As filed with the Securities and Exchange Commission on April 5, 2012

Registration No. 333-179500

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

Amendment No. 1 to
FORM S-1
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

ATOSSA GENETICS INC.

(Exact name of registrant as specified in its charter)

Delaware	**3841**	**26-4753208**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

4105 E. Madison Street, Suite 320
Seattle, Washington 98112
(206) 325-6086

(Address, including zip code, and telephone number, including area code of registrant's principal executive offices)

Steven C. Quay, M.D., Ph.D.
Chairman, Chief Executive Officer and President
4105 E. Madison Street, Suite 320
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(Name, address, including zip code, and telephone number, including area code, of agent for service)

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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 of 1933, 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 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 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 definitions "large accelerated filer," "accelerated file," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

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 which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission acting pursuant to said section 8(a), may determine.

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The information contained in this prospectus is not complete and may be changed. A registration statement relating to these securities has been filed with the Securities and Exchange Commission and these securities may not be sold until that registration statement becomes effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS **SUBJECT TO COMPLETION DATED APRIL 5, 2012**

1,000,000 Shares

This is the initial public offering of 1,000,000 shares of our common stock. We expect the initial public offering price will be between $5.00 and $7.00 per share. Currently, no public market exists for our securities. We have applied for listing of the shares on the NASDAQ Capital Market under the symbol “ATOS”.

	Per Share	Total
Public offering price	$	$
Underwriting discounts and commissions*	$	$
Proceeds, before expenses, to Company	$	$

* Does not include a non-accountable expense reimbursement fee of 3% of the gross proceeds of this offering.

Investing in these securities involves a high degree of risk.
See “Risk Factors” contained in this prospectus beginning on page 9.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

We have granted the underwriters an option for a period of 45 days to purchase from us, on the same terms and conditions set forth above, up to an additional 150,000 shares to cover overallotments.

Delivery of the shares of common stock will be made on or about , 2012.

DAWSON JAMES SECURITIES, INC.

The date of this prospectus is , 2012.

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No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this prospectus. You must not rely on any unauthorized information or representations. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date.

Unless the context requires otherwise, in this prospectus the terms "we," "us" and "our" as well as the "Company" refer to Atossa Genetics Inc. and our wholly-owned subsidiary, National Reference Laboratory for Breast Health Inc.

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PROSPECTUS SUMMARY

This summary highlights some information from this prospectus. It may not contain all the information important to making an investment decision. You should read the following summary together with the more detailed information regarding our company and the securities being sold in this offering, including "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes, included elsewhere in this prospectus.

The Company

We are a healthcare company focused on the prevention of breast cancer through the commercialization of diagnostic tests that can detect precursors to breast cancer, and through the research, development, and ultimate commercialization of treatments for pre-cancerous lesions.

Our diagnostic tests consist of patented medical devices cleared by the Food and Drug Administration, or FDA, that can collect fluid samples from the breast milk ducts, where, according to the National Cancer Institute, over 95% of breast cancers arise. These samples are processed at our wholly-owned National Reference Laboratory for Breast Health, which has been certified pursuant to the Clinical Laboratory Improvement Amendments, or CLIA. Our CLIA-certified laboratory examines the specimens by microscopy for the presence of normal, pre-malignant, or malignant changes as determined by cytopathology and biomarkers that distinguish "usual" ductal hyperplasia, a benign condition, from atypical ductal hyperplasia, which may lead to cancer. These cytopathological results provide patients and physicians with information about the care path that should be followed, depending on the individual risk of future cancer as determined by the results.

Additionally, we are conducting research on the treatment of these pre-cancerous cells by using our patented and FDA-cleared microcatheters to deliver, directly into the milk ducts, anti-cancer drugs that can be used to treat these pre-cancerous lesions. By using this localized delivery method, patients receive high local concentrations of these drugs at the site of the pre-cancerous lesions, potentially promoting efficacy of the treatment while limiting systemic exposure, which has the potential to lower the overall toxicity of these treatments.

We launched our commercial operations in late 2011 and, as of March 31, 2012, have enrolled and sold MASCT System kits or provided ArgusCYTE collection kits to 25 doctors and clinics as providers of the ForeCYTE and/or ArgusCYTE tests and have received, processed, and reported the results to physicians from 276 ForeCYTE samples and 13 ArgusCYTE samples. As of December 31, 2011, we have only generated $1,500 in revenues from the sale of our products and services. We incurred net operating losses of approximately $1.1 million and $3.4 million for our fiscal years ended December 31, 2010 and 2011, respectively. As of December 31, 2011, we had an accumulated deficit of approximately $4.7 million. We have not yet established an ongoing source of revenues sufficient to cover our operating costs and allow us to continue as a going concern. Our ability to continue as a going concern is dependent on obtaining adequate capital to fund operating losses until we become profitable. We plan to obtain additional capital resources by selling our equity securities, selling the MASCT System and generating laboratory service revenue from our tests, and making short-term borrowings from stockholders or other related parties when needed. However, we cannot assure you that we will be successful in accomplishing any of these plans and, if we are unable to obtain adequate capital, we could be forced to cease operations.

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Our Diagnostic Tests

We currently offer two diagnostic tests and plan to offer two additional tests in late 2012 or early 2013. The tests that we currently offer and that are in development consist of the following:

ForeCYTE The ForeCYTE Breast Health Test, launched in December 2011, provides personalized information about the 10-year and lifetime risk of breast cancer for women between ages 18 and 65. It involves collecting a sample of nipple aspirate fluid, or NAF, using our patented, FDA-cleared *Mammary Aspirate Specimen Cytology Test*, or MASCT, System (our MASCT System received 510(k) clearance from the FDA in 2003), analyzing the NAF using a proprietary molecular and cellular biomarker test, and then processing the test results, together with the patient's medical and family history, through a clinically-validated risk assessment algorithm that calculates 10-year and lifetime risk of breast cancer and presents these results in one of three risk tiers developed by The National Comprehensive Cancer Network: Normal (<15% lifetime risk), Intermediate (15 – 20% lifetime risk), or High (>20% lifetime risk). The ForeCYTE Test results contain recommendations for care paths in each risk group and personalized information so that patients and healthcare providers can make more informed treatment decisions.

ArgusCYTE The ArgusCYTE Breast Health Test, launched in December 2011, provides information to help inform breast cancer treatment options and to help monitor potential recurrence. It can monitor breast cancer distant recurrence by obtaining a "liquid biopsy" or blood sample, and analyzing it for the presence of circulating tumor cells, which can then be analyzed to determine the expression of Estrogen Receptor/Progesterone Receptor, or ER/PR, and Human Epidermal Growth Factor Receptor, or Her2, in those cells, a predictor of the cancer's sensitivity to existing treatment options. The presence of circulating tumor cells in the blood sample may serve as an early indicator of the recurrence of breast cancer and the data obtained from the ArgusCYTE sensitivity analysis may help physicians better select which treatment options to use with a particular patient.

FullCYTE The FullCYTE Breast Health Test, which we intend to launch in late 2012 or early 2013 and is currently in development, is designed to assess the individual breast ducts for pre-cancerous changes in women previously identified to be at high risk for breast cancer. It involves collecting ductal lavage samples from each of the five to seven individual breast milk ducts using our patented and FDA-cleared Mammary Ductal Microcatheter System (our Microcatheter System received 510(k) clearances from the FDA in 1999 and 2000) and analyzing the samples by genomic interrogation and proprietary laboratory developed tests.

NextCYTE The NextCYTE Breast Cancer Test, which is in the prevalidation phase and which we intend to launch in late 2012 or early 2013, is designed to profile breast cancer specimens for prediction of treatment outcomes and distant recurrence in women newly diagnosed with breast cancer. It involves using surgery specimens and advanced genome sequencing techniques to quantify and analyze the entire tumor genetic transcriptome, which represents all genes that are being actively expressed within the tumor. We expect that physicians will be able to use the information provided by the NextCYTE test to better customize treatment options for women, based on the genetic composition of the individual tumor.

We may not, however, achieve commercial market acceptance of any of our products and services. We must first demonstrate to physicians and other healthcare professionals the benefits of our tests and the MASCT System for their practice and these physicians and healthcare professionals may be reluctant to introduce new services into their practice due to uncertainty regarding reliability of the results of a new product or the learning curve associated with adoption of new services and techniques. Moreover, if

third-party payors continue to refuse to cover the cost of collection of the NAF sample, physicians may be less likely to recommend or use our products and services if the cost of performing a particular test will not be reimbursed. Even if we are successful in convincing physicians and other healthcare professionals to utilize our tests and services, we must obtain adequate capital to fund our operations until we become profitable and we may not be able to do so. Additionally, we have no prior experience with commercializing any products or services and will need to create an infrastructure to scale operations for commercialization, including hiring experienced personnel (including anatomic pathologists, cytologists, histotechnologists, skilled laboratory and information technology staff, and sales representatives) and building a network of regional, specialty distributors, each with a staff of independent sales representatives who have experience in women's health products to target physicians and mammography clinics in the United States.

Intraductal Treatment Research

Our Intraductal Treatment Research Program comprises our patented microcatheter-delivery technology and our patented pharmaceutical formulations for the intraductal treatment of breast pre-cancerous changes, ductal carcinoma in situ, or DCIS, and breast cancers. The method uses our Mammary Ductal Microcatheter System, invented by Dr. Susan Love, President of the Dr. Susan Love Research Foundation, and her colleagues, to administer proprietary pharmaceutical formulations into milk ducts that display pre-cancerous changes, with high local concentrations of the drugs in order to promote greater efficacy and limited systemic exposure, potentially lowering the overall toxicity of the treatment.

An October 2011 peer-reviewed paper published in *Science Translational Medicine* documented a study conducted at the Johns Hopkins Medical School demonstrating the prevention of breast cancer in rats with intraductal non-systemic chemotherapy, and a proof-of-principle Phase 1 clinical trial involving 17 women with breast cancer who subsequently received surgery. An accompanying editorial commented that "intraductal treatment could be especially useful for women with premalignant lesions or those at high risk of developing breast cancer, thus drastically improving upon their other, less attractive options of breast-removal surgery or surveillance (termed 'watch and wait')." We intend to build on these academic studies with a research program targeted initially at neoadjuvant therapy in DCIS and to begin preclinical studies during 2012. We have not yet begun the process of applying for FDA approval of our Intraductal Treatment Research Program.

Intellectual Property and FDA Marketing Clearances

As of February 8, 2012, we own more than 120 issued patents (31 in the United States and at least 90 in foreign countries), and 6 pending patent applications (4 in the United States, 1 pending foreign application and 1 pending International Patent Cooperation Treaty (PCT) application) directed to our products, services, and technologies.

Our Founder

Our founder and chief executive officer, Steven C. Quay, M.D., Ph.D., FCAP, invented the MASCT System. Dr. Quay is a board-certified anatomic pathologist who completed both an internship and residency in anatomic pathology at the Massachusetts General Hospital, a Harvard Medical School teaching hospital, and is a former faculty member of the pathology department of Stanford University School of Medicine. He holds 76 U.S. patents and has invented and developed five FDA-approved pharmaceuticals.

Our Commercialization Strategy

The ForeCYTE Test provides us with two revenue sources:

(i) revenue from the sale of the MASCT System device and patient kits to physicians, breast health clinics, and mammography clinics; and

(ii) service revenue from the preparation and interpretation of the NAF samples sent to our laboratory for analysis.

The ArgusCYTE test provides only laboratory service revenue.

We offer each component of the MASCT System for sale separately. We currently price our NAF sample collection device at approximately $250 per device and our patient kits at approximately $30 per kit, and the

cytology and molecular diagnostics testing and analysis services are billed to federal and/or state health plans at the 2012 Medicare reimbursement rates of between $384 and $1,275 per patient, depending on the complexity of the analysis performed. We bill third-party payors at higher rates, as is customary for our industry. Currently, Medicare and certain insurance carriers do not reimburse for the NAF collection procedure, although Medicare and certain insurance carriers do reimburse for the laboratory analysis of the NAF sample. Lack of Medicare or insurance coverage for the NAF collection procedure will require patients to bear the full costs of the NAF sample acquisition process used with the MASCT System, which may result in physicians and other healthcare professionals not adopting the MASCT System or recommending its use in patients. If this were to occur, we may be forced to reduce the price of the MASCT System, provide discounted pricing arrangements to secure sales, or we may not be able to sell the product and services components of the MASCT System at acceptable margins, all of which could limit our ability to generate revenues.

We currently price the ArgusCYTE Test at approximately $1,500.

In December 2011, we began limited marketing of the ForeCYTE Test to physicians, primarily obstetric-gynecologists, as well as breast health and mammography clinics, for use in conjunction with other health screening examinations, including annual physical examinations and regularly scheduled cervical Pap smears and mammograms. We are establishing relationships with breast cancer centers to provide the ArgusCYTE Test to their patients. We plan to use regional specialty product distributors, with independent sale representatives specializing in women’s health, to commercialize the ForeCYTE and ArgusCYTE Tests; however, we currently do not have distributor relationships and we cannot be certain that we will be able to build these relationships to adequately address the regional or national market. As of March 1, 2012 we had one person involved in sales.

Risk Factors

Our business is subject to numerous risks as discussed more fully in the section entitled “Risk Factors” beginning on page 9. Principal risks of our business include, but are not limited to, the following:

- we will need significant additional capital to execute our business strategy as currently contemplated and have not identified significant alternative sources of funding, should this offering be unsuccessful;
- we have a history of operating losses and expect to incur losses for the foreseeable future and may never achieve profitability;
- The MASCT System and other risk assessment tools, diagnostic tests and other predictive and personalized medicine products that we may develop may never achieve significant commercial market acceptance;
- we are dependent on the commercial success of the MASCT System and the ForeCYTE and ArgusCYTE Tests;
- we may not be successful in commercializing the MASCT System because physicians and clinicians may be slow to adopt our product and, even if commercialized, the fees we receive for our products and services may be significantly lower than currently expected;
- our ability to commercialize the MASCT System may be limited because Medicare and certain insurance carriers are not expected to provide reimbursement for the NAF sample collections which are necessary for our tests (even though Medicare and certain insurance carriers do provide reimbursement for the laboratory analysis of the collected NAF samples); and
- we may not be able to hire, train or maintain the independent sales representatives and build the distributorship arrangements necessary to market and sell the MASCT System and our services as planned.

Company Information

We were incorporated in Delaware in April 2009. Our principal executive offices are located at 4105 East Madison Street, Suite 320, Seattle, Washington 98112, and our telephone number is (206) 325-6086. Our

corporate website is located at *www.atossagenetics.com* and our laboratory website is located at *www.nrlbh.com*. Information contained on, or that can be accessed through, our websites is not a part of this prospectus.

MASCT, Oxy-MASCT, and our name and logo are our trademarks. ForeCYTE, FullCYTE, NextCYTE, and ArgusCYTE are our service marks. This prospectus also includes additional trademarks, trade names and service marks of third parties, which are the property of their respective owners.

Our company name comes from Queen Atossa, daughter of Cyrus the Great and wife of Darius I, the King of the Achaemenid Empire. In about 470 BC, she became the first woman in recorded history to be diagnosed with breast cancer, of which she died.

THE OFFERING

Securities offered by us:	1,000,000 shares of common stock (or 1,150,000 if the underwriters exercise their overallotment option in full).
Capitalization after the offering:	12,256,867 shares of common stock outstanding after the offering (or 12,406,867 if the underwriters exercise their overallotment option in full).
Use of proceeds:	We intend to use the net proceeds from this offering to expand our cytology and molecular diagnostics laboratory, fund the manufacture of MASCT System units, hire and train sales and marketing personnel, continue the research and development of the FullCYTE and NextCYTE Tests, support the internal research and development of the Intraductal Treatment Research Program, and for general corporate purposes. See "Use of Proceeds."
Proposed NASDAQ trading symbol:	"ATOS"

The number of shares of our common stock outstanding is based on 11,256,867 shares of common stock outstanding as of December 31, 2011, and excludes 814,000 shares issuable upon the exercise of options outstanding as of December 31, 2011 under our 2010 Stock Option and Incentive Plan, or 2010 Plan, as well as 186,000 shares of common stock reserved for future issuance under our 2010 Plan, in addition to 6,833,840 shares of common stock underlying outstanding warrants with a weighted-average exercise price of $1.56 per share.

Unless otherwise indicated, all information in this prospectus assumes that the underwriters do not exercise their right to purchase up to 150,000 additional shares to cover overallotments, if any.

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SUMMARY FINANCIAL DATA

The following summary financial data should be read together with our financial statements and the related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" appearing elsewhere in this prospectus. The summary financial data in this section is not intended to replace our financial statements and the related notes. Our historical results are not necessarily indicative of the results to be expected for any future period.

We were incorporated on April 30, 2009. The following statement of operations data, including share data, for the fiscal years ended December 31, 2010 and 2011 have been derived from our audited financial statements and related notes included elsewhere in this prospectus. The balance sheet data as of December 31, 2011 and December 31, 2010 has been derived from our audited financial statements included elsewhere in this prospectus. The operating results for any period are not necessarily indicative of financial results that may be expected for any future period.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)
CONSOLIDATED STATEMENTS OF OPERATIONS

	For The Twelve Months Ended December 31,		From April 30, 2009 (Inception) Through December 31,
	2011	2010	2011
Net Revenue	$ 1,500	$ —	$ 1,500
Cost of Goods Sold	(5,164)	—	(5,164)
Gross Profit	(3,664)	—	(3,664)
Selling expenses	(160,851)	(12,204)	(160,851)
General and Administrative expenses	(3,172,649)	(1,065,792)	(3,172,649)
Loss on Reduction of Inventory to LCM	(92,026)	—	(92,026)
Total operating expenses	(3,425,526)	(1,077,996)	(3,425,526)
Operating Loss	(3,429,190)	(1,077,996)	(3,429,190)
Interest Income	4,914	455	4,914
Interest Expense	(17,992)	(9,139)	(17,992)
Net Loss before Income Taxes	(3,442,269)	(1,086,680)	(3,442,269)
Income Taxes	—	250	—
Net Loss	$ (3,442,269)	$ (1,086,930)	$ (3,442,269)
Loss per common share – basic	$ (0.38)	$ (0.18)	$ (0.52)
Loss per common share – diluted	$ (0.38)	$ (0.18)	$ (0.52)
Weighted average shares outstanding, basic	9,117,746	5,935,897	6,645,834
Weighted average shares outstanding, diluted	9,117,746	6,004,721	6,645,834

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	As of December 31, 2011	
	Actual	As-adjusted
	(Unaudited)	
Balance Sheet Data:		
Total assets	$ 3,071,894	$ 7,971,894
Total liabilities	$ 1,512,173	$ 1,512,173
Stockholders' equity:		
Common Stock, $0.001 par value, 75,000,000 shares authorized, 11,256,867 shares outstanding, actual, as of December 31, 2011, and 12,256,867 shares outstanding, as-adjusted, as of December 31, 2011	11,257	12,257
Additional paid-in capital	6,200,520	11,099,520
Accumulated deficit	(4,652,056)	(4,652,056)
Total stockholders' equity	1,559,721	6,459,721
Total liabilities & stockholders' equity	$ 3,071,894	$ 7,971,894

The December 31, 2011 as-adjusted balance sheet data reflects the sale of 1,000,000 shares in this offering at an assumed initial public offering price of $6.00 per share, which is the mid-point of the price range listed on the cover page of this prospectus, after deducting underwriting discounts and commissions of 7%, non-accountable expense reimbursement fee of 3% and estimated offering expenses of approximately $500,000 payable by us.

RISK FACTORS

A purchase of our shares of common stock is an investment in our securities and involves a high degree of risk. You should carefully consider the following information about these risks, together with the other information contained in this prospectus, before purchasing our securities. If any of the following risks actually occur, our business, financial condition and results of operations would likely suffer. In that case, the market price of the common stock could decline, and you may lose part or all of your investment in our company.

Risks Relating to our Business

We have only a limited operating history, and, as such, an investor cannot assess our profitability or performance based on past results.

We are a development stage company, with operations beginning in December 2008 around acquiring the MASCT System patent rights and assignments and the FDA clearance for marketing, which was completed in January 2009. We were incorporated in Delaware in April 2009 and our operations to date have consisted primarily of securing manufacturing for the MASCT and the Duct Microcatheter Systems, establishing our CLIA-certified laboratory, validating the Laboratory Developed Tests we use in the ForeCYTE and ArgusCYTE tests, conducting research and development on the FullCYTE and NextCYTE tests, and beginning the commercialization of our products. We will require significant additional capital to achieve our business objectives, and the inability to obtain such financing on acceptable terms or at all could lead to closure of the business.

Our revenue and income potential is uncertain. Any evaluation of our business and prospects must be considered in light of these factors and the risks and uncertainties often encountered by companies in the development stage. Some of these risks and uncertainties include our ability to:

- execute our business plan and commercialization strategy;
- work with contract manufacturers to produce the MASCT and Microcatheter Systems in commercial quantities;
- create brand recognition;
- respond effectively to competition;
- manage growth in operations;
- respond to changes in applicable government regulations and legislation;
- access additional capital when required;
- sell our products and service at the prices currently expected; and
- attract and retain key personnel.

Our independent auditors have issued a report questioning our ability to continue as a going concern.

The report of our independent auditors contained in our financial statements explains that we have not yet established an ongoing source of revenues sufficient to cover operating costs and allow us to continue as a going concern. Our ability to continue as a going concern is dependent on obtaining adequate capital to fund operating losses until we become profitable. If we are unable to obtain adequate capital, we may be unable to expand our product offerings or geographic reach and we could be forced to cease operations.

We will depend on the proceeds from this offering to continue the commercial launch of the ForeCYTE and ArgusCYTE Tests, and we do not have specific plans to obtain funding from alternative sources; if the proceeds from this offering are insufficient, the further commercial launch of our tests may be delayed.

We expect to spend substantial amounts of capital to:

- launch and commercialize the ForeCYTE and ArgusCYTE Tests, including the manufacture of the device in commercial quantities and building an independent distributor sales force to address certain markets;

- maintain laboratory facilities for our testing and analytical services, including necessary testing equipment; and
- continue our research and development activities to advance our product pipeline.

We expect that we will require additional capital beyond the proceeds from this offering to complete our commercialization plans and may need to raise additional funds if we encounter delays or problems in the production of the MASCT System device in commercial quantities, or the establishment of a larger sales force. We have not identified sources for such additional funding and cannot be certain that additional funding will be available on acceptable terms, or at all. If we are unable to raise additional capital in sufficient amounts or on acceptable terms, we may have to significantly delay, scale back or discontinue the commercialization of our products and services or our research and development activities.

Failure to raise additional capital as needed could adversely affect us and our ability to grow.

We will need considerable amounts of capital to develop our business. We may raise funds through public or private equity offerings or debt financings. If we cannot raise funds on acceptable terms when needed, we may be unable to grow or maintain the business. Furthermore, such lack of funds may inhibit our ability to respond to competitive pressures or unanticipated capital needs, or may force us to reduce operating expenses, which could significantly harm the business and development of operations. Because our independent auditors have expressed doubt as to our ability to continue as a "going concern," as reported in their report on our financial statements, our ability to raise capital may be severely hampered. Similarly, our ability to borrow any such capital may be more expensive and difficult to obtain until this "going concern" issue is eliminated.

We have a history of operating losses and expect to continue to incur losses in the future.

We have a limited operating history and have incurred total net operating losses of approximately $4.7 million from our incorporation in April 2009 through December 31, 2011. We have received only $1,500 in revenue to date and we do not expect that we will be in a position to generate significant revenue until we are able to launch our tests more broadly. Additionally, we will continue to incur further losses in connection with inventory costs for our medical test products, marketing and sales expenses in launching our products and services, research and development costs for additional tests, and the maintenance of our CLIA-certified laboratory. Accordingly, we may never achieve profitability.

Raising funds by issuing equity or debt securities could dilute the value of the common stock and impose restrictions on our working capital.

If we were to raise additional capital by issuing equity securities, the value of the then outstanding common stock would be reduced, unless the additional equity securities were issued at a price equal to or greater than the market value of the common stock at the time of issuance of the new securities. If the additional equity securities were issued at a per share price less than the per share value of the outstanding shares, then all of the outstanding shares would suffer a dilution in value with the issuance of such additional shares. Further, the issuance of debt securities in order to obtain additional funds may impose restrictions on our operations and may impair our working capital as we service any such debt obligations.

The products and services that we have developed or may develop may never achieve significant commercial market acceptance.

We may not succeed in achieving commercial market acceptance of any of our products and services. In order to market the MASCT System and to gain market acceptance for the MASCT System and our ForeCYTE and ArgusCYTE Tests, we will need to demonstrate to physicians and other healthcare professionals the benefits of the MASCT System and its practical and economic application for their particular practice. Despite FDA clearance for the MASCT System, many physicians and healthcare professionals may be hesitant to introduce new services, or techniques, into their practice for many reasons, including the learning curve associated with the adoption of such new services or techniques into already established procedures and the uncertainty of the applicability or reliability of the results of a new product. In addition, the availability of full or even partial payment for our products and tests, whether by third-party payors (e.g., insurance companies), or the patients themselves, will likely heavily influence physicians' decisions to recommend or use our products and services.

We will likely be increasingly required to offer discounted pricing arrangements to managed care payors and physicians and other referral services in response to competitive pressures.

There are other companies within the medical device product industry that have products used in NAF collection and there are laboratories other than ours that can process NAF samples. Because of this existing competition, as well as potential future competition from additional companies and laboratories, we will likely be increasingly required to offer discounted pricing arrangements to managed care payors, physicians and other referral services so that our products and services are selected over the products and services of others. If we offer such discounted pricing arrangements, our revenues will decrease and we may not generate sufficient revenue to cover our operating costs, which could materially adversely affect our business.

Additionally, such discounts could raise issues under the federal Anti-Kickback Statute and Medicare’s discriminatory billing prohibition. If we were found to be in violation of such statute or prohibition, we could be subject to significant fines, and these fines would likely materially adversely affect our business and results of operations.

We may encounter difficulties in operating or maintaining our laboratory facility, which could cause delays and unexpected problems.

We have established the CLIA-certified National Reference Laboratory for Breast Health as a wholly-owned subsidiary and we rely on this physical facility in Seattle, Washington for the testing of patient samples. Our facility has received California State, Washington State, and federal CLIA certification. However, our management team does not have significant prior experience with establishing and managing this type of laboratory facility. In addition, certain pieces of laboratory equipment required for the performance of our testing and analytical services may be difficult and costly to replace, and may require significant replacement lead-time. In the event that we are unable to maintain the laboratory facility in good working order, or if such laboratory or equipment is adversely affected by periodic malfunctions or man-made or natural disasters, then we may be unable to conduct business and meet potential customer demands for a significant period of time, which could negatively affect revenue and our long-term prospects.

The loss of the services of our Chief Executive Officer could adversely affect our business.

Our success is dependent in large part upon the ability to execute our business plan, manufacture the MASCT System, maintain our clinical and diagnostic laboratory, and attract and retain highly skilled professional, sales and marketing personnel. In particular, due to the relatively early stage of our business, our future success is highly dependent on the services of Steven C. Quay, our Chief Executive Officer and founder, who provides much of the necessary experience to execute our business plan. We do not currently maintain “key man” insurance with respect to Dr. Quay. The loss of his services for any reason could impede our ability to achieve our objectives, such as the commercialization of the MASCT System and the development of a core of healthcare professionals who use the MASCT System, particularly initially, as we seek to build a reputation among physicians and clinicians.

We may experience difficulty in locating, attracting, and retaining experienced and qualified personnel, which could adversely affect our business.

We will need to attract, retain, and motivate experienced anatomic pathologists, cytologists, histotechnologists, skilled laboratory and information technology staff, experienced sales representatives, and other personnel, particularly in the Greater Seattle area as we expand our commercialization activities. These employees may not be available in this geographic region. In addition, competition for these employees is intense and recruiting and retaining skilled employees is difficult, particularly for a development-stage organization such as ours. If we are unable to attract and retain qualified personnel, revenues and earnings may be adversely affected.

We have no prior experience with commercializing any products or services, and will need to establish a sophisticated sales and marketing effort in order to be successful.

We intend to build a network of regional, specialty distributors, each with a staff of independent sales representatives with experience in women’s health products to target physicians and mammography clinics in the United States. Marketing our products to physicians and healthcare professionals will require us to educate

such professionals on the comparative advantages of our products over other methods currently used for the detection and diagnosis of breast cancer. Experienced independent sales representatives may be difficult to locate and all sales representatives will need to undergo extensive training. We will need to incur significant costs to build, train, supervise and effectively deploy this independent sales force. We cannot be certain that we will be able to recruit sufficiently skilled sales representatives or that any new sales representatives will ultimately become productive. Independent sales representatives may carry competing products or products that provide a better financial return to them and therefore may not emphasize our products. If we are unable to recruit, train and retain qualified and productive independent sales personnel, our ability to successfully commercialize our products and services will be impaired.

We use third-party suppliers for the production of the MASCT and Microcatheter System in commercial quantities and the loss of such suppliers could adversely affect our business.

We rely on third-party suppliers for the continued manufacture and supply of the MASCT and Microcatheter Systems, NAF collection device and patient collection kits and for the laboratory instruments, equipment, consumable supplies, and other materials necessary to perform the specialized diagnostic tests. We currently source the NAF collection device, patient collection kits and Microcatheter Systems from sole suppliers. If our third-party suppliers cannot produce the MASCT device, patient collection kits or Microcatheter System in quantities sufficient for our commercial needs on acceptable terms, or at all, we will be unable to commercialize our products and services and generate revenues from their sales as planned. In addition, if at any time after commercialization of our products, we are unable to secure essential equipment or supplies in a timely, reliable and cost-effective manner, we could experience disruptions in our services that could adversely affect anticipated results.

Currently Medicare and certain insurance carriers will not reimburse for the NAF collection procedure, which could slow or limit adoption of the MASCT System or prevent us from pricing the MASCT System at desired levels.

The Halo® Breast Pap Test, an NAF collection device similar to the MASCT System, is being marketed by Neomatrix LLC, or Neomatrix, of Irvine, California (Neomatrix owns the registered trademark Halo®). Certain insurance carriers do not currently reimburse for the HALO System procedures. For example, in September 2010, United Healthcare published a policy statement indicating that it would not cover the costs of these procedures because it believes there is insufficient clinical evidence to support medical efficacy, based on its conclusion that there is inadequate clinical evidence that automated nipple aspiration either allows for better clinical decision-making or reduces breast cancer mortality. United Healthcare also recommended further studies to determine the efficacy of cytological examination of ductal fluid in detecting atypical cells to identify women at increased risk of breast cancer, as well as comparisons of the results to established methods of detecting and diagnosing breast cancer. Similarly, Medicare does not currently reimburse for the NAF collection procedure. Lack of Medicare or insurance coverage will require patients to bear the full costs of the NAF sample acquisition process used with the MASCT System. As a result, and particularly in light of healthcare reform and cost-containment initiatives being undertaken widely across the United States, physicians and other healthcare professionals may be slow to adopt the MASCT System and may not recommend its use in patients. We may be forced to reduce the price of the MASCT System components in response to low demand or to provide discounted pricing arrangements in order to secure sales, or may not be able to sell the product and services components of the MASCT System at acceptable margins, which would severely limit our ability to generate revenues.

Our intended business to sell predictive medical products may expose us to possible litigation and product liability claims.

Our business may expose us to potential product liability risks from the MASCT System, ForeCYTE Test, and/or ArgusCYTE Test inherent in the testing, marketing and processing of predictive, or personalized medical products. Product liability risks may arise from, but are not limited to:

- the inability of the MASCT System to extract a sufficient NAF sample from the breast, which may lead to an NAF sample size that is inadequate for proper processing at our laboratory and insufficient for screening, which could lead to an inaccurate assessment of the health of the patient;

- failure by healthcare professionals to properly safeguard NAF samples collected using the MASCT System;
- the potential loss, mislabeling or misplacement of NAF sample shipments and test kits;
- the MASCT System is a manually operated device, and, as a result, human error may result in improper collection of NAF or application of the MASCT System;
- inadequate cleaning of the collection pump between patients resulting in mixing of NAF samples from two patients or NAF samples attributed to the wrong patient;
- improper fitting of the MASCT System device to the breast; and
- inadequate cleaning of the breast prior to applying the MASCT System.

The ArgusCYTE Test must be run on fresh blood and improper storage conditions following drawing from the patient could lead to a missed diagnosis.

A successful product liability claim, or the costs and time commitment involved in defending against a product liability claim, could have a material adverse effect on our business. Any successful product liability claim may prevent us from obtaining adequate product liability insurance in the future on commercially desirable or reasonable terms. An inability to obtain sufficient insurance coverage at an acceptable cost, or otherwise, to protect against potential product liability claims could prevent or inhibit the commercialization of our products.

Our laboratory activities, including the analysis and reading of the NAF tests could expose us to possible litigation based on malpractice, data aggregation errors, or misdiagnoses.

Through a wholly-owned subsidiary, we operate a CLIA-certified laboratory to analyze patient samples and to report the results to referring healthcare professionals, researchers and potential collaborators worldwide. We or our subsidiary may be subject to claims by an affected patient, healthcare provider, researcher or collaborator if laboratory personnel make any of the following mistakes, by way of example:

- errors in the analysis of the tests;
- incorrect aggregation, categorization or labeling of data;
- improper, incorrect or inaccurate development of a computer database which categorizes, analyzes, or compares test data; or
- misinterpretation of the results of the test or collected data.

We maintain insurance to protect against such suits, but we cannot be certain that the insurance will be sufficient to cover potential damages, or that it will be cost-effective for us to maintain such a policy. Any adverse outcome against us could involve significant monetary judgments and could severely impact our financial resources and would be expected to impair our ability in the future to obtain malpractice, or other insurance, for our laboratory services.

If our patents do not adequately protect our products, others could compete with us more directly, which would adversely affect our business.

Our commercial success will depend in part on our ability to obtain new patents and enforce existing patents, as well as our ability to maintain adequate protection of other intellectual property for our technologies and products in the United States and abroad. If we do not adequately protect our intellectual property, competitors may be able to use our technologies and erode or negate any competitive advantage we may otherwise have, which could adversely affect our business, negatively affect our position in the marketplace and limit our ability to commercialize our products. The laws of some foreign countries do not protect our proprietary rights to the same extent as the laws of the United States, and we may encounter significant problems in protecting our proprietary rights in these countries.

The patent positions of diagnostic, medical device, and pharmaceutical companies, including ours, involve complex legal and factual questions, and, therefore, validity and enforceability cannot be predicted with certainty, nor can we be certain that we are not infringing the patents of others. Our patents may be

challenged, deemed unenforceable, invalidated or circumvented. In particular, on March 20, 2012, the U.S. Supreme Court issued a decision in *Mayo Collaborative Services, DBA Mayo Medical Laboratories, et al. v. Prometheus Laboratories, Inc.*, No. 10-1150, holding that several claims drawn to measuring drug metabolite levels from patient samples were not patentable subject matter. Although the Court's decision seems to impact diagnostics patents that merely apply a law of nature via a series of routine steps, the full impact of the *Prometheus* decision is not yet known. We will thus be able to protect our proprietary rights from unauthorized use by third parties only to the extent that our proprietary technologies, existing products and any future products are covered by valid and enforceable patents or are effectively maintained as trade secrets, and we are willing and have the necessary resources to take enforcement action against such unauthorized use by third parties.

The degree of future protection for our proprietary rights is uncertain, and we cannot ensure that:

- we were the first to make the inventions covered by each of our patents and pending patent applications;
- we were the first to file patent applications for these inventions;
- others will not independently develop similar, or alternative technologies, or duplicate any of our technologies;
- any of our pending patent applications will result in issued patents;
- any of our issued patents will be valid or enforceable;
- any patents issued to us will provide a basis for commercially viable products, will provide us with any competitive advantages or will not be challenged by third parties;
- we will develop additional proprietary technologies or products that are patentable; or
- the patents of others will not have an adverse effect on our business.

We may be unable to adequately prevent disclosure of trade secrets and other proprietary information.

We rely on trade secrets to protect our proprietary know-how and technological advances, particularly where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. We rely in part on confidentiality agreements with our employees, consultants, outside scientific collaborators and other advisors to protect our trade secrets and other proprietary information. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, others may independently discover our trade secrets and proprietary information. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights. Failure to obtain, or maintain, trade secret protection could enable competitors to use our proprietary information to develop products that compete with our products or cause additional, material adverse effects upon our competitive business position.

Our current patent portfolio may not include all patent rights needed for the full development and commercialization of our products. We cannot be sure that patent rights we may need in the future will be available for license on commercially reasonable terms, or at all.

Although our patents may prevent others from making, using or selling similar products, they do not ensure that we will not infringe the patent rights of third parties. We may not be aware of all patents or patent applications that may impact our ability to make, use or sell our products or services. Furthermore, we may not be aware of published or granted conflicting patent rights. Any conflicts resulting from patent applications and patents of others could significantly reduce the coverage of our patents and limit our ability to obtain meaningful patent protection. If others obtain patents with conflicting claims, we may need to obtain licenses to these patents or to develop or obtain alternative technology.

We may be unable to obtain any licenses or other rights to patents, technology or know-how from third parties necessary to conduct our business as described in this prospectus and such licenses, if available at all, may not be available on commercially reasonable terms. Any failure to obtain such licenses could delay or prevent us from developing or commercializing our proposed products and services, which would harm our

business. Litigation or patent interference proceedings need to be brought against third parties, as discussed below, to enforce any of our patents or other proprietary rights, or to determine the scope and validity or enforceability of the proprietary rights of such third parties.

Litigation regarding patents, patent applications and other proprietary rights may be expensive and time consuming. If we are involved in such litigation, we could be delayed in bringing product or service candidates to market and our ability to operate could be harmed.

Our commercial success will depend in part on our ability to manufacture, use and sell products and services without infringing patents or other proprietary rights of third parties. Third parties may challenge or infringe upon our, or our licensors', existing or future patents. Although we are not currently aware of any pending or actual litigation, or other proceedings, or third-party claims of intellectual property infringement related to the MASCT System, the Mammary Ductal Microcatheter System or other product candidates, the medical device and diagnostic industry is characterized by extensive litigation regarding patents and other intellectual property rights. Other parties may obtain patents in the future and allege that the use of our technologies infringes these patent claims or that it is employing their proprietary technology without authorization.

Legal proceedings involving our patents or patent applications, or those of others, could result in adverse decisions regarding the patentability of our inventions relating to our products or the enforceability, validity or scope of protection offered by our patents.

Even if we are successful in proceedings involving our intellectual property rights or those of others, we may incur substantial costs and divert management time and attention in pursuing these proceedings. If we are unable to avoid infringing the patent rights of others, we may be required to seek a license, defend an infringement action, or challenge the validity of the patents in court. Patent litigation is costly and time-consuming and we may not have sufficient resources to bring enforcement actions to a successful conclusion. In addition, if we do not obtain a license, develop or obtain non-infringing technology, fail to defend an infringement action successfully or have infringed patents declared invalid, we may incur substantial monetary damages, encounter significant delays in bringing our product candidates to market, or be precluded from participating in the manufacture, use or sale of our products or product candidates or methods of treatment requiring licenses.

Risks Related to our Industry

Our inadvertent or unintentional failure to comply with the complex government regulations concerning privacy of medical records could subject us to fines and adversely affect our reputation.

The federal privacy regulations, among other things, restrict our ability to use or disclose protected health information in the form of patient-identifiable laboratory data, without written patient authorization, for purposes other than payment, treatment, or healthcare operations (as defined under the Health Insurance Portability and Accountability Act, or HIPAA) except for disclosures for various public policy purposes and other permitted purposes outlined in the privacy regulations. The privacy regulations provide for significant fines and other penalties for wrongful use or disclosure of protected health information, including potential civil and criminal fines and penalties. Although the HIPAA statute and regulations do not expressly provide for a private right of damages, we could incur damages under state laws to private parties for the wrongful use or disclosure of confidential health information or other private personal information.

We intend to implement policies and practices that we believe will make us compliant with the privacy regulations. However, the documentation and process requirements of the privacy regulations are complex and subject to interpretation. Failure to comply with the privacy regulations could subject us to sanctions or penalties, loss of business, and negative publicity.

The HIPAA privacy regulations establish a “floor” of minimum protection for patients as to their medical information and do not supersede state laws that are more stringent. Therefore, we are required to comply with both HIPAA privacy regulations and various state privacy laws. The failure to do so could subject us to regulatory actions, including significant fines or penalties, and to private actions by patients, as well as to adverse publicity and possible loss of business. In addition, federal and state laws and judicial decisions provide individuals with various rights for violation of the privacy of their medical information by healthcare providers such as us.

Changes in regulations, policies, or payor mix may adversely affect reimbursement for laboratory services and could have a material adverse impact on our revenues and profitability.

Most of our services will be billed to a party other than the physician who ordered the test. Reimbursement levels for healthcare services are subject to continuous and often unexpected changes in policies. Changes in governmental and third-party reimbursement rates and policies may result from statutory and regulatory changes, retroactive rate adjustments, administrative rulings, competitive bidding initiatives, and other policy changes. Uncertainty also exists as to the coverage and reimbursement status of new services. Government payors and insurance companies have increased their efforts to control the cost, utilization, and delivery of healthcare services. For example, at least yearly, Congress has considered and enacted changes in the Medicare fee schedule in conjunction with budgetary legislation. Further reductions of reimbursement for Medicare services or changes in policy regarding coverage of tests may be implemented from time to time. The payment amounts under the Medicare fee schedules are often used as a reference for the payment amounts set by other third-party payors. As a result, a reduction in Medicare reimbursement rates could result in a corresponding reduction in the reimbursements we may receive from such third-party payors. Changes in test coverage policies of other third-party payors may also occur. Such reimbursement and coverage changes in the past have resulted in reduced prices, added costs and reduced accession volume, and have imposed more complex regulatory and administrative burdens. Further changes in federal, state, and local third-party payor laws, regulations, or policies may have a material adverse impact on our business.

Failure to participate as a provider with payors, or operating as a non-contracting provider, could have a material adverse effect on revenues.

The healthcare industry has experienced a trend of consolidation among healthcare insurers, resulting in fewer but larger insurers with significant bargaining power in negotiating fee arrangements with healthcare providers, including laboratories. Managed care providers often restrict their contracts to a small number of laboratories that may be used for tests ordered by physicians in the managed care provider’s network. We currently do not have any managed care provider contracts and there can be no assurance any contracts will be established. If we do not have a contract with a managed care provider, we may be unable to gain those physicians as clients. In cases in which we will contract with a specified insurance company as a participating provider, we will be considered “in-network,” and the reimbursement of third-party payments is governed by contractual relationships. Our in-network services will be primarily negotiated on a fee-for-service basis at a discount from our patient fee schedule, which could result in price erosion that would adversely affect revenues. Our failure to obtain managed care contracts, or participate in new managed care networks, could adversely affect revenues and profitability. In cases in which we do not have a contractual relationship with an insurance company, or are not an approved provider for a government program, we will have no contractual right to collect for services and such payors may refuse to reimburse us for services, which could lead to a decrease in accession volume and a corresponding decrease in revenues. As an out-of-network provider, reductions in reimbursement rates for non-participating providers could also adversely affect us. Third-party payors, with whom we do not participate as a contracted provider, may also require that we enter into contracts, which may have pricing and other terms that are materially less favorable than the terms under which we intend to operate. While accession volume may increase as a result of these contracts, revenues per accession may decrease.

Use of our laboratory services as a non-participating provider is also expected to result in greater co-payments for the patient, unless we elect to treat patients as if we were a participating provider in accordance with applicable law. Treating such patients as if we were a participating provider may adversely impact results of operations because we may be unable to collect patient co-payments and deductibles. In some states, applicable law prohibits us from treating these patients as if we were a participating provider. As a result, referring physicians may avoid use of our services, which could result in a decrease in accession volume and adversely affect revenues.

Changes in FDA policies regarding the “home brew” exception from FDA review for laboratory-developed tests and reagents could adversely affect our business and results of operations.

Laboratory diagnostic tests developed and validated by a laboratory for its own use, also known as laboratory developed tests, which are referred to as LDTs or “home brew” tests, are subject to regulation under the federal Food, Drug and Cosmetic Act, or FDCA. To date, the FDA has decided, as a matter of

enforcement discretion, not to exercise its authority with respect to most “home brew” tests performed by high complexity laboratories certified under CLIA, which is the type of laboratory that we have established. In addition, manufacturers and suppliers of analyte specific reagents, or ASRs, which we may utilize in our LDTs, are required to register with the FDA, conform manufacturing operations to the FDA’s Quality System Regulation, or QSR, and comply with certain reporting and other record keeping requirements. The FDA regularly considers the application of additional regulatory controls over the development and use of LDTs by laboratories. It is possible that the FDA will require premarket notification or approval for LDT diagnostic tests that we may develop and perform in the future. The FDA held public hearings in the third quarter of 2010 to discuss how it will oversee LDTs. No definitive recommendations or findings have yet come from these hearings, but it is likely that the FDA will impose additional or new regulations affecting LDTs, including requiring premarket notification or approval for these tests. Any premarket notification or approval requirements could restrict or delay our ability to provide specialized diagnostic services and may adversely affect our business. FDA regulation of LDTs, or increased regulation of the various medical devices used in laboratory-developed testing, could increase the regulatory burden and generate additional costs and delays in introducing new tests.

The failure to comply with complex federal and state laws and regulations related to submission of claims for services could result in significant monetary damages and penalties and exclusion from the Medicare and Medicaid programs.

