Landlord hereunder shall be due and payable in full thirty (30) days, unless herein otherwise provided, after submission thereof by Landlord to Tenant. Tenant's failure to make timely payment of any amounts indicated by such bills and statements, whether for work done by Landlord at Tenant's request, reimbursement provided for by this Lease or for any other sums properly owing by Tenant to Landlord, shall be treated as a default in the payment of Rent, in which event Landlord shall have all rights and remedies provided in this Lease for the nonpayment of Rent.

26. SUCCESSORS AND ASSIGNS

The covenants, agreements, terms, provisions and conditions of this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party hereto is named or referred to, except that no violation of the provisions of Article 14 hereof shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 19 hereof.

If in connection with or as a consequence of the sale, transfer or other disposition of the real estate (Land and/or Building, either or both, as the case may be) of which the Demised Premises are a part Landlord ceases to be the owner of the reversionary interest in the Demised Premises, Landlord shall be entirely freed and relieved from the performance and observance thereafter of all covenants and obligations hereunder accruing thereafter on the part of Landlord

to be performed and observed, it being understood and agreed in such event (and it shall be deemed and construed as a covenant running with the land) that the person succeeding to Landlord's ownership of said reversionary interest shall thereupon and thereafter assume, and perform and observe, any and all of such covenants and obligations of Landlord.

27. MISCELLANEOUS

27.1 Separability. If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is for any reason held invalid or unenforceable, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

27.2 Captions. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Lease nor the intent of any provisions thereof.

27.3 Broker. Each party represents and warrants that it has not directly or indirectly dealt, with respect to the leasing of space in the Building, with any broker or had its attention called to the Demised Premises or other space to let in the Building, by any broker other than the Broker (if any) listed in Article 1 whose commission shall be the responsibility of Landlord. Each party agrees to exonerate and save harmless and indemnify the other against any claims for a commission by any other broker, person or firm, with whom such party has dealt in connection with the execution and delivery of this Lease or out of negotiations between Landlord and Tenant with respect to the leasing of other space in the Building.

27.4 Governing Law. This Lease is made pursuant to, and shall be governed by, and construed in accordance with, the laws of the State of California.

27.5 Assignment of Lease and/or Rents. With reference to any assignment by Landlord of its interest in this Lease and/or the Rent payable hereunder, conditional in nature or otherwise, which assignment is made to or held by a bank, trust company, insurance company or other institutional lender holding a Mortgage on the Building, Landlord and Tenant agree:

(a) that the execution thereof by Landlord and acceptance thereof by such Mortgagee shall never be deemed an assumption by such Mortgagee of any of the obligations of the Landlord hereunder, unless such Mortgagee shall, by written notice sent to the Tenant, specifically otherwise elect; and

(b) that, except as aforesaid, such Mortgagee shall be treated as having assumed the Landlord's obligations hereunder only upon foreclosure of such Mortgagee's Mortgage and the taking of possession of the Demised Premises after having given notice of its intention to succeed to the interest of the Landlord under this Lease.

27.6 Memorandum of Lease. Neither party shall record this Lease; provided, however, that either party shall at the request of the other, execute and deliver a recordable memorandum of this Lease setting forth the parties to this Lease, a description of the Demised Premises and the term of this Lease for recordation in the Official records of the County of San Mateo.

27.7 (omitted)

27.8 (omitted)

27.9 Arbitration of Certain Matters. At the election of either party, if any dispute as to the allocation of real estate taxes or operating expenses under Section 6.2, the abatement of Yearly Fixed Rent pursuant to Article 16 or the abatement of Yearly Fixed Rent pursuant to Article 18 remains unresolved 30 days after written complaint by Tenant has been delivered to Landlord as to an allocation, reduction, apportionment or abatement made or proposed by Landlord, the matter may be submitted to binding arbitration pursuant to California Code of Civil Procedure Section 1280 *et seq*.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed under seal, all as of the day and year first above written.

MOUNTAIN COVE TECH CENTER, L.L.C.

By _____
John Finney

By /s/ Mike Finney
Mike Finney
Its Managers

MJ RESEARCH COMPANY, INC.

By _____
John Finney
Its President