We are subject to extensive federal and state laws and regulations relating to the submission of claims for payment for services, including those that relate to coverage of services under Medicare, Medicaid, and other governmental healthcare programs, the amounts that may be billed for services, and to whom claims for services may be submitted, such as billing Medicare as the secondary, rather than the primary, payor. The failure to comply with applicable laws and regulations, for example, enrollment in PECOS, the Medicare Provider Enrollment, Chain and Ownership System, could result in our inability to receive payment for our services or attempts by third-party payors, such as Medicare and Medicaid, to recover payments from us that we have already received. Submission of claims in violation of certain statutory or regulatory requirements can result in penalties, including civil money penalties of up to $10,000 for each item or service billed to Medicare in violation of the legal requirement, and exclusion from participation in Medicare and Medicaid. Government authorities may also assert that violations of laws and regulations related to submission of claims violate the federal False Claims Act or other laws related to fraud and abuse, including submission of claims for services that were not medically necessary. The Company will be generally dependent on independent physicians to determine when its services are medically necessary for a particular patient. Nevertheless, we could be adversely affected if it was determined that the services we provided were not medically necessary and not reimbursable, particularly if it were asserted that we contributed to the physician’s referrals of unnecessary services. It is also possible that the government could attempt to hold us liable under fraud and abuse laws for improper claims submitted by us if it were found that we knowingly participated in the arrangement that resulted in submission of the improper claims.

Our business is subject to rapid technological innovation, and the development by third parties of new or improved diagnostic testing technologies or information technology systems could have a material adverse effect on our business.

The anatomic pathology industry is characterized by rapid changes in technology, frequent introductions of new diagnostic tests, and evolving industry standards and client demands for new diagnostic technologies. Advances in technology may result in the development of more point-of-care testing equipment that can be operated by physicians or other healthcare providers in their offices, or by patients themselves, without the services of freestanding laboratories and pathologists, thereby reducing demand for our services. In addition, advances in technology may result in the creation of enhanced diagnostic tools that enable other laboratories, hospitals, physicians, patients, or third parties to provide specialized laboratory services superior to ours, or that are more patient-friendly, efficient, or cost-effective. Our success depends in part upon our ability to acquire or license on favorable terms or develop new and improved technologies for early diagnosis before its competitors and to obtain appropriate reimbursement for diagnostic tests using these technologies. Introduction of prophylactic treatments or cures for breast cancer could substantially reduce or eliminate demand for our services.

Risks Related to This Offering, the Securities Markets and Investment in our Securities

There has been no prior public market for our common stock and the lack of such a market may make resale of our stock difficult.

No prior public market has existed for our common stock and we cannot assure any investor that an active trading market will develop following this offering. We intend to apply for listing of our common stock on the NASDAQ Capital Market. However, we do not know whether an active trading market for our common stock will ever develop or continue, particularly in light of the relatively small size of this offering. If a public trading market does not develop, you may have difficulty selling your common stock.

The ownership of our common stock is concentrated among a small number of stockholders, and if our principal stockholders, directors and officers choose to act together, they may be able to significantly influence management and operations, which may prevent us from taking actions that may be favorable to you.

Our ownership is concentrated among a small number of stockholders, including our founders, directors, officers and entities related to these persons. Following the completion of this offering, our directors, officers and entities affiliated with them will beneficially own over 35% of our outstanding voting securities. Accordingly, these stockholders, acting together, will have the ability to exert substantial influence over all matters requiring approval by our stockholders, including the election and removal of directors and any proposed merger, consolidation or sale of all or substantially all of our assets. This concentration of ownership could have the effect of delaying, deferring or preventing a change in control of the Company or impeding a merger or consolidation, takeover or other business combination that could be favorable to you.

Anti-takeover provisions in our charter documents and Delaware law could delay or prevent a change in control which could limit the market price of the our common stock and could prevent or frustrate attempts by the our stockholders to replace or remove current management and the current Board of Directors.

Our amended and restated certificate of incorporation and amended and restated bylaws, which will become effective upon the completion of this offering, contain provisions that could delay or prevent a change in control or changes in our Board of Directors that our stockholders might consider favorable. These provisions include the establishment of a staggered Board of Directors, which divides the board into three classes, with directors in each class serving staggered three-year terms. The existence of a staggered board can make it more difficult for a third party to effect a takeover of our company if the incumbent board does not support the transaction. For more information about these anti-takeover provisions as well as anti-takeover provisions under the Delaware General Corporation Law, please see “Description of Securities — Anti-Takeover Devices.” These and other provisions in our corporate documents and Delaware law might discourage, delay or prevent a change in control or changes in the Board of Directors of the Company. These provisions could also discourage proxy contests and make it more difficult for an investor and other stockholders to elect directors not nominated by our Board. Furthermore, the existence of these provisions, together with certain provisions of Delaware law, might hinder or delay an attempted takeover other than through negotiations with the Board of Directors.

We do not expect to pay dividends in the future, which means that investors may not be able to realize the value of their shares except through a sale.

We have never, and do not anticipate that we will, declare or pay a cash dividend. We expect to retain future earnings, if any, for our business and do not anticipate paying dividends on common stock at any time in the foreseeable future. Because we do not anticipate paying dividends in the future, the only opportunity for our stockholders to realize the creation of value in our common stock will likely be through a sale of those shares.

FORWARD-LOOKING STATEMENTS

This prospectus contains, in addition to historical information, certain information, assumptions and discussions that may constitute forward-looking statements. These statements are subject to certain risks and uncertainties, which could cause actual results to differ materially from those projected or anticipated. Although we believe our assumptions underlying our forward-looking statements are reasonable as of the date of this prospectus, we cannot assure you that the forward-looking statements set out in this prospectus will prove to be accurate. We typically identify these forward-looking statements by the use of forward-looking words such as “expect,” “potential,” “continue,” “may,” “will,” “should,” “could,” “would,” “seek,” “intend,” “plan,” “estimate,” “anticipate” or the negative version of those words or other comparable words. Forward-looking statements contained in this prospectus include, but are not limited to, statements about:

- our ability to successfully sell our products and services at currently expected prices or otherwise at prices acceptable to us;
- our ability to successfully develop and commercialize new tests and technologies currently in development and in the time frames currently expected;
- our ability to engage third-party suppliers to manufacture the MASCT or Microcatheter System and its components at quantities and costs acceptable to us;
- our ability to satisfy ongoing FDA requirements for the MASCT and Microcatheter System and to obtain regulatory approvals for our other products and services in development;
- the benefits and clinical accuracy of the ForeCYTE and ArgusCYTE Tests and whether any product or service that we commercialize is safer or more effective than competing products and services;
- our ability to establish and maintain intellectual property rights covering our products and services;
- the willingness of health insurance companies and other third-party payors to approve our products and services for coverage and reimbursement;
- our ability to establish and maintain an independent sales representative force to market our products and services that we may develop, both regionally and nationally;
- our expectations regarding, and our ability to satisfy, federal, state and foreign regulatory requirements;
- the accuracy of our estimates of the size and characteristics of the markets that our products and services may address;
- our expectations as to future financial performance, expense levels and liquidity sources; and
- our ability to attract and retain key personnel.

This prospectus also contains estimates and other statistical data provided by independent parties and by us relating to market size and growth and other industry data. These and other forward-looking statements made in this prospectus are presented as of the date on which the statements are made. We have included important factors in the cautionary statements included in this prospectus, particularly in the section entitled “Risk Factors,” that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any new information, future events or circumstances that may affect our business after the date of this prospectus. Except as required by law, we do not intend to update any forward-looking statements after the date on which the statement is made, whether as a result of new information, future events or circumstances or otherwise.

USE OF PROCEEDS

We estimate that the net proceeds of the sale of the shares that we are offering will be approximately $4.9 million, or approximately $5.7 million if the underwriters exercise their over-allotment option in full, assuming an initial public offering price of $6.00 per share, which is the midpoint of the range listed on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions, underwriter non-accountable expense reimbursement fee, other underwriter expense reimbursement obligations and estimated offering expenses that we must pay.

A $1.00 increase (decrease) in the assumed initial public offering price of $6.00 per share would increase (decrease) the net proceeds to us from this offering by approximately $900,000, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The principal purposes of this offering are to obtain additional working capital to fund anticipated operating expenses, establish a public market for our common stock and facilitate future access to the public capital markets. We estimate that we will use the net proceeds from this offering primarily for the following purposes:

- up to approximately $500,000 of these net proceeds to expand our cytology and molecular diagnostics laboratory;
- up to approximately $500,000 of these net proceeds to fund manufacture of a number of MASCT System units needed to launch the MASCT System across the United States as our initial national roll-out of the product;
- up to approximately $1,500,000 of these net proceeds to hire and train sales and marketing personnel for initial regional marketing and subsequent national distribution;
- up to approximately $1,000,000 of these net proceeds to develop and commence manufacturing and commercialization of the FullCYTE Test;
- up to approximately $1,000,000 of these net proceeds to develop and commercialize the NextCYTE Test; and
- the remaining net proceeds for the research and development of Intraductal Treatment Programs and for general working capital purposes.

A portion of the net proceeds may be used to acquire or invest in complementary businesses, technologies, services or products in the event that we identify opportunities for such acquisitions, or investments that we believe are in the best interests of our stockholders. We have no current plans, agreements or commitments with respect to any such acquisition or investment, and we are not currently engaged in any negotiations with respect to any such transaction.

Management will retain broad discretion in using the net proceeds of this offering. An investor will not have the opportunity to evaluate the economic, financial or other information on which we base our decisions on how to use the proceeds.

DIVIDEND POLICY

The Company does not anticipate that it will declare dividends in the foreseeable future, but rather intends to retain any future earnings for the development of the business. Payment of future cash dividends, if any, will be at the discretion of the Board of Directors of the Company after taking into account various factors, including the Company's financial condition, operating results, current and anticipated cash needs, outstanding indebtedness and plans for expansion and restrictions imposed by lenders, if any.

CAPITALIZATION

The following table sets forth our capitalization as of December 31, 2011 on:

- an actual basis; and
- an as-adjusted basis to reflect the receipt of the net proceeds from the sale of common stock in this offering at an assumed initial public offering price of $6.00 per share, which is the midpoint of the range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions, the underwriters' non-accountable expense reimbursement fee and estimated offering expenses.

A potential investor should read this capitalization table together with the financial statements and the related notes appearing elsewhere in this prospectus, as well as "Management's Discussion and Analysis of Financial Condition and Results of Operations" and other financial information included in this prospectus.

	As of December 31, 2011	
	Actual	As-Adjusted
	(unaudited)	
Common Stock, $0.001 par value, 75,000,000 shares authorized and 11,256,867 and 12,256,867 shares outstanding, actual and as-adjusted, respectively(1)	$ 11,257	$ 12,257
Additional paid-in capital	6,200,520	11,099,520
Accumulated deficit	(4,652,056)	(4,652,056)
Total stockholders' equity	$ 1,559,721	$ 6,459,721

(1) The number of shares of our common stock outstanding is based on 11,256,867 shares of common stock outstanding as of December 31, 2011, and excludes 814,000 shares issuable upon the exercise of options outstanding as of December 31, 2011 under our 2010 Plan, as well as 186,000 shares of common stock reserved for future issuance under our 2010 Plan, in addition to 6,833,840 shares of common stock underlying outstanding warrants with a weighted-average exercise price of $1.56 per share.

DILUTION

Our net tangible book value as of December 31, 2011 was $1,518,880, or $0.13 per share of common stock. Net tangible book value per share represents the amount of our total tangible assets less our total liabilities, divided by the number of shares of common stock outstanding as of December 31, 2011. After giving effect to the sale by us of 1,000,000 shares of common stock being sold in this offering at an assumed initial public offering price of $6.00 per share, which is the midpoint of the range listed on the cover page of this prospectus, and after deducting the 7% estimated underwriting discounts and commissions, the 3% non-accountable expense reimbursement fee, underwriter expense reimbursement obligations and estimated offering expenses payable by us, our pro forma net tangible book value as of December 31, 2011 would have been approximately $6.4 million, or approximately $0.52 per share. This amount represents an immediate increase in net tangible book value of $0.39 per share to our existing stockholders and an immediate dilution in net tangible book value of approximately $5.48 per share to new investors.

The following table illustrates this hypothetical per-share dilution:

Assumed initial public offering price		$ 6.00
Net tangible book value per share as of December 31, 2011	$ 0.13	
Increase in net tangible book value per share attributed to new investors purchasing shares in this offering	0.39	
As-adjusted net tangible book value per share after this offering		0.52
Dilution per share to new investors		$ (5.48)

A $1.00 increase (decrease) in the assumed initial public offering price of $6.00 per share would increase (decrease) our adjusted net tangible book value per share after this offering by approximately $0.07 and would increase (decrease) dilution per share to new investors by approximately $0.93, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. In addition, to the extent any outstanding options or warrants are exercised, you will experience further dilution.

The following table summarizes, as of December 31, 2011, the number of shares purchased from us, the total consideration paid or to be paid to us, and the average price per share paid or to be paid to us by existing stockholders and new investors purchasing a total of 1,000,000 shares of our common stock at an assumed offering price of $6.00 per share, which is the midpoint of the price range listed on the cover page of this prospectus.

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders	11,256,867	91.8%	$ 6,898,540	53.5%	$ 0.61
New investors	1,000,000	8.2%	6,000,000	46.5%	6.00
Total	12,256,867	100%	$ 12,898,540	100%	$ 1.05

A $1.00 increase (decrease) in the assumed initial public offering price of $6.00 per share would increase (decrease) the total consideration paid by new investors by $900,000 and increase (decrease) the percent of total consideration paid by new investors by 3.90% assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions, underwriter expense reimbursement obligations and estimated offering expenses payable by us.

Assuming the underwriters' over-allotment option is not exercised, sales by us in this offering will reduce the percentage of shares held by existing stockholders to approximately 91.8% and will increase the number of shares held by our new investors to approximately 1,000,000, or 8.2%.

The number of shares of our common stock to be outstanding after this offering is based on 11,256,867 shares of our common stock outstanding as of December 31, 2011 and excludes:

- 814,000 shares issuable upon the exercise of options outstanding as of December 31, 2011 under our 2010 Plan;
- 186,000 shares of common stock reserved for future issuance under our 2010 Plan; and
- 6,833,840 shares of common stock underlying outstanding warrants with a weighted-average exercise price of $1.56 per share.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION

AND RESULTS OF OPERATIONS

The following discussion of the financial condition and results of operations should be read in conjunction with the "Summary Financial Data" and the financial statements and the related notes included elsewhere in this prospectus. This discussion contains forward-looking statements, which are based on assumptions about the future of the Company's business. The actual results could differ materially from those contained in the forward-looking statements. Please read "Forward-Looking Statements" included elsewhere in this prospectus for additional information regarding forward-looking statements used in this prospectus.

Company Overview

We are a healthcare company focused on the prevention of breast cancer through the commercialization of diagnostic tests that can detect precursors to invasive breast cancer, and through the research, development, and ultimate commercialization of treatments for pre-cancerous lesions.

Our diagnostic tests consist of FDA-cleared and patented medical devices that can collect fluid and tissue samples from the breast milk ducts, where, according to the National Cancer Institute, over 95% of breast cancers arise. These samples are processed at our CLIA-certified laboratory, the National Reference Laboratory for Breast Health, which examines the specimens by microscopy for the presence of normal, pre-malignant, or malignant changes as determined by cytopathology and biomarkers that distinguish "usual" ductal hyperplasia, a benign condition, from atypical ductal hyperplasia, which may lead to cancer. These cytopathological results provide patients and physicians with information about the care path that should be followed, depending on the individual risk of future cancer as determined by the results.

Additionally, we are conducting research on the treatment of these pre-cancerous cells by using our patented and FDA-cleared microcatheters to deliver, directly into the milk ducts, anti-cancer drugs that can be used to treat these pre-cancerous lesions. By using this localized delivery method, patients receive high local concentrations of these drugs at the site of the pre-cancerous lesions, potentially promoting efficacy of the treatment while limiting systemic exposure, which has the potential to lower the overall toxicity of these treatments.

Current Operations

We launched our commercial operations in late 2011 and, as of March 31, 2012, have enrolled and sold MASCT System kits or provided ArgusCYTE collection kits to 25 doctors and clinics as providers of the ForeCYTE and/or ArgusCYTE tests and have received, processed, and reported the results to physicians from 276 ForeCYTE samples and 13 ArgusCYTE samples. As of December 31, 2011, we have only generated $1,500 in revenues from the sale of our products and services. We incurred net operating losses of approximately $1.1 million and $3.4 million for our fiscal years ended December 31, 2010 and 2011, respectively. As of December 31, 2011, we had an accumulated deficit of approximately $4.7 million. We have not yet established an ongoing source of revenues sufficient to cover our operating costs and allow us to continue as a going concern. Our ability to continue as a going concern is dependent on obtaining adequate capital to fund operating losses until we become profitable. We plan to obtain additional capital resources by selling our equity securities, selling the MASCT System and generating laboratory service revenue from our tests, and making short-term borrowings from stockholders or other related parties when needed. However, we cannot assure you that we will be successful in accomplishing any of these plans and, if we are unable to obtain adequate capital, we could be forced to cease operations.

Revenue Sources

The commercialization of the ForeCYTE Test provides us with two revenue sources: (i) sales-based revenue from the sale of the MASCT System device and patient kits to physicians, breast health clinics, and mammography clinics and (ii) service, or use-based, revenue from the preparation and interpretation of the NAF samples sent to our laboratory for analysis. The commercialization of the ArgusCYTE test provides only laboratory service revenue.

Commencing in December 2011, we began to market the ForeCYTE Test to physicians, primarily obstetric-gynecologists, as well as breast health and mammography clinics, for use in conjunction with other

health screening examinations, including annual physical examinations and regularly scheduled cervical Pap smears and mammograms. We are establishing relationships with breast cancer centers to provide the ArgusCYTE Test to their patients. We plan to initially use regional specialty product distributors, with independent sale representatives specializing in Women’s Health, to commercialize the ForeCYTE and ArgusCYTE Tests. As of March 1, 2012, we have one person involved in sales; however, we cannot be certain that we will be able to build distributor relationships adequately to address the national market. In addition to Dr. Quay, we hired a board-certified pathologist part-time to assist in the interpretation of the NAF samples.

We intend to use the net proceeds from this offering to expand our cytology and molecular diagnostics laboratory, fund the manufacture of MASCT System units, hire and train sales and marketing personnel, continue the research and development of the FullCYTE and NextCYTE Tests, support the internal research and development of the Intraductal Treatment Research Program, and for general corporate purposes.

Commercial Lease Agreements

In December 2009, we entered into a commercial lease agreement with Ensisheim, an affiliated entity, for office space located in Seattle, Washington. From inception through December 31, 2009, we incurred only a nominal amount of rent expense for the lease. For the period of January 1, 2010 through June 30, 2010, we incurred $6,600 of rent expense for the lease. We and Ensisheim terminated the lease, effective July 1, 2010 and we commenced use of the facility rent-free for the period from July 1, 2010 through March 31, 2011. In March 2011, we entered into a commercial lease agreement with Sanders Properties, LLC for the same office space located in Seattle, Washington. The lease provides for monthly rent of $1,100 and a security deposit of $1,500. The lease terms are from April 1, 2011 to March 31, 2013. For the period of April 1, 2011 through December 31, 2011, we incurred $9,900 of rent expense for the lease.

In September 2010, we entered into a commercial lease agreement with CompleGen, Inc. for laboratory space located in Seattle, Washington. The lease provides for monthly rent of $3,657. The initial lease term was from September 2010 through March 2011, at which time the lease converted into a month-to-month lease.

In July 2011, we entered into a commercial lease agreement with Sanders Properties, LLC for another office space located in Seattle, Washington. The lease provides for monthly rent of $600 and a security deposit of $1,200. The lease terms are from July 11, 2011 to July 31, 2012. For the period of July 11, 2011 through December 31, 2011, we incurred $3,395 of rent expense for the lease.

In September 2011, we entered into a commercial lease agreement with Sanders Properties, LLC for additional office space located in Seattle, Washington. The lease provides for monthly rent of $1,400 and a security deposit of $1,000. The lease terms are from October 1, 2011 to March 31, 2012. For the period of October 1, 2011 through December 31, 2011, we incurred $4,200 of rent expense for the lease. This lease ended on March 31, 2012 and was not renewed.

In December 2011, we entered into a commercial lease agreement with Fred Hutchison Cancer Research Center for laboratory space located in Seattle, Washington. The lease provides for monthly rent of $16,395. The lease terms are from February 2012 through November 2014. We will initially rent temporary office and laboratory space of 6,342 sq. ft. and then move into permanent office and laboratory space in the same building of 7,504 sq. ft. in or around October 2012. We will be entitled to rent abatement for 6.25 months upon moving into the permanent space. We expect to move our CLIA-certified laboratory facilities and executive offices into this space once the new space is CLIA-certified and we expect to terminate our month-to-month lease with CompleGen following completion of this move.

We expect that these new facilities will be sufficient to meet our needs for the foreseeable future and we do not expect to need additional office and laboratory space for at least the next 24 months.

Critical Accounting Policies and Estimates

Our management’s discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States, or GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses. On an ongoing

basis, we evaluate these estimates and judgments, including those described below. We base our estimates on our historical experience and on various other assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results and experiences may differ materially from these estimates.

While our significant accounting policies are more fully described in Note 3 to our financial statements included at the end of this prospectus, we believe that the following accounting policies are the most critical to aid you in fully understanding and evaluating our reported financial results and affect the more significant judgments and estimates that we use in the preparation of our financial statements.

Revenue Recognition

Overview

We will recognize product and service revenue in accordance with GAAP when the following overall fundamental criteria are met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or the service has been performed, (iii) the Company's price to the customer is fixed or determinable, and (iv) collection is reasonably assured.

Product Revenue

We recognize revenue for sales of the MASCT kits and devices upon the occurrence of all of the following: (i) receipt of cash, (ii) confirmation of product delivery (shipping documents and the completion of any customer acceptance requirements, when applicable, will be used to verify product delivery), and (iii) assessment of whether a price is fixed or determinable based upon the payment terms associated with the transaction and whether the sales price is subject to refund or adjustment. Once a history of sales and collectability has been established, we expect to recognize revenue upon delivery of goods from the supplier's or our warehouse or upon arrival of goods at the customer's designated location, depending on the shipping terms, with an offsetting reserve for doubtful accounts estimated based on the relevant collections history.

Service Revenue

We recognize revenue for our diagnostic testing on an accrual basis at the Medicare allowed and invoiced amount and upon satisfaction of the above four fundamental criteria. Amounts invoiced above the Medicare allowed reimbursement amount are not recognized upon receipt of cash during the initial three- to six-month period as we have insufficient individual customer history on which to determine the collectability of amounts that are invoiced above the Medicare amount. Diagnostic testing revenue at the Medicare rate is recognized upon completion of the test, communication of results to the patient's physician, and when collectability is reasonably assured. Customer purchase orders and/or contracts will generally be used to determine whether persuasive evidence of an arrangement exists. Once the Company has an appropriate history of sales and can determine the proper amount to recognize as uncollectible, it will then begin to recognize the entire amount, both Medicare allowed and non-Medicare billing, when all criteria of revenue recognition are met, with an offsetting allowance for doubtful accounts estimated based on collections history. We estimate it will take between three to six months of sales and collection history to establish reasonable assurance of collection and estimate of doubtful accounts, which is subject to change based on the sufficiency of actual number of sales transaction for the period.

Cash and Cash Equivalents

Cash and cash equivalents include cash and all highly liquid instruments with original maturities of three months or less.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

Research and Development Expenses

Research and development costs are generally expensed as incurred. Our research and development expenses consist of costs incurred for internal and external research and development.

Share-Based Payments

In December 2004, the Financial Accounting Standards Board, or the FASB, issued the Statement of Financial Accounting Standards, or SFAS, No. 123(R), "Share-Based Payment," which replaces SFAS No. 123 and supersedes APB Opinion No. 25. SFAS No. 123(R) is now included in the FASB's ASC Topic 718, "Compensation — Stock Compensation." Under SFAS No. 123(R), companies are required to measure the compensation costs of share-based compensation arrangements based on the grant-date fair value and recognize the costs in the financial statements over the period during which employees or independent contractors are required to provide services. Share-based compensation arrangements include stock options and warrants, restricted share plans, performance-based awards, share appreciation rights and employee share purchase plans. In March 2005, the SEC issued Staff Accounting Bulletin No. 107, or SAB 107, which expresses views of the staff regarding the interaction between SFAS No. 123(R) and certain SEC rules and regulations and provides the staff's views regarding the valuation of share-based payment arrangements for public companies. SFAS No. 123(R) permits public companies to adopt its requirements using one of two methods. On April 14, 2005, the SEC adopted a new rule amending the compliance dates for SFAS No. 123(R). Companies may elect to apply this statement either prospectively, or on a modified version of retrospective application under which financial statements for prior periods are adjusted on a basis consistent with the pro forma disclosures required for those periods under SFAS No. 123.

We have fully adopted the provisions of FASB ASC 718 and related interpretations as provided by SAB 107. As such, compensation cost is measured on the date of grant as the fair value of the share-based payments. Such compensation amounts, if any, are amortized over the respective vesting periods of the option grant.

Results of Operations

Discussion of Fiscal Year Ended December 31, 2010

For the year ended December 31, 2010, we had no revenues and total expenses of $1,077,996, consisting of $119,996 in expenses for research and development, or R&D, $478,276 in expenses for legal and professional fees, $242,718 in expenses for compensation, $108,664 in expenses for consulting and $128,342 for all other general and administrative, or G&A, expenses. The R&D expenses consisted primarily of $103,750 of compensation paid to R&D management and staff, and rent of $10,971. The legal and professional expenses consisted entirely of legal and accounting fees primarily related to corporate matters, including fees incurred in connection with the prior filing of a Registration Statement on Form S-1, which was withdrawn in favor of a private placement that we completed in 2011. The all other G&A expenses consisted of $52,500 for website development and Internet expenses, $12,204 for advertising and promotion expenses, and $63,637 for other miscellaneous G&A expenses.

Discussion of Fiscal Year Ended December 31, 2011

For the year ended December 31, 2011, we had revenues of $1,500, cost of goods sold of $5,164, $92,026 in loss on reduction of inventory to lower of cost or market, and total expenses of $3,333,500, consisting of $3,172,649 in G&A expenses and $160,851 in selling expenses.

The revenues consisted of sales of $1,500 of our MASCT system. The cost of goods sold of $5,164 consisted of $4,158 in direct costs related to the revenue and $1,006 in non-inventory item costs of goods. The loss on reduction of inventory to lower of cost or market of $92,026 was a result of the sales price of our MASCT system being substantially lower than its cost, primarily due to the specific nature of our MASCT system, which would not have a market without the analytical services we provide.

The G&A expenses consisted primarily of $486,877 in salaries and bonus expense, $431,280 in legal expense, $124,189 in consulting expense, $75,651 in accounting expense, $73,454 in travel expense, $65,784 in payroll taxes, $57,218 in licenses & permits expenses, $56,133 in professional fees, $47,103 in health insurance expense and $26,973 in business insurance. Also included in G&A expense is $1,580,749 in research and development expense, consisting primarily of $589,861 in salaries and bonus expense, $45,199 in rent expense, $75,109 in laboratory supplies, $164,631 in MASCT system development, $265,120 in ductal lavage product development, $76,405 in ductal lavage service development, $135,234 in circulating tumor cells service development, and $103,225 in patent licenses acquisition.

The selling expenses consisted of $104,401 in salaries and $56,450 in advertising.

Comparison of the Fiscal Years Ended December 31, 2011 and 2010

For the year ended December 31, 2011, we had revenues of $1,500, cost of goods sold of $5,164, loss on reduction of inventory to lower of cost or market of $92,026, and total expenses of $3,333,500, consisting of G&A expenses of $3,172,649 and selling expenses of $160,851. This compares to revenues of $0, cost of goods sold of $0, loss on reduction of inventory to lower of cost or market of $0, G&A expenses of $1,065,792, and selling expenses of $12,204 for the year ended December 31, 2010. Total expenses increased by $2,255,504 or 209% from $1,077,996 for the year ended December 31, 2010 to $3,333,500 for the year ended December 31, 2011.

As discussed below, we expect that our R&D and G&A expenses will continue to increase in the foreseeable future, and that if we successfully complete this offering and launch the MASCT System and our related laboratory service offerings, we would also begin to incur sales and marketing expenses as we build a regional, and ultimately national, sales force. We may limit our fixed sales and marketing costs initially by employing temporary workers or those who are compensated on a commission basis. However, we expect our expenditures to increase significantly in future periods.

Revenues and Cost of Goods Sold. We had revenues of $1,500, cost of goods sold of $5,164, and loss on reduction of inventory to lower of cost or market of $92,026 for the year ended December 31, 2011, and did not have any revenues or cost of goods sold for the year ended December 31, 2010. Revenues for the twelve months ended December 31, 2011 consisted of the sales of our MASCT system. The cost of goods sold consisted of $4,158 in direct costs related to the production of the MASCT systems which were sold and $1,006 in costs of goods sold for items expensed when purchased. The loss on reduction of inventory to lower of cost or market of $92,026 was a result of the sales price of our MASCT system being substantially lower than its cost, primarily due to the specific nature of our MASCT system, which would not have a market without the analytical services we provide.

General and Administrative Expenses. G&A expenses for the twelve months ended December 31, 2011 were $3,172,649, an increase of $2,106,857 or 198% from $1,065,792 for the twelve months ended December 31, 2010. G&A expenses for the twelve months ended December 31, 2011 primarily consisted of $486,877 in salaries and bonus expense, $431,280 in legal expense, $124,189 in consulting expense, $75,65l in accounting expense, $73,454 in travel expense, $65,784 in payroll taxes, $57,218 in licenses and permits expenses, $56,133 in professional fees, $47,103 in health insurance expense, $26,973 in business insurance. Also included in G&A expense is $1,580,749 in research and development expense, consisting primarily of $594,456 in salaries and bonus expense, $45,199 in rent expense, $77,063 in laboratory supplies, $164,631 in MASCT system development, $265,120 in ductal lavage product development, $120,465 in ductal lavage service development, $133,434 in CTC service development, and $103,225 in patent licenses acquisition.

G&A expenses for the twelve months ended December 31, 2010 were $1,065,972, and mainly consisted of $474,198 in legal and professional expenses related to the prior filing of a Registration Statement on Form S-1, which was withdrawn in favor of a private placement that we completed in 2011, $242,718 in compensation expenses, $108,664 in consulting expenses, $52,500 for website development and internet services, $12,204 in advertising and promotion expenses, $12,433 in printing expenses and $43,079 in all other operating expenses. Also included in G&A expense is $119,996 of R&D expense, consisting primarily of $103,750 in salaries and bonus expense, $10,971 in rent expense and $5,485 in other R&D expense.

The increase in expenses was attributed to the receipt of funding in the second quarter of 2011 from a private placement, which allowed the company to hire additional employees and begin efforts to build, market and sell the MASCT System. We expect that our G&A expenses will continue to increase if we successfully complete the offering under this prospectus as we add full-time accounting and finance personnel and incur additional costs as a publicly traded company. Additionally, G&A costs are expected to rise as we increase headcount to coordinate the production and manufacture of the MASCT System.

Selling Expenses. We had selling expenses of $160,851 for the twelve months ended December 31, 2011, an increase of $148,647 from $12,204 for the twelve months ended December 31, 2010. The selling expenses for the twelve months ended December 31, 2011 consisted of $104,401 in salaries and $56,450 in advertising.

Liquidity and Capital Resources

We have a history of operating losses as we have focused our efforts on raising capital and building the MASCT system. The report of our independent auditors issued on our financial statements as of and for the year ended December 31, 2011 expresses substantial doubt about our ability to continue as a going concern. In 2011, we were successful in raising net proceeds of $5.7 million through a private placement in order to fund the growth of our operations and product development. Our ability to continue as a going concern is dependent on our obtaining additional adequate capital to fund additional operating losses until we become profitable. If we are unable to obtain adequate capital, we could be forced to cease operations.

Cash Flows

For the twelve months ended December 31, 2011, we incurred a net loss of $3,442,269. Net cash used in operating activities was $3,492,364. Net cash provided by financing activities was $5,529,863 and consisted of amounts received from private placements of our common stock and warrants, through which we received net proceeds of $5,713,785. For the year ended December 31, 2010, we incurred a net loss of $1,086,930, and net cash used in operating activities was $358,111. During the year ended December 31, 2010, net cash provided by financing activities was $284,000, of which $102,000 was raised through private placements of our common stock, and $182,000 was raised through loans from related parties, which were repaid in 2011.

Funding Requirements

We expect to incur substantial expenses and generate ongoing operating losses for the foreseeable future as we prepare for the scale-up manufacturing and ongoing launch of the MASCT System, complete the development of and launch the FullCYTE and NextCYTE Tests, and build and operate our planned diagnostics laboratory in the Fred Hutchison Cancer Research Center. To fund our operations for at least the next 12 months under our current business plan, we estimate that we would need between $5 million and $7 million of additional capital. We expect that the proceeds from this offering, together with our existing resources as of the date of this prospectus, to be sufficient to fund our planned operations for at least the next 12 months. If we are unable to raise this amount of capital, however, we could be forced to curtail or cease operations. Our future capital uses and requirements depend on numerous forward-looking factors. These factors include the following:

- the amount of capital raised in this offering;
- the time and expense needed to complete the manufacturing of the MASCT and Microcatheter Systems;
- the expense associated with building a network of independent sales representatives to market the MASCT System, ForeCYTE Test and ArgusCYTE Test; and
- the degree of patient and physician acceptance of our products and the degree to which third-party payors approve the ForeCYTE and ArgusCYTE Tests for reimbursement.

As of December 31, 2011, we have generated only $1,500 in revenues. We do not expect to generate significant revenue until we are able to manufacture and launch the MASCT System more broadly. We expect our continuing operating losses to result in increases in cash used in operations over at least the next year. Although we expect the proceeds of this offering, together with our existing resources as of the date of this prospectus, to be sufficient to fund our planned operations for at least the next 12 months, we may require additional funds earlier than we currently expect to successfully commercialize the MASCT System. Because of the numerous risks and uncertainties associated with the development and commercialization of the MASCT System and our services, we are unable to estimate the amounts of increased capital outlays and operating expenditures associated with our current and anticipated research and development activities and commercialization efforts.

Additional funding may not be available to us on acceptable terms or at all. In addition, the terms of any financing may adversely affect the holdings or the rights of our stockholders. For example, if we raise additional funds by issuing equity securities or by selling debt securities, if convertible, further dilution to our existing stockholders would result. To the extent our capital resources are insufficient to meet our future capital requirements, we will need to finance our future cash needs through public or private equity offerings, collaboration agreements, debt financings or licensing arrangements.

If adequate funds are not available, we may be required to terminate, significantly modify or delay our development programs, reduce our planned commercialization efforts, or obtain funds through collaborators that may require us to relinquish rights to our technologies or product candidates that we might otherwise seek to develop or commercialize independently. Further, we may elect to raise additional funds even before we need them if we believe the conditions for raising capital are favorable.

Off-Balance Sheet Arrangements

We do not currently have, nor have we ever had, any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. In addition, we do not engage in trading activities involving non-exchange traded contracts.

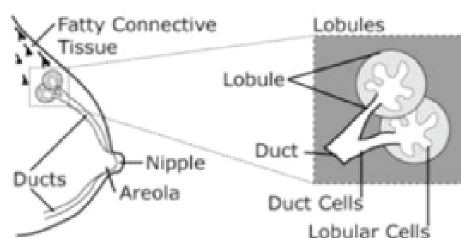
Recent Accounting Pronouncements

The Company has adopted all recently issued accounting pronouncements that management believes to be applicable to the Company. The adoption of these accounting pronouncements, including those not yet effective, is not anticipated to have a material effect on the financial position or results of operations of the Company.

SCIENTIFIC AND INDUSTRY BACKGROUND

Breast Anatomy and Nipple Aspirate Fluid Collection

The female breast has two main components: milk-producing, or glandular, tissue (lobes and ducts) and connective/fatty tissue. The breast is divided into 5 to 7 lobes that extend outward from the nipple and contain clusters of milk-producing glands. The lobes are further divided into smaller compartments called lobules. Each cluster drains into a duct, which connects the lobules and the nipple. In the ducts, cells closest to the outer portions of the lobules are called luminal cells and those deeper in the duct wall are called basal cells. The molecular-based determination of whether cells are luminal or basal in origin aids in the sub-typing of pre-cancerous changes and cancers. The breast is held together by fatty connective tissue, which provides support and contains nerves as well as blood and lymphatic vessels.



Since the early studies conducted in the 1950s by Dr. George Papanicolaou, the inventor of the “Pap smear” for cervical cancer, it has been understood that adult non-pregnant, non-lactating women continuously secrete fluid into the milk ducts of the breast. This fluid does not normally escape because the nipple orifices are occluded by smooth muscle contraction and dried secretions. This fluid contains several cell types, including breast duct cells that are shed, which may be normal, hyperplastic, atypical, or even malignant. The fluid also contains molecular diagnostic biomarkers, including associated proteins, complex lipids, ribonucleic acid, or RNA, and deoxyribonucleic acid, or DNA.

A number of medical devices have been designed over the years that apply negative pressure to the nipple to induce the expression of NAF, which is then collected by carefully touching a capillary tube to any apparent drops of NAF. The medical literature reports that in general, these devices are successful in obtaining NAF from 39% to 66% of all patients and that this sample collection variability has prevented the routine adoption of NAF cytology for breast cancer screening.

The MASCT System was designed to overcome this shortcoming by placing a hydrophilic, or water seeking, membrane in contact with the nipple during the cycles of negative pressure to “wick” fluid from the orifice of the ducts by capillary action, thereby increasing the frequency of obtaining NAF in women.

The Role of Atypical Ductal Hyperplasia as a Precursor to Breast Cancer

Atypical ductal hyperplasia, or ADH, is a condition in which the cells lining the breast duct grow excessively and abnormally. Without other risk factors, it produces up to a five-fold increased risk of breast cancer. With a family history of breast cancer, a diagnosis of ADH increases the risk of breast cancer 11- to 22-fold, and in one study, one-third of the women with a biopsy of ADH had a clinically inapparent malignancy, or occult cancer, growing nearby. Another study examined changes in chromosome markers in ADH that are typical for invasive ductal cancer to determine if ADH was monoclonal for these changes, as expected of cancer, or polyclonal, as expected of hyperplasia, or excessive cell proliferation. The results of this study showed that 40% of ADH was monoclonal and had the hallmarks of a cancerous growth.

The analysis of NAF for these chromosomal changes and the changes in expression of related proteins may help determine the malignant or non-malignant properties of ADH in a particular patient and thus provide information allowing a personalized medicine therapeutic approach.

The Role of Immunohistochemistry (IHC) in the Molecular Classification of Breast Cancer and Pre-Cancerous Lesions

Standard pathology and cytology criteria to classify breast cancer and pre-cancerous changes have limitations in predicting tumor behavior, sensitivity to molecular targeted treatments, such as Herceptin (trastuzumab), or the development of drug resistance. A method of predicting tumor behavior and treatment response that involves identifying molecular biomarkers in breast tissue is immunohistochemistry, or IHC. IHC is the process of localizing antigens (e.g. proteins) in cells of a tissue section exploiting the principle of antibodies binding specifically to antigens in cells. Specific molecular markers are characteristic of particular cellular events such as proliferation or cell death. Visualizing an antibody-antigen interaction can be accomplished in a number of ways. In the most common instance, an antibody is conjugated to an enzyme, such as peroxidase, that can catalyze a color-producing reaction. The use of IHC has become standard of care in many clinical settings, for example, the measurement of estrogen or progesterone receptors or HER2 antigens in breast cancer.

In May 2010, an international study from 21 academic institutions involving 42 investigators was published, describing the IHC-based molecular sub-typing of breast cancers from 10,159 women and the correlation with survival over 15 years. Five IHC biomarkers were used to identify six molecular sub-types. The five IHC markers were: the estrogen receptor and the progesterone receptors (two hormone receptors expressed by luminal cells), the human epidermal growth factors receptor-2 (HER2, a protein marker used to select specific adjuvant therapies), and cytokeratin 5/6 (CK5/6) and EGFR (proteins expressed by basal cells). The incidence of each sub-type, and the treatment options available, are shown in the following table:

Molecular Subtype	Incidence	Treatment Options
Luminal 1, Basal Negative	60%	Tamoxifen, Raloxifene
Luminal 1, Basal Positive	6%	Tamoxifen, Raloxifene, EGFR inhibitors
Luminal 2, Basal Negative	6%	Tamoxifen, Raloxifene, Trastuzumab
Non-Luminal HER2+	6%	Trastuzumab
Core Basal Subgroup	9%	EGFR inhibitors
Five Negative Phenotype	7%	Non-receptor targeted chemotherapy

The six IHC molecular subtypes had very different five and 15 year survival rates.

These and other findings indicate that the six subtypes of breast cancer defined by the expression of five immunohistochemical markers have distinct biological characteristics that are associated with important differences in short-term and long-term outcomes. The application of these markers in the clinical setting could improve the targeting of adjuvant therapies to those women most likely to benefit.

These same markers have been studied in pre-cancerous changes and have been found useful in distinguishing future biological behavior of otherwise cytologically indistinct samples. For example, CK5/6 expression in usual ductal hyperplasia is associated with an increased risk of later development of cancer. Similarly, estrogen or progesterone receptor, HER2, and EGFR expression in a setting of hyperplasia are found in lesions that more frequently progress to breast cancer. In fact, ADH and usual ductal hyperplasia can be distinguished by IHC staining in cases where the cytology is indistinguishable. Thus, IHC testing on NAF samples with pre-cancerous changes can provide information about the possibility of future progression to breast cancer.

The Role of NAF Cytology and IHC in the Diagnosis and Treatment of Atypical Ductal Hyperplasia

In a study of women with normal mammograms who were undergoing breast reduction surgery, which was conducted at the Virginia Mason Medical Center in Seattle, Washington and published in *Plastic and Reconstructive Surgery* in October 2009, the incidence of ADH was found to be 4.4%. A separate study conducted in 2003 of 824 women found an incidence of ADH of 7.4% by biopsy. ADH can be definitively diagnosed only by NAF analysis or a breast tissue biopsy. In a study of approximately 2.5 million screening mammograms done between 1996 and 2005 and collected from mammography registries participating in the Breast Cancer Surveillance Consortium, the incidence of biopsy-proven ADH was 0.1%, suggesting that the use of biopsies in conjunction with screening mammography fails to detect ADH in over 97% of patients.

A comprehensive study of the predictive value of NAF cytology for identifying women at risk for breast cancer was conducted at the University of California at San Francisco over a 19-year period. This study, conducted by Margaret Wrensch and others at the University of California San Francisco, showed in two studies, the first with a sample size of 4,046 women and the second with a sample size of 3,627, that women with abnormal cytology in breast fluid obtained by nipple aspiration had an increased relative risk of breast cancer compared with women from whom fluid was not obtained and with women whose fluid had normal cytology. The nipple aspirate fluids were collected from women in the San Francisco Bay Area during the period from 1972 through 1991, the women were classified according to the most severe epithelial cytology observed in fluid specimens, and breast cancer incidence through March 1999 was determined. The groups were stratified into women with acellular, normal, hyperplasia, or atypical NAF cytology and the incidence of breast cancer determined in the two groups over an average of 21 and nine years follow-up, respectively. The incidence of hyperplasia by NAF cytology was 13.6% and the incidence of ADH was 1.6%. Breast cancer occurred in 3.7% of the women with acellular cytology and in 8.2% and 11.0% of the women with hyperplasia and atypia, respectively.

Drug therapy clinical trials for preventing breast cancer in high risk women are called chemoprevention trials. In a five-year chemoprevention study of over 19,700 women with ADH or other factors that placed them at a high risk for invasive breast cancer, the use of either tamoxifen or raloxifene, drugs that block or interfere with the actions of estrogen receptors, reduced the incidence of breast cancer by approximately 50%. A separate study of raloxifene versus placebo showed a 72% reduction in cancer incidence at four years and a 66% reduction at eight years in women at high risk for invasive breast cancer.

In a study of NAF specimens in 33 women at the start and six months after taking either tamoxifen or raloxifene, NAF cytology was unchanged in 85%, worsened in 4%, and improved in 11% while the biomarker PSA, which has been shown to be controlled by sex hormones and inversely associated with breast cancer, increased from abnormally low (37 ng/L) to within the normal range (112 ng/L) during treatment. United States patent 7,128,877, owned by the Company, covers the testing of NAF for the biomarker PSA. Other classes of drugs, including inhibitors of aromatase, an enzyme involved in making estrogen, are being tested or considered for testing in breast cancer chemoprevention trials. The Company believes that increased use of pharmaceutical treatments with chemopreventive agents in high risk women will lead to more NAF cytology studies to both diagnose ADH and follow the effects of treatment.

Finally, changes in diet and/or the use of dietary supplements are considered to have a possible impact on breast cancer occurrence and can potentially change the cytology or the presence of biomarkers in NAF. A study of the effect of dietary intervention in 71 women over a one-year period was conducted. The probability of obtaining a cellular NAF cytology increased with dietary fat intake, reaching over seven-fold increase for the highest to lowest quartile of fat intake. Furthermore, cellular NAF decreased with increasing plasma levels of dietary supplement antioxidants, lutein and alpha-carotene. The National Cancer Institute, or NCI, is currently sponsoring seven studies of the use of NAF sample collection and analysis of cytology and molecular biomarkers as study endpoints to monitor the efficacy of chemoprevention clinical trials using pharmaceuticals or dietary supplements. The Company believes the successful outcome of one or more of these studies could increase the use of NAF analysis.

Risk Stratification with Duct Cytology

Breast cancer risk stratification is becoming increasingly important as additional screening and prevention options are now available for women at different levels of risk. For example, use of screening breast MRI, tamoxifen chemoprevention, and genetic counseling and testing for hereditary breast cancer are appropriate for some women at increased susceptibility. The National Comprehensive Cancer Network, or NCCN, sets risk thresholds as: “Normal Risk,” defined as less than 15% lifetime risk; “Intermediate Risk,” as 15-20% lifetime risk; and “High Risk,” as greater than 20% lifetime risk.

The ForeCYTE Breast Health Test uses an established algorithm based on family history (including cousins with breast cancer and unaffected female relatives), personal medical data (including height (premenopausal) and BMI (postmenopausal) and use of hormone replacement therapy, and ductal cytology to provide estimates of BRCA1/2 mutation probability in addition to empiric age adjusted 10-year and lifetime breast cancer risk. In contrast, other algorithms use only atypia, hyperplasia, or lobular carcinoma in situ to

increase the risk estimate in the model. Our model was developed using previously published data on the effects of familial and personal risk factors. Genetic risk is predicted assuming two autosomal-dominant loci — BRCA1/2 and a hypothetical low-penetrance dominant gene. The relative risk based on personal factors is used to adjust the calculated genetic absolute risk via a proportional hazard model. According to a peer-reviewed study published in *Oncology Genetics* in August 2009, this algorithm appeared the most consistently accurate for the prediction of breast cancer.

The Role of Ductal Lavage in Assessing Women at High Risk of Breast Cancer

Ductal lavage is a washing procedure that can remove fluid found in the individual breast ducts. The procedure involves inserting a small catheter into the ductal openings in the nipple and washing out cells from inside the duct. The cells are then analyzed to assess if they are normal or abnormal and the fluid can be tested for biomarkers of pre-cancerous and cancerous changes. We are conducting research using next-generation sequencing techniques to examine the genomic changes that occur in pre-cancerous hyperplasia and DCIS in the cells obtained from lavage fluid. Based on the generally accepted hypothesis that each of the five to seven breast ducts arises from a single cell during fetal development and is thus clonally distinct, breast cancer can be thought of as a “sick duct” disease. Knowing which duct is affected by precursors to breast cancer is the requisite diagnostic information to treating the condition with intraductal therapy. An October 2011 report from the Johns Hopkins Medical School demonstrated prevention of breast cancer in rats with intraductal but not systemic chemotherapy and the successful treatment of 17 women with breast cancer who subsequently received surgery.

Predicting Treatment and Recurrence Using Tumor Tissue Transcriptome Data

Gene expression is a measure of a gene’s activity, which is determined by the number of times it is transcribed into mRNA and finally by the protein it encodes. A snapshot of a tissue’s global gene activity (or expression) is captured by DNA microarray technology, by reverse transcription polymerase chain reaction, or RT-PCR, or by RNASeq, also called Whole Transcriptome Shotgun Sequencing, and is called a transcriptome. Lists of genes associated with prognoses, responses to various treatments or phenotypes, are called “gene profiles” or “gene signatures.” The four major test platforms used for detecting gene profiles are immunohistochemistry (IHC), fluorescent in situ hybridization (FISH), quantitative reverse transcriptase polymerase chain reaction (qRT-PCR), and cDNA microarray (quantitative cDNA detection). While the former two platforms are semiquantitative and well established for detection of ER and HER2 status at low costs, the latter two are quantitative methods that require complex statistical methods to avoid false discovery. These two methodologies provide highly standardized and reproducible outcomes of uncertain prognostic value at this point. In addition, IHC has the advantage of directly measuring protein expression, not just mRNA copy numbers, and it provides a visualization of the difference of protein localization and modification, which gene profiling cannot.

Breast cancer is a complex disease characterized by a number of genetic and epigenetic abnormalities. Patients associated with similar clinical and pathological parameters may have very different tumor profiles at the molecular level and may respond differently to treatment. Genome-wide expression profiling of tumors has become an important tool to identify gene sets and gene signatures that can be used to predict clinical endpoints, such as survival and therapy response. A number of tumor classification algorithms based on gene expression profiles have been proposed using clinical data or known biological class labels to build predictive models for outcome: the 70-gene signature MammaPrint, the 16-gene signature of Oncotype Dx, and the Genomic Grade Index.

In a peer-reviewed publication in *PLoS One* in March 2011, a statistical framework to explore whether combination of the information from such sets may improve prediction of recurrence and breast cancer specific death in early-stage breast cancers was established. Microarray data from two clinically similar cohorts of breast cancer patients are used as training (n = 123) and test set (n = 81), respectively. Gene sets from eleven previously published gene signatures are included in the study.

Combining the predictive strength of multiple gene signatures improved prediction of breast cancer survival.

Monitoring Recurrence and Assisting Treatment Decisions from Analysis of Circulating Tumor Cells

Among women with early breast cancer, the presence of circulating tumor cells (cancer cells in the bloodstream, which are also called CTCs) increased the risk of cancer recurrence and shortened survival. Among women with metastatic breast cancer (cancer that has spread to other sites in the body), detection of cancer cells in the bloodstream has been linked with shorter time to cancer progression and shorter survival.

To evaluate the impact of CTCs among women with early breast cancer, researchers evaluated more than 2,000 patients. The test to detect CTCs was performed after surgery and before the start of chemotherapy. CTCs were detected in 21.5% of patients. Women with CTCs were more likely to have node-positive breast cancer than women without CTCs. Compared with women with no CTCs, women with one to four CTCs were almost twice as likely to experience cancer recurrence and death. The presence of five or more CTCs was linked with a fourfold increase in recurrence risk and a threefold increase in risk of death. These results suggest that detection of CTCs may provide information about recurrence risk and prognosis among women with early breast cancer.

CTCs may also be an indicator for therapeutic efficacy. During chemotherapy the continuous appearance of CTCs in blood would only occur if there was a persistent proliferation process. This may be halted with a successful therapy (stable disease) or might even be reduced (remission). There, the source of CTCs and their dissemination would have been removed, which is then associated with the disappearance of CTCs from blood.

BUSINESS

Overview

We are a healthcare company focused on the prevention of breast cancer through the commercialization of diagnostic tests that can detect precursors to invasive breast cancer, and through the research, development, and ultimate commercialization of treatments for pre-cancerous lesions.

Our diagnostic tests consist of FDA-cleared and patented medical devices that can collect fluid and tissue samples from the breast milk ducts, where, according to the National Cancer Institute, over 95% of breast cancers arise. These samples are processed at our CLIA-certified laboratory, the National Reference Laboratory for Breast Health, which examines the specimens by microscopy for the presence of normal, pre-malignant, or malignant changes as determined by cytopathology and biomarkers that distinguish “usual” ductal hyperplasia, a benign condition, from atypical ductal hyperplasia, which may lead to cancer. These cytopathological results provide patients and physicians with information about the care path that should be followed, depending on the individual risk of future cancer as determined by the results.

Additionally, we are conducting research on the treatment of these pre-cancerous cells by using our patented and FDA-cleared microcatheters to deliver, directly into the milk ducts, anti-cancer drugs that can be used to treat these pre-cancerous lesions. By using this localized delivery method, patients receive high local concentrations of these drugs at the site of the pre-cancerous lesions, potentially promoting efficacy of the treatment while limiting systemic exposure, which has the potential to lower the overall toxicity of these treatments.

Our Diagnostic Tests

We currently offer two diagnostic tests and plan to offer two additional tests by the end of 2012 or beginning of 2013. The tests that we currently offer and that are in development consist of the following:

ForeCYTE The ForeCYTE Breast Health Test, launched in December 2011, provides personalized information about the 10-year and lifetime risk of breast cancer for women between ages 18 and 65. It involves collecting a sample of nipple aspirate fluid, or NAF, using our patented, FDA-cleared *Mammary Aspirate Specimen Cytology Test*, or MASCT, System (our MASCT System received 510(k) clearance from the FDA in 2003), analyzing the NAF using a proprietary molecular and cellular biomarker test, and then processing the test results, together with the patient’s medical and family history, through a clinically-validated risk assessment algorithm that calculates 10-year and lifetime risk of breast cancer and presents these results in one of three risk tiers developed by The National Comprehensive Cancer Network: Normal (<15% lifetime risk), Intermediate (15 – 20% lifetime risk), or High (>20% lifetime risk). The ForeCYTE Test results contain recommendations for care paths in each risk group and personalized information so that patients and healthcare providers can make more informed treatment decisions.

ArgusCYTE The ArgusCYTE Breast Health Test, launched in December 2011, provides information to help inform breast cancer treatment options and to help monitor potential recurrence. It can monitor breast cancer distant recurrence by obtaining a “liquid biopsy” or blood sample, and analyzing it for the presence of circulating tumor cells, which can then be analyzed to determine the expression of ER/PR and Her2 in those cells, a predictor of the cancer’s sensitivity to existing treatment options. The presence of circulating tumor cells in the blood sample may serve as an early indicator of the recurrence of breast cancer and the data obtained from the ArgusCYTE sensitivity analysis may help physicians better select which treatment options to use with a particular patient.

FullCYTE	The FullCYTE Breast Health Test, which we intend to launch in late 2012 or early 2013 and is currently in development, is designed to assess the individual breast ducts for pre-cancerous changes in women previously identified to be at high risk for breast cancer. It involves collecting ductal lavage samples from each of the 5 to 7 individual breast milk ducts using our patented and FDA-cleared Mammary Ductal Microcatheter System (our Microcatheter System received 510(k) clearances from the FDA in 1999 and 2000) and analyzing the samples by genomic interrogation and proprietary laboratory developed tests.
NextCYTE	The NextCYTE Breast Cancer Test, which is in the prevalidation phase and which we intend to launch in late 2012 or early 2013, is designed to profile breast cancer specimens for prediction of treatment outcomes and distant recurrence in women newly diagnosed with breast cancer. It involves using surgery specimens and advanced genome sequencing techniques to quantify and analyze the entire tumor genetic transcriptome, which represents all genes that are being actively expressed within the tumor. We expect that physicians will be able to use the information provided by the NextCYTE test to better customize treatment options for women, based on the genetic composition of the individual tumor.

We may not, however, achieve commercial market acceptance of any of our products and services. We must first demonstrate to physicians and other healthcare professionals the benefits of our tests and the MASCT System for their practice and these physicians and healthcare professionals may be reluctant to introduce new services into their practice due to uncertainty regarding reliability of the results of a new product or the learning curve associated with adoption of new services and techniques. Moreover, if third-party payors continue to refuse to cover the cost of collection of the NAF sample, physicians may be less likely to recommend or use our products and services if the cost of performing a particular test will not be reimbursed. Even if we are successful in convincing physicians and other healthcare professionals to utilize our tests and services, we must obtain adequate capital to fund our operations until we become profitable and we may not be able to do so. Additionally, we have no prior experience with commercializing any products or services and will need to create an infrastructure to scale operations for commercialization, including hiring experienced personnel (including anatomic pathologists, cytologists, histotechnologists, skilled laboratory and information technology staff, and sales representatives) and building a network of regional, specialty distributors, each with a staff of independent sales representatives who have experience in women’s health products to target physicians and mammography clinics in the United States.

Intraductal Treatment Research

Our Intraductal Treatment Research Program comprises our patented microcatheter-delivery technology and our patented pharmaceutical formulations for the intraductal treatment of breast pre-cancerous changes, DCIS, and breast cancers. The method uses our Mammary Ductal Microcatheter System, invented by Dr. Susan Love, President of the Dr. Susan Love Research Foundation, and her colleagues, to administer proprietary pharmaceutical formulations into milk ducts that display pre-cancerous changes, with high local concentrations of the drugs in order to promote greater efficacy and limited systemic exposure, potentially lowering the overall toxicity of the treatment.

An October 2011 peer-reviewed paper published in *Science Translational Medicine* documented a study conducted at the Johns Hopkins Medical School demonstrating the prevention of breast cancer in rats with intraductal non-systemic chemotherapy, and a proof-of-principle Phase 1 clinical trial involving 17 women with breast cancer who subsequently received surgery. An accompanying editorial commented that “intraductal treatment could be especially useful for women with premalignant lesions or those at high risk of developing breast cancer, thus drastically improving upon their other, less attractive options of breast-removal surgery or surveillance (termed ‘watch and wait’)”. We intend to build on these academic studies with a research program targeted initially at neoadjuvant therapy in DCIS and to begin preclinical studies during 2012. We have not yet begun the process of applying for FDA approval of our Intraductal Treatment Research Program.

Intellectual Property and FDA Marketing Clearances

As of February 8, 2012, we own more than 120 issued patents (31 in the United States and at least 90 in foreign countries), and 6 pending patent applications (4 in the United States, 1 pending foreign application and 1 pending International Patent Cooperation Treaty (PCT) application) directed to our products, services, and technologies.

Clinical Development and FDA-clearance of the MASCT System

Under the direction of Steven Quay, a clinical trial of the MASCT System was conducted at the State University of New York, Stony Brook, New York in 2003 to test the efficiency of NAF collection in normal women. Thirty-one healthy, non-pregnant, pre-menopausal female volunteer subjects were tested with the MASCT System device for the ability to collect NAF samples and to observe the morphology of breast gland cells in the NAF (cytological examination), using the NAF cytology classification system of the College of American Pathologists, or CAP, as described in the table below.

Category	Interpretation	Cytology Characteristics
Category 0	Scant ductal epithelial cells and negative for atypical or malignant cells	No or <10 ductal cells.
Category I	Normal ductal cytology	Normal ductal epithelial cells.
Category II	Usual ductal hyperplasia	Cell groups with >10 – 50 cells.
Category III	Atypical ductal hyperplasia	Distinct large nuclei with irregular nuclear borders.
Category IV	Suspicious for malignancy	Single cells and groups of cells suspicious for cancer.

Of the 31 subjects, 30, or 97%, had measurable NAF; 24 from both breasts and six from only one breast. NAF samples ranged from less than one to 37 microliters, with an average of seven microliters, and all samples collected were deemed to be clinically useful. 58 of 60 NAF samples were reported as cytology Category I, and two of 60 were reported as cytology Category II under the CAP's classification system for NAF cytology. No adverse events were reported in the study. Based on the results of the study, a premarket notification for the intended use of the MASCT System for the collection of NAF for cytological testing was submitted to the FDA and subsequently cleared by the FDA, indicating that the NAF collected using the MASCT System can be used in the determination and/or differentiation of normal versus premalignant versus malignant cells.

The ForeCYTE Breast Health Test

The ForeCYTE Test uses the patented, FDA-cleared MASCT System medical device for the collection, shipment and clinical laboratory analysis of NAF. The product components of the MASCT System consist of a reusable hand-held pump for the collection of NAF, single-use patient kits that include two NAF sample collection tools per kit, and shipment boxes for the transportation of NAF samples to the National Reference Laboratory for Breast Health, our wholly-owned, CLIA-certified specialized cytology and molecular diagnostics laboratory in Seattle, Washington. Through our laboratory we provide the ForeCYTE Test, which consists of receiving and accessioning the two NAF samples from each patient, preparing routine and immunohistochemistry, or IHC, staining of slides from the NAF samples, and generating a report of the findings. The NAF is analyzed by microscopy for cytological abnormalities and by a patent-pending IHC staining technique for five biomarkers of hyperplasia and a sample integrity marker.

We offer each component of the MASCT System for sale separately. We currently price our NAF sample collection device at approximately $250 per device and our patient kits at approximately $30 per kit, and the cytology and molecular diagnostics testing and analysis services are billed to federal and/or state health plans at the 2012 Medicare reimbursement rates of between $384 and $1,275 per patient, depending on the complexity of the analysis performed. We bill third-party payors at higher rates, as is customary for our industry. Currently, Medicare and certain insurance carriers do not reimburse for the NAF collection procedure, although Medicare and certain insurance carriers do reimburse for the laboratory analysis of the NAF sample.

The ArgusCYTE Breast Health Test

The ArgusCYTE Test provides information to help inform breast cancer treatment options and to help monitor potential recurrence. It uses a proprietary blood collection tube to obtain a blood sample for shipment and analysis at the NRLBH. The test consists of a two-step "Combination-of-Combinations-Principle" involving (1) cell isolation, whereby tumor cells are enriched by a three antibody-mix linked to magnetic particles and mRNA is isolated from the selected tumor cells, and (2) molecular biological detection and analysis, whereby the isolated mRNA is transcribed into cDNA and a multiplex PCR is carried out for the analysis of epithelial cell related transcripts and tumor associated gene expression. Due to the combination of different selection and tumor markers, both the heterogeneity of the tumor cells and possible individual or therapy-induced deviations in the expression patterns are taken into account.

As far as we know, the ArgusCYTE is the only CLIA-certified circulating breast tumor cell test available that identifies mRNA expression levels for estrogen receptors (ER), progesterone receptors (PR), and HER-2 antigen in a single blood draw to help guide treatment selection by determining which of the most commonly used therapies may be effective for the individual patient. The test can identify circulating tumor cells immediately after a woman begins breast cancer therapy or at the time of diagnosis or biopsy so that she and her healthcare provider can make better-informed decisions about effective treatment options. Analytical validation studies demonstrated a sensitivity of 94% and specificity of 98% at the 5 cancer cell/5 mL blood sample level (n=106). Clinical validation has been performed by unaffiliated research institutions in breast cancer patients in trials in Europe and the United States over the last eight years.

We provide the proprietary, blood collection tube free of charge and currently charge approximately $1,500 for the ArgusCYTE Test.

The FullCYTE Breast Health Test

The FullCYTE Breast Health Test uses our patented, FDA-cleared Mammary Duct Microcatheter System, invented by Dr. Susan Love, author, breast surgeon, and founder of the Dr. Susan Love Research Foundation, Santa Monica, California to lavage, or irrigate, each of the five to seven breast ducts and to collect the lavage fluid for analysis of biomarkers of hyperplasia by immunohistochemistry for protein biomarkers, Next Generation Sequencing for somatic DNA mutations, and transcriptome microarray analysis for mRNA expression patterns.

In April 2011 we acquired from Hologic, Inc. all of the ownership rights to issued patents covering the manufacture, use, and sale of the Microcatheter System for ductal lavage, the related manufacturing documentation, and the related regulatory documentation, including the three 501(k) FDA marketing authorization for these medical devices. Atossa paid an up-front fee and is obliged to pay patent-based royalties on aggregate net sales in the countries with issued patents. This project is in the research and development phase with the intent to launch this test in late 2012 or early 2013.

The NextCYTE Breast Cancer Test

The NextCYTE Breast Cancer Test uses surgical biopsy specimens that have been routinely processed into formalin-fixed, paraffin embedded tissue blocks to extract RNA and analyze the whole-genome mRNA expression profiles of the extracted RNA to predict breast cancer 10-year survival. The method combines eleven published gene signatures, including over 900 breast cancer-related genes. In a March 2011 publication of the technology, training (n=123) and test (n=81) cohorts of breast cancer patients were analyzed by the method and the resulting algorithm outperformed all individual gene signatures, including a 16-gene test and a 70-gene test, in predicting 10-year recurrence. We are conducting research to verify the superiority of the technology and have a one-year option to license this technology from the University of Oslo in Norway. If we exercise this option and license the technology, we would be required to pay the University of Oslo an up front fee and an annual royalty based on revenues.

Our operations began in December 2008 around acquiring the MASCT System patent rights and assignments and the FDA clearance for marketing, which was completed in January 2009. We were incorporated in Delaware in April 2009. Our operations to date have consisted primarily of securing manufacturing for the MASCT and the Mammary Duct Microcatheter Systems, establishing our CLIA-certified laboratory, validating the Laboratory Developed Tests we use in the ForeCYTE and

ArgusCYTE tests, conducting research and development on the FullCYTE and NextCYTE tests, and preparing for the commercialization of our products.

The Market

United States Market for ForeCYTE Test

Testing in Women at High Risk for Breast Cancer

The Company expects that the MASCT System will initially be adopted by physicians and other healthcare professionals for use in women at high risk for breast cancer.

Women Undergoing Diagnostic Mammograms. Breast cancer screening by mammography involves performing a screening mammogram and typically reviewing the mammogram while the patient is still present in the clinic. If the screening mammogram shows suspicious changes, a more extensive diagnostic mammogram is performed, usually on the same day. In an audit of 46,857 consecutive mammograms performed in the radiology department at the University of California, San Francisco between 1997 and 2000, 10,007, or 21%, were diagnostic mammograms. The audit also documented an increased incidence of future cancer in those women who underwent a diagnostic mammogram, regardless of the diagnosis at the time. Applying this frequency to the estimated 39.0 million total mammograms performed each year in the United States yields approximately 8.1 million diagnostic mammograms. The Company believes all women undergoing a diagnostic mammogram, who may be at higher risk of developing breast cancer in the future, would be candidates for MASCT System testing.

Breast Cancer Survivors. Women who have had breast cancer are at a higher risk for the recurrence of cancer or for a new malignancy. The American Cancer Society, or ACS, has estimated that in 2010, there were more than 2.5 million breast cancer survivors in the United States. The Company believes these women would be candidates for regular MASCT System screening.

High Risk Women. The Breast Cancer Risk Assessment Tool (based on the Gail model) has been established by the NCI and the National Surgical Adjuvant Breast and Bowel Project, or NSABP, to identify women with an increased risk of breast cancer. The risk factors included in the test are: personal history of breast abnormalities, age, age at first menarche, age at first live birth, breast cancer among first-degree relatives (sisters, mother, or daughters), breast biopsies, obesity and race. Approximately 12 million women in the United States are in the high risk group. A study of 6,904 women for an average follow up of 14.6 years demonstrated that NAF cytology may be most useful for women at highest absolute risk by the Risk Assessment Tool because modest differences in relative risk are amplified. In this group, the incidence of breast cancer detected by NAF cytology ranged from 5.3 to 10.3 per 1,000 women (non-yielder to hyperplasia/atypia).

Breast cancer risk stratification

The Company believes that if it is able to develop, produce and successfully market the MASCT System for use as an additional test in conjunction with all mammography and all cervical cancer screenings (Pap smear), the potential annual U.S. market size for breast cancer risk stratification would be between 39.3 million and 55 million women. This conclusion is based on the following data:

MASCT System in conjunction with mammography, all ages. According to the Mammography Quality Standards Act (MQSA) National Statistics, the total annual mammography procedures in the United States, as of January 1, 2012, was 39,311,535.

MASCT System in conjunction with cervical cancer screening (Pap smear), all ages. According to the National Cancer Institute as of December 2011, approximately 55 million Pap smear examinations are performed annually in the United States.

United States Market for ArgusCYTE Test

Breast Cancer Survivors. The ACS has estimated that in 2010 there were more than 2.5 million breast cancer survivors, who we believe would be potential candidates for a blood test for circulating tumor cells.

Newly diagnosed breast cancer patients. According to the National Cancer Institute, 210,000 women are diagnosed with breast cancer each year. These women would be candidates for a blood test for circulating tumor cells during the staging of their tumor and as a method to monitor treatment effects.

United States Laboratory Testing Market

Anatomic Pathology. Anatomic pathology involves the diagnosis of cancer and other medical conditions through the examination of tissues (biopsies) and the analysis of cells (cytology) taken from patients. Generally, the anatomic pathology process involves the preparation of slides by trained histo-technologists or cytologists and the review of those slides by anatomic pathologists. Although anatomic pathologists do not treat patients, they establish a definitive diagnosis and may also consult with the referring physician. As a result of the greater degree of complexity and sophistication in anatomic pathology services, 2012 Medicare reimbursement rates for the anatomic pathology services of the type that the Company expects to perform are between $384 and $1,275 per patient. The patient fee schedule for self-pay or private payors for these tests is typically higher.

Molecular Diagnostics. Molecular diagnostics typically involve unique and complex genetic and molecular tests performed by skilled personnel using sophisticated instruments. As a result, molecular diagnostics are typically offered by a limited number of commercial laboratories. According to PriceWaterhouseCoopers, molecular diagnostics represents one of the fastest growing segments of the $37 billion market for *in vitro* diagnostics, which includes test tube diagnostics such as glucose monitoring for diabetes care but excludes diagnostics for research use. The Medicare reimbursement rate in 2011 for microarray-based molecular diagnostics tests is $1,250, while the reimbursement rate for fluorescent cellular probe-based tests is $479 per probe. According to PriceWaterhouseCoopers, this market segment is expected to grow 14% annually between 2007 and 2012, from $2.6 billion to $5.0 billion.

Commercialization Strategy

The Company's commercialization strategy is based on creating two main revenue sources: (i) product sales-based revenue from the sale of the MASCT System, including the NAF specimen collection kits, to physicians, breast health clinics, and mammography clinics and (ii) service-based revenue for the preparation and interpretation of the NAF samples sent to the Company's laboratory. This is intended to result in revenues from both the sale and the use of the MASCT System.

In order to achieve its two-pronged revenue base, the Company manufactures, through medical device suppliers, the MASCT System components (i.e., the collection device and patient NAF specimen kits) and will establish a network of independent sales representatives to call on physicians and breast health and mammography clinics to market and sell the MASCT System. The collection device is reusable when sanitized between patients. The kit contains the patient contact materials, preservative fluid for the collected samples, and bar-coded patient identification labeling. The kit components are designed to work properly with the collection device and the Company is not aware of any commercially available parts or components which could be substituted for the Company's kits.

The Company's product- and service-based income plan is intended to provide revenues from multiple, different sources with different timing in the procedure cycle. The Company expects to generate product revenues from the sale of kits in bulk to clinics and physicians for the testing of their patients, and laboratory service revenue after its laboratory analyzes the results of these tests and renders a diagnosis.

Specialty Sales Team

To market the MASCT System and its related laboratory diagnostic services, the Company will need to hire independent sales representatives with technical knowledge in, for example, molecular diagnostics, mammography, obstetrics/gynecology office practices, and women's health clinics. As a result, the Company will expect its sales representatives to develop long-lasting, consultative relationships with the referring physicians they serve.

The Company will focus its marketing and sales efforts on encouraging physicians and breast health and mammography clinics to use the MASCT System in conjunction with other health screening examinations, including annual physical examinations and regularly scheduled cervical Pap smears and mammograms. The sales representatives will concentrate on a geographic area based on the number of physician clients and prospects, which will be identified using several national physician databases that provide physician address

information, patient demographic information, and other data. The Company also expects to use the FDA website containing contact information on the approximately 8,600 MQSA-certified clinics to identify potential clients.

The National Reference Laboratory for Breast Health

The Company has established the National Reference Laboratory for Breast Health, a wholly-owned CLIA-certified clinical laboratory for the cytology and molecular diagnostics testing and reading of results of collected NAF samples and ArgusCYTE blood samples. The Company believes that by maintaining its own clinical laboratory, it will be positioned to generate substantial additional service revenues through cytology and molecular diagnostic testing, in addition to the sale of the MASCT System pumps and specimen collection kits.

The Company has established a comprehensive quality assurance program for its laboratory, designed to drive accurate and timely test results and to ensure the consistent high quality of its testing services. In addition to the compulsory proficiency programs and external inspections required by CMS and other regulatory agencies, the Company intends to develop a variety of internal systems and procedures to emphasize, monitor, and continuously improve the quality of its operations. The Company also participates in externally administered quality surveillance programs.

Growth Strategy

The Company launched the ForeCYTE and ArgusCYTE Tests at the end of the fourth quarter of 2011. The Company markets to both mammography clinics and physicians' offices. The Company is conducting a field experience trial to collect information about the ease or difficulty of adoption of the products in each location, the number of sales calls needed to receive the first orders, and the growth of sales of specimen collection kits on a monthly basis. The outcome of the Company's initial marketing efforts in this region will impact the Company's national marketing strategies, for example, we may decide to emphasize physicians' offices over mammography clinics.

The Company plans to market the MASCT System nationally after its field experience trial, which provides the Company with feedback on the patient and physician experiences, as well as with information relating to the issues and problems that may arise as the Company continues to market its products.

Research and Development

Our Intraductal Treatment Research

Our Intraductal Treatment Research Program comprises our patented microcatheter-delivery technology and our patented pharmaceutical formulations for the intraductal treatment of breast pre-cancerous changes, DCIS, and cancers. The method uses our Mammary Ductal Microcatheter System, invented by Dr. Susan Love, President of the Dr. Susan Love Research Foundation, and colleagues, to administer proprietary pharmaceutical formulations into a milk duct displaying pre-cancerous changes, with high local concentrations that promote efficacy and limited systemic exposure, potentially lowering toxicity.

An October 2011 peer-reviewed paper in Science Translational Medicine from the Johns Hopkins Medical School demonstrated the prevention of breast cancer in rats with intraductal but not systemic chemotherapy and a proof-of-principle Phase 1 clinical trial involving 17 women with breast cancer who subsequently received surgery. An accompanying editorial commented that "intraductal treatment could be especially useful for women with premalignant lesions or those at high risk of developing breast cancer, thus drastically improving upon their other, less attractive options of breast-removal surgery or surveillance (termed 'watch and wait')". We intend to build on these academic studies with a research program targeted initially at neoadjuvant therapy in DCIS and to begin preclinical studies using our Microcatheter delivery technology during 2012. We have not yet begun the process of applying for FDA approval of our Intraductal Treatment Research Program.

Billing and Reimbursement

Billing for the MASCT System Medical Device and Patient Kits and the NAF Collection Procedure

Medicare and certain insurance carriers do not currently cover the cost of collecting the NAF sample. The Company intends to work with physicians and other interest groups to attempt to obtain coverage for the procedures but this process can be lengthy, costly, and might not be successful. Failure to receive reimbursement could limit the adoption and utilization of the MASCT System. Because the process can be done by a nurse or physician's assistant, takes less than five minutes, and the MASCT System supplies will contain everything to obtain, label, and ship the NAF samples, the charge for collecting NAF samples should be below the average cost of a mammogram.

Billing for Diagnostic Services

Although Medicare and certain insurance carriers do not currently cover the cost of collecting the NAF sample, Medicare and certain insurance carriers do reimburse for the laboratory analysis of the NAF sample. Billing for diagnostic services is generally complex. As a result, the Company relies on a third-party billing company to perform all of its billing and collection services. Laboratories must bill various payors, such as private insurance companies, managed care companies, governmental payors such as Medicare and Medicaid, physicians, hospitals, and employer groups, each of whom may have different billing requirements. The Company expects to be obligated to bill in the specific manner prescribed by the various payors. Additionally, the audit requirements that must be met to ensure compliance with applicable laws and regulations, as well as internal compliance policies and procedures, add further complexity to the billing process. Other factors that complicate billing include:

- additional billing procedures required by government payor programs;
- variability in coverage and information requirements among various payors;
- missing, incomplete or inaccurate billing information provided by referring physicians;
- billings to payors with whom the Company does not have contracts;
- disputes with payors as to who is responsible for payment;
- disputes with payors as to the appropriate level of reimbursement;
- training and education of employees and clients;
- compliance and legal costs; and
- cost related to, among other factors, medical necessity denials and the absence of advance beneficiaries' notices.

In general, the Company performs the requested tests and reports test results even if the billing information is incorrect or missing. The Company will subsequently attempt to obtain any missing information and correct incomplete or erroneous billing information received from the healthcare provider. Missing or incorrect information on requisitions adds complexity to and slows the billing process, creates backlogs of unbilled requisitions, and generally increases the aging of accounts receivable and the length of time to recognize revenues. When all issues relating to the missing or incorrect information are not resolved in a timely manner, the related receivables will be written off to the allowance for doubtful accounts.

Reimbursement

Depending on the billing arrangement and applicable law, the party that reimburses the Company for its services will be (i) a third party who provides coverage to the patient, such as an insurance company, managed care organization, or a governmental payor program; (ii) the physician or other authorized party (such as another laboratory) who ordered the test or otherwise referred the test to us; or (iii) the patient.

The National Reference Laboratory for Breast Health, the Company's wholly-owned subsidiary, bills Medicare for the laboratory services provided for the ForeCYTE testing.

Reimbursement for services under the Medicare program is based principally on two sets of fee schedules. Generally, anatomic pathology services, including most of the services the Company provides, are

paid based on the Medicare physician fee schedule. The physician fee schedule is designed to set compensation rates for those medical services provided to Medicare beneficiaries that require a degree of physician supervision. Outpatient diagnostic laboratory tests are typically paid according to the laboratory fee schedule.

For the anatomic pathology services that the Company will provide, it will be reimbursed under the Medicare physician fee schedule, and beneficiaries are responsible for applicable coinsurance and deductible amounts. The physician fee schedule is based on assigned relative value shares for each procedure or service, and an annually determined conversion factor is applied to the relative value shares to calculate the reimbursement. The formula used to calculate the fee schedule conversion factor has resulted in significant decreases in payment levels in recent years.

Future decreases in the Medicare physician fee schedule are expected unless Congress acts to change the fee schedule methodology or mandates freezes or increases each year. Because the vast majority of the Company's laboratory services will be reimbursed based on the physician fee schedule, changes to the physician fee schedule could result in a greater impact on the Company's revenues than changes to the Medicare laboratory fee schedule.

The Company expects to bill the Medicare program directly. Generally, it will be permitted to directly bill the Medicare beneficiary for clinical laboratory tests only when the service is considered not medically necessary and the patient has signed an Advanced Beneficiary Notice, or ABN, reflecting acknowledgment that Medicare is likely to deny payment for the service. In most situations, the Company is required to rely on physicians to obtain an ABN from the patient. When the Company is not provided an ABN, it is generally unable to recover payment for a service for which Medicare has denied payment for lack of medical necessity.

In billing Medicare, the Company is required to accept the lowest of: its actual charge, the fee schedule amount for the state or local geographical area, or a national limitation amount, as payment in full for covered tests performed on behalf of Medicare beneficiaries. Payment under the laboratory fee schedule has been limited by Congressional action such as freezes on the otherwise applicable annual Consumer Price Index, or CPI, update to the fee schedule amount. The CPI update of the laboratory fee schedule for 2010 was minus 1.9%.

The Medicare statute permits Federal Health and Human Services Centers for Medicare and Medicaid Services, or CMS, to adjust statutorily prescribed fees for some medical services, including clinical laboratory services, if the fees are "grossly excessive." Medicare regulations provide that if CMS or a carrier determines that an overall payment adjustment of less than 15% is needed to produce a realistic and equitable payment amount, then the payment amount is not considered "grossly excessive or deficient." However, if a determination is made that a payment adjustment of 15% or more is justified, CMS could provide an adjustment of 15% or less, but not more than 15%, in any given year. The Company cannot provide any assurance that fees payable by Medicare for clinical laboratory services could not be reduced as a result of the application of this rule or that the government might not assert claims for recoupment of previously paid amounts by retroactively applying these principles.

The payment amounts under the Medicare fee schedules are important not only for reimbursement under Medicare, but also because the schedule is often used as a reference for the payment amounts set by other third-party payors. For example, state Medicaid programs are prohibited from paying more than the Medicare fee schedule limit for laboratory services furnished to Medicaid recipients, and insurance companies and managed care organizations typically reimburse at a percentage of the Medicare fee schedule.

The Company's reimbursement rates also vary depending on whether it is considered an "in-network," or participating, provider. If it enters into a contract with an insurance company, the Company's reimbursement will be governed by its contractual relationship, and it will typically be reimbursed on a fee-for-service basis at a discount from the patient fee schedule. If the Company does not have a contract with an insurance company, it will be classified as "out-of-network," or as a non-participating provider. In such instances, it would have no contractual right to reimbursement for services.

Reimbursement Strategy

CPT Code for MASCT System NAF Collection Procedure

The NAF collection procedure of the MASCT System does not currently have a procedure-specific Category I CPT code, which is important for reimbursement by Medicare for eligible patients, and which is part of the basis by which insurance companies make reimbursement decisions. A non-specific Category I CPT code, 19499 (unlisted procedure, breast), can be used initially by physicians and insurance carriers will often pay for such procedures with proper documentation. Medicare does not typically reimburse for CPT 19499 procedures.

CPT Code for ForeCYTE Cytology and IHC Biomarker Testing

Category I laboratory procedure codes for cytology and IHC biomarker tests currently exist and reimbursement for these codes by Medicare has been established for 2012 at between $384 and about $1,275, depending on the complexity of the test.

Laboratories typically set patient fee schedules at higher rates for the same procedure.

Intellectual Property

As of February 8, 2012, we own more than 120 issued patents (31 in the United States and at least 90 in foreign countries), and 6 pending patent applications (4 in the United States, 1 pending foreign application and 1 pending International Patent Cooperation Treaty (PCT) application) directed to our products, services, and technologies.

	United States			Foreign / PCT		
Description	**Issued(1)**	**Expiration**	**Pending(1)**	**Issued(1)**	**Expiration**	**Pending**
MASCT (ForeCYTE) Test	6	2016 – 2031	1	11	2016 – 2031	1
Microcatheter (FullCYTE) Test	19	2019 – 2031	2	56	2019 – 2031	0
NextCYTE Test	0	2031	0	0	2031	1
ArgusCYTE Test	1	2020	0	1	2031	0
Intraductal Treatment Program	11	2030	1	35	2030	1
Carbohydrate biomarkers	1	2022	2	3	2022	0

(1) The total patents issued or pending, as applicable, exceed the totals in the respective columns because some patents and applications contain claims directed to more than one technology.

We have applied with the United States Patent and Trademark Office for registration of the use of the marks Atossa (word and design), ForeCYTE, FullCYTE, NextCYTE, ArgusCYTE, MASCT, and Oxy-MASCT.

Competition

We believe that the MASCT System for NAF collection will compete in the medical device product industry with Neomatrix and with academic scientists and physicians who use “homemade” NAF fluid collection systems for research purposes. The Neomatrix device is automated and provides warmth and nipple aspiration simultaneously and is the only non-”homemade” NAF collection system of which we are currently aware. The advantages of the MASCT System compared to the Neomatrix device include a lower acquisition cost and portability. The disadvantages of the MASCT System compared to the Neomatrix device include the requirement that a nurse or other healthcare provider manually operate the device, which may result in increased risks of human error and improper sample collection, and the reduced availability of experience with the device among the medical community.

We believe we will compete in the anatomic pathology laboratory industry based on the patent portfolio for the MASCT System, the technical expertise provided by our focus on diagnoses utilizing NAF, service-focused relationships with referring physicians, and our advanced technology. Based on the scope of our patent claims and the terms of use accompanying the MASCT System, we do not believe that our competitors can transport or process NAF samples collected with the MASCT System without infringing our patent estate and the contractual terms of use.

Laboratories that could process NAF samples not collected with the MASCT System include thousands of local and regional pathology groups, national laboratories, hospital pathologists, and academic laboratories. The largest such competitors include Laboratory Corporation of America and Quest Diagnostics Incorporated.

Characteristics of each source of competition include:

Local and Regional Pathology Groups. Local and regional pathology groups focus on servicing hospitals, often maintaining a staff of pathologists on site that can provide support in the interpretation of certain results. The business models of these laboratories tend to be focused on the efficient delivery of individual tests for a multitude of diseases rather than the comprehensive assessment of only NAF samples, and their target groups tend to be hospital pathologists as opposed to community physicians.

National Laboratories. National laboratories typically offer a full suite of tests for a variety of medical professionals, including general practitioners, hospitals, and pathologists. Their emphasis on providing a broad product portfolio of commoditized tests at the lowest possible price often limits such laboratories' ability to handle difficult or complex specimens requiring special attention, such as NAF samples. In addition, national laboratories typically do not provide ready access to a specialized pathologist for interpretation of test results.

Hospital Pathologists. Pathologists working in a hospital traditionally provide most of the diagnostic services required for hospital patients and sometimes also serve non-hospital patients. Hospital pathologists typically have close interaction with treating physicians, including face-to-face contact. However, hospital pathologists often do not have the depth of experience, specialization, and expertise necessary to perform the specialized services needed for NAF samples.

Academic Laboratories. Academic laboratories generally offer advanced technology and know-how. In fact, the vast majority of NAF sample processing over the last several years has been in academic laboratories primarily for research purposes. These laboratories typically pursue multiple activities and goals, such as research and education, or are generally committed to their own hospitals. Turn-around time for specimen results reporting from academic laboratories is often slow. This limits the attractiveness of academic laboratories to outside physicians who tend to have focused specialized needs and require results to be reported in a timely manner.

Alternative Diagnostic Tools. We also anticipate that the MASCT System will face challenges in market adoption due to the reliance of physicians and other medical professionals on existing diagnostic tools for breast cancer, including mammograms, ultrasound examinations, magnetic resonance imaging, or MRI, fine needle aspiration and core biopsies, among others. These methods are currently more widely used and accepted by physicians, and may continue to be more widely used than our proposed products and services because they are currently reimbursed by third-party payors. In addition, physicians and other medical professionals may view the MASCT System as a screening tool for existing breast cancer, like mammography, rather than as an adjunctive procedure to mammography. As a result, the MASCT System could be deemed to compete directly with mammography, an established procedure, which could impair market adoption of the MASCT System. The advantages of the MASCT System compared to ultrasound, mammography, or magnetic resonance imaging include obtaining cytology and molecular information, the ease and simplicity of the procedure, and the cost, especially compared to MRI. The disadvantages of the MASCT System compared to ultrasound, mammography, and MRI include a lower sensitivity to detection of cancer. The advantage of the MASCT System compared to fine needle aspiration and core biopsies include the ease and simplicity of the procedure, the cost, and the patient comfort. The disadvantages of the MASCT System compared to fine needle aspiration and core biopsies include the reduced sample size and the consequent limitation of the range of molecular studies that can be conducted.

In addition to facing competition with respect to our MASCT System and the processing of collected NAF samples, we also face competition regarding our ArgusCYTE diagnostic test. The detection and analysis of circulating tumor cells, or CTCs, in the blood of patients with breast cancer is an active area of medical research, and many companies and academic research institutes that have substantially greater financial and research resources than we do are involved in such detection and analysis. For example, The Massachusetts General Hospital, Harvard Medical School, received a multimillion dollar grant from Stand Up To Cancer in

2009 for a CTC chip to diagnose cancer. Additionally, Johnson & Johnson markets an FDA-cleared test for breast cancer CTCs and Clariant Laboratories, a GE Healthcare company, also markets a breast cancer CTC test.

Information Systems

We have acquired and implemented a third-party pathology laboratory report management system that supports our operations and physician services. Our information systems, to the extent such systems hold or transmit patient medical information, are believed to operate in compliance with state and federal laws and regulations relating to the privacy and security of patient medical information, including a comprehensive federal law and regulations referred to as HIPAA. While we have endeavored to establish our information systems to be compliant with such laws, including HIPAA, such laws are complex and subject to interpretation.

Government Regulation

United States Medical Device Regulation

The Federal Food, Drug, and Cosmetic Act, or FDCA, and the FDA's implementing regulations, govern registration and listing, manufacturing, labeling, storage, advertising and promotion, sales and distribution, and post-market surveillance. Medical devices and their manufacturers are also subject to inspection by the FDA. The FDCA, supplemented by other federal and state laws, also provides civil and criminal penalties for violations of its provisions. We manufacture and market a medical device that is regulated by the FDA, comparable state agencies and regulatory bodies in other countries. We also operate a clinical and diagnostic laboratory which uses reagents and test kits some of which are regulated medical devices.

The FDA classifies medical devices into one of three classes (Class I, II or III) based on the degree of risk the FDA determines to be associated with a device and the extent of control deemed necessary to ensure the device's safety and effectiveness. Devices requiring fewer controls because they are deemed to pose lower risk are placed in Class I or II. Class I devices are deemed to pose the least risk and are subject only to general controls applicable to all devices, such as requirements for device labeling, premarket notification, and adherence to the FDA's current good manufacturing practice requirements, as reflected in its QSR. Most pathology staining kits, reagents, and routine antibody-based immunohistochemistry protocols which the Company intends to use initially are Class I devices. Class II devices are intermediate risk devices that are subject to general controls and may also be subject to special controls such as performance standards, product-specific guidance documents, special labeling requirements, patient registries or postmarket surveillance. The MASCT System is a Class II device. Class III devices are those for which insufficient information exists to assure safety and effectiveness solely through general or special controls, and include life-sustaining, life-supporting, or implantable devices, and devices not "substantially equivalent" to a device that is already legally marketed.

Most Class I devices, including the laboratory staining kits and reagents the Company uses, and some Class II devices are exempted by regulation from the 510(k) clearance requirement and can be marketed without prior authorization from FDA. Class I and Class II devices that have not been so exempted are eligible for marketing through the 510(k) clearance pathway. By contrast, devices placed in Class III generally require premarket approval, or PMA, approval prior to commercial marketing. To obtain 510(k) clearance for a medical device, an applicant must submit a premarket notification to the FDA demonstrating that the device is "substantially equivalent" to a predicate device legally marketed in the United States. A device is substantially equivalent if, with respect to the predicate device, it has the same intended use and (i) the same technological characteristics, or (ii) has different technological characteristics and the information submitted demonstrates that the device is as safe and effective as a legally marketed device and does not raise different questions of safety or effectiveness. A showing of substantial equivalence sometimes, but not always, requires clinical data. In the case of the MASCT System, a clinical trial was conducted. Generally, the 510(k) clearance process can exceed 90 days and may extend to a year or more. After a device has received 510(k) clearance for a specific intended use, any modification that could significantly affect its safety or effectiveness, such as a significant change in the design, materials, method of manufacture or intended use, will require a new 510(k) clearance or (if the device as modified is not substantially equivalent to a legally marketed

predicate device) PMA approval. While the determination as to whether new authorization is needed is initially left to the manufacturer, the FDA may review this determination and evaluate the regulatory status of the modified product at any time and may require the manufacturer to cease marketing and recall the modified device until 510(k) clearance or PMA approval is obtained. The manufacturer may also be subject to significant regulatory fines or penalties.

All clinical trials must be conducted in accordance with regulations and requirements collectively known as Good Clinical Practice, or GCP. GCPs include the FDA's Investigational Device Exemption, or IDE, regulations, which describe the conduct of clinical trials with medical devices, including the recordkeeping, reporting and monitoring responsibilities of sponsors and investigators, and labeling of investigation devices. They also prohibit promotion, test marketing, or commercialization of an investigational device, and any representation that such a device is safe or effective for the purposes being investigated. GCPs also include FDA's regulations for institutional review board approval and for protection of human subjects (informed consent), as well as disclosure of financial interests by clinical investigators.

Required records and reports are subject to inspection by the FDA. The results of clinical testing may be unfavorable or, even if the intended safety and effectiveness success criteria are achieved, may not be considered sufficient for the FDA to grant approval or clearance of a product. The commencement or completion of clinical trials, if any, that the Company may sponsor, may be delayed or halted, or be inadequate to support approval of a PMA application or clearance of a premarket notification for numerous reasons, including, but not limited to, the following:

- the FDA or other regulatory authorities do not approve a clinical trial protocol or a clinical trial (or a change to a previously approved protocol or trial that requires approval), or place a clinical trial on hold;
- patients do not enroll in clinical trials or follow up at the rate expected;
- institutional review boards and third-party clinical investigators may delay or reject the Company's trial protocol or changes to its trial protocol;
- third-party clinical investigators decline to participate in a trial or do not perform a trial on the Company's anticipated schedule or consistent with the clinical trial protocol, investigator agreements, good clinical practices or other FDA requirements;
- third-party organizations do not perform data collection and analysis in a timely or accurate manner;
- regulatory inspections of clinical trials or manufacturing facilities, which may, among other things, require the Company to undertake corrective action or suspend or terminate its clinical trials;
- changes in governmental regulations or administrative actions;
- the interim or final results of the clinical trial are inconclusive or unfavorable as to safety or effectiveness; and
- the FDA concludes that the Company's trial design is inadequate to demonstrate safety and effectiveness.

After a device is approved and placed in commercial distribution, numerous regulatory requirements apply. These include:

- establishment registration and device listing;
- the QSR, which requires manufacturers to follow design, testing, control, documentation and other quality assurance procedures;
- labeling regulations, which prohibit the promotion of products for unapproved or "off-label" uses and impose other restrictions on labeling;
- medical device reporting regulations, which require that manufacturers report to the FDA if a device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if malfunctions were to recur; and

- corrections and removal reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the FDCA caused by the device that may present a risk to health.

The FDA enforces regulatory requirements by conducting periodic, announced and unannounced inspections and market surveillance. Inspections may include the manufacturing facilities of our subcontractors. Failure to comply with applicable regulatory requirements, including those applicable to the conduct of our clinical trials, can result in enforcement action by the FDA, which may lead to any of the following sanctions:

- warning letters or untitled letters;
- fines and civil penalties;
- unanticipated expenditures;
- delays in clearing or approving or refusal to clear or approve products;
- withdrawal or suspension of FDA clearance;
- product recall or seizure;
- orders for physician notification or device repair, replacement, or refund;
- production interruptions;
- operating restrictions;
- injunctions; and
- criminal prosecution.

The Company and its contract manufacturers, specification developers and suppliers are also required to manufacture the MASCT and Microcatheter Systems in compliance with current Good Manufacturing Practice requirements set forth in the QSR. The QSR requires a quality system for the design, manufacture, packaging, labeling, storage, installation and servicing of marketed devices, and includes extensive requirements with respect to quality management and organization, device design, buildings, equipment, purchase and handling of components, production and process controls, packaging and labeling controls, device evaluation, distribution, installation, complaint handling, servicing and record keeping. The FDA enforces the QSR through periodic announced and unannounced inspections that may include the manufacturing facilities of our subcontractors. If the FDA believes the Company or any of its contract manufacturers or regulated suppliers is not in compliance with these requirements, it can shut down the Company’s manufacturing operations, require recall of the MASCT System, refuse to clear or approve new marketing applications, institute legal proceedings to detain or seize products, enjoin future violations, or assess civil and criminal penalties against the Company or its officers or other employees. Any such action by the FDA would have a material adverse effect on the Company’s business.

CLIA and State Regulation

As a provider of cytology and molecular diagnostic services, the Company is required to hold certain federal, state and local licenses, certifications, and permits. Under CLIA, it is required to hold a certificate applicable to the type of work it performs and to comply with certain CLIA-imposed standards. CLIA regulates all laboratories by requiring they be certified by the federal government and comply with various operational, personnel, facilities administration, quality, and proficiency requirements intended to ensure that laboratory testing services are accurate, reliable, and timely. CLIA does not preempt state laws that are more stringent than federal law.

To obtain and renew its CLIA certificates, which it is required to renew every two years, the Company will be regularly subject to survey and inspection to assess compliance with program standards and may be subject to additional random inspections. Standards for testing under CLIA are based on the level of complexity of the tests performed by the laboratory. Laboratories performing high complexity testing are

required to meet more stringent requirements than laboratories performing less complex tests where a CLIA certificate is required. Both NAF cytology and molecular diagnostic testing are high complexity tests. CLIA certification is a prerequisite to be eligible for reimbursement under Medicare and Medicaid.

In addition to CLIA requirements, the Company is subject to various state laws. CLIA provides that a state may adopt laboratory regulations that are more stringent than those under federal law, and a number of states, including Washington, where the Company is located, have done so. The Washington State Medical Test Site, or MTS, Licensure law was passed in May 1989 to allow the state to regulate clinical laboratory testing. In October 1993, Washington became the first state to have its clinical laboratory licensure program judged by the CMS as equivalent to CLIA and was granted an exemption. In addition, New York, Maryland, Pennsylvania, Rhode Island, and California have implemented their own laboratory regulatory schemes. State laws may require that laboratory personnel meet certain qualifications, specify certain quality controls, or prescribe record maintenance requirements.

Privacy and Security of Health Information and Personal Information; Standard Transactions

The Company is subject to state and federal laws and implementing regulations relating to the privacy and security of the medical information of the patients it treats. The principal federal legislation is part of HIPAA. Pursuant to HIPAA, the Secretary of the Department of Health and Human Services, or HHS, has issued final regulations designed to improve the efficiency and effectiveness of the healthcare system by facilitating the electronic exchange of information in certain financial and administrative transactions, while protecting the privacy and security of the patient information exchanged. These regulations also confer certain rights on patients regarding their access to and control of their medical records in the hands of healthcare providers such as the Company.

Four principal regulations have been issued in final form: privacy regulations, security regulations, standards for electronic transactions, and the National Provider Identifier regulations. The HIPAA privacy regulations, which fully came into effect in April 2003, establish comprehensive federal standards with respect to the uses and disclosures of an individual’s personal health information, referred to in the privacy regulations as “protected health information,” by health plans, healthcare providers, and healthcare clearinghouses. The Company is a healthcare provider within the meaning of HIPAA. The regulations establish a complex regulatory framework on a variety of subjects, including:

- the circumstances under which uses and disclosures of protected health information are permitted or required without a specific authorization by the patient, including but not limited to treatment purposes, activities to obtain payment for services, and healthcare operations activities;
- a patient’s rights to access, amend, and receive an accounting of certain disclosures of protected health information;
- the content of notices of privacy practices for protected health information; and
- administrative, technical and physical safeguards required of entities that use or receive protected health information.

The federal privacy regulations, among other things, restrict the Company’s ability to use or disclose protected health information in the form of patient-identifiable laboratory data, without written patient authorization, for purposes other than payment, treatment, or healthcare operations (as defined by HIPAA) except for disclosures for various public policy purposes and other permitted purposes outlined in the privacy regulations. The privacy regulations provide for significant fines and other penalties for wrongful use or disclosure of protected health information, including potential civil and criminal fines and penalties. Although the HIPAA statute and regulations do not expressly provide for a private right of damages, the Company could incur damages under state laws to private parties for the wrongful use or disclosure of confidential health information or other private personal information.

The Company has implemented policies and practices that it believes brings it into compliance with the privacy regulations. However, the documentation and process requirements of the privacy regulations are complex and subject to interpretation. Failure to comply with the privacy regulations could subject the Company to sanctions or penalties, loss of business, and negative publicity.

The HIPAA privacy regulations establish a “floor” of minimum protection for patients as to their medical information and do not supersede state laws that are more stringent. Therefore, the Company is required to comply with both HIPAA privacy regulations and various state privacy laws. The failure to do so could subject it to regulatory actions, including significant fines or penalties, and to private actions by patients, as well as to adverse publicity and possible loss of business. In addition, federal and state laws and judicial decisions provide individuals with various rights for violation of the privacy of their medical information by healthcare providers such as the Company.

The final HIPAA security regulations, which establish detailed requirements for physical, administrative, and technical measures for safeguarding protected health information in electronic form, became effective on April 21, 2005. The Company has employed what it considers to be a reasonable and appropriate level of physical, administrative and technical safeguards for patient information. Failure to comply with the security regulations could subject the Company to sanctions or penalties and negative publicity.

The final HIPAA regulations for electronic transactions, referred to as the transaction standards, establish uniform standards for certain specific electronic transactions and code sets and mandatory requirements as to data form and data content to be used in connection with common electronic transactions, such as billing claims, remittance advices, enrollment, and eligibility. The Company has outsourced to a third-party vendor the handling of its billing and collection transactions, to which the transaction standards apply. Failure of the vendor to properly conform to the requirements of the transaction standards could, in addition to possible sanctions and penalties, result in payors not processing transactions submitted on our behalf, including claims for payment.

The HIPAA regulations on adoption of national provider identifiers, or NPI, required healthcare providers to adopt new, unique identifiers for reporting on claims transactions submitted after May 23, 2007. The Company intends to obtain NPIs for its laboratory facilities and pathologists so that it can report NPIs to Medicare, Medicaid, and other health plans.

The healthcare information of the Company’s patients includes social security numbers and other personal information that are not of an exclusively medical nature. The consumer protection laws of a majority of states now require organizations that maintain such personal information to notify each individual if their personal information is accessed by unauthorized persons or organizations, so that the individuals can, among other things, take steps to protect themselves from identity theft. The costs of notification and the adverse publicity can both be significant. Failure to comply with these state consumer protection laws can subject a company to penalties that vary from state to state, but may include significant civil monetary penalties, as well as to private litigation and adverse publicity. California recently enacted legislation that expanded its version of a notification law to cover improper access to medical information generally, and other states may follow suit.

Federal and State Fraud and Abuse Laws

The federal healthcare Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting, or receiving remuneration to induce referrals or in return for purchasing, leasing, ordering, or arranging for the purchase, lease, or order of any healthcare item or service reimbursable under a governmental payor program. The definition of “remuneration” has been broadly interpreted to include anything of value, including gifts, discounts, the furnishing of supplies or equipment, credit arrangements, payments of cash, waivers of payments, ownership interests, opportunity to earn income, and providing anything at less than its fair market value. The Anti-Kickback Statute is broad, and it prohibits many arrangements and practices that are lawful in businesses outside of the healthcare industry. Recognizing that the Anti-Kickback Statute is broad and may technically prohibit many innocuous or beneficial arrangements within the healthcare industry, HHS has issued a series of regulatory “safe harbors.” These safe harbor regulations set forth certain provisions that, if met, will provide healthcare providers and other parties with an affirmative defense against prosecution under the federal Anti-Kickback Statute. Although full compliance with these provisions ensures against prosecution under the federal Anti-Kickback Statute, the failure of a transaction or arrangement to fit within a specific safe harbor does not necessarily mean that the transaction or arrangement is illegal or that prosecution under the federal Anti-Kickback Statute will be pursued.

From time to time, the Office of Inspector General, or OIG, issues alerts and other guidance on certain practices in the healthcare industry. In October 1994, the OIG issued a Special Fraud Alert on arrangements for the provision of clinical laboratory services. The Fraud Alert set forth a number of practices allegedly engaged in by some clinical laboratories and healthcare providers that raise issues under the "fraud and abuse" laws, including the Anti-Kickback Statute. These practices include: (i) laboratories providing employees to furnish valuable services for physicians (other than collecting patient specimens for testing for the laboratory) that are typically the responsibility of the physicians' staff; (ii) providing free testing to a physician's managed care patients in situations where the referring physicians benefit from such reduced laboratory utilization; (iii) providing free pick-up and disposal of bio-hazardous waste for physicians for items unrelated to a laboratory's testing services; (iv) providing general-use facsimile machines or computers to physicians that are not exclusively used in connection with the laboratory services; and (v) providing free testing for healthcare providers, their families, and their employees (professional courtesy testing).

The OIG emphasized in the Special Fraud Alert that when one purpose of an arrangement is to induce referrals of program-reimbursed laboratory testing, both the clinical laboratory and the healthcare provider, or physician, may be liable under the Anti-Kickback Statute, and may be subject to criminal prosecution and exclusion from participation in the Medicare and Medicaid programs.

Another issue about which the OIG has expressed concern involves the provision of discounts on laboratory services billed to customers in return for the referral of more lucrative federal healthcare program business. In a 1999 Advisory Opinion, the OIG concluded that a proposed arrangement whereby a laboratory would offer physicians significant discounts on non-federal healthcare program laboratory tests might violate the Anti-Kickback Statute. The OIG reasoned that the laboratory could be viewed as providing such discounts to the physician in exchange for referrals by the physician of business to be billed by the laboratory to Medicare at non-discounted rates. The OIG indicated that the arrangement would not qualify for protection under the discount safe harbor because Medicare and Medicaid would not get the benefit of the discount. Subsequently, in a year 2000 correspondence, the OIG stated that the Anti-Kickback Statute may be violated if there were linkage between the discount offered to the physician and the physician's referrals of tests covered under a federal healthcare program that would be billed by the laboratory directly. Where there was evidence of such linkage, the arrangement would be considered "suspect" if the charge to the physician was below the laboratory's "average fully loaded costs" of the test.

Generally, arrangements that would be considered suspect, and possible violations under the Anti-Kickback Statute, include arrangements between a clinical laboratory and a physician (or related organizations or individuals) in which the laboratory would (1) provide items or services to the physician or other referral source without charge, or for amounts that are less than their fair market value; (2) pay the physician or other referral source amounts that are in excess of the fair market value of items or services that were provided; or (3) enter into an arrangement with a physician or other entity because it is a current or potential referral source. HIPAA also applies to fraud and false statements. HIPAA created two new federal crimes: healthcare fraud and false statements relating to healthcare matters. The healthcare fraud statute prohibits knowingly and willfully executing a scheme to defraud any healthcare benefit program, including private payors. A violation of this statute is a felony and may result in fines, imprisonment, or exclusion from governmental payor programs such as the Medicare and Medicaid programs. The false statements statute prohibits knowingly and willfully falsifying, concealing, or covering up a material fact or making any materially false, fictitious, or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items, or services, as well as the retention of any overpayment. A violation of this statute is a felony and may result in fines or imprisonment or exclusion from governmental payor programs.

Physician Referral Prohibitions

Under a federal law directed at "self-referral," commonly known as the Stark Law, prohibitions exist, with certain exceptions, on Medicare and Medicaid payments for laboratory tests referred by physicians who personally, or through a family member, have an investment interest in, or a compensation arrangement with, the laboratory performing the tests. A person who engages in a scheme to circumvent the Stark Law's referral prohibition may be fined up to $100,000 for each such arrangement or scheme. In addition, any person who presents or causes to be presented a claim to the Medicare or Medicaid programs in violation of the Stark Law is subject to civil monetary penalties of up to $15,000 per bill submission, an assessment of up to

three times the amount claimed, and possible exclusion from participation in federal governmental payor programs. Bills submitted in violation of the Stark Law may not be paid by Medicare or Medicaid, and any person collecting any amounts with respect to any such prohibited bill is obligated to refund such amounts.

Any arrangement between a laboratory and a physician or physicians' practice that involves remuneration will prohibit the laboratory from obtaining payment for services resulting from the physicians' referrals, unless the arrangement is protected by an exception to the self-referral prohibition or a provision stating that the particular arrangement would not result in remuneration. Among other things, a laboratory's provision of any item, device, or supply to a physician would result in a Stark Law violation unless it was used only to collect, transport, process, or store specimens for the laboratory, or was used only to order tests or procedures or communicate related results. This may preclude a laboratory's provision of fax machines and computers that may be used for unrelated purposes. Most arrangements involving physicians that would violate the Anti-Kickback Statute would also violate the Stark Law. Many states also have "self-referral" and other laws that are not limited to Medicare and Medicaid referrals. These laws may prohibit arrangements which are not prohibited by the Stark Law, such as a laboratory's placement of a phlebotomist in a physician's office to collect specimens for the laboratory. Finally, recent amendments to these laws require self-disclosure of violations by providers.

Discriminatory Billing Prohibition

In response to competitive pressures, the Company will be increasingly required to offer discounted pricing arrangements to managed care payors and physicians and other referral services. Discounts to referral sources raise issues under the Anti-Kickback Statute. Any discounted charge below the amount that Medicare or Medicaid would pay for a service also raises issues under Medicare's discriminatory billing prohibition. The Medicare statute permits the government to exclude a laboratory from participation in federal healthcare programs if it charges Medicare or Medicaid "substantially in excess" of its usual charges in the absence of "good cause." In 2000, the OIG stated in informal correspondence that the prohibition was violated only if the laboratory's charge to Medicare was substantially more than the "median non-Medicare/ — Medicaid charge." On September 15, 2003, the OIG issued a notice of proposed rulemaking addressing the statutory prohibition. Under the proposed rule, a provider's charge to Medicare or Medicaid would be considered "substantially in excess of [its] usual charges" if it was more than 120% of the provider's mean or median charge for the service. The proposed rule was withdrawn in June 2007. At that time, the OIG stated that it would continue to evaluate billing patterns of individuals and entities on a case-by-case basis.

Corporate Practice of Medicine

The Company's contractual relationships with the licensed healthcare providers are subject to regulatory oversight, mainly by state licensing authorities. In certain states, for example, limitations may apply to the relationship with the pathologists that the Company intends to employ or engage, particularly in terms of the degree of control that the Company exercises or has the power to exercise over the practice of medicine by those pathologists. A number of states, including New York, Texas, and California, have enacted laws prohibiting business corporations, such as the Company, from practicing medicine and employing or engaging physicians to practice medicine. These requirements are generally imposed by state law in the states in which the Company operates, vary from state to state, and are not always consistent among states. In addition, these requirements are subject to broad powers of interpretation and enforcement by state regulators. Some of these requirements may apply to the Company even if it does not have a physical presence in the state, based solely on the employment of a healthcare provider licensed in the state or the provision of services to a resident of the state. The Company believes that it operates in material compliance with these requirements. However, failure to comply can lead to action against the Company and the licensed healthcare professionals that it employs, fines or penalties, receipt of cease and desist orders from state regulators, loss of healthcare professionals' licenses or permits, the need to make changes to the terms of engagement of those professionals that interfere with the Company's business, and other material adverse consequences.

State Laboratory Licensure

The Company is certified by CLIA and has been licensed in the states of Washington and California. The Company is in the process of obtaining a license to accept testing samples from New York, Pennsylvania, Maryland, Florida, and Rhode Island, which require out-of-state laboratories to hold state licenses. The Company is currently processing samples from these five states in which it does not hold a license under recognized exemption provisions. All other states permit testing with the CLIA certification. Similarly, many of the states from which the Company will solicit specimens require that a physician interpreting specimens from that state be licensed by that particular state, irrespective of where the services are to be provided. In the absence of such a state license, the physician may be considered to be engaged in the unlicensed practice of medicine.

The Company may become aware from time to time of other states that require out-of-state laboratories or physicians to obtain licensure in order to accept specimens from the state, and it is possible that other states do have such requirements or will have such requirements in the future. The Company intends to follow instructions from the state regulators as how to comply with such requirements.

Referrals after Becoming a Public Company

Once the Company's stock is publicly traded, it will not be able to accept referrals from physicians who own, directly or indirectly, shares of its stock unless it complies with the Stark Law exception for publicly traded securities. This requires, among other things, $75 million in stockholders' equity (total assets minus total liabilities). The parallel safe harbor requires, among other things, $50 million in undepreciated net tangible assets, in order for any distributions to such stockholders to be protected under the Anti-Kickback Statute.

Other Regulatory Requirements

The Company's laboratory is subject to federal, state, and local regulations relating to the handling and disposal of regulated medical waste, hazardous waste, and biohazardous waste, including chemical, biological agents and compounds, and human tissue. The Company uses outside vendors who are contractually obligated to comply with applicable laws and regulations to dispose of such waste. These vendors are licensed or otherwise qualified to handle and dispose of such waste.

The Occupational Safety and Health Administration, or OSHA, has established extensive requirements relating to workplace safety for healthcare employers, including requirements mandating work practice controls, protective clothing and equipment, training, medical follow-up, vaccinations, and other measures designed to minimize exposure to, and transmission of, blood-borne pathogens. Pursuant to its authority under the FDCA, the FDA has regulatory responsibility over instruments, test kits, reagents, and other devices used to perform diagnostic testing by laboratories such as ours. Specifically, the manufacturers and suppliers of analyte specific reagents, or ASRs, which we will obtain for use in diagnostic tests, are subject to regulation by the FDA and are required to register their establishments with the FDA, to conform manufacturing operations to the FDA's Quality System Regulation and to comply with certain reporting and other record keeping requirements. The FDA also regulates the sale or distribution, in interstate commerce, of products classified as medical devices under the FDCA, including *in vitro* diagnostic test kits. Such devices must undergo premarket review by the FDA prior to commercialization unless the device is of a type exempted from such review by statute or pursuant to the FDA's exercise of enforcement discretion.

The FDA maintains that it has authority to regulate the development and use of LDTs or “home brews” as medical devices, but to date has not exercised its authority with respect to “home brew” tests as a matter of enforcement discretion. The FDA regularly considers the application of additional regulatory controls over the sale of ASRs and the development and use of “home brews” by laboratories such as the Company's.

The FDA has conducted public hearings to discuss oversight of LDTs. While the outcome of those hearings is unknown, it is probable that some form of pre-market notification or approval process will become a requirement for certain LDTs. Pre-market notification or approval of the Company's future LDTs would be costly and delay the ability of the Company to commercialize such tests.

Compliance Program

Compliance with government rules and regulations is a significant concern throughout the industry, in part due to evolving interpretations of these rules and regulations. The Company seeks to conduct its business in compliance with all statutes and regulations applicable to its operations. To this end, it has established a compliance program that reviews for regulatory compliance procedures, policies, and facilities throughout its business.

Legal Proceedings

On June 30, 2011, Robert Kelly, our former President, filed a counterclaim against us in an arbitration proceeding, alleging breach of contract in connection with the termination of a consulting agreement between Mr. Kelly (d/b/a Pitslayer LLC) and us. The consulting agreement was terminated by us in September 2010. Mr. Kelly seeks $450,000 in compensatory damages, which is the amount he claims would have been earned had the consulting agreement been fulfilled to completion. We are reasonably confident in our defenses to Mr. Kelly’s claims. Consequently, no provision or liability has been recorded for Mr. Kelly’s claims as of December 31, 2011. However, it is at least reasonably possible that our estimate of our liability may change in the near term. Any payments by reason of an adverse determination in this matter will be charged to earnings in the period of determination.

Employees

As of December 31, 2011, we employed three executive officers, one of whom serves in such capacity part-time, and five other full-time employees. We expect that we will hire more employees as we expand.

Property

We lease approximately 9,800 square feet of office and laboratory space in Seattle, Washington, which includes space rented from Sanders Properties, LLC, CompleGen, Inc., and the Fred Hutchison Cancer Research Center, as described elsewhere in this prospectus. We believe that our current facilities will be adequate to meet our needs for the next 24 months.

Insurance

We currently maintain director’s and officer’s insurance, commercial general and office premises liability insurance, and product errors and omissions liability insurance for our products and services.

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MANAGEMENT

The following table sets forth information regarding the members of the Board of Directors of the Company and its executive officers as of December 31, 2011:

Executive Officers and Directors

Name	Age	Position(s)
Steven C. Quay, M.D., Ph.D.	61	Chairman of the Board of Directors, Chief Executive Officer and President
Christopher Benjamin	37	Chief Financial Officer
Shu-Chih Chen, Ph.D.	50	Director, Chief Scientific Officer
John Barnhart	55	Director
Stephen J. Galli, M.D.	64	Director
Alexander Cross, Ph.D.	79	Director
H. Lawrence Remmel, Esq.	59	Director

The Company's bylaws provide that the number of directors authorized to serve on the Board of Directors of the Company may be established, from time to time, by action of the Board of Directors of the Company. Vacancies in the existing Board of Directors of the Company are filled by a majority vote of the remaining directors on the Board of Directors of the Company. Directors currently serve for a one-year term until each subsequent annual meeting of stockholders and until their respective successors have been elected and qualified or until death, resignation or removal. Effective upon the completion of this offering, our Board of Directors will be divided into three classes and directors will serve for a three-year term until the third annual meeting following their election and until their respective successors have been elected and qualified or until death, resignation or removal. Effective upon the completion of this offering, Dr. Quay and Mr. Barnhart will be Class I directors (whose terms will expire on the date of the 2013 annual meeting), Dr. Cross and Dr. Galli will be Class II directors (whose terms will expire on the date of the 2014 annual meeting), and Dr. Chen and Mr. Remmel will be Class III directors (whose terms will expire on the date of the 2015 annual meeting). The Company's executive officers are appointed by and serve at the discretion of the Board of Directors of the Company.

Dr. Quay is the Chief Executive Officer and Chairman of the Board of Directors of the Company. Dr. Shu-Chih Chen is the Chief Scientific Officer and a director. Drs. Quay and Chen are husband and wife. They currently beneficially own a substantial minority of the outstanding voting securities of the Company. Following the completion of this offering they will remain substantial minority stockholders.

Steven C. Quay, M.D., Ph.D. Dr. Quay has served as Chief Executive Officer and Chairman of the Board of Directors of the Company since the Company was incorporated in April 2009. Prior to his work at the Company, Dr. Quay served as Chairman of the Board, President and Chief Executive Officer of MDRNA, Inc., a biotechnology company focused on the development and commercialization of RNAi-based therapeutic products, from August 2000 to May 2008, and as its Chief Scientific Officer until November 30, 2008 (MDRNA, Inc. was formerly known as Nastech Pharmaceutical Company Inc. and is currently known as Marina Biotech, Inc.). From December 2008 to April 2009, Dr. Quay was involved in acquiring the Company's assets and preparing the Company's business plan. Dr. Quay is certified in Anatomic Pathology with the American Board of Pathology, completed both an internship and residency in anatomic pathology at the Massachusetts General Hospital, a Harvard Medical School teaching hospital, is a former faculty member of the Department of Pathology, Stanford University School of Medicine, and is a named inventor on 14 U.S. and foreign patents covering the MASCT System. He oversaw the clinical testing and regulatory filing of the MASCT device with the FDA that led to its ultimate marketing clearance. Including the patents for the MASCT System, Dr. Quay has a total of 76 U.S. patents, 98 pending patent applications and is a named inventor on patents covering five pharmaceutical products that have been approved by the FDA. Dr. Quay received an M.D. in 1977 and a Ph.D. in 1975 from the University of Michigan Medical School. He also received his B.A. degree in biology, chemistry and mathematics from Western Michigan University in 1971. Dr. Quay is a member of the American Society of Investigative Pathology, the Association of Molecular Pathology, the Society for Laboratory Automation and Screening and the Association of Pathology Informatics. He was selected to serve on the Company's Board of Directors because of his role as the founder

of the Company and the inventor of the MASCT System, as well as his qualifications as a physician and the principal researcher overseeing the clinical and regulatory development of the MASCT System.

Christopher Benjamin. Mr. Benjamin has served as Chief Financial Officer of the Company since July 2010. His experience includes both public and private company financial reporting expertise. Based in Phoenix, Arizona, Mr. Benjamin has served as President of Rogue CFO Consulting since November 2007, as well as serving as the interim Chief Financial Officer for Quantum Materials Corporation, a manufacturer of quantum dots, and Paradise Publishers, a company focused on the marketing of electronic books. In the past, he held the position of Controller for NexTec Group, a company that consults with other companies regarding enterprise resource planning and customer relationship management solutions, from March 2007 through November 2007, Redfin Corporation, an online real estate agent company, from September 2006 to March 2007, and was the Accounting Manager and Assistant Controller for the Bsquare Corporation, a company focused on software development, from September 2005 to September 2006. His responsibilities at these companies included monthly financial reporting and analysis, audit and cash management, forecasting, oversight of the General Ledger, as well as ensuring compliance with GAAP, FASB and SEC reporting standards. From February 2003 to November 2005, Mr. Benjamin worked at Cascade Natural Gas Corporation, where his responsibilities included serving as Manager of Financial Reporting and Fixed Assets, along with Sarbanes Oxley process documentation, process flow creation and SEC reporting support. He received his M.B.A. from the University of Washington in Seattle in 2006 and a B.A. in accounting from the University of the Fraser Valley in Abbotsford, British Columbia, Canada in 1997.

Shu-Chih Chen, Ph.D. Dr. Chen has served as Chief Scientific Officer and director of the Company since the Company was incorporated in April 2009. Prior to joining the Company, Dr. Chen served as President of Ensisheim beginning in 2008, was founder and President of SC2Q Consulting Company from 2006 to 2008, and served as Head, Cell Biology, Nastech Pharmaceuticals Company, Inc. from 2002 to 2006. During 1995 and 1996, she was an Associate Professor at National Yang Ming University, Taipei, Taiwan, and served as the principal investigator of an NIH RO1 grant studying tumor suppression by gap junction protein connexin 43 at the Department of Molecular Medicine at Northwest Hospital before working in the research department at Nastech Pharmaceutical Company. She is named as an inventor on four patent applications related to cancer therapeutics. Dr. Chen received her Ph.D. degree in microbiology and public health from Michigan State University in 1992 and has published extensively on Molecular Oncology. She received her B.S. degree in medical technology from National Yang Ming University, Taipei, Taiwan in 1984. Dr. Chen was selected to serve on the Company’s Board of Directors because of her qualifications in medical technology and as a professor and researcher in the field of cancer therapeutics.

John Barnhart. Mr. Barnhart has served as a director of the Company since July 2009. He is the founder and has been the Managing Director of the Visconti Group, a management consulting group in Seattle, Washington, since November 2003. He held prior executive positions at The Walt Disney Company, Sony Pictures Entertainment, and Walt Disney Imagineering. He received a B.S. degree in engineering from California State University, Long Beach in 1983. Mr. Barnhart was selected to serve on the Company’s Board of Directors because of his understanding and experience with development and marketing of consumer-oriented products and services.

Stephen J. Galli, M.D. Dr. Galli has served as a director of the Company since July 2011. Dr. Galli is Chair of the Department of Pathology, Professor of Pathology and of Microbiology & Immunology and the Mary Hewitt Loveless, M.D., Professor, Stanford University School of Medicine, Stanford, California, and has served in these capacities since February 1999. Before joining Stanford, he was on the faculty of Harvard Medical School. He holds 13 U.S. patents and has over 340 publications. He is past president of the American Society for Investigative Pathology and current president of the Collegium Internationale Allergologicum. In addition to receiving awards for his research, he was recently recognized with the 2010 Stanford University President’s Award for Excellence Through Diversity for his recruitment and support of women and underrepresented minorities at Stanford University. He received his B.A. degree in biology, magna cum laude, from Harvard College in 1968 and his M.D. degree from Harvard Medical School in 1973 and completed a residency in anatomic pathology at the Massachusetts General Hospital in 1977. Dr. Galli has been selected to serve on the Company’s Board of Directors because of his qualifications as a professor and physician, and his specialized expertise as a pathologist.

Alexander D. Cross, Ph.D. Dr. Cross has served as a director of the Company since July 2011. Dr. Cross has served on the board and as a member of the Audit, Compensation, and Nominating and Governance Committees of a number of public companies, including Marina Biotech, Inc. (formerly MDRNA, Inc. and, before that, Nastech Pharmaceutical Company Inc. from July 2005 through May 2009). Dr. Cross also served as Chairman of the Board and CEO of CytoPharm, Inc., a company engaged in the development of protein-based drugs for the treatment of various diseases, until August 2006. Dr. Cross has been a consultant in the fields of pharmaceuticals and biotechnology since January 1986 and has served as a principal of NDA Partners, LLC, a consulting firm that provides strategic advisory services for the development of medical products, since 2003. Previously, Dr. Cross served as President and CEO of Zoecon Corporation, a biotechnology company, from April 1983 to December 1985, and Executive Vice President and Chief Operating Officer from 1979 to 1983. Dr. Cross also previously held several corporate management positions at Syntex Corporation from 1961 through 1979. Dr. Cross holds 109 issued U.S. patents and is the author of 90 peer-reviewed publications. Dr. Cross received his B.Sc., Ph.D. and D.Sc. degrees from the University of Nottingham, England, and is a Fellow of the Royal Society of Chemistry. Dr. Cross has been selected to serve on the Company's Board of Directors because of his qualifications as a scientist, business executive and audit committee financial expert, and his prior experience as a director and committee member of public companies.

H. Lawrence Remmel, Esq. Mr. Remmel served as a director of the Company since February 2012. He is currently a partner of the law firm Pryor Cashman LLP, located in New York City, where he chairs the Banking and Finance practice group. Mr. Remmel joined Pryor Cashman in 1988. His practice includes corporate and banking financings, issues relating to the Investment Company Act of 1940, and intellectual property and licensing issues, in particular in the biotechnology and biocosmeceutical areas. He was an associate of the law firm Reboul, MacMurray, Hewitt, Maynard & Kristol from 1984 to 1988, and began his legal career at Carter, Ledyard & Milburn, where he was an associate from 1979 to 1984. He was admitted to the New York bar in 1980 and is a member of the New York State Bar Association. He received his J.D. from the Washington & Lee University School of Law in 1979 and his B.A. from Princeton University in 1975. Mr. Remmel has been selected to serve on the Company's Board of Directors because of his substantial experience as a corporate attorney advising biotechnology companies and his familiarity with the fiduciary duties and the regulatory requirements affecting publicly traded companies.

Scientific Advisory Board

The Company has established a Scientific Advisory Board to provide strategic resources to the Company's management and its Board of Directors. It is intended that the Company's scientific advisory board has knowledge in breast cancer, NAF, breast cancer biomarkers, and Next Generation Sequencing technologies. The Company expects to expand the size of the advisory board in the future. The members of the Scientific Advisory Board work individually with the Company to advise the Company on matters of research interest to the Company and which are within the expertise of the advisor. Accordingly, the Scientific Advisory Board does not meet as a full board and the Company does not anticipate having a need for such meetings in the future. The initial Scientific Advisory Board currently consists of:

Dr. Edward Sauter, M.D., Ph.D. Dr. Sauter is the Associate Dean for Research and Professor of Surgery at the University of North Dakota School of Medicine & Health Sciences and has served in this position since Fall 2008. He received his M.D. from the Louisiana State School of Medicine and his Ph.D. from the University of Pennsylvania. He completed his general surgery residency at the Ochsner Clinic, in New Orleans, Louisiana. Dr. Sauter also completed a Surgical Oncology Fellowship at Fox Chase Cancer Center in Philadelphia, Pennsylvania. Dr. Sauter was Vice-Chair for Research in the Department of Surgery and Professor at the University of Missouri-Columbia from 2002 to 2008. He also completed his MHA while at the University of Missouri. Dr. Sauter is widely recognized for his research and clinical experience in breast cancer. Among his many accomplishments, Dr. Sauter and a team of researchers pioneered noninvasive and minimally invasive techniques to predict breast cancer risk using NAF. Dr. Sauter is the co-author of over 100 peer-reviewed publications on breast cancer, the majority of which pertain to cytology and molecular diagnostic biomarkers in NAF.

Dr. Sauter and the Company entered into a consulting agreement on February 18, 2010 which provides a $5,000 signing fee and $1,000 per month for up to four hours per month of Dr. Sauter's time. The agreement

also provides reasonable travel expenses in connection with his work for the Company. The agreement currently extends through December 31, 2012. This is the only compensation received for being a member of the Scientific Advisory Board.

Dr. Timothy Hunkapiller, Ph.D.

Dr. Hunkapiller has been a pioneering presence in computational biotechnology since its infancy 30 years ago and is co-inventor of the largest selling analytical research instrument in the world: the Perkin Elmer/Applied Biosystems DNA sequencer. Through his Seattle, Washington-based company, DiscoveryBiosciences, he provides technical consulting and commercialization services to both established and upcoming biotech companies.

Dr. Hunkapiller earned a Ph.D. from California Institute of Technology and was Research Assistant Professor in the Department of Molecular Biotechnology at the University of Washington from 1992 until 1999. As a scientist, Dr. Hunkapiller's research focus included molecular immunology, evolution, computational genetics and comparative genomics. He is considered a leading expert on the genetics, genomic organization and functional diversity of the immune system. For the last 20 years, he has also been involved in bioinformatics, algorithm and database development and experimental process optimization.

While at Caltech, Dr. Hunkapiller originated the model for the automated, fluorescent DNA sequencer. The manifestation of this idea in products such as the ABI 3700™ and the MD Megabase™ sequencers catalyzed and enabled the completion of the first drafts of the Human Genome and helped to revolutionize the field of genomics. He continues to work with Applied Biosystems today on improving the throughput and quality of data from these instruments and their associated chemistry.

Dr. Hunkapiller has been an advisor to a number of biotechnology companies as well as technology companies servicing the biotechnology and pharmaceutical industry. These efforts range from helping with SNP association studies for target discovery in breast cancer to the application of novel computer technologies in intelligently searching very large, unstructured text sources to improve intellectual property analysis.

In April 2011, Dr. Hunkapiller received options to purchase up to 45,000 shares of our common stock at an exercise price of $5.00 per share, the then fair market value. This is the only compensation received for being a member of the Scientific Advisory Board.

DIRECTOR COMPENSATION

The non-employee directors of the Company receive the following:

- upon joining the Board, an initial director compensation fee of $50,000, paid in shares of the Company's common stock and that vests ratably over one year from the date of grant;
- an annual director retainer of $50,000, paid in shares of the Company's common stock and that vests ratably over one year from the date of grant; and
- a fee of $2,000 for the chairperson for each Board or committee meeting attended in person, a fee of $1,500 for the members for each Board or committee meeting attended in person, a fee of $1,500 for the chairperson for each Board or committee meeting attended via telephone and a fee of $1,000 for the members for each Board or committee meeting attended via telephone.

In addition to the above, annual compensation for service on the Audit Committee is $12,000 for the Chair and $8,000 for each member, paid in fully vested shares of the Company's common stock or options, payable quarterly in arrears; and annual compensation for service on the Compensation Committee and Nominating/Governance Committee is $10,000 for the Chair and $6,000 for each member, paid in fully vested shares of the Company's common stock or options, payable quarterly in arrears.

The employee directors receive no compensation for their board service. Pursuant to the policies of Pryor Cashman, the law firm of which Mr. Remmel is a partner, the compensation Mr. Remmel receives for his services as a director (other than expense reimbursement) is paid to the firm directly. All directors receive reimbursement for reasonable travel expenses. The following table sets forth information regarding compensation earned by our non-employee directors during the fiscal year ended December 31, 2011:

Name	Fees Earned or Paid in Cash ($)	Option Awards ($)[1]	Total ($)
John Barnhart[2]	$ 28,000	$ 42,948	$ 70,948
Stephen J. Galli, M.D.[3]	$ 20,000	$ 14,316	$ 34,316
Alexander Cross, Ph.D.[4]	$ 22,500	$ 14,316	$ 36,816
H. Lawrence Remmel, Esq.[5]	—	—	—

(1) This column reflects the aggregate grant date fair value of equity awards granted in the applicable year and calculated in accordance with FASB ASC 718, excluding the effect of estimated forfeitures. Assumptions used in the calculations for these amounts are included elsewhere in this prospectus.

(2) Fees earned or paid in cash consists of (a) $4,000 in meeting attendance fees; (b) $8,000 paid in fully vested options, payable quarterly in arrears, for service as a member of the Audit Committee; (c) $6,000 paid in fully vested options, payable quarterly in arrears, for service as a member of the Compensation Committee; and (d) $10,000 paid in fully vested options, payable quarterly in arrears, for service as chairperson of the Nominating/Governance Committee. During the fiscal year ended December 31, 2011, in lieu of an annual director retainer of $50,000 paid in shares of the Company's common stock for each of the years 2009, 2010 and 2011, Mr. Barnhart was granted options to purchase 120,000 shares of our common stock at an exercise price per share of $1.25. 80,000 options were fully vested on September 1, 2011, 10,000 options were fully vested on December 1, 2011 and 10,000 options will vest on each of March 1, 2012, June 1, 2012 and September 1, 2012.

(3) Fees earned or paid in cash consists of (a) $2,000 in meeting attendance fees; (b) $8,000 paid in fully vested options, payable quarterly in arrears, for service as a member of the Audit Committee; and (c) $10,000 paid in fully vested options, payable quarterly in arrears, for service as chairperson of the Nominating/Governance Committee. During the fiscal year ended December 31, 2011, in lieu of an annual director grant of $50,000 paid in shares of the Company's common stock for 2011, Dr. Galli was granted options to purchase 40,000 shares of our common stock at an exercise price per share of $1.25. 10,000 options were fully vested on December 1, 2011 and 10,000 options vest on each of March 1, 2012, June 1, 2012 and September 1, 2012.

(4) Fees earned or paid in cash consists of (a) $4,500 in meeting attendance fees; (b) $12,000 paid in fully vested options, payable quarterly in arrears, for service as chairperson of the Audit Committee; and (c) $6,000 paid in fully vested options, payable quarterly in arrears, for service as a member of the Compensation Committee. During the fiscal year ended December 31, 2011, in lieu of an annual director grant of $50,000 paid in shares of the Company's common stock for 2011, Dr. Cross was granted options to purchase 40,000 shares of our common stock at an exercise price per share of $1.25. 10,000 options were fully vested on December 1, 2011 and 10,000 options vest on each of March 1, 2012, June 1, 2012 and September 1, 2012.

(5) Mr. Remmel was appointed to our Board of Directors on February 8, 2012 and thus did not receive compensation for service as a director during the fiscal year ended December 31, 2011.

Director Independence

The Board of Directors of the Company has reviewed the materiality of any relationship that each of our directors has with the Company, either directly or indirectly. Based on this review, the Board of Directors of the Company has determined that John Barnhart, Stephen J. Galli, M.D., Alexander Cross, Ph.D. and Lawrence Remmel, Esq. are "independent directors" as defined under the applicable rules of the NASDAQ Capital Market.

Committees of the Board of Directors of the Company

The Board of Directors of the Company has established an Audit Committee, a Compensation Committee and a Nominating and Governance Committee. The composition and function of each of these committees is described below.

Audit Committee

Upon the completion of this offering, the Audit Committee will be comprised of Dr. Cross (chair), Mr. Barnhart and Mr. Remmel. The Board of Directors of the Company has determined that Dr. Cross is an "Audit Committee Financial Expert," as defined by the rules of the SEC. The Audit Committee is authorized to:

- approve and retain the independent registered public accounting firm to conduct the annual audit of the Company's financial statements;
- review the proposed scope and results of the annual audit;
- review and pre-approve audit and non-audit fees and services;
- review proposed changes in the Company's financial and accounting standards and principles;
- review the Company's policies and procedures with respect to its internal accounting, auditing and financial controls;
- review and approve transactions between the Company and its directors, officers and affiliates; and
- establish procedures for complaints received by the Company regarding accounting matters.

The Company believes that the composition of its Audit Committee meets the independence requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and the NASDAQ Capital Market.

Compensation Committee

Upon the completion of this offering, the Compensation Committee will be comprised of Mr. Barnhart (chair), Dr. Cross, and Dr. Galli. All members of the Compensation Committee qualify as independent directors under the current definition promulgated by the NASDAQ Capital Market. The Compensation Committee is authorized to:

- review and recommend the compensation arrangements for management, or approve such arrangements, if directed by the board;
- establish and review general compensation policies with the objective to attract and retain superior talent, to reward individual performance and to achieve corporate goals;
- administer stock incentive and purchase plans; and
- review and recommend to the board the compensation paid to non-employee directors for their service on the Board of Directors.

Nominating and Governance Committee

Upon the completion of this offering, the Nominating and Governance Committee will be comprised of Dr. Galli (chair), Mr. Barnhart, and Mr. Remmel. All members of the Nominating and Governance Committee qualify as independent directors under the current definition promulgated by the NASDAQ Capital Market. The Nominating and Governance Committee is authorized to:

- identify and nominate candidates for election to the Board of Directors of the Company;
- establish policies under which stockholders may recommend a candidate for consideration for nomination as a director;
- annually review and evaluate the performance, operations, size and composition of the Board; and
- periodically assess and review the Company’s Corporate Governance Guidelines and recommend any changes deemed appropriate to the Board for its consideration.

Compensation Committee Interlocks and Insider Participation

No member of our Compensation Committee has at any time been an employee of ours. None of our executive officers serves as a member of the Board of Directors or Compensation Committee of any other entity that has one or more executive officers serving as a member of our Board of Directors or Compensation Committee.

Code of Ethics

The Company has adopted a Code of Ethical Conduct that applies to all its employees, officers and directors, including those officers responsible for financial reporting. The Code of Ethical Conduct is available on the Company’s website. The Company expects that any amendments to the code, or any waivers of its requirements, will be disclosed on its website.

Limitation of Directors’ and Officers’ Liability and Indemnification

The Delaware General Corporation Law authorizes corporations to limit or eliminate, subject to specified conditions, the personal liability of directors to corporations and their stockholders for monetary damages for breach of their fiduciary duties. The Company’s certificate of incorporation and amended and restated bylaws limit the liability of its directors to the fullest extent permitted by Delaware law.

The Company has obtained director and officer liability insurance to cover liabilities the Company’s directors and officers may incur in connection with their services to the Company. The Company’s certificate of incorporation and amended and restated bylaws also provide that it will indemnify and advance expenses to any of its directors and officers who, by reason of the fact that he or she is an officer or director, is involved in a legal proceeding of any nature. The Company will repay certain expenses incurred by a director or officer in connection with any civil, criminal, administrative or investigative action or proceeding, including actions by the Company or in its name. Such indemnifiable expenses include, to the maximum extent permitted by law, attorney’s fees, judgments, fines, settlement amounts and other expenses reasonably incurred in connection with legal proceedings. A director or officer will not receive indemnification if he or she is found not to have acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the Company’s best interest.

Such limitation of liability and indemnification does not affect the availability of equitable remedies. In addition, the Company has been advised that in the opinion of the SEC, indemnification for liabilities arising under the Securities Act of 1933, as amended, or the Securities Act, is against public policy as expressed in the Securities Act and is therefore unenforceable.

There is no pending litigation or proceeding involving any of the Company’s directors, officers, employees or agents in which indemnification will be required or permitted. The Company is not aware of any threatened litigation or proceeding that may result in a claim for such indemnification.

EXECUTIVE COMPENSATION

Remuneration of Officers

The Company did not accrue or pay any remuneration or compensation to any officer, director or employee in 2009. In 2010, the Company accrued salary payments to Dr. Steven C. Quay and Dr. Shu-Chih Chen commencing as of May 19, 2010, which is the date that the employment agreement for each of Dr. Quay and Dr. Chen, repectively, became effective, in the amounts and on the terms as defined below. In July 2011, the Company paid accrued salary amounts of $154,762 and $123,810 to Drs. Quay and Chen, respectively. The accrued salary amounts were calculated on a pro rated basis for the period served during fiscal 2010 (i.e., May 19, 2010 through December 31, 2010) for each of Dr. Quay and Dr. Chen, on the basis of an annual salary of $250,000 for Dr. Quay and $200,000 for Dr. Chen, respectively.

The Company's Compensation Committee is responsible for reviewing and evaluating key executive employee base salaries, setting goals and objectives for executive bonuses and administering benefit plans. The Compensation Committee provides advice and recommendations to the Board of Directors of the Company on such matters. See "Committees of the Board of Directors — Compensation Committee" for further details on the role of the Compensation Committee.

Summary Compensation Table

The following table sets forth the compensation earned by the Company's Chief Executive Officer, Chief Scientific Officer and Chief Financial Officer (collectively, the "Named Executive Officers") for fiscal 2011:

Name and Position	Year	Salary	Bonus	Option Awards[1]	Total
Steven C. Quay, M.D., Ph.D. President and Chief Executive Officer	2011	$ 250,000	$ 61,905	$ —	$311,905
Christopher Benjamin[2] Chief Financial Officer	2011	$ 38,968	$ —	$ —	$ 38,968
Shu-Chi Chen, Ph.D. Chief Scientific Officer	2011	$ 200,000	$ 37,143	$ —	$237,143

(1) This column reflects the aggregate grant date fair value of equity awards granted in the applicable year and calculated in accordance with FASB ASC 718, excluding the effect of estimated forfeitures. Assumptions used in the calculations for these amounts are included elsewhere in this prospectus.

(2) Mr. Benjamin serves as a part-time employee and is compensated pursuant to a consulting agreement, as described below.

Outstanding Equity Awards at Fiscal Year-End

The following table shows information regarding our outstanding equity awards at December 31, 2011 for the Named Executive Officers:

Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price ($)	Option Expiration Date
Steven C. Quay, M.D., Ph.D.	125,000	125,000	$ 5.00	7/22/2015
Christopher Benjamin	—	—	—	—
Shu Chi Chen, Ph.D.	50,000	50,000	$ 5.00	7/22/2015

Employment Agreements

Employment Agreement with Steven Quay, M.D., Ph.D.

The Company has entered into an employment agreement with Dr. Quay to act as the Company's Chief Executive Officer. The agreement provides for an initial base salary of $250,000 per year and an annual target bonus of up to 40% of Dr. Quay's then-current base salary, payable upon the achievement of performance

goals to be established annually by the Compensation Committee. The goals for fiscal 2011 included the MASCT System manufacturing scale-up and launch, filling additional key senior management positions in marketing and sales, finance, and laboratory management, establishing laboratory registration and certification, and launching the ForeCYTE Test.

Under the employment agreement, Dr. Quay received an option to purchase up to 250,000 shares of common stock at an exercise price of $5.00 per share, the fair market value of the common stock on the date of grant, as determined by the Board of Directors. One-quarter of the shares of common stock underlying the option, or 62,500 shares, vested on December 31, 2010, and the remaining 75%, or 187,500 shares, vest in equal quarterly installments over the next three years, so long as Dr. Quay remains employed with the Company.

During the employment term, the Company will make available to Dr. Quay employee benefits provided to other key employees and officers of the Company. To the extent these benefits are based on length of service with the Company, Dr. Quay will receive full credit for prior service with the Company. Participation in health, hospitalization, disability, dental and other insurance plans that the Company may have in effect for other executives, all of which shall be paid for by the Company with contribution by Dr. Quay as set for the other executives, as and if appropriate.

Dr. Quay will be entitled to six weeks of paid vacation per year for each full year of employment, pro-rated for each partial year. Vacation time not taken during a calendar year will not be accrued to the next calendar year.

Dr. Quay has also agreed that, for the period commencing on the date of his employment agreement with the Company and during the term of his employment and for a period of 12 months following voluntary termination of his employment with the Company that he will not compete with the Company in the United States. The employment agreement also contains provisions relating to confidential information and assignment of inventions, which require Dr. Quay to refrain from disclosing any proprietary information and to assign to the Company any inventions which directly concern the MASCT System, Oxy-MASCT System, or future products, research, or development, or which result from work they perform for the Company or using its facilities.

Consulting Agreement with Christopher Benjamin

The Company has entered into an agreement with Christopher Benjamin to act as the Company’s interim Chief Financial Officer. The agreement provides a monthly retainer fee of $2,250 for up to 25 hours of work per month and $100 per hour beyond that level. The agreement may be terminated by the Company upon 30 days’ written notice.

Employment Agreement with Shu-Chih Chen, Ph.D.

The Company has entered into an employment agreement with Dr. Chen to act as the Company’s Chief Scientific Officer. The agreement provides for an initial base salary of $200,000 per year and an annual target bonus of up to 30% of Dr. Chen’s then-current base salary, payable upon the achievement of performance goals to be established annually by the Compensation Committee. The goals for fiscal 2011 included filling additional key positions in research and development as well as laboratory management, and establishing laboratory registration and certification.

Under the employment agreement, Dr. Chen received an option to purchase up to 100,000 shares of common stock at an exercise price of $5.00 per share, the fair market value of the common stock on the date of grant, as determined by the Board of Directors. One quarter of the shares of common stock underlying the option, or 25,000 shares, vested on December 31, 2010, and the remaining 75%, or 75,000 shares, vest in equal quarterly installments over the next three years, so long as Dr. Chen remains employed with the Company.

During the employment term, the Company will make available to Dr. Chen employee benefits provided to other key employees and officers of the Company. To the extent these benefits are based on length of service with the Company, Dr. Chen will receive full credit for prior service with the Company. Participation

in health, hospitalization, disability, dental and other insurance plans that the Company may have in effect for other executives, all of which shall be paid for by the Company with contribution by Dr. Chen as set for the other executives, as and if appropriate.

Dr. Chen will be entitled to six weeks of paid vacation per year for each full year of employment, pro rated for each partial year. Vacation time not taken during a calendar year will not be accrued to the next calendar year.

Dr. Chen has also agreed that, for the period commencing on the date of her employment agreement with the Company and during the term of her employment and for a period of 12 months following voluntary termination of her employment with the Company that she will not compete with the Company in the United States. The employment agreement also contains provisions relating to confidential information and assignment of inventions, which require Dr. Chen to refrain from disclosing any proprietary information and to assign to the Company any inventions that directly concern the MASCT System, Oxy-MASCT System, or future products, research, or development, or that result from work she performs for the Company or using its facilities.

Severance Benefits and Change in Control Arrangements

The Company has agreed to provide the severance benefits and change in control arrangements described below to its named executive officers.

Dr. Steven Quay

Pursuant to his employment agreement, if (i) the Company terminates the employment of Dr. Quay without cause, or (ii) Dr. Quay terminates his employment for good reason, then Dr. Quay will be entitled to receive all accrued but unpaid compensation, plus a severance payment equal to 12 months of base salary. In addition, upon such event, the vesting of all shares of common stock underlying options then held by Dr. Quay will accelerate, and the options will remain exercisable for the remainder of their terms. The cash severance payment is required to be paid in substantially equal installments over a period of six months beginning on the Company’s first payroll date that occurs following the 30th day after the effective date of termination of Dr. Quay’s employment, subject to certain conditions. The Company will not be required, however, to pay any severance pay for any period following the termination date if Dr. Quay materially violates certain provisions of his employment agreement and the violation is not cured within 30 days following receipt of written notice from the Company containing a description of the violation and a demand for immediate cure.

In addition, under the terms of his employment agreement, in the event of a “change in control” of the Company (as defined in the employment agreement) during Dr. Quay’s employment term, Dr. Quay will be entitled to receive a one-time payment equal to 2.9 times his base salary, and the vesting of all outstanding equity awards then held by Dr. Quay will accelerate such that they are fully vested as of the date of the change in control.

Dr. Shu-Chih Chen

Pursuant to her employment agreement, if (i) the Company terminates the employment of Dr. Chen without cause, or (ii) Dr. Chen terminates her employment for good reason, then Dr. Chen will be entitled to receive all accrued but unpaid compensation, plus a severance payment equal to 12 months of base salary. In addition, upon such event, the vesting of all shares of common stock underlying options then held by Dr. Chen will accelerate, and the options will remain exercisable for the remainder of their terms. The cash severance payment is required to be paid in substantially equal installments over a period of six months beginning on the Company’s first payroll date that occurs following the 30th day after the effective date of termination of Dr. Chen’s employment, subject to certain conditions. The Company will not be required, however, to pay any severance pay for any period following the termination date if Dr. Chen materially violates certain provisions of her employment agreement and the violation is not cured within 30 days following receipt of written notice from the Company containing a description of the violation and a demand for immediate cure.

In addition, under the terms of her employment agreement, in the event of a “change in control” of the Company (as defined in the employment agreement) during Dr. Chen’s employment term, Dr. Chen will be

entitled to receive a one-time payment equal to 2.9 times her base salary, and the vesting of all outstanding equity awards then held by Dr. Chen will accelerate such that they are fully vested as of the date of the change in control.

2010 Stock Option and Incentive Plan

The Company's 2010 Stock Option and Incentive Plan, or the 2010 Plan, provides for the grant of equity-based awards to employees, officers, non-employee directors and other key persons providing services to the Company. Awards of incentive options may be granted under the 2010 Plan until September 2020. No other awards may be granted under the 2010 Plan after the date that is 10 years from the date of stockholder approval.

Plan Administration. The 2010 Plan may be administered by the full board or the Compensation Committee. It is the current intention of the Company that the 2010 Plan be administered by the Compensation Committee. The Compensation Committee has full power to select, from among the individuals eligible for awards, the individuals to whom awards will be granted, to make any combination of awards to participants, and to determine the specific terms and conditions of each award, subject to the provisions of the 2010 Plan. The Compensation Committee may delegate to our Chief Executive Officer the authority to grant stock options to employees who are not subject to the reporting and other provisions of Section 16 of the Exchange Act and not subject to Section 162(m) of the Code, subject to certain limitations and guidelines.

Eligibility. Persons eligible to participate in the 2010 Plan will be those full or part-time officers, employees, non-employee directors and other key persons (including consultants and prospective officers) of the Company and its subsidiaries as selected from time to time by the Compensation Committee in its discretion.

Plan Limits. Initially, the total number of shares of common stock available for issuance under the 2010 Plan is 1,000,000 shares (or 2,263,320 shares prior to the reverse stock-split on September 28, 2010). On January 1, 2012 and each January 1 thereafter, the number of shares of common stock reserved and available for issuance under the 2010 Plan will be cumulatively increased by 4% of the number of shares of common stock issued and outstanding on the immediately preceding December 31. Subject to these overall limitations, the maximum aggregate number of shares of Stock that may be issued in the form of incentive stock options or stock appreciation rights to any one individual will not exceed 50% of the initial 2010 Plan limit of 1,000,000, cumulatively increased on January 1, 2012 and each January 1 thereafter by the lesser of (i) the 4% annual increase applicable to the 2010 Plan for such year or (ii) 500,000 shares.

Stock Options. The 2010 Plan permits the granting of (i) options to purchase common stock intended to qualify as incentive stock options under Section 422 of the Code and (ii) options that do not so qualify. Options granted under the 2010 Plan will be non-qualified options if they fail to qualify as incentive options or exceed the annual limit on incentive stock options. Incentive stock options may only be granted to employees of the Company and its subsidiaries. Non-qualified options may be granted to any persons eligible to receive incentive options and to non-employee directors and key persons. The option exercise price of each option will be determined by the Compensation Committee but may not be less than 100% of the fair market value of the common stock on the date of grant. Fair market value for this purpose will be the last reported sale price of the shares of common stock on the NASDAQ Capital Market on the date of grant; provided, that if the date of grant is the first day on which trading prices for our common stock are reported on the NASDAQ Capital Market, the fair market value will be the price to the public of shares of our common stock in this offering. The exercise price of an option may not be reduced after the date of the option grant, other than to appropriately reflect changes in our capital structure.

The term of each option will be fixed by the Compensation Committee and may not exceed 10 years from the date of grant. The Compensation Committee will determine at what time or times each option may be exercised. Options may be made exercisable in installments and the exercisability of options may be accelerated by the Compensation Committee. In general, unless otherwise permitted by the Compensation Committee, no option granted under the 2010 Plan is transferable by the optionee other than by will or by the laws of descent and distribution, and options may be exercised during the optionee's lifetime only by the optionee, or by the optionee's legal representative or guardian in the case of the optionee's incapacity.

Upon exercise of options, the option exercise price must be paid in full either in cash, by certified or bank check or other instrument acceptable to the Compensation Committee or by delivery (or attestation to the ownership) of shares of common stock that are beneficially owned by the optionee for at least six months or were purchased in the open market. Subject to applicable law, the exercise price may also be delivered to the Company by a broker pursuant to irrevocable instructions to the broker from the optionee. In addition, the Compensation Committee may permit non-qualified options to be exercised using a net exercise feature which reduces the number of shares issued to the optionee by the number of shares with a fair market value equal to the exercise price.

To qualify as incentive options, options must meet additional federal tax requirements, including a $100,000 limit on the value of shares subject to incentive options that first become exercisable by a participant in any one calendar year.

Stock Appreciation Rights. The Compensation Committee may award stock appreciation rights subject to such conditions and restrictions as the Compensation Committee may determine. Stock appreciation rights entitle the recipient to shares of common stock equal to the value of the appreciation in the stock price over the exercise price. The exercise price is the fair market value of the common stock on the date of grant. The term of a stock appreciation right will be fixed by the Compensation Committee and may not exceed 10 years.

Restricted Stock. The Compensation Committee may award shares of common stock to participants subject to such conditions and restrictions as the Compensation Committee may determine. These conditions and restrictions may include the achievement of certain performance goals and/or continued employment with us through a specified restricted period.

Restricted Stock Shares. The Compensation Committee may award restricted stock shares to any participants. Restricted stock shares are generally payable in the form of shares of common stock, although restricted stock shares granted to the chief executive officer may be settled in cash. These shares may be subject to such conditions and restrictions as the Compensation Committee may determine. These conditions and restrictions may include the achievement of certain performance goals (as summarized above) and/or continued employment with the Company through a specified vesting period. In the Compensation Committee’s sole discretion, it may permit a participant to make an advance election to receive a portion of his or her future cash compensation otherwise due in the form of a restricted stock unit award, subject to the participant’s compliance with the procedures established by the Compensation Committee and requirements of Section 409A of the Code. During the deferral period, the deferred stock awards may be credited with dividend equivalent rights.

Adjustments for Stock Dividends, Stock Splits, Etc. The 2010 Plan requires the Compensation Committee to make appropriate adjustments to the number of shares of common stock that are subject to the 2010 Plan, to certain limits in the 2010 Plan, and to any outstanding awards to reflect stock dividends, stock splits, extraordinary cash dividends and similar events.

Tax Withholding. Participants in the 2010 Plan are responsible for the payment of any federal, state or local taxes that the Company is required by law to withhold upon the exercise of options or stock appreciation rights or vesting of other awards. Subject to approval by the Compensation Committee, participants may elect to have the minimum tax withholding obligations satisfied by authorizing the Company to withhold shares of common stock to be issued pursuant to the exercise or vesting.

Amendments and Termination. The Board of Directors of the Company may at any time amend or discontinue the 2010 Plan and the Compensation Committee may at any time amend or cancel any outstanding award for the purpose of satisfying changes in the law or for any other lawful purpose. However, no such action may adversely affect any rights under any outstanding award without the holder’s consent. To the extent required under the NASDAQ Capital Market rules, any amendments that materially change the terms of the 2010 Plan will be subject to approval by our stockholders. Without approval by our stockholders, the Compensation Committee may not reduce the exercise price of options or stock appreciation rights or effect repricing through cancellation or re-grants, including any cancellation in exchange for cash. Amendments shall also be subject to approval by our stockholders if and to the extent determined by the

Compensation Committee to be required by the Code to preserve the qualified status of incentive options or to ensure that compensation earned under the 2010 Plan qualifies as performance-based compensation under Section 162(m) of the Code.

Other Benefits

The Company offers health, dental, disability, and life insurance to its full-time employees. All employees pay a portion of health, dental, and disability insurance premiums and pay all life insurance premiums.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Dr. Quay is the President, Chief Executive Officer and Chairman of the Board of Directors of the Company. Dr. Chen is the Chief Scientific Officer and a director of the Company. Drs. Quay and Chen are husband and wife. Prior to the completion of this offering, Drs. Quay and Chen were significant minority stockholders of the Company. After the completion of this offering Drs. Quay and Chen will remain significant minority stockholders. Ensisheim Partners, LLC, which holds 35.3% of the outstanding common stock of the Company prior to this offering, is wholly owned by Drs. Quay and Chen, and they are the beneficial owners of the shares of the Company's stock owned by that entity.

Ensisheim was the original owner of the patents covering the MASCT System, which were acquired by the Company in June 2010. Ensisheim has no further interest or right to the U.S. patents and foreign counterparts that cover the manufacture, use, and sale of the MASCT System, the pending patent applications for improvements, or the FDA marketing authorization for the MASCT System that was transferred to the Company. Ensisheim did not receive any monetary compensation in connection with the transfer and assignment to the Company of the patents, patent applications and FDA marketing authorization but received shares of common stock of the Company in consideration for its contribution of these assets. Ensisheim holds patents and patent applications for inventions created by the owners in fields unrelated to the Company's business and provides a corporate structure for consulting activities of the owners in fields unrelated to the Company's business. Drs. Quay and Chen currently devote substantially all of their professional efforts to the business of the Company.

Loans from Officer

On May 26, 2009, the Company borrowed $5,000 from its Chairman of the Board and Chief Executive Officer as a short-term, unsecured loan via an oral agreement and did not bear any interest. Commencing June 30, 2010, the loan was converted into a written Promissory Note bearing an annual interest rate of 10%, with a maturity date of December 31, 2010. This note was repaid in full on May 16, 2011, including approximately $439 in accrued interest.

On June 30, 2010, the Company borrowed an additional $100,000 from its Chairman of the Board and Chief Executive Officer pursuant to a promissory note. The loan under the note was funded to the Company on July 12, 2010. The note bore interest at a rate of 10% per annum and carried a $4,000 loan origination fee, which accreted to the loan balance over the life of the loan. The $4,000 loan origination fee was fully accreted to the loan balance as of March 31, 2011 and December 31, 2010, and recorded as interest expense for the year ended December 31, 2010. This note (including the $4,000 origination fee) was repaid in full on May 19, 2011, including approximately $8,959 in accrued interest.

On November 3, 2010, the Company entered into a line of credit for borrowing up to $500,000 from its Chairman of the Board and Chief Executive Officer pursuant to a promissory note. The note bore interest at a rate of 10% per annum. An aggregate of $140,000 was funded to the Company under the line of credit through March 31, 2011, which was repaid on May 31, 2011, including approximately $6,093 in accrued interest. As of December 31, 2011, the unpaid principal balance drawn from the line of credit was $10,000. The note is payable in full on or before December 31, 2011 for the outstanding balance borrowed. As of the date of this filing, $5,078 remains outstanding.

Exclusive License Agreement

On July 27, 2009, the Company entered into an exclusive license agreement with Ensisheim Partners LLC ("Ensisheim"), an entity solely owned by the Chairman and Chief Executive Officer of the Company and the Chief Scientific Officer of the Company, who is also the Company's Chairman and CEO's wife. Pursuant to that agreement, Ensisheim granted the Company an exclusive, worldwide, perpetual, irrevocable, royalty-bearing, license to the MASCT System, with the right to grant and authorize sublicenses. The license agreement provided that the Company would pay Ensisheim a royalty equal to 2% of net sales revenues, with a minimum royalty of $12,500 per fiscal quarter during the term of the agreement, which would have increased to a minimum royalty of $25,000 per fiscal quarter beginning in the quarter in which the first commercial sale of a licensed product would have taken place. As of December 31, 2009, a total of $12,500 was payable to Ensisheim under the minimum royalty provisions. From inception through December 31, 2010, the Company had incurred $16,250 in patent-related expenses under the license agreement with Ensisheim.

The $16,250 in patent-related expenses relates to legal fees in connection with filing and prosecuting the related patent applications and has been paid in full by the Company.

On June 17, 2010, the Company and Ensisheim entered into an Assignment Agreement, whereby Ensisheim assigned to the Company all rights to the patents and patent applications underlying the MASCT System. Pursuant to the assignment, the Company will have all responsibility for prosecution, maintenance, and enforcement and will indemnify Ensisheim from any and all claims against the patent estate. Ensisheim retained no residual rights with respect to the patents and patent applications. In conjunction with the assignment, the Company terminated the exclusive license agreement between the Company and Ensisheim dated July 27, 2009. As a result of the termination, the Company has no further obligations with respect to royalty payments to Ensisheim due under the old licensing agreement. As a result, the $12,500 of patent royalty payable to Ensisheim recorded as accrued royalty payable at December 31, 2009 has been reversed through royalty expense during the second quarter of 2010. Ensisheim did not receive further consideration under the Assignment Agreement other than the shares of common stock it had already received in April 2009 as a result of its contribution of intellectual property rights and FDA marketing authorization for the MASCT System. Neither the Chief Executive Officer nor the Chief Technology Officer of the Company received consideration under the Assignment Agreement.

Commercial Lease Agreement

On December 24, 2009, the Company entered into a commercial lease agreement with Ensisheim for office space located in Seattle, Washington. The lease provided for annual rent of $13,200, plus applicable sales tax. From inception through December 31, 2009, the Company incurred $248 of rent expense for the lease. As of December 31, 2009, the security deposit for the lease amounted to $1,100. For the period of January 1, 2010 through June 30, 2010, the Company incurred $6,600 of rent expense for the lease. On July 15, 2010 the Company and Ensisheim terminated the lease, effective July 1, 2010, and the Company commenced use of the facility rent free.

Executive Compensation

On May 19, 2010, the Company entered into employment agreements with three executives, including its Chief Executive Officer, its former President, and its Chief Scientific Officer. The annual base salaries under each agreement were calculated based on combined consideration of the success of capital raise and the operating results of the Company, and capped at $360,000, $350,000, and $250,000, respectively for the three executives.

On July 22, 2010, in connection with the resignation and departure of Robert L. Kelly, the President and a director, the Company entered into a consulting agreement with a limited liability company controlled by Mr. Kelly. Under the agreement, the Company was to receive consulting services relating to capital raising and investor relations. The agreement was terminated by the Company in September 2010, through which time a total of $30,000 consulting expense had been paid.

On July 22, 2010, the Company amended and restated the employment agreements with its Chief Executive Officer and Chief Scientific Officer. The agreements modified the annual base salary amounts to $250,000 and $200,000, respectively, effective retroactively to May 19, 2010. These salaries were accrued and amounted to $391,071 and $278,571 as of March 31, 2011 and December 31, 2010, respectively, and paid in full in April 2011. For the twelve-month periods ended December 31, 2011 and 2010, salaries and bonuses of the Chief Executive Officer and Chief Scientific Officer amounted to $610,000 and $377,620, of which $435,000 and $0 was recorded to research and development expense, respectively.

Share-Based Compensation

The amended and restated employment agreement with the Chief Executive Officer granted options to purchase 250,000 shares (or 565,830 shares prior to the reverse stock split on September 28, 2010) at a price of $5.00 per share (or $2.64 per share prior to the reverse stock split on September 28, 2010), in consideration of his service to the Company. Of these options, 25% (or 62,500 shares) vested on December 31, 2010 with the remaining 75% (or 187,500 shares) to vest in equal quarterly installments over the next three years so long as the executive remains employed with the Company. These options have five-year contractual terms.

The amended employment agreement with the Chief Scientific Officer granted options to purchase 100,000 shares (or 226,332 shares prior to the reverse stock split on September 28, 2010) at a price of $5.00 per share (or $2.64 per share prior to the reverse stock split on September 28, 2010) in consideration of her service to the Company. Of these options, 25% (or 25,000 shares) vested on December 31, 2010 with the remaining 75% (or 75,000 shares) to vest in equal quarterly installments over the next three years so long as the executive remains employed with the Company. These options have five-year contractual terms.

On April 4, 2011, 45,000 non-qualified stock options were granted under the 2010 Stock Option and Incentive Plan to Dr. Tim Hunkapiller for being a member of the Company's Scientific Advisory Board and consulting services to be provided to the Company, at an exercise price of $1.25 per share. These options have a ten-year contractual term and shall vest as follows:

(i) 11,250 option shares vest ninety (90) days after the date of grant;

(ii) 11,000 option shares vest one hundred and eighty (180) days after the date of grant;

(iii) 11,500 option shares vest two hundred and seventy (270) days after the date of grant; and

(iv) 11,250 option shares vest three hundred and sixty (360) days after the date of grant.

On September 1, 2011, 219,000 incentive stock options were granted under the 2010 Stock Option and Incentive Plan to employees and officers as part of their employment agreements, at an exercise price of $1.25 per share. These options have a ten-year contractual term and shall vest and become exercisable as follows:

(i) twenty-five percent (25%) of the underlying shares on the first anniversary of the date of grant; and

(ii) one-forty eighth (1/48) of the underlying shares monthly thereafter.

On September 1, 2011, 200,000 non-qualified stock options were granted under the 2010 Stock Option and Incentive Plan to non-employee directors for services to be provided to the Company, at an exercise price of $1.25 per share. These options have a ten-year contractual term and shall vest and become exercisable as follows:

(i) 80,000 option shares vest on September 1, 2011;

(ii) 30,000 option shares vest on December 1, 2011;

(iii) 30,000 option shares vest on March 1, 2012;

(iv) 30,000 option shares vest on June 1, 2012; and

(v) 30,000 option shares vest on September 1, 2012.

Sales of Unregistered Securities

In connection with the formation of the Company, the Company sold securities, which were not registered under the Securities Act, to certain related parties. The Company issued 4,899,888 shares of its common stock pursuant to an exemption from registration under Section 4(2) of the Securities Act, as a transaction by an issuer not involving any public offering to the following related parties:

	Shares	Date	Consideration
Steven Quay	883,662	April 30, 2009	$ 12,000
Ensisheim Partners LLC	1,767,316	April 30, 2009	(1)
Ensisheim Partners LLC	883,658	December 28, 2009	$ 100,000
John Barnhart	39,765	July 28, 2009	$ 540

(1) The 1,767,316 shares of common stock issued to Ensisheim Partners LLC at the Company's inception were issued in consideration for $24,000 in cash and this entity's contribution to the Company of intellectual property rights and FDA marketing authorization for the MASCT System.

Indemnification Agreements

The Company has entered into indemnification agreements with each of its directors and certain of its executive officers. These agreements require the Company to indemnify these individuals to the fullest

extent permitted under Delaware law against liabilities that may arise by reason of their service to the Company, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified.

Related Party Transaction Policies

Related party transactions to be entered into after the completion of this offering and that the Company is required to disclose publicly under the federal securities laws will require prior approval of the Company's independent directors without the participation of any director who may have a direct or indirect interest in the transaction in question. Related parties include directors, nominees for director, principal stockholders, executive officers and members of their immediate families. For these purposes, a "transaction" will include all financial transactions, arrangements or relationships, ranging from extending credit to the provision of goods and services for value and will include any transaction with a company in which a director, executive officer immediate family member of a director or executive officer, or principal stockholder (that is, any person who beneficially owns five percent or more of any class of the Company's voting securities) has an interest by virtue of a 10% or greater equity interest. The Company's policies and procedures regarding related party transactions are not expected to be a part of a formal written policy, but rather, will represent a course of practice determined to be appropriate by the Board of Directors of the Company.

PRINCIPAL STOCKHOLDERS

The following table sets forth information as of December 31, 2011 regarding the beneficial ownership of our common stock by each of our executive officers and directors, individually and as a group and by each person who beneficially owns in excess of five percent of the common stock after giving effect to any exercise of warrants or options held by that person within 60 days after December 31, 2011. Unless indicated otherwise, the address for the beneficial holders is c/o Atossa Genetics Inc., 4105 East Madison Street, Suite 320, Seattle, Washington.

Name of Beneficial Owner	Shares Beneficially Owned	Percentage of Common Stock Beneficially Owned	
		Before Offering(1)	After Offering(2)
Steven C. Quay, M.D., Ph.D.(3)	4,686,004	41.2%	37.8%
Shu-Chih Chen, Ph.D.(4)	4,026,461	35.6%	32.7%
John Barnhart(5)	138,602	1.2%	1.1%
Christopher Benjamin	—	—	—
Stephen J. Galli, M.D.(6)	27,674	*	*
Alexander D. Cross, Ph.D.(7)	98,366	*	*
H. Lawrence Remmel, Esq.	—	—	—
All Current Officers and Directors as a Group (7 persons)	5,000,646	43.3%	39.9%

* Less than 1%

(1) Based on 11,256,867 shares of common stock issued and outstanding as of December 31, 2011.

(2) Assumes the sale of 1,000,000 shares of common stock pursuant to this prospectus.

(3) Consists of (i) 584,543 shares of common stock directly owned by Dr. Quay, (ii) 3,976,461 shares of common stock owned by Ensisheim and (iii) 125,000 shares of common stock issuable upon the exercise of stock options held by Dr. Quay and exercisable within 60 days after December 31, 2011. Drs. Quay and Chen share voting and investment power over the securities held by Ensisheim. Ensisheim is solely owned and controlled by Drs. Quay and Chen, and, as a result, Drs. Quay and Chen are deemed to be beneficial owners of the shares held by this entity.

(4) Consists of (i) 3,976,461 shares of common stock owned by Ensisheim and (ii) 50,000 shares of common stock issuable upon the exercise of stock options held by Dr. Chen and exercisable within 60 days after December 31, 2011. Drs. Quay and Chen share voting and investment power over the securities held by Ensisheim. Ensisheim is solely owned and controlled by Drs. Quay and Chen, and, as a result, Drs. Quay and Chen are deemed to be beneficial owners of the shares held by this entity.

(5) Consists of 48,602 shares of common stock held by Mr. Barnhart and 90,000 shares of common stock issuable upon the exercise of stock options held by Mr. Barnhart and exercisable within 60 days of December 31, 2011.

(6) Consists of 17,674 shares of common stock held by Dr. Galli and 10,000 shares of common stock issuable upon the exercise of stock options held by Dr. Galli and exercisable within 60 days of December 31, 2011.

(7) Consists of 88,366 shares of common stock held by the Alexander D. Cross Family Trust (Mr. Alexander D. Cross has sole voting and investment power over the securities held by the trust and as such, is deemed to be the beneficial owner of the shares held by this entity) and 10,000 shares of common stock issuable upon the exercise of stock options held by Dr. Cross and exercisable within 60 days of December 31, 2011.

DESCRIPTION OF SECURITIES

Capitalization

The Company is authorized to issue 75,000,000 shares of common stock, par value $0.001 per share, of which 11,256,867 shares were outstanding as of December 31, 2011, and 10,000,000 shares of undesignated preferred stock, par value $0.001 per share, none of which have been designated or issued. Warrants exercisable for 6,833,840 shares of common stock at a weighted-average exercise price of $1.56 per share were outstanding at December 31, 2011.

As of December 31, 2011, there were 229 record holders of the Company's common stock.

Common Stock

Voting Rights. Holders of shares of common stock are entitled to one vote for each share on all matters to be voted on by the stockholders. Holders of common stock do not have cumulative voting rights.

Dividend and Distribution Rights. Dividends, if any, may be declared from time to time by the Board of Directors of the Company or any authorized committee of the Board of Directors in its discretion from funds legally available therefor. In the event of a liquidation, dissolution or winding up, the holders of common stock are entitled to share pro rata all assets remaining after payment in full of all liabilities and all amounts due to holders of preferred stock that may have a liquidation preference that is senior to the common stock.

No Preemptive Rights. Holders of common stock have no preemptive rights to purchase additional shares of the Company's common stock.

Other Rights. There are no conversion or redemption rights or sinking fund provisions with respect to the common stock.

Listing of Common Stock. The common stock is expected to be listed for trading on the NASDAQ Capital Market under the symbol "ATOS".

Preferred Stock

The Board of Directors of the Company is authorized to provide for the issuance of any or all of the shares of preferred stock in series and, by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof.

The authority of the Board of Directors of the Company with respect to each series of preferred stock includes determination of the following characteristics:

- The number of shares constituting that series and the distinctive designation of that series;
- The dividend rate on the shares of that series, whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of that series;
- Whether that series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;
- Whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors of the Company shall determine;
- Whether or not the shares of that series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;
- Whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking fund;

- The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Company, and the relative rights of priority, if any, of payment of shares of that series; and
- Any other relative rights, preferences and limitations of that series.

Warrants

Warrants exercisable for 6,833,840 shares of common stock at a weighted-average exercise price of $1.56 per share were outstanding at December 31, 2011. The Company's outstanding warrants entitle the holders to acquire one share of common stock during the exercise period. The warrants are exercisable for five years, starting on the earliest of the following: (a) six months after the closing of the Company's initial public offering of its common stock, if successful, the (b) the closing of a "significant private financing" (as defined in the warrants), or (c) the closing of a "fundamental transaction" (as defined in the warrants). As a result of the amount of money raised in the private placement discussed elsewhere in this prospectus, the private placement constituted a "significant private financing" as defined in the warrants. Accordingly, the warrants became exercisable on June 23, 2011 and remain exercisable through June 23, 2016. The warrants have a net exercise feature whereby a holder may, in lieu of payment of the exercise price in cash, surrender the warrant and receive a net amount of shares based on the fair market value of the Company's common stock at the time of exercise of the warrant after deduction of the aggregate exercise price. The warrants also contain a provision for the adjustment of the exercise price and the aggregate number of shares issuable upon the exercise of the warrant in the event of stock splits, stock dividends, reorganizations, reclassifications, and consolidations.

Registration Rights

The Company has granted the investors in the private placement completed in April 2011 through July 2011 the right to have the resale of their shares of common stock (including common stock issuable upon exercise of the warrants) registered with the SEC beginning 180 days after completion of the Company's initial public offering (the "IPO"). Pursuant to these resale registration rights, the Company must file a resale registration statement within 180 days after the closing of the IPO. The Company must then use commercially reasonable efforts to have this registration statement declared effective within that 180-day period. If the resale registration statement is declared effective and remains effective, then investors will be able to sell the common stock underlying the units purchased in the private placement (including the common stock issuable upon exercise of the warrants) pursuant to the prospectus contained in the registration statement. These registration rights terminate if the Company does not complete an IPO within five years from the initial closing of the private placement.

Anti-Takeover Devices

The Company's certificate of incorporation and bylaws that will be effective upon completion of this offering will include a number of provisions that may have the effect of delaying, deferring or preventing another party from acquiring control of us and encouraging persons considering unsolicited tender offers or other unilateral takeover proposals to negotiate with our Board of Directors rather than pursue non-negotiated takeover attempts. These provisions include the items described below.

Board Composition and Filling Vacancies. In accordance with the Company's certificate of incorporation, our Board of Directors is divided into three classes serving staggered three-year terms, with one class being elected each year. The Company's certificate of incorporation also provides that directors may only be removed from office for cause and only by the affirmative vote of holders of 75% or more of the outstanding shares of capital stock then entitled to vote at an election of directors. Furthermore, any vacancy on the Company's Board of Directors, however occurring, including any vacancy resulting from an increase in the size of the board, may only be filled by the affirmative vote of a majority of our directors then in office, even if less than a quorum. The classification of directors, together with the limitations on removal of directors and treatment of vacancies, has the effect of making it more difficult for stockholders to change the composition of our Board of Directors.

Undesignated Preferred Stock. The Company's certificate of incorporation authorizes "blank-check" preferred stock, which means that the Board of Directors of the Company has the authority to designate one or more series of preferred stock without stockholder approval. These series of preferred stock may have superior rights, preferences and privileges over our common stock, including dividend rights, voting rights and liquidation preferences. The ability of the Board of Directors of the Company to issue shares of the Company's preferred stock without stockholder approval could deter takeover offers and make it more difficult or costly for a third party to acquire the Company without the consent of the Board of Directors of the Company.

Section 203 of the Delaware General Corporation Law. In addition, the Company's certificate of incorporation does not opt out of Section 203 of the Delaware General Corporation Law, which protects a corporation against an unapproved takeover by prohibiting a company from engaging in any business combination with any interested stockholder (defined as a stockholder owning more than 15% of the outstanding shares) for a period of three years from the time such stockholder became a 15% holder unless approved by the Board of Directors of the Company.

No Trading Market

There is currently no established public trading market for the Company's securities. A trading market in the securities may never develop. The Company has applied for listing of its common stock on the NASDAQ Capital Market under the symbol "ATOS". If for any reason the Company's common stock is not so listed or a public trading market does not develop, purchasers of the shares may have difficulty selling their securities.

Dividends

The Company does not anticipate declaring dividends but anticipates that it will use any funds for further development and growth of the Company.

Transfer Agent

VStock Transfer, LLC, 150 West 46th Street, New York, New York (Telephone: (212) 828-8136; Facsimile (646) 536-3179) will serve as transfer agent for the common stock of the Company.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for our common stock, and a liquid trading market for our common stock may not develop or be sustained after this offering. Future sales of substantial amounts of our common stock in the public market, including shares issued upon exercise of outstanding options and warrants or in the public market after this offering, or the anticipation of these sales, could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through the sale of equity securities in the future.

Upon the completion of this offering, we will have outstanding an aggregate of 12,256,867 shares of common stock, assuming no exercise by the underwriters of their over-allotment option and no exercise of options or warrants outstanding as of December 31, 2011. None of our shares of common stock outstanding as of the date of this prospectus are being registered for sale under this prospectus.

Of the shares to be outstanding immediately after the closing of this offering, we expect that 1,000,000 shares will be freely tradable without restriction under the Securities Act unless purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act (1,150,000 shares if the underwriters' overallotment option is exercised in full). The remaining 11,256,867 shares of our common stock outstanding after this offering will be "restricted securities" under Rule 144 of the Securities Act. "Restricted securities" as defined under Rule 144 were issued and sold by us in reliance on exemptions from the registration requirements of the Securities Act. As a result of the lock-up agreements described below and the provisions of Rule 144 and Rule 701, summarized below, as of April 1, 2012, these restricted shares may be sold in the public market as follows:

Date of Availability of Sale	Aggregate Number of Shares
Immediately upon completion of the offering	999,421
90 days after completion of offering	5,256,800
Six months after completion of the offering	5,000,646

Up to an additional 6,833,840 shares of common stock issuable upon exercise of warrants will be available for resale, as described below.

Rule 144

Sales by Affiliates. In general, under Rule 144 as currently in effect, beginning 90 days after the consummation of this offering, a person who is one of our affiliates (as defined below) and who has beneficially owned the shares proposed to be sold for at least six months is entitled to sell in the public market, within any three-month period, a number of shares of common stock that does not exceed the greater of:

- 1% of the number of shares of common stock then outstanding, which will equal approximately 122,568 shares of common stock immediately after consummation of this offering; or
- the average weekly trading volume of our common stock on the NASDAQ Capital Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such a sale.

Such sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions, notice requirements and to the availability of current public information about us. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with an issuer.

Notwithstanding the availability of Rule 144, our affiliates holding a total of 4,890,646 shares of common stock have entered into six month lock-up agreements as referenced above and their restricted securities will become eligible for sale (subject to the above limitations under Rule 144) upon the expiration of the restrictions set forth in those agreements.

Sales by Non-Affiliates. In general, under Rule 144, beginning 90 days after the consummation of this offering, a person who is not deemed to have been an affiliate of ours at any time during the 90 days preceding a sale, and who has beneficially owned restricted securities, within the meaning of Rule 144, proposed to be sold for at least six months (including the holding period of any prior owner other than one of our affiliates), would be entitled to sell those shares in the public market without complying with the manner of sale, volume limitations or notice provisions of Rule 144, but subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of any prior owner other than one of our affiliates, then such person is entitled to sell such shares in the public market immediately upon the closing of this offering without complying with any of the requirements of Rule 144.

Rule 701

In general, under Rule 701, any of our employees, directors, officers, consultants or advisors who acquired shares of common stock from us in connection with a compensatory stock or option plan or other written agreement in compliance with Rule 701 under the Securities Act before the effective date of the registration statement of which this prospectus is a part, or who purchased shares of common stock from us after that date upon the exercise of options granted before such date, is entitled to rely on Rule 701 to resell such shares 90 days after the effective date of this offering in reliance upon Rule 144. Subject to the lock-up agreements described below, if such person is not an affiliate, such sale may be made without complying with the minimum holding period or public information requirements of Rule 144. If such a person is an affiliate, such sale may be made under Rule 144 without compliance with its minimum holding period requirements, but subject to the other Rule 144 restrictions and the lock-up agreements described above.

Stock Options

As of December 31, 2011, options to purchase a total of 814,000 shares of common stock were outstanding 550,000 of which are subject to the terms of the lock-up agreements with the underwriters. Upon completion of this offering, an additional 636,274 shares of common stock will be available for future option grants under our stock plan (which amount includes 450,274 shares added to the number of shares reserved for issuance pursuant to the evergreen feature of our 2010 Plan on January 1, 2012). Upon completion of this offering, we intend to file a registration statement on Form S-8 under the Securities Act covering all shares of common stock subject to outstanding options or issuable pursuant to our stock plans. Accordingly, shares registered under such registration statement will be available for sale in the open market following the effective date, subject to vesting restrictions with us, Rule 144 restrictions applicable to our affiliates or the lock-up restrictions described above.

Warrants

As of December 31, 2011, we had outstanding warrants to purchase an aggregate of 6,833,840 shares of our common stock, with a weighted-average exercise price of $1.56 per share. See “Description of Capital Stock — Warrants.” Any shares acquired upon the net exercise or cash exercise of these warrants may be sold in the public market pursuant to Rule 144, subject to the lock-up restrictions described above. In addition, these shares are entitled to registration rights as described under “Description of Securities — Registration Rights.”

Lock-Up Agreements

As of the effective date of this prospectus, certain of the holders of the Company’s outstanding shares of common stock and warrants have entered into lock-up agreements with the underwriters restricting the sale of such securities, including all the securities owned directly and beneficially by affiliates of the Company.

The lock-up agreements restrict the sale of such securities from the effective date of the registration statement of which this prospectus is a part for a period of six months, after which time the provisions of the lock-up agreement expire. However, such securities cannot be sold publicly even after the expiration of the lock-up period unless registered under the Securities Act or sold pursuant to provisions of Rule 144 described above.

The lock-up agreements are more fully described under the caption “Underwriting” in this prospectus.

UNDERWRITING

Subject to the terms and conditions of the underwriting agreement, the underwriters named below, through their representative, Dawson James Securities, Inc., who is acting as the sole book-running manager and sole representative of the underwriters of this offering, each underwriter named below has severally agreed to purchase from us on a firm commitment basis the following respective number of shares at a public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus:

Underwriters	Number of Shares
Dawson James Securities, Inc.	
Total	

The underwriting agreement provides that the obligation of the underwriters to purchase all of the 1,000,000 shares being offered to the public (assuming a $6.00 per share public offering price) is subject to specific conditions, including the absence of any material adverse change in our business or in the financial markets and the receipt of certain legal opinions, certificates and letters from us, our counsel and the independent auditors. Subject to the terms of the underwriting agreement, the underwriters will purchase all of the 1,000,000 shares being offered to the public, other than those covered by the over-allotment option described below, if any of these shares are purchased.

Over-Allotment Option

We have granted to the underwriters an option, exercisable not later than 45 days after the effective date of the registration statement, to purchase up to 150,000 additional shares at the public offering price less the underwriting discounts and commissions set forth on the cover of this prospectus. The underwriters may exercise this option only to cover over-allotments made in connection with the sale of the shares offered by this prospectus. The over-allotment option will only be used to cover the net syndicate short position resulting from the initial distribution. To the extent that the underwriters exercise this option, each of the underwriters will become obligated, subject to conditions, to purchase approximately the same percentage of these additional shares as the number of shares to be purchased by it in the above table bears to the total number of shares offered by this prospectus. We will be obligated, pursuant to the option, to sell these additional shares to the underwriters to the extent the option is exercised. If any additional shares are purchased, the underwriters will offer the additional shares on the same terms as those on which the other shares are being offered hereunder.

Commissions and Discounts

The underwriting discounts and commissions are 7% of the initial public offering price. We have agreed to pay the underwriters the discounts and commissions set forth below, assuming either no exercise or full exercise by the underwriters of the underwriter's over-allotment option. In addition, we have agreed to pay to Dawson James Securities, Inc. a non-accountable expense reimbursement fee of 3% of the gross proceeds of this offering.

The representative has advised us that the underwriters propose to offer the shares directly to the public at the public offering price set forth on the cover of this prospectus. In addition, the representative may offer some of the shares to other securities dealers at such price less a concession of $ per share. The underwriters may also allow, and such dealers may re-allow, a concession not in excess of $ per share to other dealers. After the common stock is released for sale to the public, the representative may change the offering price and other selling terms at various times.

The following table summarizes the underwriting discounts and commissions we will pay to the underwriters. The underwriting discounts and commissions are equal to the public offering price per share less the amount per share the underwriters pay us for the shares.

	Per Unit	Total without Over-Allotment	Total with Over-Allotment
Public offering price			
Underwriting discount[1]			
Proceeds, before expenses, to us			

(1) Does not include the non-accountable expense reimbursement fee in the amount of 3% of the gross proceeds of this offering.

We estimate that the total expenses of the offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding underwriting discounts and commissions, will be approximately $500,000, all of which are payable by us.

Lock-Up Agreements

We and each of our officers and directors and certain of our warrant holders are bound by agreements providing that we and these persons may not offer, issue, sell, contract to sell, encumber, grant any option for the sale of or otherwise dispose of any shares of our common stock or other securities convertible into or exercisable or exchangeable for shares of our common stock for a period of six months from the effective date of the registration statement of which this prospectus is a part without the prior written consent of Dawson James.

Dawson James may in its sole discretion and at any time without notice release some or all of the securities subject to lock-up agreements prior to the expiration of the lock-up period. When determining whether or not to release securities from the lock-up agreements, the representative will consider, among other factors, the security holder’s reasons for requesting the release, the number of securities for which the release is being requested and market conditions at the time.

Pricing of this Offering

Prior to this offering there has been no public market for any of our securities. The public offering price of the shares was negotiated between us and Dawson James. Factors considered in determining the price and terms of the shares include:

- the history and prospects of companies in our industry;
- prior offerings of those companies;
- our prospects for developing and commercializing our products;
- our capital structure;
- an assessment of our management and their experience;
- general conditions of the securities markets at the time of the offering; and
- other factors as were deemed relevant.

However, although these factors were considered, the determination of our offering price is more arbitrary than the pricing of securities for an operating company in a particular industry since the underwriters are unable to compare our financial results and prospects with those of public companies operating in the same industry.

Price Stabilization, Short Positions and Penalty Bids

The underwriters may engage in over-allotment, stabilizing transactions, short positions, syndicate covering transactions, and penalty bids or purchasers for the purpose of pegging, fixing or maintaining the price of the common stock, in accordance with Regulation M under the Exchange Act:

- Over-allotment involves sales by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase, which creates a syndicate short position. In connection with the offering, the underwriters may make short sales of the Company's shares. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares that they may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriters may close out any short position by either exercising their over-allotment option and/or purchasing shares in the open market.
- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- Syndicate covering transactions involve purchases of the common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option. If the underwriters sell more shares than could be covered by the over-allotment option, a naked short position, the position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.
- Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when the common stock originally sold by the syndicate member is purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

These stabilizing transactions, short positions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of the common stock. As a result, the price of the common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected in the over-the-counter market or otherwise and, if commenced, may be discontinued at any time.

Neither we nor any of the underwriters makes any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the common stock. In addition, neither we nor any of the underwriters make any representation that the underwriters will engage in these stabilizing transactions or that any transaction, once commenced, will not be discontinued without notice.

Other Terms

We have agreed to reimburse Dawson James for up to $100,000 of the legal fees incurred by Dawson James in connection with the offering, plus up to an additional $15,000 in legal fees for blue sky matters and up to $25,000 for legal fees related to filings with FINRA. These expenses, which are in addition to the 3% expense reimbursement fee described above, will be paid from the proceeds of this offering.

Indemnification

We have agreed to indemnify the underwriters against liabilities relating to the offering arising under the Securities Act, liabilities arising from breaches of some or all of the representations and warranties contained in the underwriting agreement, and to contribute to payments that the underwriters may be required to make for these liabilities.

Electronic Distribution

A prospectus in electronic format may be made available on a website maintained by the representatives of the underwriters and may also be made available on a website maintained by other underwriters. The underwriters may agree to allocate a number of shares to underwriters for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives of the underwriters to underwriters that may make Internet distributions on the same basis as other allocations. In connection with the offering, the underwriters or syndicate members may distribute prospectuses electronically. No forms of electronic prospectus other than prospectuses that are printable as Adobe® PDF will be used in connection with this offering.

The underwriters have informed us that they do not expect to confirm sales of shares offered by this prospectus to accounts over which they exercise discretionary authority.

Other than the prospectus in electronic format, the information on any underwriter's website and any information contained in any other website maintained by an underwriter is not part of the prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or any underwriter in its capacity as underwriter and should not be relied upon by investors.

Relationships

Certain of the underwriters or their affiliates have provided from time to time and may in the future provide investment banking, financial advisory and other related services to us and our affiliates for which they have received and may continue to receive customary fees and commissions.

Foreign Regulatory Restrictions on Purchase of Shares

We have not taken any action to permit a public offering of the shares outside the United States or to permit the possession or distribution of this prospectus outside the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about and observe any restrictions relating to this offering of shares and the distribution of the prospectus outside the United States.

LEGAL MATTERS

The validity of the securities offered by this prospectus will be passed upon for us by Ropes & Gray LLP, San Francisco, California. Certain legal matters relating to this offering will be passed upon for the underwriters by Baker Botts LLP, Palo Alto, California.

EXPERTS

KCCW Accountancy Corp., an independent PCAOB registered public accounting firm, has audited the Company's balance sheets as of December 31, 2010 and 2011 and the related statements of operations, stockholders' equity, and cash flows, which are included in this prospectus. The financial statements are included in reliance on the report of KCCW Accountancy Corp., given their authority as experts in accounting and auditing.

ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares offered by this prospectus. This prospectus does not contain all of the information included in the registration statement, portions of which are omitted as permitted by the rules and regulations of the SEC. For further information pertaining to us and the shares to be sold in this offering, you should refer to the registration statement and its exhibits.

In this prospectus, whenever reference is made to contracts, agreements or other documents, the references are not necessarily complete, and you should refer to the exhibits attached to the registration statement for copies of the actual contract, agreement or other document filed as an exhibit to the registration statement or such other document, each such statement being qualified in all respects by such reference.

Upon the completion of this offering, we will be subject to the informational requirements of the Exchange Act and will be required to file annual, quarterly and current reports, proxy statements and other information with the SEC. We anticipate making these documents publicly available, free of charge, on its website as soon as reasonably practicable after filing such documents with the SEC. The information contained in, or that can be accessed through, our website is not part of this prospectus.

You can read the registration statement and future filings, as they are filed with the SEC, over the Internet at the SEC's website at *www.sec.gov*. Copies of filings may be requested, at no cost, from us. You may also read and copy any document filed with the SEC at its public reference facility at 100 F Street, N.E., Washington, D.C. 20549 and copies may be requested at prescribed rates at such address or at 1-800-SEC-0330.

ATOSSA GENETICS INC.
(A Development Stage Company)

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2011

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Audit • Tax • Consulting • Financial Advisory
Registered with Public Company Accounting Oversight Board (PCAOB)

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of:
Atossa Genetics Inc.

We have audited the accompanying consolidated balance sheets of Atossa Genetics Inc. (a development stage company) (the "Company") as of December 31, 2011 and 2010, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for the years then ended and since inception. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Atossa Genetics, Inc. (a development stage company) as of December 31, 2011 and 2010 and the consolidated results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As described in Note 2 of the consolidated financial statements, the Company has been in the development stage since its inception (April 30, 2009) and continues to incur expenses. The Company's viability is dependent upon its ability to obtain future financing and the success of its future operations. These matters raise substantial doubt about the Company's ability to continue as a going concern. Management's plan in regard to these matters is also described in Note 2 to the financial statements. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KCCW Accountancy Corp.

Diamond Bar, California
March 22, 2012

KCCW Accountancy Corp.
22632 Golden Springs Dr. #230, Diamond Bar, CA 91765, USA
Tel: +1 909 348 7228 • Fax: +1 626 529 1580 • info@kccwcpa.com

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

CONSOLIDATED BALANCE SHEETS

	As of December 31,	
	2011	2010
Assets		
Current Assets		
Cash and cash equivalents	$ 1,910,821	$ 10,253
Restricted cash	1,000,000	—
Accounts receivable	1,224	—
Prepaid expense	31,184	—
Rental deposit	2,200	—
Total Current Assets	2,945,429	10,253
Fixed Assets		
Furniture and Equipment, net	80,467	—
Total Fixed Assets	80,467	—
Other Assets		
Security deposit	5,157	4,757
Intangible assets, net	40,841	—
Total Other Assets	45,998	4,757
Total Assets	$ 3,071,894	$ 15,010
Liabilities and Stockholders' Equity (Deficit)		
Current Liabilities		
Line of Credit	$ 1,000,000	$ —
Accounts payable	64,766	—
Accrued payroll	—	278,571
Accrued expenses	442,329	399,289
Note payable – related party	5,078	189,000
Total Current Liabilities	1,512,173	866,861
Stockholders' Equity (Deficit)		
Preferred stock – $.001 par value; 10,000,000 shares authorized, 0 shares issued and outstanding	—	—
Common stock – $.001 par value; 75,000,000 shares authorized, 11,256,867 and 6,000,067 shares issued and outstanding, respectively	11,257	6,000
Additional paid-in capital	6,200,520	351,936
Accumulated deficit	(4,652,056)	(1,209,787)
Total Stockholders' Equity (Deficit)	1,559,721	(851,851)
Total Liabilities and Stockholders' Equity (Deficit)	$ 3,071,894	$ 15,010

The accompanying notes are an integral part of these consolidated financial statements.

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ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

CONSOLIDATED STATEMENTS OF OPERATIONS

	For The Years Ended December 31, 2011	For The Years Ended December 31, 2010	From April 30, 2009 (Inception) Through December 31, 2011
Net Product Revenues	$ 1,500	$ —	$ 1,500
Cost of Goods Sold	(5,164)	—	(5,164)
Loss on Reduction of Inventory to LCM	(92,026)	—	(92,026)
Gross Profit	(95,690)	—	(95,690)
Selling expenses	(160,851)	(12,204)	(173,055)
General and Administrative expenses	(3,172,649)	(1,065,792)	(4,361,299)
Total operating expenses	(3,333,500)	(1,077,996)	(4,534,353)
Operating Loss	(3,429,190)	(1,077,996)	(4,630,043)
Interest Income	4,914	455	5,369
Interest Expense	(17,992)	(9,139)	(27,131)
Net Loss before Income Taxes	(3,442,269)	(1,086,680)	(4,651,806)
Income Taxes	—	250	250
Net Loss	$(3,442,269)	$(1,086,930)	$ (4,652,056)
Loss per common share – basic	$ (0.38)	$ (0.18)	$ (0.70)
Loss per common share – diluted	$ (0.38)	$ (0.18)	$ (0.70)
Weighted average shares outstanding, basic	9,117,746	5,935,897	6,645,834
Weighted average shares outstanding, diluted	9,117,746	6,004,721	6,645,834

The accompanying notes are an integral part of these consolidated financial statements.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

CONSOLIDATED STATEMENTS OF CASH FLOWS
(AUDITED)

	For The Years Ended December 31, 2011	For The Years Ended December 31, 2010	For The Period From April 30, 2009 (Inception) to December 31, 2011
CASH FLOWS FROM OPERATING ACTIVITIES			
Net loss	$(3,442,269)	$(1,086,930)	$(4,652,056)
Common shares issued for services	—	71,000	71,000
Compensation cost for stock options granted	140,056	30,396	170,452
Loss on reduction of inventory to LCM	92,026	—	92,026
Loan initiation fee accrued for notes payable	—	2,000	2,000
Depreciation and amortization	15,623	—	15,623
Adjustments to reconcile net loss to net cash provided by operating activities:			
Increase in accounts receivable	(1,224)	—	(1,224)
Increase in inventory	(92,026)	—	(92,026)
Increase in prepaid expenses	(31,184)	—	(31,184)
Increase in security deposits	(2,600)	(3,657)	(7,357)
(Decrease) Increase in accounts payable	64,765	—	64,766
(Decrease) Increase in accrued payroll	(278,571)	278,571	—
(Decrease) Increase in accrued expenses	43,040	363,008	442,329
Increase (Decrease) in royalty payable – related party	—	(12,500)	—
Net cash used in operating activities	(3,492,364)	(358,111)	(3,925,651)
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of furniture & fixtures	(86,465)	—	(86,465)
Purchase of software	(50,466)	—	(50,466)
Net cash used in investing activities	(136,931)	—	(136,931)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from issuance of common stocks	5,713,785	102,000	5,970,325
Proceeds from bank line of credit	1,000,000	—	1,000,000
(Repayments) Proceeds of loans from related parties	(183,922)	182,000	3,078
Cash restricted for commercial line of credit	(1,000,000)	—	(1,000,000)
Net cash provided by financing activities	5,529,863	284,000	5,973,403
NET INCREASE (DECREASE) IN CASH & CASH EQUIVALENTS	1,900,568	(74,111)	1,910,821
CASH & CASH EQUIVALENTS, BEGINNING BALANCE	10,253	84,364	—
CASH & CASH EQUIVALENTS, ENDING BALANCE	$ 1,910,821	$ 10,253	$ 1,910,821
SUPPLEMENTAL DISCLOSURES:			
Interest paid	$ 17,992	$ —	$ 17,992
Income taxes paid	$ —	$ 250	$ 250

The accompanying notes are an integral part of these consolidated financial statements.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balance at April 30, 2009, Founders' shares issued at $0.014 per share for cash	3,976,465	$ 3,976	$ 50,024	$ —	$ 54,000
Issuance of shares for cash at $0.014 per share, July 28, 2009	39,765	40	500	—	540
Issuance of shares for cash at $0.11 per share, December 21, 2009	883,658	884	99,116	—	100,000
Net loss for the period ended December 31, 2009	—	—	—	(122,857)	(122,857)
Balance at December 31, 2009	4,899,888	$ 4,900	$ 149,640	$ (122,857)	$ 31,683
Issuance of common shares for cash at $0.11 per share, January 21, 2010	866,007	866	97,134	—	98,000
Issuance of common shares for services at $0.11 per share, January 21, 2010	185,569	186	20,814	—	21,000
Issuance of common shares for cash at $0.11 per share, January 23, 2010	35,347	35	3,965	—	4,000
Issuance of common shares for services at $3.77 per share, April 27, 2010	13,256	13	49,987	—	50,000
Compensation cost for stock options granted to executives	—	—	30,396	—	30,396
Net loss for the year ended December 31, 2010	—	—	—	(1,086,930)	(1,086,930)
Balance at December 31, 2010	6,000,067	$ 6,000	$ 351,936	$(1,209,787)	$ (851,851)
Issuance of common shares for cash at $1.25 per share, April 29, 2011	1,612,000	1,612	1,748,438	—	1,750,050
Issuance of common shares for cash at $1.25 per share, June 1, 2011	1,376,000	1,376	1,495,024	—	1,496,400
Issuance of common shares for cash at $1.25 per share, June 10, 2011	682,000	682	741,008	—	741,690
Issuance of common shares for cash at $1.25 per share, June 24, 2011	1,586,800	1,587	1,724,058	—	1,725,645
Compensation cost for stock options to executives, directors and employees	—	—	140,056	—	140,056
Net loss for the year ended December 31, 2011	—	—	—	(3,442,269)	(3,442,269)
Balance at December 31, 2011	11,256,867	$ 11,257	$6,200,520	$(4,652,056)	$ 1,559,721

The accompanying notes are an integral part of these consolidated financial statements.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1: NATURE OF OPERATIONS

The Company's operations began in December 2008 with the negotiations for the acquisition of the Mammary Aspirate Specimen Cytology Test, or the MASCT, System patent rights and assignments and the FDA clearance for marketing, which acquisition was completed in January 2009. Atossa Genetics, Inc. (the "Company") was incorporated on April 30, 2009 in the State of Delaware. The Company was formed to develop and market the MASCT System, a cellular and molecular diagnostic risk assessment product for the detection of pre-cancerous changes that could lead to breast cancer. The Company's fiscal year ends on December 31st.

In December 2011 the Company established the National Reference Laboratory for Breast Health, or NRLBH, as a wholly-owned subsidiary. NRLBH is our CLIA-certified laboratory where our ForeCYTE and ArgusCYTE test samples are screened for the presence of normal, pre-malignant, or malignant changes as determined by cytopathology and biomarkers that distinguish "usual" ductal hyperplasia, a benign condition, from atypical ductal hyperplasia, which may lead to cancer. These screening results provide patients and physicians with information about the care path that should be followed, depending on the individual risk of future cancer as determined by the results.

Development Stage Risk

To date, the Company has earned $1,500 in revenues from the sale of its MASCT system. Accordingly, the Company's activities have been accounted for as those of a "Development Stage Enterprise" as set forth in Accounting Standards Codification ("ASC") 915 "Development Stage Entities", which was previously Statement of Financial Accounting Standards No. 7 ("SFAS 7"). Among the disclosures required by ASC 915 are that the Company's financial statements be identified as those of a development stage company, and that the statements of operations, stockholders' equity and cash flows disclose activity since the date of the Company's inception.

Since its inception, the Company has been dependent upon the receipt of capital investment to fund its continuing activities. In addition to the normal risks associated with a new business venture, there can be no assurance that the Company's business plan will be successfully executed. The Company's ability to execute its business plan will depend on its ability to obtain additional financing and achieve a profitable level of operations. There can be no assurance that sufficient financing will be obtained. Further, the Company cannot give any assurance that it will generate substantial revenues or that its business operations will prove to be profitable.

NOTE 2: GOING CONCERN

The Company's financial statements are prepared using generally accepted accounting principles in the United States of America applicable to a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has not yet established an ongoing source of revenues sufficient to cover its operating costs and allow it to continue as a going concern. The ability of the Company to continue as a going concern is dependent on the Company obtaining adequate capital to fund operating losses until it becomes profitable. If the Company is unable to obtain adequate capital, it could be forced to cease operations. The accompanying financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

Management's Plan to Continue as a Going Concern

In order to continue as a going concern, the Company will need, among other things, additional capital resources. Management's plans to obtain such resources for the Company include (1) obtaining capital from the sale of its securities, (2) sales of the MASCT System and laboratory service revenue, and (3) short-term borrowings from stockholders or other related party(ies) when needed. However, management cannot provide any assurance that the Company will be successful in accomplishing any of its plans.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2: GOING CONCERN – (continued)

The ability of the Company to continue as a going concern is dependent upon its ability to successfully accomplish the plans described in the preceding paragraph and eventually to secure other sources of financing and attain profitable operations.

NOTE 3: SUMMARY OF ACCOUNTING POLICIES

Basis of Presentation:

The accompanying consolidated financial statements include the financial statements of Atossa Genetics Inc. and its wholly-owned subsidiary NRLBH. All significant intercompany account balances and transactions have been eliminated in consolidation. These consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America.

Revenue Recognition:

Overview

The Company will recognize product and service revenue in accordance with GAAP when the following overall fundamental criteria are met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or the service has been performed, (iii) the Company's price to the customer is fixed or determinable and (iv) collection of the resulting accounts receivable is reasonably assured.

Product Revenue

The Company will recognize revenue for sales of the MASCT kits and devices upon receipt of cash during the initial three to six month period as the company has no sales history on which to determine the collectability. Shipping documents and the completion of any customer acceptance requirements, when applicable, will be used to verify product delivery. The Company will assess whether a price is fixed or determinable based upon the payment terms associated with the transaction and whether the sales price is subject to refund or adjustment. Once a history of sales and collectability has been established, the company will recognize revenue on an accrual basis with an offsetting reserve for doubtful accounts based on the history during the initial sales period.

Service Revenue

The Company will record revenue for diagnostic testing on an accrual basis at the Medicare allowed and invoiced amount. Amounts invoiced above the Medicare amount, namely non-Medicare, are not recognized on an accrual basis and instead are recognized on a cash basis as received. Diagnostic testing revenue at the Medicare rate is recognized upon completion of the test, communication of results to the patient's physician, and when collectability is reasonably assured. Customer purchase orders and/or contracts will generally be used to determine the existence of an arrangement. Once the Company has historical sales and can determine the proper amount to recognize as uncollectible, it will then begin to recognize the entire amount, both Medicare and non-Medicare billing on an accrual basis, with an offsetting allowance for doubtful accounts recorded based on history. The Company estimates it will take between 3 to 6 months of sales history to determine a proper allowance.

Cash and Cash Equivalents:

Cash and cash equivalents include cash and all highly liquid instruments with original maturities of three months or less.

As of December 31, 2011, $1,000,000 of cash was restricted as collateral for $1,000,000 of a commercial line of credit obtained from JPMorgan Chase Bank in September 2011 (see Note 8). This amount is designated as restricted cash under current assets on our consolidated balance sheet.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3: SUMMARY OF ACCOUNTING POLICIES – (continued)

Use of Estimates:

The preparation of consolidated financial statements in conformity with generally accepted accounting principles in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

Accounts Receivable:

Accounts receivable are recorded at net realizable value consisting of the carrying amount less allowance for doubtful accounts, as needed. We assess the collectability of accounts receivable based primarily upon the creditworthiness of the customer as determined by credit checks and analysis, as well as the customer’s payment history. Management reviews the composition of accounts receivable and analyzes historical bad debts, customer concentrations, customer credit worthiness, current economic trends, and changes in customer payment patterns to evaluate the adequacy of these reserves.

Inventories:

The Company’s inventories are stated at lower of cost or market. Cost is determined on moving-average basis. Costs of inventories include purchase and related costs incurred in delivering the products to their present location and condition. Market value is determined by reference to selling prices after the balance sheet date or to management’s estimates based on prevailing market conditions. Management periodically evaluates the composition of its inventories at least quarterly to identify slow-moving and obsolete inventories to determine if valuation allowance is required. As of December 31, 2011 and 2010, management had identified no slow moving or obsolete inventory. For the years ended December 31, 2011 and 2010, loss on reduction of inventory to the lower of cost or market was $92,026 and $0, respectively.

Property, plant, and equipment:

Property, plant and equipment are stated at cost less accumulated depreciation. Expenditures for maintenance and repairs are charged to earnings as incurred; additions, renewals and betterments are capitalized. When property, plant and equipment are retired or otherwise disposed of, the related cost and accumulated depreciation are removed from the respective accounts, and any gain or loss is included in operations.

Depreciation is computed using the straight-line method over the estimated useful lives of the assets as follows:

	Useful Life (in years)
Machinery and equipment	5

Intangible assets:

For intangible assets subject to amortization, an impairment loss is recognized if the carrying amount of the intangible asset is not recoverable and exceeds fair value. The carrying amount of the intangible asset is considered not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset. Intangible assets as of December 31, 2011 were mainly software acquired for the purpose of managing laboratory results (see Note 7).

Research and Development Expenses:

Research and development costs are generally expensed as incurred. The Company’s research and development expenses consist of costs incurred for internal and external research and development.

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3: SUMMARY OF ACCOUNTING POLICIES – (continued)

Share Based Payments:

In December 2004, the Financial Accounting Standards Board, or the FASB, issued the Statement of Financial Accounting Standards, or SFAS, No. 123(R), "Share-Based Payment", which replaces SFAS No. 123 and supersedes APB Opinion No. 25. SFAS No. 123(R) is now included in the FASB's ASC Topic 718, "Compensation — Stock Compensation." Under SFAS No. 123(R), companies are required to measure the compensation costs of share-based compensation arrangements based on the grant-date fair value and recognize the costs in the financial statements over the period during which employees or independent contractors are required to provide services. Share-based compensation arrangements include stock options and warrants, restricted share plans, performance-based awards, share appreciation rights and employee share purchase plans. In March 2005, the SEC issued Staff Accounting Bulletin No. 107, or SAB 107, which expresses views of the staff regarding the interaction between SFAS No. 123(R) and certain SEC rules and regulations and provides the staff's views regarding the valuation of share-based payment arrangements for public companies. SFAS No. 123(R) permits public companies to adopt its requirements using one of two methods. On April 14, 2005, the SEC adopted a new rule amending the compliance dates for SFAS No. 123(R). Companies may elect to apply this statement either prospectively, or on a modified version of retrospective application under which financial statements for prior periods are adjusted on a basis consistent with the pro forma disclosures required for those periods under SFAS No. 123.

The Company has fully adopted the provisions of FASB ASC 718 and related interpretations as provided by SAB 107. As such, compensation cost is measured on the date of grant as the fair value of the share-based payments. Such compensation amounts, if any, are amortized over the respective vesting periods of the option grant.

Recently Issued Accounting Pronouncements:

The Company has adopted all recently issued accounting pronouncements that management believes to be applicable to the Company. The adoption of these accounting pronouncements, including those not yet effective, is not anticipated to have a material effect on the financial position or results of operations of the Company.

NOTE 4: PREPAID EXPENSES

Prepaid expenses consisted of the following:

	December 31, 2011	December 31, 2010
Prepaid insurances	$ 14,146	$ —
Prepaid hardware/software maintenance and support service fee	12,850	—
Prepaid rent	4,188	—
	$ 31,184	$ —

NOTE 5: OTHER CURRENT ASSETS

Other current assets amounted to $2,200 as of December 31, 2011, and mainly consisted of security deposits for two office leases. The lease terms are from July 11, 2011 through July 31, 2012 and from October 1, 2011 to March 31, 2012, respectively (see Note 13).

ATOSSA GENETICS, INC.
(A DEVELOPMENT STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 6: PROPERTY, PLANT, AND EQUIPMENT

Property, plant and equipment consisted of the following:

	December 31, 2011	December 31, 2010
Machinery and equipment	$ 86,465	$ —
Less: Accumulated depreciation	(5,998)	—
Property, plant, and equipment, net	$ 80,467	$ —

Depreciation expense for the years ended December 31, 2011 and 2010 was $5,998 and $0 respectively.

NOTE 7: INTANGIBLE ASSET

Intangible asset amounted to $40,841 as of December 31, 2011, mainly consisted of the acquired software for the purpose of managing laboratory results pursuant to a software installation agreement entered into on June 8, 2011. The amortization period for the purchased software is 3 years. Amortization expense for the year ended December 31, 2011 was $9,625.

Future estimated amortization expenses as of December 31, 2011 for the five succeeding years is as follows:

As of December 31,	Amounts
2013	$ 16,822
2014	16,822
2015	7,197
2016	—
2017	—
	$ 40,841

NOTE 8: LINE OF CREDIT

Line of credit consisted of the following at December 31, 2011 and 2010:

	December 31, 2011	December 31, 2010
Line of credit, JPMorgan Chase Bank	$1,000,000.00	$ —

In June 2011, the Company entered into a commercial line of credit agreement with JPMorgan Chase Bank. The term of the loan started from June 28, 2011 with maturity date on June 28, 2012. The line of credit agreement provides for borrowings up to $1,000,000. The balance of the line of credit was fully drawn up as of December 31, 2011. The adjustable interest rate is a rate per annum equal to the sum of an index, which is the LIBOR Rate plus 1.914 percentage point(s). The adjustable interest rate for the line of credit was 2.2070% as of December 31, 2011.

As of December 31, 2011, $1,000,000 of cash was restricted as collateral for the commercial line of credit.

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NOTE 9: ACCRUED EXPENSES

Accrued expenses consisted of the following:

	December 31, 2011	December 31, 2010
Accrued expenses	$ 354,943	$ 391,749
Accrued payroll tax liabilities	87,386	7,540
	$ 442,329	$ 399,289

NOTE 10: STOCKHOLDERS' EQUITY

The Company is authorized to issue a total of 85,000,000 shares of stock consisting of 75,000,000 shares of Common Stock, par value $0.001 per share, and 10,000,000 shares of Preferred Stock, par value $0.001 per share.

Reverse Stock-Split

On September 28, 2010, the Board of Directors approved a 1-for-2.26332 reverse share split for all issued and outstanding shares of Common Stock, with no change to the par value of the Common Stock.

Prior Issuances of Common Stock

On April 30, 2009 (inception), the Company issued 1,767,316 shares (or 4,000,000 shares prior to the reverse stock-split on September 28, 2010) to Ensisheim Partners LLC, a related party to the Company through common ownership, for cash in the amount of $24,000, or $0.014 per share (or $0.006 per share prior to the reverse stock-split on September 28, 2010); 1,325,487 shares (or 3,000,000 shares prior to the reverse stock-split on September 28, 2010) to Manistee Ventures LLC, a related party to the Company through common ownership, for cash in the amount of $18,000, or $0.014 per share (or $0.006 per share prior to the reverse stock-split on September 28, 2010); and 883,662 shares (or 2,000,000 shares prior to the reverse stock-split on September 28, 2010) to the Chairman, CEO and President of the Company at that time for cash in the amount of $12,000, or $0.014 per share (or $0.006 per share prior to the reverse stock-split on September 28, 2010).

On July 28, 2009, the Company issued 39,765 shares (or 90,000 shares prior to the reverse stock-split on September 28, 2010) to a director of the Company for cash in the amount of $540, or $0.014 per share (or $0.006 per share prior to the reverse stock-split on September 28, 2010).

On December 28, 2009, the Company issued 883,658 shares (or 2,000,000 shares prior to the reverse stock-split on September 28, 2010) to Ensisheim Partners LLC for cash in the amount of $100,000, or $0.11 per share (or $0.05 per share prior to the reverse stock-split on September 28, 2010).

On January 21, 2010, the Company issued 866,007 shares (or 1,960,000 shares prior to the reverse stock-split on September 28, 2010) to forty-four (44) investors for cash in the amount of $98,000, or $0.11 per share (or $0.05 per share prior to the reverse stock-split on September 28, 2010).

On January 21, 2010, the Company issued 132,549 shares (or 300,000 shares prior to the reverse stock-split on September 28, 2010) to a servicer for effecting transactions intended to cause the Company to become a public company and to have its securities traded in the United States. The shares were issued at a value of $15,000, or $0.11 per share (or $0.05 per share prior to the reverse stock-split on September 28, 2010), the same price as the issuance of the 866,007 shares (or 1,960,000 shares prior to the reverse stock-split on September 28, 2010) for cash on the same date.

On January 21, 2010, the Company issued an additional 53,020 shares (or 120,000 shares prior to the reverse stock-split on September 28, 2010) to a shareholder who acquired 13,255 shares (or 30,000 shares prior to the reverse stock-split on September 28, 2010) for cash on the same date as one of the forty-four (44) investors. Those shares were issued to the shareholder for services to be performed, including investor

NOTE 10: STOCKHOLDERS' EQUITY – (continued)

relations, media relations, and corporate communications. Those shares were issued at a value of $6,000, or $0.11 per share (or $0.05 per share prior to the reverse stock-split on September 28, 2010), the same price as the issuance of the 866,007 shares (or 1,960,000 shares prior to the reverse stock-split on September 28, 2010) for cash on the same date.

On January 23, 2010, the Company issued 35,346 shares (or 80,000 shares prior to the reverse stock-split on September 28, 2010) to an investor for cash in the amount of $4,000, or $0.11 per share (or $0.05 per share prior to the reverse stock-split on September 28, 2010).

On April 27, 2010, the Company issued 13,256 shares (or 30,000 shares prior to the reverse stock-split on September 28, 2010) at $3.77 per share (or $1.67 per share prior to the reverse stock-split on September 28, 2010) to a service provider for website development services pursuant to an original agreement between the Company and the web site developer executed on December 14, 2009, where it was agreed at that time $50,000 or 30,000 shares of common stock would be issued to the developer in exchange for his services.

Private Placements and Warrants

On April 28, May 31, June 10, and June 23, 2011, pursuant to Securities Purchase Agreements with various investors (the "Investors"), the Company issued 5,256,800 shares of the Company's common stock and 5,256,800 warrants (the "Investor Warrants"), each of which entitles the investors to purchase one share of the Company's common stock at $1.60 per share, for aggregate gross proceeds of $6,571,000 (the "Private Placement").

Placement Agent Fees

In connection with the Private Placement, the Company paid Dawson James Securities, Inc. (the "Placement Agent"), a cash fee equal to 10% of the gross proceeds from sale of the common stocks and warrants, plus 3% non-accountable expense allowance, an aggregate of $857,230 (the "Placement Agent Fee"). In addition, the Company entered into Warrant Agreements with the placement agent pursuant to which the Placement Agent received 788,520 warrants (the "Placement Agent Warrants"), each of which entitles the Placement Agent to purchase one share of the Company's common stock at $1.60 per share, plus an additional 788,520 warrants (the "Placement Agent Warrants"), each of which entitles the placement agent to purchase the Company's common stock at $1.25 per share. The cash payment of $857,230 Placement Agent Fee and the $495,876 aggregated initial fair value of the Placement Agent Warrants (see *Fair Value Considerations* below) were directly attributable to an actual offering and were charged through additional paid-in capital in accordance with the SEC Staff Accounting Bulletin (SAB) Topic 5A.

Warrants

The Warrants, including the Investor Warrants and the Placement Agent Warrants, are exercisable at any time commencing after the earliest of the following to occur (the "Initial Exercise Date"):

(a) Six (6) months from the closing of the Company Initial Public Offering (initial public offering of the Company's Common Stock registered under the Securities Act),

(b) The closing of a "fundamental transaction" (in case of any reclassification, capital reorganization, exchange of shares, liquidation, recapitalization or change of the Common Stock, or in case of any consolidation or merger of the Company with or into another corporation or entity, or in case of any sale, lease or conveyance to another corporation or entity of all or substantially all of the assets of the Company), or

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NOTE 10: STOCKHOLDERS' EQUITY – (continued)

(c) Closing of a "significant private financing" (sale of the Company's securities primarily for capital raising purposes in a transaction or series of related transactions that is exempt from registration under the Securities Act and in which the Company issues securities representing at least 20% of the then outstanding capital stock of the Company, calculated assuming the conversion or exercise of all outstanding options, warrants and other securities convertible into or exercisable for capital stock of the Company).

The Warrants shall expire and no longer be exercisable on the fifth anniversary of the Initial Exercise Date (the "Expiration Date"). The Company may at any time during the term of this Warrant reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company. The Warrants may be exercised for cash or, at the option of the Investor, may be exercised on a cashless basis. There are no redemption features embodied in the Warrants and they have met the conditions provided in current accounting standards for equity classification.

Fair Value Considerations

The Company's accounting for the issuance of warrants to the Investors and the Placement Agent required the estimation of fair values of the financial instruments. The development of fair values of financial instruments requires the selection of appropriate methodologies and the estimation of often subjective assumptions. The Company selected the valuation techniques based upon consideration of the types of assumptions that market participants would likely consider in exchanging the financial instruments in market transactions. The warrants were valued using a Black-Scholes-Merton Valuation Technique because it embodies all of the requisite assumptions (including trading volatility, estimated terms and risk free rates) necessary to fair value these instruments.

Pursuant to a valuation performed by Grant Sherman LLC in April 2011, the Investor Warrants and the Placement Agent Warrants were initially valued at $1,808,025 or $0.344 per warrant, $228,712 or $0.290 per warrant, and $267,164 or $0.339 per warrant, respectively. The following tables reflect assumptions used to determine the fair value of the Warrants:

		April-June 2011	December 2011	
	Fair Value Hierarchy Level	Investor Warrants	Placement Agent Warrants	Placement Agent Warrants
Indexed shares		5,256,800	788,520	788,520
Exercise price		$ 1.60	$ 1.60	$ 1.25
Significant assumptions:				
Stock price	3	$ 0.906	$ 0.906	$ 0.906
Remaining term	3	6 years	6 years	6 years
Risk free rate	2	2.49%	1.12%	1.12%
Expected volatility	3	53.55%	54.21%	54.21%

Fair value hierarchy of the above assumptions can be categorized as follows:

(1) There were no Level 1 inputs.

(2) Level 2 inputs include:

- Risk-free rate — The risk-free rate of return reflects the interest rate for United States Treasury Note with similar time-to-maturity to that of the warrants.

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NOTE 10: STOCKHOLDERS' EQUITY – (continued)

(3) Level 3 inputs include:

- Stock price — The Company's common stock is not publicly traded at the time the Warrants were issued, the stock price was determined implicitly from an iterative process based upon the assumption that the Private Placement was the result of an arm's length transaction.
- Remaining term — The Company does not have a history to develop the expected term for its warrants. Accordingly, the Company expected that the Initial Exercise Date would occur within one year from the date of issuance plus the contractual term in the calculations.
- Expected volatility — We did not have a historical trading history sufficient to develop an internal volatility rate for use in the model. As a result, as required by ASC 718-10-30, the Company has accounted for the warrants using the calculated value method. The Company identified seven public entities in the similar industry for which share price information was available, and considered the historical volatilities of those public entities' share prices in calculating the expected volatility appropriate to the Company.

Stock Option and Incentive Plan

On September 28, 2010, the Board of Directors approved the adoption of the 2010 Stock Option and Incentive Plan, or the 2010 Plan, subject to stockholder approval, to provide for the grant of equity-based awards to employees, officers, non-employee directors and other key persons providing services to the Company. Awards of incentive options may be granted under the 2010 Plan until September 2020. No other awards may be granted under the 2010 Plan after the date that is 10 years from the date of stockholder approval. An aggregate of 1,000,000 shares (or 2,263,320 shares prior to the reverse stock-split on September 28, 2010) are reserved for issuance in connection with awards granted under the 2010 Plan, such number of shares to be subject to adjustment as provided in the plan and in any award agreements entered into by the Company under the plan, and upon the exercise or conversion of any awards granted under the plan.

On April 4, 2011, 45,000 non-qualified stock options were granted under the Plan to Dr. Tim Hunkapiller for being a member of the Company's Scientific Advisory Board and consulting services to be provided to the Company.

On September 1, 2011, 219,000 incentive stock options were granted under the Plan to employees and officers and 200,000 non-qualified stock options were granted under the Plan to non-employee directors, respectively, for their employment with and services to be provided to the Company (see Note 14).

NOTE 11: INCOME TAXES

The Company accounts for income taxes as outlined in ASC 740, "Income Taxes", which was previously Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes" ("SFAS 109"). Under the asset and liability method of SFAS 109, deferred income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial reporting and tax bases of assets and liabilities and are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. A valuation allowance is provided for the amount of deferred tax assets that, based on available evidence, are not expected to be realized.

As a result of the Company's cumulative losses, management has concluded that a full valuation allowance against the Company's net deferred tax assets is appropriate. No income tax liabilities existed as of December 31, 2011 and 2010 due to the Company's continuing operating losses.

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NOTE 12: CONCENTRATION OF CREDIT RISK

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash deposits. Accounts at each institution are insured by the Federal Deposit Insurance Corporation ("FDIC") up to $250,000. At December 31, 2011 and 2010, the Company had $2,660,821 and $0 in excess of the FDIC insured limit.

NOTE 13: COMMITMENTS AND CONTINGENCIES

Lease Commitments

On September 29, 2010, the Company entered into a commercial lease agreement with CompleGen, Inc. for laboratory space located in Seattle, WA. The lease provides for monthly rent of $3,657.05 and a security deposit of $3,657.50. The lease terms are from September 29, 2010 through March 31, 2011, at which time the lease has converted to month to month unless two months' prior written notice of the intent to terminate the agreement is given.

On March 4, 2011, the Company entered into a commercial lease agreement with Sanders Properties, LLC for office space located in Seattle, WA. The lease provides for monthly rent of $1,100 and a security deposit of $1,500. The lease terms are from April 1, 2011 through March 31, 2013.

On July 9, 2011, the Company entered into a commercial lease agreement with Sanders Properties, LLC for additional office space located in Seattle, WA. The lease provides for monthly rent of $600 and a security deposit of $1,200. The lease terms are from July 11, 2011 through July 31, 2012.

On August 17, 2011, the Company entered into another commercial lease agreement with Fred Hutchinson Research Center for lab and office space located in Seattle, WA. The lease provides for monthly rent of $16,395 for the period from February 24, 2012 to August 31, 2012, $19,923 for the period from September 1, 2012 to August 31, 2013, and $20,548 for the period from September 1, 2013 to November 29, 2014. The security deposit is $32,789.

On September 27, 2011, the Company entered into another commercial lease agreement with Sanders Properties, LLC for additional office space located in Seattle, WA. The lease provides for monthly rent of $1,400 and a security deposit of $1,000. The lease terms are from October 1, 2011 to March 31, 2012. This lease terminated on March 31, 2012 and was not renewed.

The future minimum lease payments due subsequent to December 31, 2011 under all non-cancelable operating leases for the next five years are as follows:

As of December 31,	Amounts
2012	$ 204,576
2013	244,872
2014	226,027
2015	—
2016	—
Thereafter	—
Total minimum lease payments	$ 675,476

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NOTE 13: COMMITMENTS AND CONTINGENCIES – (continued)

Contingencies

On June 30, 2011, Robert Kelly, the Company's former President, filed a counterclaim against the Company in an arbitration proceeding, alleging breach of contract in connection with the termination of a consulting agreement between Mr. Kelly (dba Pitslayer) and the Company. The consulting agreement was terminated by the Company in September 2010. Mr. Kelly seeks $450,000 in compensatory damages, which is the amount he claims would have been earned had the consulting agreement been fulfilled to completion. The Company is in arbitration with Mr. Kelly and is reasonably confident in its defenses to Mr. Kelly's claims. Consequently, no provision or liability has been recorded for Mr. Kelly's claims as of December 31, 2011. However, it is at least reasonably possible that the Company's estimate of its liability may change in the near term. Any payments by reason of an adverse determination in this matter will be charged to earnings in the period of determination.

NOTE 14: RELATED PARTY TRANSACTIONS

Loans from Officer

On May 26, 2009, the Company borrowed $5,000 from its Chairman of the Board and Chief Executive Officer as a short-term, unsecured loan via verbal agreement and did not bear any interest. Commencing June 30, 2010, the loan was converted into a written Promissory Note bearing an annual interest rate of 10%, with a maturity date of December 31, 2010. This note was repaid in full on May 16, 2011 including approximately $439 of accrued interest.

On June 30, 2010, the Company borrowed an additional $100,000 from its Chairman of the Board and Chief Executive Officer pursuant to a promissory note. The loan under the note was funded to the Company on July 12, 2010. The note bears a 10% interest rate per annum and carries a $4,000 loan origination fee which is accreted to the loan balance throughout the life of the loan. The $4,000 loan origination fee was fully accreted to the loan balance as of March 31, 2011 and December 31, 2010, and recorded as interest expense for the year ended December 31, 2010. This note (including the $4,000 origination fee) was repaid in full on May 19, 2011 including approximately $8,959 in accrued interest.

On November 3, 2010, the Company entered into a line of credit agreement for borrowing up to $500,000 from its Chairman of the Board and Chief Executive Officer pursuant to a promissory note. The note bears a 10% interest rate per annum. An aggregate of $140,000 was funded to the Company under the line of credit as of March 31, 2011 which was repaid on May 31, 2011, including approximately $6,093 in accrued interest. As of December 31, 2011, the unpaid principal balance drawn from the line of credit was $5,078.

Exclusive License Agreement

On July 27, 2009, the Company entered into an exclusive license agreement with Ensisheim Partners LLC ("Ensisheim"), an entity solely owned by the Chairman and Chief Executive Officer of the Company and the Chief Technology Officer of the Company, who is also the Company's Chairman and CEO's wife. Pursuant to that agreement, Ensisheim granted the Company an exclusive, worldwide, perpetual, irrevocable, royalty-bearing, license to the MASCT System, with the right to grant and authorize sublicenses. The license agreement provided that the Company would pay Ensisheim a royalty equal to 2% of net sales revenues, with a minimum royalty of $12,500 per fiscal quarter during the term of the agreement, which would have increased to a minimum royalty of $25,000 per fiscal quarter beginning in the quarter in which the first commercial sale of a licensed product would have taken place. From inception through December 31, 2010, the Company had incurred $16,250 in patent-related expenses under the license agreement with Ensisheim.

On June 17, 2010, the Company and Ensisheim entered into an Assignment Agreement, whereby Ensisheim assigned to the Company all rights to the patents and patent applications underlying the MASCT System. Pursuant to the assignment, the Company will have all responsibility for prosecution, maintenance, and enforcement and will indemnify Ensisheim from any and all claims against the patent estate. Ensisheim

NOTE 14: RELATED PARTY TRANSACTIONS – (continued)

retained no residual rights with respect to the patents and patent applications. In conjunction with the assignment, the Company terminated the exclusive license agreement between the Company and Ensisheim dated July 27, 2009. As a result of the termination, the Company has no further obligations with respect to royalty payments to Ensisheim due under the old licensing agreement. As a result, the $12,500 of patent royalty payable to Ensisheim recorded as accrued royalty payable at December 31, 2009 has been reversed through royalty expense during the second quarter of 2010.

Commercial Lease Agreement

On December 24, 2009, the Company entered into a commercial lease agreement with Ensisheim for office space located in Seattle, Washington. The lease provided for annual rent of $13,200, plus applicable sales tax. From inception through December 31, 2009, the Company incurred $248 of rent expense for the lease. As of December 31, 2009, security deposit for the lease amounted to $1,100. For the period of January 1, 2010 through June 30, 2010, the Company incurred $6,600 of rent expense for the lease. On July 15, 2010 the Company and Ensisheim terminated the lease, effective July 1, 2010 and the Company commenced use of the facility rent free.

Executive Compensation

On May 19, 2010, the Company entered into employment agreements with three executives, including its Chief Executive Officer, its former President, and its Chief Technology Officer. The annual base salaries under each agreement were calculated based on combined consideration of the success of capital raise and the operating results of the Company, and capped at $360,000, $350,000, and $250,000, respectively for the three executives.

On July 22, 2010, in connection with the resignation and departure of Robert L. Kelly, the President and a director, the Company entered into a consulting agreement with a limited liability company controlled by Mr. Kelly. Under the agreement, the Company was to receive consulting services relating to capital raising and investor relations. The agreement was terminated by the Company in September 2010, through which time a total of $30,000 consulting expense had been paid.

On July 22, 2010, the Company restated and amended the employment agreements with its CEO and CTO. The agreements modified the base annual salary amounts to $250,000 and $200,000, respectively, effective retroactively to May 19, 2010. These salaries were accrued and amounted to $391,071 and $278,571 as of March 31, 2011 and December 31, 2010 and paid in full in April 2011. For the twelve-month periods ended December 31, 2011 and 2010, salaries and bonuses of the CEO and CTO amounted to $693,048 and $377,620 of which $492,095 and $0 was recorded to research and development expense, respectively.

Share-Based Compensation

The amended employment agreement with the CEO, entered into on July 22, 2010, granted options to purchase 250,000 shares (or 565,830 shares prior to the reverse stock-split on September 28, 2010) at a price of $5.00 per share, in consideration of his service to the Company. Of these options, 25% (or 62,500 shares) vested on December 31, 2010 with the remaining 75% (or 187,500 shares) to vest in equal quarterly installments over the next three years so long as the executives remain employed with the company. These options have five-year contractual terms.

The amended employment agreement with the CTO, entered into on July 22, 2010, granted options to purchase 100,000 shares (or 226,332 shares prior to the reverse stock-split on September 28, 2010) at a price of $5.00 per share in consideration of her service to the Company. Of these options, 25% (or 25,000 shares) vested on December 31, 2010 with the remaining 75% (or 75,000 shares) to vest in equal quarterly installments over the next three years so long as the executives remain employed with the company. These options have five-year contractual terms.

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NOTE 14: RELATED PARTY TRANSACTIONS – (continued)

On April 4, 2011, 45,000 non-qualified stock options were granted under the 2010 Stock Option and Incentive Plan to Dr. Tim Hunkapiller for being a member of the Company's Scientific Advisory Board and consulting services to be provided to the Company, at an exercise price of $1.25 per share. These options have ten-year contractual term and shall vest as follows:

(i) 11,250 option shares will vest ninety (90) days after the date of grant;

(ii) 11,000 option shares will vest one hundred and eighty (180) days after the date of grant;

(iii) 11,500 option shares will vest two hundred and seventy (270) days after the date of grant;

(iv) 11,250 option shares will vest three hundred and sixty (360) days after the date of grant.

On September 1, 2011, 219,000 incentive stock options were granted under the 2010 Stock Option and Incentive Plan to employees and officers as part of their employment agreements, at an exercise price of $1.25 per share. These options have a ten-year contractual term and shall vest and become exercisable as follows:

(i) twenty-five percent (25%) of the underlying shares on the first anniversary of the date of grant; and

(ii) one-forty eighth (1/48) of the underlying shares monthly thereafter.

On September 1, 2011, 200,000 non-qualified stock options were granted under the 2010 Stock Option and Incentive Plan to non-employee directors for services to be provided to the Company, at an exercise price of $1.25 per share. These options have a ten-year contractual term and shall vest and become exercisable as follows:

(i) 80,000 option shares will vest on September 1, 2011;

(ii) 30,000 options shares will vest on December 1, 2011;

(iii) 30,000 options shares will vest on March 1, 2012;

(iv) 30,000 options shares will vest on June 1, 2012;

(v) 30,000 options shares will vest on September 1, 2012.

In accordance with the guidance provided in ASC Topic 718, Stock Compensation (formerly SFAS 123R), the compensation costs associated with these options are recognized, based on the grant-date fair values of these options, over the requisite service period, or vesting period. Accordingly, the Company recognized a compensation expense of $140,056 and $30,396 for the years ended December 31, 2011 and 2010, respectively.

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NOTE 14: RELATED PARTY TRANSACTIONS – (continued)

The Company estimated the fair value of these options using the Black-Scholes-Merton option pricing model based on the following weighted-average assumptions:

	CEO & CTO	Dr. Hunkapiller	Employees & Officers	Non-employee Directors
Date of grant	22-Jul-10	4-Apr-11	1-Sep-11	1-Sep-11
Fair value of common stock on date of grant	$ 2.756 (B)	$ 0.906 (C)	$ 0.906 (C)	$ 0.906 (C)
Exercise price of the options	$ 5.00	$ 1.25	$ 1.25	$ 1.25
Expected life of the options (years)	3.33	5.31	5.65	5.65
Dividend yield	0.00%	0.00%	0.00%	0.00%
Expected volatility	58.59%	54.12%	53.90%	53.90%
Risk-free interest rate	1.03%	2.26%	1.08%	1.08%
Expected forfeiture per year (%)	0.00%	0.00%	(A)	0.00%
Weighted-average fair value of the options (per unit)	$ 0.6744	$ 0.3729	$ 0.3579	$ 0.3579

(A) 0.00% for the first year after the grant date, and 2.50% for every three months thereafter.

(B) The fair value of the Company's common stock derived implicitly from the public offering filed in March 2010 at $3.00 per share. An iterative approach was applied by following a random walk in continuous time with a rate of variance in proporation to the square of the stock price.

(C) The fair value of the Company's common stock derived implicitly from the Private Placement during April through June 2011 at $1.60 per share. An iterative approach was applied by following a random walk in continuous time with a rate of variance in proporation to the square of the stock price.

Fair value hierarchy of the above assumptions can be categorized as follows:

(1) There were no Level 1 inputs.

(2) Level 2 inputs include:

- Risk-free rate — The risk-free rate of return reflects the interest rate for United States Treasury Note with similar time-to-maturity to that of the options.

(3) Level 3 inputs include:

- Expected lives — The expected lives of options granted were derived from the output of the option valuation model and represented the period of time that options granted are expected to be outstanding.
- Expected forfeitures per year — The expected forfeitures are estimated at the dates of grant and will be revised in subsequent periods pursuant to actual forfeitures, if significantly different from the previous estimates.
- Expected volatility — We did not have a historical trading history sufficient to develop an internal volatility rate for use in the model. As a result, as required by ASC 718-10-30, the Company has accounted for the options using the calculated value method. The Company identified seven public entities in the similar industry for which share price information was available, and considered the historical volatilities of those public entities' share prices in calculating the expected volatility appropriate to the Company.

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NOTE 14: RELATED PARTY TRANSACTIONS – (continued)

The estimates of fair value from the model are theoretical values of stock options and changes in the assumptions used in the model could result in materially different fair value estimates. The actual value of the stock options will depend on the market value of the Company's common stock when the stock options are exercised.

Options issued and outstanding as of December 31, 2011 and 2010 and their activities during the years are as follows:

	Number of Underlying Shares	Weighted-Average Exercise Price Per Share	Weighted-Average Contractual Life Remaining in Years
Outstanding as of January 1, 2011	350,000	$ 5.00	
Granted	464,000	1.25	
Expired	—	—	
Forfeited	(209,000)	—	
Outstanding as of December 31, 2011	605,000	3.41	6.12
Exercisable as of December 31, 2011	318,750	3.31	6.27
Vested and expected to vest(1)	608,000	3.41	6.12

	Number of Underlying Shares	Weighted-Average Exercise Price Per Share	Weighted-Average Contractual Life Remaining in Years
Outstanding as of January 1, 2010	—	—	
Granted	350,000	$ 5.00	
Expired	—	—	
Forfeited	—	—	
Outstanding as of December 31, 2010	350,000	5.00	4.56
Exercisable as of December 31, 2010	87,500	5.00	4.56
Vested and expected to vest(1)	350,000	5.00	4.56

(1) Includes vested shares and unvested shares after a forfeiture rate is applied.

As of December 31, 2011 and 2010, the aggregate intrinsic value of options outstanding, exercisable, and vested and expected to vest was $329,053 and $236,040, respectively.

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NOTE 14: RELATED PARTY TRANSACTIONS – (continued)

A summary of the status of the Company's unvested shares as of December 31, 2011 and 2010, and changes during the years ended December 31, 2011 and 2010, are presented below:

Unvested Shares	Shares	Weighted-Average Grant-Date Fair Value
Unvested as of January 1, 2011	262,500	$ 176,963
Granted	464,000	166,741
Vested	(228,250)	(110,964)
Forfeited	(209,000)	(73,727)
Unvested as of December 31, 2011	289,250	$ 159,013

Unvested Shares	Shares	Weighted-Average Grant-Date Fair Value
Unvested as of January 1, 2010	—	$ —
Granted	350,000	236,040
Vested	(87,500)	(59,077)
Forfeited	—	—
Unvested as of December 31, 2010	262,500	$ 176,963

NOTE 15: SUBSEQUENT EVENTS

Management has evaluated subsequent events through March 22, 2012, the date which the audited consolidated financial statements were available to be issued. All subsequent events requiring recognition as of December 31, 2011 have been incorporated into these consolidated financial statements and there are no subsequent events that require disclosure in accordance with FASB ASC Topic 855, "Subsequent Events".

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1,000,000 Shares

PROSPECTUS

DAWSON JAMES SECURITIES, INC.

, 2012

Until 2012 (25 days after the commencement of this offering), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

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PART II

Item 13. Other Expenses of Issuance and Distribution

The expenses (other than underwriting discounts and commissions) payable by us in connection with this offering are as follows:

	Amount
SEC registration fee	$ 923
Financial Industry Regulatory Authority, Inc. fee	$ 1,305
NASDAQ listing fee	$ 50,000
Accountants' fees and expenses	*
Legal fees and expenses	$ 250,000
Transfer Agent's fees and expenses	$ 25,000
Printing and engraving expenses	*
Miscellaneous	*
Total Expenses	$ *

* to be completed by amendment

All expenses are estimated except for the SEC registration fee, the Financial Industry Regulatory Authority, Inc. fee and the NASDAQ listing fee.

Item 14. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law, or the DGCL, authorizes a corporation to indemnify its directors and officers against liabilities arising out of actions, suits and proceedings to which they are made or threatened to be made a party by reason of the fact that they have served or are currently serving as a director or officer to a corporation. The indemnity may cover expenses (including attorneys' fees) judgments, fines and amounts paid in settlement actually and reasonably incurred by the director or officer in connection with any such action, suit or proceeding. Section 145 permits corporations to pay expenses (including attorneys' fees) incurred by directors and officers in advance of the final disposition of such action, suit or proceeding. In addition, Section 145 provides that a corporation has the power to purchase and maintain insurance on behalf of its directors and officers against any liability asserted against them and incurred by them in their capacity as a director or officer, or arising out of their status as such, whether or not the corporation would have the power to indemnify the director or officer against such liability under Section 145.

We have adopted provisions in our certificate of incorporation and bylaws to be in effect at the completion of this offering that limit or eliminate the personal liability of our directors to the fullest extent permitted by the DGCL, as it now exists or may in the future be amended. Consequently, a director will not be personally liable to us or our stockholders for monetary damages or breach of fiduciary duty as a director, except for liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any unlawful payments related to dividends or unlawful stock purchases, redemptions or other distributions; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not alter director liability under the federal securities laws and do not affect the availability of equitable remedies such as an injunction or rescission.

In addition, our bylaws to be in effect at the completion of this offering will provide that:

- we will indemnify our directors, officers and, in the discretion of our Board of Directors, certain employees to the fullest extent permitted by the DGCL, as it now exists or may in the future be amended; and
- we will advance reasonable expenses, including attorneys' fees, to our directors and, in the discretion of our Board of Directors, to our officers and certain employees, in connection with legal proceedings relating to their service for or on behalf of us, subject to limited exceptions.

We have entered into indemnification agreements with each of our directors and certain of our executive officers. These agreements provide that we will indemnify each of these directors and executive officers to the fullest extent permitted by Delaware law. We will advance expenses, including attorneys' fees, judgments, fines and settlement amounts, to each indemnified director, executive officer or affiliate in connection with any proceeding in which indemnification is available and we will indemnify our directors and officers for any action or proceeding arising out of that person's services as an officer or director brought on behalf of the Company or in furtherance of our rights.

We maintain general liability insurance that covers certain liabilities of our directors and officers arising out of claims based on acts or omissions in their capacities as directors or officers, including liabilities under the Securities Act.

The underwriting agreement filed as Exhibit 1.1 to this registration statement provides for indemnification of us and our directors and officers by the underwriters against certain liabilities under the Securities Act and the Exchange Act.

Item 15. Recent Sales of Unregistered Securities

The Company has sold the following securities within the past three years which were not registered under the Securities Act of 1933:

Pursuant to an exemption from registration under Section 4(2) of the Securities Act of 1933, as amended, as a transaction by an issuer not involving any public offering as founder shares in connection with the formation of the Company, the Company issued 4,899,888 shares of its common stock as follows:

	Shares	Date	Consideration
Steven Quay	883,662	April 30, 2009	$ 12,000
Ensisheim Partners LLC	1,767,316	April 30, 2009	(1)
Ensisheim Partners LLC	883,658	December 28, 2009	$ 100,000
Manistee Ventures, Inc.	1,325,487	April 30, 2009	$ 18,000
John Barnhart	39,765	July 28, 2009	$ 540

(1) The 1,767,316 shares of common stock issued to Ensisheim Partners LLC at the Company's inception were issued in consideration for $24,000 in cash and this entity's contribution to the Company of intellectual property rights and FDA marketing authorization for the MASCT System.

In January 2010, pursuant to an exemption from registration under Rule 504 pursuant to the Securities Act of 1933 (the "Securities Act"), the Company issued an aggregate of 901,354 shares of its common stock to 45 investors for aggregate cash proceeds of $102,000. Of these 45 investors, 13 are accredited investors and 4 are citizens and residents of Taiwan, Republic of China.

In January 2010, the Company issued 185,569 shares in consideration for services performed by two consultants, with an aggregate value of $21,000. This offering was exempt from registration under Rule 504 under the Securities Act.

On April 23, 2010, the Company issued 13,256 shares of common stock for services performed by a consultant with an aggregate value of $50,000. This offering was exempt from registration under Section 4(2) of the Securities Act, as a transaction by an issuer not involving any public offering.

Between April 2011 and July 2011, the Company issued a total of 5,256,800 shares of the Company's common stock and warrants to purchase up to an additional 5,256,800 shares of common stock at a price of $1.60 per share, for aggregate gross proceeds of $6,571,000 (the "Private Placement"). All purchasers in the Private Placement were accredited investors, as defined under Regulation D under the Securities Act, and this offering was exempt from registration under Rule 506 under the Securities Act. In connection with the completion of the Private Placement, the Company issued common stock warrants to Dawson James Securities ("Dawson James"), the placement agent for the Private Placement, representing the right to purchase up to 788,520 shares of common stock at a price of $1.25 per share, plus the right to purchase up to 788,520 additional shares of common stock at a price of $1.60 per share. The issuance of the warrants to Dawson James was exempt from registration under Section 4(2) of the Securities Act, as a transaction by an issuer not involving a public offering.

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Item 16. Exhibits and Financial Statement Schedules.

EXHIBITS

1.1*	Form of Underwriting Agreement
3.1**	Certificate of Incorporation, as currently in effect
3.2*	Certificate of Incorporation (to be effective immediately prior to completion of this offering)
3.3	By-laws, as currently in effect
3.4*	By-laws (to be effective immediately prior to completion of this offering)
4.1*	Specimen common stock certificate
5.1*	Opinion of Ropes & Gray LLP
10.1**	Exclusive Patent License Agreement with Ensisheim Partners, LLC, dated July 27, 2009
10.2**	Termination of Exclusive Patent License Agreement, dated June 17, 2010
10.3#**	Restated and Amended Employment Agreement with Steven Quay
10.4#**	Restated and Amended Employment Agreement with Shu-Chih Chen
10.5*	Form of Indemnification Agreement
10.6#**	2010 Stock Option and Incentive Plan
10.7*#	Form of Incentive Stock Option Agreement
10.8*#	Form of Non-Qualified Stock Option Agreement for Employees
10.9*#	Form of Non-Qualified Stock Option Agreement for Non-Employee Directors
10.10**	Form of Subscription Agreement
10.11**	Sublease Agreement with CompleGen, Inc. dated September 29, 2010
10.12	Patent Assignment Agreement by and between the Company and Ensisheim Partners, LLC
10.13*#	Form of Restricted Stock Award Agreement
10.14	Form of Lock-Up Agreement
10.15**	Agreement with Christopher Benjamin
10.16**	Business Consultant Agreement with Edward Sauter
10.17**	Prototype Development Proposal and Terms and Conditions, between the Company and HLB, LLC.
10.18	Commercial Lease Agreement with Ensisheim Partners LLC, dated December 24, 2009
10.19	Termination of Lease Obligation with Ensisheim Partners LLC, dated July 21, 2010
10.20	Office Lease with Sander Properties, LLC, dated March 4, 2011
10.21	Office Lease with Sander Properties, LLC, dated July 8, 2011
10.22	Office Lease with Sander Properties, LLC, dated September 20, 2011
10.23	Sublease with Fred Hutchinson Cancer Research Center, dated December 9, 2011
23.1	Consent of KCCW Accountancy Corp.
23.2*	Consent of Ropes & Gray LLP (filed as part of Exhibit 5.1)
24.1	Power of Attorney (contained on signature page)

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* To be filed by amendment.

** Previously filed.

\# Indicates management contract or compensatory plan, contract or agreement.

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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. The undersigned registrant hereby undertakes:

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.

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.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 1 to this Registration Statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Seattle, State of Washington, on April 5, 2012.

ATOSSA GENETICS INC.
By: /s/ Steven C. Quay
Name: Steven C. Quay, M.D., Ph.D.
Title: President and Chief Executive Officer

SIGNATURES AND POWER OF ATTORNEY

I, the undersigned director of Atossa Genetics Inc., hereby severally constitute and appoint Steven C. Quay, M.D., Ph.D. my true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution for him and in his name, place and stead, and in any and all capacities, to sign for me and in my name in the capacity indicated below any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

Signature	Capacity	Date
/s/ Steven C. Quay Steven C. Quay, M.D., Ph.D.	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)	April 5, 2012
/s/ Christopher Benjamin Christopher Benjamin	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 5, 2012
* John Barnhart	Director	April 5, 2012
/s/ Alexander Cross Alexander Cross, Ph.D.	Director	April 5, 2012
* Shu-Chih Chen, Ph.D.	Director	April 5, 2012
* Stephen J. Galli, M.D.	Director	April 5, 2012
* H. Lawrence Remmel	Director	April 5, 2012

*By: /s/ Steven C. Quay
Attorney-in-Fact

Exhibit 3.3

AMENDED AND RESTATED
BYLAWS OF

ATOSSA GENETICS INC.

Adopted June 10, 2009

Amended June 22, 2011

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BYLAWS

ARTICLE I — MEETINGS OF STOCKHOLDERS

1.1 ***Place of Meetings***. Meetings of stockholders of Atossa Genetics Inc. (the "**Company**") shall be held at any place, within or outside the State of Delaware, determined by the Company's board of directors (the "**Board**"). The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law (the "**DGCL**"). In the absence of any such designation or determination, stockholders' meetings shall be held at the Company's principal executive office.

1.2 ***Annual Meeting***. An annual meeting of stockholders shall be held for the election of directors at such date and time as may be designated by resolution of the Board from time to time. Any other proper business may be transacted at the annual meeting. The Company shall not be required to hold an annual meeting of stockholders, *provided* that (i) the stockholders are permitted to act by written consent under the Company's certificate of incorporation and these bylaws, (ii) the stockholders take action by written consent to elect directors and (iii) the stockholders unanimously consent to such action or, if such consent is less than unanimous, all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

1.3 ***Special Meeting***. A special meeting of the stockholders may be called at any time by the Board, Chairperson of the Board, Chief Executive Officer or President (in the absence of a Chief Executive Officer) or by one or more stockholders holding shares in the aggregate entitled to cast not less than 10% of the votes at that meeting.

If any person(s) other than the Board calls a special meeting, the request shall:

(i) be in writing;

(ii) specify the time of such meeting and the general nature of the business proposed to be transacted; and

(iii) be delivered personally or sent by registered mail or by facsimile transmission to the Chairperson of the Board, the Chief Executive Officer, the President (in the absence of a Chief Executive Officer) or the Secretary of the Company.

The officer(s) receiving the request shall cause notice to be promptly given to the stockholders entitled to vote at such meeting, in accordance with these bylaws, that a meeting will be held at the time requested by the person or persons calling the meeting. No business may be transacted at such special meeting other than the business specified in such notice to stockholders. Nothing contained in this paragraph of this **section 1.3** shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board may be held.

1.4 ***Notice of Stockholders' Meetings***. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting.

1.5 ***Quorum***. Except as otherwise provided by law, the certificate of incorporation or these bylaws, at each meeting of stockholders the presence in person or by proxy of the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws.

If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, in the manner provided in **section 1.6**, until a quorum is present or represented.

1.6 ***Adjourned Meeting; Notice***. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

1.7 ***Conduct of Business***. Meetings of stockholders shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by the Chief Executive Officer, or in the absence of the foregoing persons by the President, or in the absence of the foregoing persons by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting. The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business.

1.8 ***Voting***. The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of **section 1.10** of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of capital stock held by such stockholder which has voting power upon the matter in question. Voting at meetings of stockholders need not be by written ballot and, unless otherwise required by law, need not be conducted by inspectors of election unless so determined by the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote thereon which are present in person or by proxy at such meeting. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission (as defined in **section 7.2** of these bylaws), *provided* that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of incorporation or these bylaws.

1.9 ***Stockholder Action by Written Consent Without a Meeting***. Unless otherwise provided in the certificate of incorporation, any action required by the DGCL to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

An electronic transmission (as defined in **section 7.2**) consenting to an action to be taken and transmitted by a stockholder or proxy holder, or by a person or persons authorized to act for a stockholder or proxy holder, shall be deemed to be written, signed and dated for purposes of this section, *provided* that any such electronic transmission sets forth or is delivered with information from which the Company can determine (i) that the electronic transmission was transmitted by the stockholder or proxy holder or by a person or persons authorized to act for the stockholder or proxy holder and (ii) the date on which such stockholder or proxy holder or authorized person or persons transmitted such electronic transmission.

In the event that the Board shall have instructed the officers of the Company to solicit the vote or written consent of the stockholders of the Company, an electronic transmission of a stockholder written consent given pursuant to such solicitation may be delivered to the Secretary or the President of the Company or to a person designated by the Secretary or the President. The Secretary or the President of the Company or a designee of the Secretary or the President shall cause any such written consent by electronic transmission to be reproduced in paper form and inserted into the corporate records.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Company as provided in Section 228 of the DGCL. In the event that the action which is consented to is such as would have required the filing of a certificate under any provision of the DGCL, if such action had been voted on by stockholders at a meeting thereof, the certificate filed under such provision shall state, in lieu of any statement required by such provision concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

1.10 ***Record Date for Stockholder Notice; Voting; Giving Consents***. In order that the Company may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which record date:

(i) in the case of determination of stockholders entitled to notice of or to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by law, not be more than sixty nor less than ten days before the date of such meeting;

(ii) in the case of determination of stockholders entitled to express consent to corporate action in writing without a meeting, shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board; and

(iii) in the case of determination of stockholders for any other action, shall not be more than 60 days prior to such other action.

If no record date is fixed by the Board:

(i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held;

(ii) the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting when no prior action of the Board is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company in accordance with applicable law, or, if prior action by the Board is required by law, shall be at the close of business on the day on which the Board adopts the resolution taking such prior action; and

(iii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, *provided* that the Board may fix a new record date for the adjourned meeting.

1.11 ***Proxies***. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL.

1.12 ***List of Stockholders Entitled to Vote***. The officer who has charge of the stock ledger of the Company shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Company shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least ten days prior to the meeting: (i) on a reasonably accessible electronic network, *provided* that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Company's principal place of business. In the event that the Company determines to make the list available on an electronic network, the Company may take reasonable steps to ensure that such information is available only to stockholders of the Company. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

ARTICLE II — DIRECTORS

2.1 ***Powers***. The business and affairs of the Company shall be managed by or under the direction of the Board, except as may be otherwise provided in the DGCL or the certificate of incorporation.

2.2 ***Number of Directors***. The Board shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

2.3 ***Election, Qualification and Term of Office of Directors***. Except as provided in **section 2.4** of these bylaws, and subject to **sections 1.2** and **1.9** of these bylaws, directors shall be elected at each annual meeting of stockholders. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

2.4 ***Resignation and Vacancies***. Any director may resign at any time upon notice given in writing or by electronic transmission to the Company. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of incorporation or these bylaws, when one or more directors resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Company should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until such director’s successor is elected and qualified, or until such director’s earlier death, resignation or removal.

2.5 ***Place of Meetings; Meetings by Telephone***. The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

2.6 ***Conduct of Business***. Meetings of the Board shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

2.7 ***Regular Meetings***. Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

2.8 ***Special Meetings; Notice***. Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President, the Secretary or any two directors.

Notice of the time and place of special meetings shall be:

(i) delivered personally by hand, by courier or by telephone;

(ii) sent by United States first-class mail, postage prepaid;

(iii) sent by facsimile; or

(iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the Company's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Company's principal executive office) nor the purpose of the meeting.

2.9 ***Quorum; Voting***. At all meetings of the Board, a majority of the total authorized number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws.

If the certificate of incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of directors shall refer to a majority or other proportion of the votes of the directors.

2.10 ***Board Action by Written Consent Without a Meeting***. Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.11 ***Fees and Compensation of Directors***. Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board shall have the authority to fix the compensation of directors.

2.12 ***Removal of Directors***. Unless otherwise restricted by statute, the certificate of incorporation or these bylaws, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

ARTICLE III — COMMITTEES

3.1 ***Committees of Directors***. The Board may designate one or more committees, each committee to consist of one or more of the directors of the Company. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Company.

3.2 ***Committee Minutes***. Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

3.3 ***Meetings and Actions of Committees***. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

(i) **section 2.5** (Place of Meetings; Meetings by Telephone);

(ii) **section 2.7** (Regular Meetings);

(iii) **section 2.8** (Special Meetings; Notice);

(iv) **section 2.9** (Quorum; Voting);

(v) **section 2.10** (Board Action by Written Consent Without a Meeting); and

(vi) **section 7.5** (Waiver of Notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members. *However*:

(i) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee;

(ii) special meetings of committees may also be called by resolution of the Board; and

(iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

3.4 ***Subcommittees***. Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE IV — OFFICERS

4.1 ***Officers***. The officers of the Company shall be a President and a Secretary. The Company may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, a Chief Executive Officer, one or more Vice Presidents, a Chief Financial Officer, a Treasurer, one or more Assistant Treasurers, one or more Assistant Secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

4.2 ***Appointment of Officers***. The Board shall appoint the officers of the Company, except such officers as may be appointed in accordance with the provisions of **section 4.3** of these bylaws.

4.3 ***Subordinate Officers***. The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Company may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

4.4 ***Removal and Resignation of Officers***. Any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Company. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party.

4.5 ***Vacancies in Offices***. Any vacancy occurring in any office of the Company shall be filled by the Board or as provided in **section 4.3**.

4.6 ***Representation of Shares of Other Corporations***. Unless otherwise directed by the Board, the President or any other person authorized by the Board or the President is authorized to vote, represent and exercise on behalf of the Company all rights incident to any and all shares of any other corporation or corporations standing in the name of the Company. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

4.7 ***Authority and Duties of Officers***. Except as otherwise provided in these bylaws, the officers of the Company shall have such powers and duties in the management of the Company as may be designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

ARTICLE V — INDEMNIFICATION

5.1 ***Indemnification of Directors and Officers in Third Party Proceedings***. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**") (other than an action by or in the right of the Company) by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding 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 Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

5.2 ***Indemnification of Directors and Officers in Actions by or in the Right of the Company***. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit 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 Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

5.3 ***Successful Defense***. To the extent that a present or former director or officer of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described in **section 5.1** or **section 5.2**, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

5.4 ***Indemnification of Others***. Subject to the other provisions of this **Article V**, the Company shall have power to indemnify its employees and agents to the extent not prohibited by the DGCL or other applicable law. The Board shall have the power to delegate to such person or persons the determination of whether employees or agents shall be indemnified.

5.5 ***Advanced Payment of Expenses***. Expenses (including attorneys' fees) incurred by an officer or director of the Company in defending any Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this **Article V** or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Company deems appropriate. The right to advancement of expenses shall not apply to any Proceeding for which indemnity is excluded pursuant to these bylaws.

5.6 ***Limitation on Indemnification***. Subject to the requirements in **section 5.3** and the DGCL, the Company shall not be obligated to indemnify any person pursuant to this **Article V** in connection with any Proceeding (or any part of any Proceeding):

(i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);

(iii) for any reimbursement of the Company by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "**Sarbanes-Oxley Act**"), or the payment to the Company of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);

(iv) initiated by such person, including any Proceeding (or any part of any Proceeding) initiated by such person against the Company or its directors, officers, employees, agents or other indemnitees, unless (a) the Board authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (c) otherwise required to be made under **section 5.7** or (d) otherwise required by applicable law; or

(v) if prohibited by applicable law.

5.7 ***Determination; Claim***. If a claim for indemnification or advancement of expenses under this **Article V** is not paid by the Company or on its behalf within 90 days after receipt by the Company of a written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. To the extent not prohibited by law, the Company shall indemnify such person against all expenses actually and reasonably incurred by such person in connection with any action for indemnification or advancement of expenses from the Company under this **Article V**, to the extent such person is successful in such action. In any such suit, the Company shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

5.8 ***Non-Exclusivity of Rights***. The indemnification and advancement of expenses provided by, or granted pursuant to, this **Article V** shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. The Company is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

5.9 ***Insurance***. The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Company would have the power to indemnify such person against such liability under the provisions of the DGCL.

5.10 ***Survival***. The rights to indemnification and advancement of expenses conferred by this **Article V** shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

5.11 ***Effect of Repeal or Modification***. Any amendment, alteration or repeal of this **Article V** shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to such amendment, alteration or repeal.

5.12 ***Certain Definitions***. For purposes of this **Article V**, references to the "**Company**" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this **Article V** with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this **Article V**, references to "**other enterprises**" shall include employee benefit plans; references to "**fines**" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "**serving at the request of the Company**" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "**not opposed to the best interests of the Company**" as referred to in this **Article V**.

ARTICLE VI — STOCK

6.1 ***Stock Certificates; Partly Paid Shares***. The shares of the Company shall be represented by certificates, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Company by the Chairperson of the Board or Vice-Chairperson of the Board, or the President or a Vice-President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Company representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Company shall not have power to issue a certificate in bearer form.

The Company may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the Company in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Company shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 ***Special Designation on Certificates***. If the Company is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Company shall issue to represent such class or series of stock; *provided* that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Company shall issue to represent such class or series of stock, a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the Company shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this **section 6.2** or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this **section 6.2** a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 ***Lost Certificates***. Except as provided in this **section 6.3**, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Company and cancelled at the same time. The Company may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

6.4 ***Dividends***. The Board, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the Company's capital stock. Dividends may be paid in cash, in property, or in shares of the Company's capital stock, subject to the provisions of the certificate of incorporation.

The Board may set apart out of any of the funds of the Company available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

6.5 ***Stock Transfer Agreements***. The Company shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Company to restrict the transfer of shares of stock of the Company of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

6.6 ***Registered Stockholders***. The Company:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;

(ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and

(iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

6.7 ***Transfers***. Transfers of record of shares of stock of the Company shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer.

ARTICLE VII — MANNER OF GIVING NOTICE AND WAIVER

7.1 ***Notice of Stockholder Meetings***. Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the Company's records. An affidavit of the Secretary or an Assistant Secretary of the Company or of the transfer agent or other agent of the Company that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

7.2 ***Notice by Electronic Transmission***. Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the Company under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any such consent shall be deemed revoked if:

(i) the Company is unable to deliver by electronic transmission two consecutive notices given by the Company in accordance with such consent; and

(ii) such inability becomes known to the Secretary or an Assistant Secretary of the Company or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(iv) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Company that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An "**electronic transmission**" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Notice by a form of electronic transmission shall not apply to Sections 164, 296, 311, 312 or 324 of the DGCL.

7.3 ***Notice to Stockholders Sharing an Address***. Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Company under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any stockholder who fails to object in writing to the Company, within 60 days of having been given written notice by the Company of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

7.4 ***Notice to Person with Whom Communication is Unlawful***. Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Company is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

7.5 ***Waiver of Notice***. Whenever notice is required to be given under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

ARTICLE VIII — GENERAL MATTERS

8.1 ***Fiscal Year***. The fiscal year of the Company shall be fixed by resolution of the Board and may be changed by the Board.

8.2 ***Seal***. The Company may adopt a corporate seal, which shall be in such form as may be approved from time to time by the Board. The Company may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

8.3 ***Annual Report***. The Company shall cause an annual report to be sent to the stockholders of the Company to the extent required by applicable law. If and so long as there are fewer than 100 holders of record of the Company's shares, the requirement of sending an annual report to the stockholders of the Company is expressly waived (to the extent permitted under applicable law).

8.4 ***Construction; Definitions***. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

ARTICLE IX — AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote. However, the Company may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

A bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the Board.

Amendment to Section 1.2 of the
Amended and Restated Bylaws of Atossa Genetics Inc.

1.2 *Annual Meeting*. An annual meeting of stockholders shall be held for the election of directors at such date and time as may be designated by resolution of the Board from time to time. Any other proper business may be transacted at the annual meeting. The Company shall not be required to hold an annual meeting of stockholders, *provided* that (i) the stockholders are permitted to act by written consent under the Company's certificate of incorporation and these bylaws, (ii) the stockholders take action by written consent to elect directors and (iii) either the stockholders unanimously consent to such action or, if such consent is by a majority but is less than unanimous, then prompt notice of the action shall be provided to the non-consenting stockholders in accordance with the DGCL.

CORPORATE TO CORPORATE ASSIGNMENT Docket Number 38602-701

WHEREAS Ensisheim Partners LLC (hereinafter "Assignor"), owns the entire right, title and interest in and to the inventions disclosed in the Patent(s), and in and to all embodiments of the inventions, heretofore conceived, made or discovered (collectively hereinafter referred to as "Inventions") entitled:

Methods and kits for obtaining and assaying mammary fluid samples for breast diseases, including cancer

for which the following United States Patents have issued:

- US Patent No. 5,798,266 (corresponding US patent application serial number 08/709,207)
- US Patent No. 6,287,521 (corresponding US patent application serial number 09/027,362)
- US Patent No. 7,128,877 (corresponding US patent application serial number 10/404,866)

(hereinafter "Patents(s)").

WHEREAS, Atossa Genetics, Inc., having a place of business at 4105 East Madison St., Suite 320, Seattle, WA 98112, (hereinafter "Assignee"), is desirous of acquiring the entire right, title and interest in and to said Inventions, and in and to all embodiments of the inventions, heretofore conceived, made or discovered, whether jointly or severally, by the invention(s) of said Inventions, and in and to any and all patents, inventor's certificates and other forms of protection (hereinafter "Patent(s)") thereon granted in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty.

NOW, THEREFORE, in consideration of good and valuable consideration acknowledged by said Assignor to have been received in full from said Assignee:

1 Said Assignor does hereby sell, assign, transfer and convey unto said Assignee its entire right, title and interest (a) in and to said Inventions, including the right to claim priority to said Inventions; (b) in and to all rights to all United States and corresponding non-United States patent applications and Patent(s), including those filed under the Paris Convention for the Protection of Industrial Property, The Patent Cooperation Treaty, or otherwise; (c) in and to any and all applications filed and any and all Patent(s) granted on said Inventions in the United States, in any foreign country, or under any international convention, agreement, protocol, or treaty, including each and every application filed and any and all Patent(s) granted on any application which is a divisional, substitution, continuation, or continuation-in-part of any of said Application(s); and (d) in and to each and every reissue, reexamination, or extensions of any of said Patent(s).

2 Said Assignor hereby covenants and agrees to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty. Such cooperation by the Assignor shall include prompt production of pertinent facts and documents, giving of testimony, execution of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by the parties (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for prosecuting any of said applications covering said Inventions; (c) for filing and prosecuting substitute, divisional, continuing or additional applications covering said Inventions; (d) for filing and prosecuting applications for reissuance of any said Patent(s); (e) for interference or other priority proceedings involving said Inventions; and (f) for legal proceedings involving said Inventions and any applications therefor and any Patent(s) granted thereon, including without limitation reissues and reexaminations, opposition proceedings, cancellation proceedings, priority contests, public use proceedings, infringement actions and court actions.

3. The terms and covenants of this assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon the Assignor, its successors, assigns and other legal representatives.

4. Said Assignor hereby warrants and represents that the Assignor has not entered and will not enter into any assignment, contract, or understanding in conflict herewith.

5. Said Assignor hereby request that any Patent(s) issuing in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty, be issued in the name of the Assignee, or its successors and assigns, for the sole use of said Assignee, its successors, legal representatives and assigns.

IN WITNESS WHEREOF, said Assignor has executed and delivered this instrument to said Assignee as of the date written below.

ASSIGNOR

Date: June 17, 2010

By: /s/ Steven C. Quay
Name: Steven C. Quay
Title: President

RECEIVED AND AGREED TO BY ASSIGNEE:
Date: June 17, 2010

By: /s/ Steven C. Quay
Name: Steven C. Quay
Title: President

CORPORATE TO CORPORATE ASSIGNMENT Docket Number 38602-702

WHEREAS, Ensisheim Partners LLC (hereinafter “Assignor”), owns the entire right, title and interest in and to the inventions disclosed in the Patent(s), and in and to all embodiments of the inventions, heretofore conceived, made or discovered (collectively hereinafter referred to as “Inventions”) entitled:

Methods and devices for collecting, handling and processing mammary fluid samples for evaluating breast diseases, including cancer

for which the following United States Patents have issued:

- US Patent No. 6,689,073 (corresponding US patent application serial number 10/001,041)
- US Patent No. 6,887,210 (corresponding US patent application serial number 10/002,540)

(hereinafter “Patents(s)”).

WHEREAS, Atossa Genetics, Inc., having a place of business at 4105 East Madison St., Suite 320, Seattle, WA 98112, (hereinafter “Assignee”), is desirous of acquiring the entire right, title and interest in and to said Inventions, and in and to all embodiments of the inventions, heretofore conceived, made or discovered, whether jointly or severally, by the inventor(s) of said Inventions, and in and to any and all patents, inventor’s certificates and other forms of protection (hereinafter “Patent(s)”) thereon granted in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty.

NOW, THEREFORE, in consideration of good and valuable consideration acknowledged by said Assignor to have been received in full from said Assignee:

1. Said Assignor does hereby sell, assign, transfer and convey unto said Assignee its entire right, title and interest (a) in and to said Inventions, including the right to claim priority to said Inventions; (b) in and to all rights to all United States and corresponding non-United States patent applications and Patent(s), including those filed under the Paris Convention for the Protection of Industrial Property, The Patent Cooperation Treaty, or otherwise; (c) in and to any and all applications filed and any and all Patent(s) granted on said Inventions in the United States, in any foreign country, or under any international convention, agreement, protocol, or treaty, including each and every application filed and any and all Patent(s) granted on any application which is a divisional, substitution, continuation, or continuation-in-part of any of said Application(s); and (d) in and to each and every reissue, reexamination, or extensions of any of said Patent(s).

2. Said Assignor hereby covenants and agrees to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty. Such cooperation by the Assignor shall include prompt production of pertinent facts and documents, giving of testimony, execution of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by the parties (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for prosecuting any of said applications covering said Inventions; (c) for filing and prosecuting substitute, divisional, continuing or additional applications covering said Inventions; (d) for filing and prosecuting applications for reissuance of any said Patent(s); (e) for interference or other priority proceedings involving said Inventions; and (f) for legal proceedings involving said Inventions and any applications therefor and any Patent(s) granted thereon, including without limitation reissues and reexaminations, opposition proceedings. cancellation proceedings, priority contests, public use proceedings, infringement actions and court actions.

3. The terms and covenants of this assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon the Assignor, its successors, assigns and other legal representatives.

4. Said Assignor hereby warrants and represents that the Assignor has not entered and will not enter into any assignment, contract, or understanding in conflict herewith.

5. Said Assignor hereby request that any Patent(s) issuing in the United States, foreign countries, or under any international convention, agreement, protocol, or treaty, be issued in the name of the Assignee, or its successors and assigns, for the sole use of said Assignee, its successors, legal representatives and assigns.

IN WITNESS WHEREOF, said Assignor has executed and delivered this instrument to said Assignee as of the date written below.

ASSIGNOR

Date: June 17, 2010

By: /s/ Steven C. Quay
Name: Steven C. Quay
Title: President

RECEIVED AND AGREED TO BY ASSIGNEE:
Date: June 17, 2010

By: /s/ Steven C. Quay
Name: Steven C. Quay
Title: President

LOCK-UP AGREEMENT

, 2012

DAWSON JAMES SECURITIES, INC.
as the Underwriter pursuant to
the Underwriting Agreement referred to below
925 South Federal Highway, Suite 600
Boca Raton, FL 33432

Re: ATOSSA GENETICS INC. - INITIAL PUBLIC OFFERING

Ladies and Gentlemen:

The undersigned understands that you, as the underwriter (the "Underwriter") propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with Atossa Genetics Inc., a Delaware corporation (the "Company"), providing for the initial public offering (the "Public Offering") by the Underwriter of common stock ("Common Stock") of the Company, all as more fully described in the prospectus which is part of the Company's registration statement on Form S-1 to be filed with the Securities Exchange Commission on or about February 14, 2012, as amended from time to time (the "Registration Statement").

In consideration of the Underwriter's agreement to purchase and make the Public Offering of the Common Stock, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of Dawson James Securities, Inc., the undersigned will not, for a period commencing on the effective date of the Registration Statement (the "Effective Date") and ending on the six month anniversary of the Effective Date (such six month period, the "Lock-Up Period"): (1) offer, pledge, announce the intention to sell, 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, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock, or any securities of the Company that are substantially similar to the Common Stock, or any securities convertible into or exercisable or exchangeable for Common Stock (including, but not limited to, Common Stock which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant) (the "Lock-Up Securities"); or (2) enter into any swap, option, future, forward or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, 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. In addition, the undersigned agrees that, without the prior written consent of Dawson James Securities, Inc., it will not, during the Lock-Up Period, make any demand for or exercise any right with respect to, the registration of any shares of Common Stock or any substantially similar securities of the Company, including but not limited to, any security convertible into or exercisable or exchangeable for Common Stock.

The undersigned represents and warrants that it is not a party to any agreement or understanding that would cause a breach of this Lock-Up Agreement if it were entered into during the period in which the restrictions set forth herein are effective.

The undersigned agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities except in compliance with the foregoing restrictions.

In furtherance of the foregoing, the Company and any duly appointed transfer agent for the registration or transfer of the securities described herein are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Lock-Up Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-Up Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned understands that the Underwriter is entering into the Underwriting Agreement and proceeding with the Public Offering in reliance upon this Lock-Up Agreement.

THIS LOCK-UP AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

Very truly yours,

____

By: ______________________________ (1)
Name:
Title:

Accepted as of the date first set forth above:

DAWSON JAMES SECURITIES, INC.

By: ______________________________
Name:
Title:

(1) If the undersigned is not a natural person, this signature block should be completed by a duly authorized signatory of the undersigned.

COMMERCIAL LEASE AGREEMENT

This Lease Agreement (the “Agreement”) is made and effective December 24, 2009,

BETWEEN: **Ensisheim Partners LLC** (the “Landlord”), a corporation organized and existing under the laws of the State of Washington, with its head office located at:

4105 E Madison St., Suite 320, Seattle WA 98112

AND: **Atossa Genetics, Inc.** (the “Tenant”), a corporation organized and existing under the laws of the State of Delaware, with its head office located at:

4105 E Madison St., Suite 320, Seattle WA 98112

1. DESCRIPTION OF PREMISES

Landlord leases to Tenant the premises located at 4105 E Madison St., Suite 320, Seattle WA 98112

2. GRANT OF LEASE

Landlord, in consideration of the rents to be paid and the covenants and agreements to be performed and observed by the Tenant, does hereby lease to the Tenant and the Tenant does hereby lease and take from the Landlord the property described in Exhibit “A” attached hereto and by reference made a part hereof (the “Leased Premises”), together with, as part of the parcel, all improvements located thereon.

3. LEASE TERM

a. **Total Term of Lease**: The term of this Lease shall begin on the commencement date, as defined in Section b) of this Article 3, and shall terminate on December 31, 2010.

b. **Commencement Date**: The “Commencement Date” shall mean the date on which the Tenant shall commence to conduct business on the Leased Premised, so long as such date is not in excess of 15 days subsequent to execution hereof.

4. EXTENSIONS

The parties hereto may elect to extend this Agreement upon such terms and conditions as may be agreed upon in writing and signed by the parties at the time of any such extension.

5. DETERMINATION OF RENT

The Tenant agrees to pay the Landlord and the Landlord agrees to accept, during the term hereof, at such place as the Landlord shall from time to time direct by notice to the Tenant, rent at the following rates and times:

a. Annual Rent: Annual rent for the term of the Lease shall be $13,200.00, plus applicable sales tax.

b. Payment of Yearly Rent: The annual rent shall be payable in advance in equal monthly installments of one-twelfth (1/12th) of the total yearly rent, which shall be $1,100.00, on the first day of each and every calendar month during the term hereof, and prorata for the fractional portion of any month, except that on the first day of the calendar month immediately following the Commencement Date, the Tenant shall also pay to the Landlord rent at the said rate for any portion of the preceding calendar month included in the term of this Lease.

c. Reference to yearly rent hereunder shall not be implied or construed to the effect that this Lease or the obligation to pay rent hereunder is from year to year, or for any term shorter than the existing Lease term, plus any extensions as may be agreed upon.

d. A late fee in the amount of $50.00 shall be assessed if payment is not postmarked or received by Landlord on or before the tenth day of each month.

6. USE OF PROPERTY BY TENANT

The Leased Premises may be occupied and used by Tenant exclusively as an office.

Nothing herein shall give Tenant the right to use the property for any other purpose or to sublease, assign, or license the use of the property to any Sub-Tenant, assignee, or licensee, which or who shall use the property for any other use.

7. RESTRICTIONS ON USE

Tenant shall not use the demised premises in any manner that will increase risks covered by insurance on the demised premises and result in an increase in the rate of insurance or a cancellation of any insurance policy, even if such use may be in furtherance of Tenant's business purposes.

Tenant shall not keep, use, or sell anything prohibited by any policy of fire insurance covering the demised premises, and shall comply with all requirements of the insurers applicable to the demised premises necessary to keep in force the fire and liability insurance.

8. WASTE, NUISANCE, OR UNLAWFUL ACTIVITY

Tenant shall not allow any waste or nuisance on the demised premises, or use or allow the demised premises to be used for any unlawful purpose.

9. DELAY IN DELIVERING POSSESSION

This lease agreement shall not be rendered void or voidable by the inability of Landlord to deliver possession to Tenant on the date set forth in Section 3. Landlord shall not be liable to Tenant for any loss or damage suffered by reason of such a delay; provided, however, that Landlord does deliver possession no later than December 31, 2009. In the event of a delay in delivering possession, the rent for the period

of such delay will be deducted from the total rent due under this lease agreement. No extension of this lease agreement shall result from a delay in delivering possession.

10. SECURITY DEPOSIT

The Tenant has deposited with the Landlord the sum of $1,100.00 as security for the full and faithful performance by the Tenant of all the terms of this lease required to be performed by the Tenant. Such sum shall be returned to the Tenant after the expiration of this lease, provided the Tenant has fully and faithfully carried out all of its terms. In the event of a bona fide sale of the property of which the leased premises are a part, the Landlord shall have the right to transfer the security to the purchaser to be held under the terms of this lease, and the Landlord shall be released from all liability for the return of such security to the Tenant.

11. TAXES

a. **Property Taxes**: The Tenant shall be liable for all taxes levied against any leasehold interest of the Tenant or personal property and trade fixtures owned or placed by the Tenant in the Leased Premises.

b. **Real Estate Taxes**: During the continuance of this lease Landlord shall deliver to Tenant a copy of any real estate taxes and assessments against the Leased Property. From and after the Commencement Date, the Tenant shall pay to Landlord not later than 30 days after the day on which the same may become initially due, all real estate taxes and assessments applicable to the Leased Premises, together with any interest and penalties lawfully imposed thereon as a result of Tenant’s late payment thereof, which shall be levied upon the Leased Premises during the term of this Lease.

c. **Contest of Taxes**: The Tenant, at its own cost and expense, may, if it shall in good faith so desire, contest by appropriate proceedings the amount of any personal or real property tax. The Tenant may, if it shall so desire, endeavor at any time or times, by appropriate proceedings, to obtain a reduction in the assessed valuation of the Leased Premises for tax purposes. In any such event, if the Landlord agrees, at the request of the Tenant, to join with the Tenant at Tenant’s expense in said proceedings and the Landlord agrees to sign and deliver such papers and instruments as may be necessary to prosecute such proceedings, the Tenant shall have the right to contest the amount of any such tax and the Tenant shall have the right to withhold payment of any such tax, if the statute under which the Tenant is contesting such tax so permits.

d. **Payment of Ordinary Assessments**: The Tenant shall pay all assessments, ordinary and extraordinary, attributable to or against the Leased Premises not later than 30 days after the day on which the same became initially due. The Tenant may take the benefit of any law allowing assessments to be paid in installments and in such event the Tenant shall only be liable for such installments of assessments due during the term hereof.

e. **Changes in Method of Taxation**: Landlord and Tenant further agree that if at any time during the term of this Lease, the present method of taxation or assessment of real estate shall be changed so that the whole or any part of the real estate taxes, assessment or governmental impositions now levied, assessed or imposed on the Leased Premises shall, in lieu thereof, be assessed, levied, or imposed wholly or in part, as a capital levy or otherwise upon the rents reserved herein or any part thereof, or as a tax, corporation franchise tax, assessment, levy or charge, or any part thereof, measured by or based, in whole or in part, upon the Leased Premises or on the rents derived therefrom and imposed upon the Landlord, then the Tenant shall pay all such taxes, assessments, levies, impositions, or charges. Nothing contained in this Lease shall require the Tenant to pay an estate, inheritance, succession, capital levy, corporate franchise, gross receipts, transfer or income tax of the Landlord, nor shall any of the same be deemed real estate taxes as defined herein unless the same be imposed in lieu of the real estate taxes.

12. IMPROVEMENTS BY TENANTS

Tenant may have prepared plans and specifications for the construction of improvements, and, if so, such plans and specifications are attached hereto as Exhibit “B” and incorporated herein by reference. Tenant shall obtain all certificates, permits, licenses and other authorizations of governmental bodies or authorities which are necessary to permit the construction of the improvements on the demised premises and shall keep the same in full force and effect at Tenant’s cost.

Tenant shall negotiate, let and supervise all contracts for the furnishing of services, labor, and materials for the construction of the improvements on the demised premises at its cost. All such contracts shall require the contracting party to guarantee performance and all workmanship and materials installed by it for a period of one year following the date of completion of construction. Tenant shall cause all contracts to be fully and completely performed in a good and workmanlike manner, all to the effect that the improvements shall be fully and completely constructed and installed in accordance with good engineering and construction practice.

During the course of construction, Tenant shall, at its cost, keep in full force and effect a policy of builder’s risk and liability insurance in a sum equal, from time to time, to three times the amount expended for construction of the improvements. All risk of loss or damage to the improvements during the course of construction shall be on Tenant with the proceeds from insurance thereon payable to Landlord.

Upon completion of construction, Tenant shall, at its cost, obtain an occupancy permit and all other permits or licenses necessary for the occupancy of the improvements and the operation of the same as set out herein and shall keep the same in force.

Nothing herein shall alter the intent of the parties that Tenant shall be fully and completely responsible for all aspects pertaining to the construction of the improvements of the demised premises and for the payment of all costs associated therewith. Landlord shall be under no duty to investigate or verify Tenant's compliance with the provision herein. Moreover, neither Tenant nor any third party may construe the permission granted Tenant hereunder to create any responsibility on the part of the Landlord to pay for any improvements, alterations or repairs occasioned by the Tenant. The Tenant shall keep the property free and clear of all liens and, should the Tenant fail to do so, or to have any liens removed from the property within NUMBER] days of notification to do so by the Landlord, in addition to all other remedies available to the Landlord, the Tenant shall indemnify and hold the Landlord harmless for all costs and expenses, including attorney's fees, occasioned by the Landlord in having said lien removed from the property; and, such costs and expenses shall be billed to the Tenant monthly and shall be payable by the Tenant with that month's regular monthly rental as additional reimbursable expenses to the Landlord by the Tenant.

13. UTILITIES

Tenant shall pay for all water, sanitation, sewer, electricity, light, heat, gas, power, fuel, janitorial, and other services incident to Tenant's use of the Leased Premises, whether or not the cost thereof be a charge or imposition against the Leased Premises.

14. OBLIGATIONS FOR REPAIRS

a. **Landlord's Repairs**: Subject to any provisions herein to the contrary, and except for maintenance or replacement necessitated as the result of the act or omission of subtenants, licensees or contractors, the Landlord shall be required to repair only defects, deficiencies, deviations or failures of materials or workmanship in the building. The Landlord shall keep the Leased Premises free of such defects, deficiencies, deviations or failures during the first Two months of the term hereof.

b. **Tenant's Repairs**: The Tenant shall repair and maintain the Leased Premises in good order and condition, except for reasonable wear and tear, the repairs required of Landlord pursuant hereto, and maintenance or replacement necessitated as the result of the act or omission or negligence of the Landlord, its employees, agents, or contractors.

c. **Requirements of the Law**: The Tenant agrees that if any federal, state or municipal government or any department or division thereof shall condemn the Leased Premises or any part thereof as not in conformity with the laws and regulations relating to the construction thereof as of the commencement date with respect to conditions latent or otherwise which existed on the Commencement Date, or, with respect to items which are the Landlord's duty to repair pursuant to Section a) and c) of this Article; and such federal, state or municipal government or any other department or division thereof, has ordered or required, or shall hereafter order or require, any alterations or repairs thereof or installations and repairs as may be necessary to comply with such laws, orders or requirements (the validity of which the Tenant shall be entitled to contest); and if by reason of such laws, orders or the work done by the Landlord in connection therewith, the Tenant is deprived of the use of the Leased Premises, the rent shall be abated or adjusted, as the case may be, in proportion to that time during which, and to that portion of the Leased Premises of which, the Tenant shall be deprived as a result thereof, and the Landlord shall be obligated to make such repairs, alterations or modifications at Landlord's expense. All such rebuilding, altering, installing and repairing shall be done in accordance with Plans and Specifications approved by the Tenant, which approval shall not be unreasonably withheld. If, however, such condemnation, law, order or requirement, as in this Article set forth, shall be with respect to an item which shall be the Tenant's obligation to repair pursuant to Section b) of this Article 9 or with respect to Tenant's own costs and expenses, no abatement or adjustment of rent shall be granted; provided, however, that Tenant shall also be entitled to contest the validity thereof.

d. **Tenant's Alterations**: The Tenant shall have the right, at its sole expense, from time to time, to redecorate the Leased Premises and to make such non-structural alterations and changes in such parts thereof as the Tenant shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Leased Premises. The Tenant may make structural alterations and additions to the Leased Premises provided that Tenant has first obtained the consent thereto of the Landlord in writing. The Landlord agrees that it shall not withhold such consent unreasonably. The Landlord shall execute and deliver upon the request of the Tenant such instrument or instruments embodying the approval of the Landlord which may be required by the public or quasi public authority for the purpose of obtaining any licenses or permits for the making of such alterations, changes and/or installations in, to or upon the Leased Premises and the Tenant agrees to pay for such licenses or permits.

e. **Permits and Expenses**: Each party agrees that it will procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable. Each Party hereto shall give written notice to the other party of any repairs required of the other pursuant to the provisions of this Article and the party responsible for said repairs agrees promptly to commence such repairs and to prosecute the same to completion diligently, subject, however, to the delays occasioned by events beyond the control of such party.

Each party agrees to pay promptly when due the entire cost of any work done by it upon the Leased Premises so that the Leased Premises at all times shall be free of liens for labor and materials. Each party further agrees to hold harmless and indemnify the other party from and against any and all injury, loss, claims or damage to any person or property occasioned by or arising out of the doing of any such work by such party or its employees, agents or contractors. Each party further agrees that in doing such work that it will employ materials of good quality and comply with all governmental requirements, and perform such work in a good and workmanlike manner.

15. TENANT'S COVENANTS

Tenant covenants and agrees as follows:

a. To procure any licenses and permits required for any use made of the Leased Premises by Tenant, and upon the expiration or termination of this Lease, to remove its goods and effects and those of all persons claiming under it, and to yield up peaceably to Landlord the Leased Premises in good order, repair and condition in all respects; excepting only damage by fire and casualty covered by Tenant's insurance coverage, structural repairs (unless Tenant is obligated to make such repairs hereunder) and reasonable wear and tear;

b. To permit Landlord and its agents to examine the Leased Premises at reasonable times and to show the Leased Premises to prospective purchasers of the Building and to provide Landlord, if not already available, with a set of keys for the purpose of said examination, provided that Landlord shall not thereby unreasonably interfere with the conduct of Tenant's business;

c. To permit Landlord to enter the Leased Premises to inspect such repairs, improvements, alterations or additions thereto as may be required under the provisions of this Lease. If, as a result of such repairs, improvements, alterations, or additions, Tenant is deprived of the use of the Leased Premises, the rent shall be abated or adjusted, as the case may be, in proportion to that time during which, and to that portion of the Leased Premises of which, Tenant shall be deprived as a result thereof.

16. INDEMNITY BY TENANT

The Tenant shall save Landlord harmless and indemnify Landlord from all injury, loss, claims or damage to any person or property while on the Leased Premises, unless caused by the willful acts or omissions or gross negligence of Landlord, its employees, agents, licensees or contractors. Tenant shall maintain, with respect to the Leased Premises, public liability insurance with limits of not less than $1,000,000 for injury or death from one accident and $1,000,000 property damage insurance, insuring Landlord and Tenant against injury to persons or damage to property on or about the Leased Premises. A copy of the policy or a certificate of insurance shall be delivered to Landlord on or before the commencement date and no such policy shall be cancelable without 30 days prior written notice to Landlord.

17. SIGNAGE

a. **Exterior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect and thereafter, to repair or replace, if it shall so elect signs on any portion of the Leased Premises, providing that Tenant shall remove any such signs upon termination of this lease, and repair all damage occasioned thereby to the Leased Premises.

b. **Interior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect, maintain, place and install its usual and customary signs and fixtures in the interior of the Leased Premises.

18. INSURANCE

a. **Insurance Proceeds:** In the event of any damage to or destruction of the Leased Premises, Tenant shall adjust the loss and settle all claims with the insurance companies issuing such policies. The parties hereto do irrevocably assign the proceeds from such insurance policies for the purposes hereinafter stated to any institutional first mortgagee or to Landlord and Tenant jointly, if no institutional first mortgagee then holds an interest in the Leased Premises. All proceeds of said insurance shall be paid into a trust fund under the control of any institutional first mortgagee, or of Landlord and Tenant if no institutional first mortgagee then holds an interest in the Leased Premises, for repair, restoration, rebuilding or replacement, or any combination thereof, of the Leased Premises or of the improvements in the Leased Premises. In case of such damage or destruction, Landlord shall be entitled to make withdrawals from such trust fund, from time to time, upon presentation of:

i. bills for labor and materials expended in repair, restoration, rebuilding or replacement, or any combination thereof;

ii. Landlord’s sworn statement that such labor and materials for which payment is being made have been furnished or delivered on site; and

iii. the certificate of a supervising architect (selected by Landlord and Tenant and approved by an institutional first mortgagee, if any, whose fees will be paid out of said insurance proceeds) certifying that the work being paid for has been completed in accordance with the Plans and Specifications previously approved by Landlord, Tenant and any institutional first mortgagee in a first class, good and workmanlike manner and in accordance with all pertinent governmental requirements.

Any insurance proceeds in excess of such proceeds as shall be necessary for such repair, restoration, rebuilding, replacement or any combination thereof shall be the sole property of Landlord subject to any rights therein of Landlord’s mortgagee, and if the proceeds necessary for such repair, restoration, rebuilding or replacement, or any combination thereof shall be inadequate to pay the cost thereof, Tenant shall suffer the deficiency.

b. **Subrogation:** Landlord and Tenant hereby release each other, to the extent of the insurance coverage provided hereunder, from any and all liability or responsibility (to the other or anyone claiming through or under the other by way of subrogation or otherwise) for any loss to or damage of property covered by the fire and extended coverage insurance policies insuring the Leased Premises and any of Tenant’s property, even if such loss or damage shall have been caused by the fault or negligence of the other party.

c. **Contribution:** Tenant shall reimburse Landlord for all insurance premiums connected with or applicable to the Leased Premises for whatever insurance policy the Landlord, at its sole and exclusive option, should select.

19. DAMAGE TO DEMISED PREMISES

a. **Abatement or Adjustment of Rent:** If the whole or any part of the Leased Premises shall be damaged or destroyed by fire or other casualty after the execution of this Lease and before the termination hereof, then in every case the rent reserved in Article IV herein and other charges, if any, shall be abated or adjusted, as the case may be, in proportion to that portion of the Leased Premises of which Tenant shall be deprived on account of such damage or destruction and the work of repair, restoration, rebuilding, or replacement or any combination thereof, of the improvements so damaged or destroyed, shall in no way be construed by any person to effect any reduction of sums or proceeds payable under any rent insurance policy.

b. **Repairs and Restoration:** Landlord agrees that in the event of the damage or destruction of the Leased Premises, Landlord forthwith shall proceed to repair, restore, replace or rebuild the Leased Premises (excluding Tenant's leasehold improvements), to substantially the condition in which the same were immediately prior to such damage or destruction. The Landlord thereafter shall diligently prosecute said work to completion without delay or interruption except for events beyond the reasonable control of Landlord. Notwithstanding the foregoing, if Landlord does not either obtain a building permit within 90 days of the date of such damage or destruction, or complete such repairs, rebuilding or restoration within six months of such damage or destruction, then Tenant may at any time thereafter cancel and terminate this Lease by sending 15 days written notice thereof to Landlord, or, in the alternative, Tenant may, during said 15 day period, apply for the same and Landlord shall cooperate with Tenant in Tenant's application. Notwithstanding the foregoing, if such damage or destruction shall occur during the last year of the term of this Lease, or during any renewal term, and shall amount to %] or more of the replacement cost, (exclusive of the land and foundations), this Lease, may be terminated at the election of either Landlord or Tenant, provided that notice of such election shall be sent by the party so electing to the other within 15 days after the occurrence of such damage or destruction. Upon termination, as aforesaid, by either party hereto, this Lease and the term thereof shall cease and come to an end, any unearned rent or other charges paid in advance by Tenant shall be refunded to Tenant, and the parties shall be released hereunder, each to the other, from all liability and obligations hereunder thereafter arising.

20. CONDEMNATION

a. **Total Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, the whole of the Leased Premises shall be taken under power of eminent domain by any public or private authority, or conveyed by Landlord to said authority in lieu of such taking, then this Lease and the term hereof shall cease and terminate as of the date when possession of the Leased Premises shall be taken by the taking authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to Tenant.

b. **Partial Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, any public or private authority shall, under the power of eminent domain, take, or Landlord shall convey to said authority in lieu of such taking, property which results in a reduction by %] or more of the area in the Leased Premises, or of a portion of the Leased Premises that substantially interrupts or substantially obstructs the conducting of business on the Leased Premises; then Tenant may, at its election, terminate this Lease by giving Landlord notice of the exercise of Tenant’s election within 30 days after Tenant shall receive notice of such taking. In the event of termination by Tenant of this Lease and the term hereof shall cease and terminate as of the date when possession shall be taken by the appropriate authority of that portion of the Entire Property that results in one of the above takings, and any unearned rent or other charges, if any, paid in advance by Tenant shall be refunded to Tenant.

c. **Restoration:** In the event of a taking in respect of which Tenant shall not have the right to elect to terminate this Lease or, having such right, shall not elect to terminate this Lease, this Lease and the term thereof shall continue in full force and effect and Landlord, at Landlord’s sole cost and expense, forthwith shall restore the remaining portions of the Leased Premises, including any and all improvements made theretofore to an architectural whole in substantially the same condition that the same were in prior to such taking. A just proportion of the rent reserved herein and any other charges payable by Tenant hereunder, according to the nature and extent of the injury to the Leased Premises and to Tenant’s business, shall be suspended or abated until the completion of such restoration and thereafter the rent and any other charges shall be reduced in proportion to the square footage of the Leased Premises remaining after such taking.

d. **The Award:** All compensation awarded for any taking, whether for the whole or a portion of the Leased Premises, shall be the sole property of the Landlord whether such compensation shall be awarded for diminution in the value of, or loss of, the leasehold or for diminution in the value of, or loss of, the fee in the Leased Premises, or otherwise. The Tenant hereby assigns to Landlord all of Tenant’s right and title to and interest in any and all such compensation. However, the Landlord shall not be entitled to and Tenant shall have the sole right to make its independent claim for and retain any portion of any award made by the appropriating authority directly to Tenant for loss of business, or damage to or depreciation of, and cost of removal of fixtures, personality and improvements installed in the Leased Premises by, or at the expense of Tenant, and to any other award made by the appropriating authority directly to Tenant.

e. **Release:** In the event of any termination of this Lease as the result of the provisions of this Article 20, the parties, effective as of such termination, shall be released, each to the other, from all liability and obligations thereafter arising under this lease.

21. LANDLORD'S REMEDIES

In the event that:

a. Tenant shall on three or more occasions be in default in the payment of rent or other charges herein required to be paid by Tenant (default herein being defined as payment received by Landlord ten or more days subsequent to the due date), regardless of whether or not such default has occurred on consecutive or non-consecutive months; or

b. Tenant has caused a lien to be filed against the Landlord's property and said lien is not removed within 60 days of recordation thereof; or

c. Tenant shall default in the observance or performance of any of the covenants and agreements required to be performed and observed by Tenant hereunder for a period of 30 days after notice to Tenant in writing of such default (or if such default shall reasonably take more than 30 days to cure, Tenant shall not have commenced the same within the 30 days and diligently prosecuted the same to completion); or

d. 90 days have elapsed after the commencement of any proceeding by or against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, whereby such proceeding shall not have been dismissed (provided, however, that the non-dismissal of any such proceeding shall not be a default hereunder so long as all of Tenant's covenants and obligations hereunder are being performed by or on behalf of Tenant); then Landlord shall be entitled to its election (unless Tenant shall cure such default prior to such election), to exercise concurrently or successively, any one or more of the following rights:

    i. Terminate this Lease by giving Tenant notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination, with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the term of this Lease, and all rights of Tenant under this Lease and in and to the Premises shall expire and terminate, and Tenant shall remain liable for all obligations under this Lease arising up to the date of such termination, and Tenant shall surrender the Premises to Landlord on the date specified in such notice; or

ii. Terminate this Lease as provided herein and recover from Tenant all damages Landlord may incur by reason of Tenant’s default, including, without limitation, a sum which, at the date of such termination, represents the then value of the excess, if any, of (a) the Minimum Rent, Percentage Rent, Taxes and all other sums which would have been payable hereunder by Tenant for the period commencing with the day following the date of such termination and ending with the date herein before set for the expiration of the full term hereby granted, over (b) the aggregate reasonable rental value of the Premises for the same period, all of which excess sum shall be deemed immediately due and payable; or

iii. Without terminating this Lease, declare immediately due and payable all Minimum Rent, Taxes, and other rents and amounts due and coming due under this Lease for the entire remaining term hereof, together with all other amounts previously due, at once; provided, however, that such payment shall not be deemed a penalty or liquidated damages but shall merely constitute payment in advance of rent for the remainder of said term. Upon making such payment, Tenant shall be entitled to receive from Landlord all rents received by Landlord from other assignees, tenants, and subtenants on account of said Premises during the term of this Lease, provided that the monies to which tenant shall so become entitled shall in no event exceed the entire amount actually paid by Tenant to Landlord pursuant to the preceding sentence less all costs, expenses and attorney’s fees of Landlord incurred in connection with the reletting of the Premises; or

iv. Without terminating this Lease, and with or without notice to Tenant, Landlord may in its own name but as agent for Tenant enter into and upon and take possession of the Premises or any part thereof, and, at landlord's option, remove persons and property there from, and such property, if any, may be removed and stored in a warehouse or elsewhere at the cost of, and for the account of Tenant, all without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and Landlord may rent the Premises or any portion thereof as the agent of Tenant with or without advertisement, and by private negotiations and for any term upon such terms and conditions as Landlord may deem necessary or desirable in order to relet the Premises. Landlord shall in no way be responsible or liable for any rental concessions or any failure to rent the Premises or any part thereof, or for any failure to collect any rent due upon such reletting. Upon such reletting, all rentals received by Landlord from such reletting shall be applied: first, to the payment of any indebtedness (other than any rent due hereunder) from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including, without limitation, brokerage fees and attorney's fees and costs of alterations and repairs; third, to the payment of rent and other charges then due and unpaid hereunder; and the residue, if any shall be held by Landlord to the extent of and for application in payment of future rent as the same may become due and payable hereunder. In reletting the Premises as aforesaid, Landlord may grant rent concessions and Tenant shall not be credited therefore. If such rentals received from such reletting shall at any time or from time to time be less than sufficient to pay to Landlord the entire sums then due from Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall, at Landlord's option, be calculated and paid monthly. No such reletting shall be construed as an election by Landlord to terminate this Lease unless a written notice of such election has been given to Tenant by Landlord. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for any such previous default provided same has not been cured; or

v. Without liability to Tenant or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Tenant any property, material, labor, Utilities or other service, whether Landlord is obligated to furnish or render the same, so long as Tenant is in default under this Lease; or

vi. Allow the Premises to remain unoccupied and collect rent from Tenant as it comes due; or

vii. Foreclose the security interest described herein, including the immediate taking of possession of all property on or in the Premises; or

viii. Pursue such other remedies as are available at law or equity.

e. Landlord's pursuit of any remedy of remedies, including without limitation, any one or more of the remedies stated herein shall not (1) constitute an election of remedies or preclude pursuit of any other remedy or remedies provided in this Lease or any other remedy or remedies provided by law or in equity, separately or concurrently or in any combination, or (2) sever as the basis for any claim of constructive eviction, or allow Tenant to withhold any payments under this Lease.

22. LANDLORD'S SELF HELP

If in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed and shall not cure such default within 60 days after notice from Landlord specifying the default (or if such default shall reasonably take more than 90 days to cure, shall diligently prosecuted the same to completion), Landlord may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Tenant, and any amount paid or contractual liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant and Tenant agrees to reimburse Landlord therefore and save Landlord harmless there from. Provided, however, that Landlord may cure any such default as aforesaid prior to the expiration of said waiting period, without notice to Tenant if any emergency situation exists, or after notice to Tenant, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the Leased Premises or Landlord's interest therein, or to prevent injury or damage to persons or property. If Tenant shall fail to reimburse Landlord upon demand for any amount paid for the account of Tenant hereunder, said amount shall be added to and become due as a part of the next payment of rent due and shall for all purposes be deemed and treated as rent hereunder.

23. TENANT'S SELF HELP

If Landlord shall default in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed, and if Landlord shall not cure such default within 60 days after notice from Tenant specifying the default (or, if such default shall reasonably take more than 60 days to cure, and Landlord shall not have commenced the same within 90 days and diligently prosecuted the same to completion), Tenant may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Landlord and any amount paid or any contractual liability incurred by Tenant in so doing shall be deemed paid or incurred for the account of Landlord and Landlord shall reimburse Tenant therefore and save Tenant harmless there from. Provided, however, that Tenant may cure any such default as aforesaid prior to the expiration of said waiting period, without notice to Landlord if an emergency situation exists, or after notice to Landlord, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the Leased Premises or Tenant's interest therein or to prevent injury or damage to persons or property. If Landlord shall fail to reimburse Tenant upon demand for any amount paid or liability incurred for the account of Landlord hereunder, said amount or liability may be deducted by Tenant from the next or any succeeding payments of rent due hereunder; provided, however, that should said amount or the liability therefore be disputed by Landlord, Landlord may contest its liability or the amount thereof, through arbitration or through a declaratory judgment action and Landlord shall bear the cost of the filing fees therefore.

24. TITLE

a. **Subordination:** Tenant shall, upon the request of Landlord in writing, subordinate this Lease to the lien of any present or future institutional mortgage upon the Leased Premises irrespective of the time of execution or the time of recording of any such mortgage. Provided, however, that as a condition to such subordination, the holder of any such mortgage shall enter first into a written agreement with Tenant in form suitable for recording to the effect that:

i. in the event of foreclosure or other action taken under the mortgage by the holder thereof, this Lease and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder

ii. such holder shall permit insurance proceeds and condemnation proceeds to be used for any restoration and repair required by the provisions of this Agreement, respectively. Tenant agrees that if the mortgagee or any person claiming under the mortgagee shall succeed to the interest of Landlord in this Lease, Tenant will recognize said mortgagee or person as its Landlord under the terms of this Lease, provided that said mortgagee or person for the period during which said mortgagee or person respectively shall be in possession of the Leased Premises and thereafter their respective successors in interest shall assume all of the obligations of Landlord hereunder. The word “mortgage”, as used herein includes mortgages, deeds of trust or other similar instruments, and modifications, and extensions thereof. The term “institutional mortgage” as used in this Article 24 means a mortgage securing a loan from a bank or trust company, insurance company or pension trust or any other lender institutional in nature and constituting a lien upon the Leased Premises.

b. **Quiet Enjoyment:** Landlord covenants and agrees that upon Tenant paying the rent and observing and performing all of the terms, covenants and conditions on Tenant’s part to be observed and performed hereunder, that Tenant may peaceably and quietly have, hold, occupy and enjoy the Leased Premises in accordance with the terms of this Lease without hindrance or molestation from Landlord or any persons lawfully claiming through Landlord.

c. **Zoning and Good Title:** Landlord warrants and represents, upon which warranty and representation Tenant has relied in the execution of this Lease, that Landlord is the owner of the Leased Premises, in fee simple absolute, free and clear of all encumbrances, except for the easements, covenants and restrictions of record as of the date of this Lease. Such exceptions shall not impede or interfere with the quiet use and enjoyment of the Leased Premises by Tenant. Landlord further warrants and covenants that this Lease is and shall be a first lien on the Leased Premises, subject only to any Mortgage to which this Lease is subordinate or may become subordinate pursuant to an agreement executed by Tenant, and to such encumbrances as shall be caused by the acts or omissions of Tenant; that Landlord has full right and lawful authority to execute this Lease for the term, in the manner, and upon the conditions and provisions herein contained; that there is no legal impediment to the use of the Leased Premises as set out herein; that the Leased Premises are not subject to any easements, restrictions, zoning ordinances or similar governmental regulations which prevent their use as set out herein; that the Leased Premises presently are zoned for the use contemplated herein and throughout the term of this lease may continue to be so used therefore by virtue of said zoning, under the doctrine of “non-conforming use”, or valid and binding decision of appropriate authority, except, however, that said representation and warranty by Landlord shall not be applicable in the event that Tenant’s act or omission shall invalidate the application of said zoning, the doctrine of “non-conforming use” or the valid and binding decision of the appropriate authority. Landlord shall furnish without expense to Tenant, within NUMBER] days after written request therefore by Tenant, a title report covering the Leased Premises showing the condition of title as of the date of such certificate, provided, however, that Landlord’s obligation hereunder shall be limited to the furnishing of only one such title report.

d. **Licenses:** It shall be the Tenant's responsibility to obtain any and all necessary licenses and the Landlord shall bear no responsibility therefore; the Tenant shall promptly notify Landlord of the fact that it has obtained the necessary licenses in order to prevent any delay to Landlord in commencing construction of the Leased Premises.

25. EXTENSIONS/WAIVERS/DISPUTES

a. **Extension Period:** Any extension hereof shall be subject to the provisions of Article c) hereof.

b. **Holding Over:** In the event that Tenant or anyone claiming under Tenant shall continue occupancy of the Leased Premises after the expiration of the term of this Lease or any renewal or extension thereof without any agreement in writing between Landlord and Tenant with respect thereto, such occupancy shall not be deemed to extend or renew the term of the Lease, but such occupancy shall continue as a tenancy at will, from month to month, upon the covenants, provisions and conditions herein contained. The rental shall be the rental in effect during the term of this Lease as extended or renewed, prorated and payable for the period of such occupancy.

c. **Waivers:** Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other; and any two or more or all of such rights and remedies may be exercised at the same time.

d. **Disputes:** It is agreed that, if at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of the said party to institute suit for the recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the costs thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and shall survive the right on the part of the said party to institute suit for the recovery of the costs of such work. If it shall be adjudged that there was no legal obligation on the part of the said party to perform the same or any part thereof, said party shall be entitled to recover the costs of such work or the cost of so much thereof as said party was not legally required to perform under the provisions of this Lease and the amount so paid by Tenant may be withheld or deducted by Tenant from any rents herein reserved.

e. **Tenant's Right to cure Landlord's Default:** In the event that Landlord shall fail, refuse or neglect to pay any mortgages, liens or encumbrances, the judicial sale of which might affect the interest of Tenant hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, Tenant may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to Landlord the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by Landlord to Tenant.

f. **Notices:** All notices and other communications authorized or required hereunder shall be in writing and shall be given by mailing the same by certified mail, return receipt requested, postage prepaid, and any such notice or other communication shall be deemed to have been given when received by the party to whom such notice or other communication shall be addressed. If intended for Landlord the same will be mailed to the address herein above set forth or such other address as Landlord may hereafter designate by notice to Tenant, and if intended for Tenant, the same shall be mailed to Tenant at the address herein above set forth, or such other address or addresses as Tenant may hereafter designate by notice to Landlord.

26. PROPERTY DAMAGE

a. **Loss and Damage:** Notwithstanding any contrary provisions of this Lease, Landlord shall not be responsible for any loss of or damage to property of Tenant or of others located on the Leased Premises, except where caused by the willful act or omission or negligence of Landlord, or Landlord's agents, employees or contractors, provided, however, that if Tenant shall notify Landlord in writing of repairs which are the responsibility of Landlord under Article VII hereof, and Landlord shall fail to commence and diligently prosecute to completion said repairs promptly after such notice, and if after the giving of such notice and the occurrence of such failure, loss of or damage to Tenant's property shall result from the condition as to which Landlord has been notified, Landlord shall indemnify and hold harmless Tenant from any loss, cost or expense arising there from.

b. **Force Majeure:** In the event that Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act other than Tenant's obligation to make payments of rent, additional rent, and other charges required hereunder, by reason of strikes, lockouts, unavailability of materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, the act, failure to act, or default of the other party, war or other reason beyond its control, then performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, lack of funds shall not be deemed to be a cause beyond control of either party.

27. ASSIGNMENT AND SUBLETTING

Under the terms and conditions hereunder, Tenant shall have the absolute right to transfer and assign this lease or to sublet all or any portion of the Leased Premises or to cease operating Tenant's business on the Leased Premises provided that at the time of such assignment or sublease Tenant shall not be in default in the performance and observance of the obligations imposed upon Tenant hereunder, and in the event that Tenant assigns or sublets this property for an amount in excess of the rental amount then being paid, then Landlord shall require as further consideration for the granting of the right to assign or sublet, a sum equal to %] of the difference between the amount of rental to be charged by Tenant to Tenant's subtenant or assignee and the amount provided for herein, payable in a manner consistent with the method of payment by the subtenant or assignee to the Tenant, and/or %] of the consideration paid or to be paid to Tenant by Tenant's or Sub-Tenant or assignee.

28. FIXTURES

All personal property, furnishings and equipment presently and all other trade fixtures installed in or hereafter by or at the expense of Tenant and all additions and/or improvements, exclusive of structural, mechanical, electrical, and plumbing, affixed to the Leased Premises and used in the operation of the Tenant's business made to, in or on the Leased Premises by and at the expense of Tenant and susceptible of being removed from the Leased Premises without damage, unless such damage be repaired by Tenant, shall remain the property of Tenant and Tenant may, but shall not be obligated to, remove the same or any part thereof at any time or times during the term hereof, provided that Tenant, at its sole cost and expense, shall make any repairs occasioned by such removal.

29. OPTION TO RENEW

Landlord grants to Tenant an option to renew this lease agreement for a period of two years after expiration of the term of this Lease agreement at a rental of $1,300.00 per month, with all other terms and conditions of the renewal lease to be the same as those in this lease agreement. To exercise this option to renew, Tenant must give Landlord written notice of intention to do so at least 60 days before this lease agreement expires.

30. ESTOPPEL CERTIFICATES

At any time and from time to time, Landlord and Tenant each agree, upon request in writing from the other, to execute, acknowledge and deliver to the other or to any person designated by the other a statement in writing certifying that the Lease is unmodified and is in full force and effect, or if there have been modifications, that the same is in full force and effect as modified (stating the modifications), that the other party is not in default in the performance of its covenants hereunder, or if there have been such defaults, specifying the same, and the dates to which the rent and other charges have been paid.

31. INVALIDITY OF PARTICULAR PROVISION

If any term or provision of this Lease or the application hereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

32. CAPTIONS AND DEFINITIONS OF PARTIES

The captions of the Sections of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease. The word “Landlord” and the pronouns referring thereto, shall mean, where the context so admits or requires, the persons, firm or corporation named herein as Landlord or the mortgagee in possession at any time, of the land and building comprising the Leased Premises. If there is more than one Landlord, the covenants of Landlord shall be the joint and several obligations of each of them, and if Landlord is a partnership, the covenants of Landlord shall be the joint and several obligations of each of the partners and the obligations of the firm. Any pronoun shall be read in the singular or plural and in such gender as the context may require. Except as in this Lease otherwise provided, the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

33. RELATIONSHIP OF THE PARTIES

Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

34. BROKERAGE

No party has acted as, by or through a broker in the effectuation of this Agreement, except as set out hereinafter.

35. ENTIRE AGREEMENT

This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect. This Lease shall not be modified in any way except by a writing executed by both parties.

36. GOVERNING LAW

All matters pertaining to this agreement (including its interpretation, application, validity, performance and breach) in whatever jurisdiction action may be brought, shall be governed by, construed and enforced in accordance with the laws of the State of Washington. The parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in Washington.

37. LITIGATION

In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party’s reasonable attorney’s fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled. In such event, no action shall be entertained by said court or any court of competent jurisdiction if filed more than one year subsequent to the date the cause(s) of action actually accrued regardless of whether damages were otherwise as of said time calculable.

If Landlord files an action to enforce any agreement contained in this lease agreement, or for breach of any covenant or condition, Tenant shall pay Landlord reasonable attorney fees for the services of Landlord’s attorney in the action, all fees to be fixed by the court.

38. CONTRACTUAL PROCEDURES

Unless specifically disallowed by law, should litigation arise hereunder, service of process therefore may be obtained through certified mail, return receipt requested; the parties hereto waiving any and all rights they may have to object to the method by which service was perfected.

39. EXTRAORDINARY REMEDIES

To the extent cognizable at law, the parties hereto, in the event of breach and in addition to any and all other remedies available thereto, may obtain injunctive relief, regardless of whether the injured party can demonstrate that no adequate remedy exists at law.

40. RELIANCE ON FINANCIAL STATEMENT

Tenant shall furnish concurrently with the execution of this lease, a financial statement of Tenant prepared by an accountant. Tenant, both in corporate capacity, if applicable, and individually, hereby represents and warrants that all the information contained therein is complete, true, and correct. Tenant understands that Landlord is relying upon the accuracy of the information contained therein. Should there be found to exist any inaccuracy within the financial statement which adversely affects Tenant's financial standing, or should Tenant's financial circumstances materially change, Landlord may demand, as additional security, an amount equal to an additional two months rent, which additional security shall be subject to all terms and conditions herein, require a fully executed guaranty by a third party acceptable to Landlord, elect to terminate this Lease, or hold Tenant personally and individually liable hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written or have caused this Lease to be executed by their respective officers thereunto duly authorized.

LANDLORD	TENANT
STEVEN C. QUAY, M.D., PH.D.	**STEVEN C. QUAY, M.D., PH.D.**
/s/ Steven C. Quay	/s/ Steven C. Quay
Authorized Signature	Authorized Signature
President	Chief Executive Officer
Title	Title

EXHIBIT “A” LEGAL DESCRIPTION

4105 E Madison St., Suite 320, Seattle WA 98112

<u>EXHIBIT “B” TENANT PLANS AND SPECIFICATIONS</u>

None.

TERMINATION OF LEASE OBLIGATION

This Release Agreement (the "Agreement") is made and effective July 21, 2010,

BETWEEN: **Ensisheim Partners LLC** (the "Lessor"), a corporation organized and existing under the laws of the State of Washington, with its head office located at:

4105 E Madison St, Suite 320
Seattle, WA 98112

AND: **Atossa Genetics, Inc**. (the "Lessee"), a corporation organized and existing under the laws of the State of Delaware, with its head office located at:

4105 E Madison St, Suite 320
Seattle, WA 98112

TERMS

On December 24, 2009, a lease agreement was executed between Lessor and Lessee for the premises located at 4105 E Madison St., suite 320, Seattle, WA 98112, a copy of which is attached hereto and made a part hereof.

The Lessor now wishes to assist the Lessee financially as it prepares to make a public offering by offering free rent, beginning July 1, 2010 and ending December 31, 2010.

The parties desire to settle all claims of Lessor with respect to said lease and to terminate all obligations of either party thereunder.

Therefore, in consideration of receipt of all unpaid lease obligations through June 30, 2010, from Lessee, receipt of which is hereby acknowledged, Lessor does hereby release Lessee from all obligations and duties of Lessee set forth in the above referenced lease. Lessor, for himself, his heirs, his legal representatives and his assigns also releases Lessee, his heirs, his legal representatives and his assigns from all claims, demands and causes of action that lessor had, has or may have against lessee or against his heirs, legal representatives or assigns in regard to said lease.

In consideration of the release set forth above, Lessee hereby surrenders all rights in and to the subject leased premises. That possession of said premises shall be delivered up to Lessor immediately upon the execution of this instrument, and that Lessor is relieved of any responsibilities or obligations under the aforementioned lease.

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

LESSOR	LESSEE
/s/ Steven C. Quay	/s/ Steven C. Quay
Authorized Signature	Authorized Signature
Steven C. Quay, M.D. Ph.D., President	Steven C. Quay, M.D. Ph.D., CEO
Print Name and Title	Print Name and Title

OFFICE LEASE

Sander Properties, LLC
4105 E. Madison St., Suite 300
Seattle, WA 98112

Phone: 206-323-8822
Fax: 206-328-7197

Monthly Rental $1,100.00
Common Area Charges
Security Deposit $1,500.00
Keys Out ____________

THIS LEASE, dated this 4th day of March, 2011 between Sander Properties, LLC hereinafter called lessor, and Atossa Genetics Inc. (a Delaware Coporation) , hereinafter called Tenant.

1. Lessor leases to Tenant and tenant leases from Lessor, in accordance with the terms hereof, the Premises situated in the City of Seattle, County of King, State of Washington, described as follows:

Suite 320 measuring approximately 330 sq. ft. situated on the third floor of the building at E. Madison Street and E. Blaine Street. As shown on Exhibit A and Legal description attached.

Post Office Address: 4105 E. Madison St., Suite 320
Seattle, WA 98112

2. **BUSINESS PURPOSE**. The Premises shall be used by Tenant for the purposes of a corporate executive office and for no other purpose without prior written consent of Lessor.

3. **TERM**. The term of this lease shall be for 2 year (s) and 0 months, commencing on the 1st day of April, 2011 and ending on the 31st day of March, 2013.

4. **RENT**. Tenant agrees to pay to Lessor at the office designated by Lessor as rental for the Premises payable in advance on the first day of each calendar month of the lease term or any period prior or subsequent thereto while Tenant is in possession of the Premises the minimum monthly rent of:

$1,100.00 (one thousand one hundred dollars) per month from April 1, 2011 through March 31, 2013

Rent for a partial month shall be prorated. Tenant shall pay a collection charge of $100.00 if monthly rent due on the first day of the month is not paid by the fifth day of the month and $50 for every check returned NSF or for any other reason. In addition, 1 -1/2% per month interest (not in excess of the highest rate allowed by law) is due for any delinquent rental not paid by the first day of the month. Said rental is exclusive of any sales, franchise, business and occupation or other tax based on rents and should such taxes apply during the life of this lease the rent shall be increased by such amount. Rent is also subject to escalation as called for in Clause 7, “Rent Adjustment Based on Operating Expenses.”

5. **SECURITY DEPOSIT**. Receipt is acknowledged of the sum of $1500.00 (dollars), as security for the performance by Tenant of its obligations under this lease. Lessor may at any time apply such deposit against any money due Lessor for any loss or damage sustained by reason of any default by Tenant, including but not limited to the payment of rent and the cost of cleaning and repairing said Premises or any other reason. Lessor shall return any remaining part of the lease deposit without interest to Tenant. If any portion of the security deposit is used or applied by Lessor as provided herein, Tenant will upon demand immediately deposit additional money to restore security deposit to its original amount. No trust relationship is created between Lessor and Tenant with respect to the security deposit.

6. **PERCENTAGE OF OCCUPANCY**. For the purposes of this ease it is agreed that the Tenant occupies and uses (Premises) 3.6% percent of the total rentable and Common Area of the properly in which the herein Premises are situated.

7. **RENT ADJUSTMENT BASED ON OPERATING EXPENSES**. It is agreed by Lessor and Tenant that the minimum monthly rental called for herein is subject to automatic increases on May 1st of each year of the term hereof. Such increase, if any, shall be based on changes in Lessor's cost of operating the entire building and Common Areas in which the Premises are located on a prorata basis. These operating costs shall include, but shall not be limited to the following: Real estate taxes: general and special assessments: amortization of the costs of complying with retrofit fire and life safety improvements as required by governmental regulation; utilities; elevator and air conditioning maintenance costs; management expenses and fees: janitorial service; building security; refuse and garbage and all other expenses constituting direct operating costs according to standard accounting practices, together with 8% of such increased costs for administrative overhead. Depreciation, interest, commissions, expenditures for capital items and similar expenses will not be included in operating costs. Any increase in rental shall be determined as follows:

(a) As of May 1st of each year of the lease or as soon thereafter as it can reasonably be determined, the operating costs of the building and Common Area for the preceding calendar year shall be computed. If the building in which the Premises are situated is new and has been occupied for less than 12 months but more than 6 months, the costs shall be based on a 12 month projection of the operating experience of such a shorter period.

(b) Operating costs for the following calendar year shall then be calculated by the operating costs referred to in (a) above, the amount of change that has occurred in the cost of each item of operating expenses between January 1st and December 31st of the preceding year. The net difference shall then be determined and *1/12*th of this difference times the percentage factor described in (c) below shall be the amount by which the monthly rental shall be changed.

(c) Any increase in rental shall be based on Tenant's proportionate share of the increase in operating expenses calculated as provided herein on the ratio determined herein which the area leased by Tenant bears to the total rentable and Common Areas in the property reasonably adjusted for changes in total occupancy. The percentage of occupancy may be reasonably adjusted by Lessor to reflect the different utilities and services provided individual Tenants.

(d) If the Premises are a part of a new building, real estate taxes shall not be included in the rental adjustment computation until the May 1st following the year in which the building is first taxed as a completed building.

(e) Such rental increase, if any, so determined shall be effective as of May 1st of each year of the term of this lease and continue at least until April 30th of the following year or until the termination of this lease, whichever occurs first. Tenant shall be notified in writing of such adjustment, and Lessor shall make available upon request the account information on which any change in rental is based.

(f) During the term of this lease, the cost of complying with any applicable governmental codes and regulations pertaining to fire and life safety will be included for the purpose of this clause only, as an operating expense by amortizing such costs together with reasonable interest on a schedule consistent with generally accepted accounting practices.

8. **REPAIRS AND MAINTENANCE**. By taking possession of the Premises, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair, damage thereto from causes beyond the reasonable control of Tenant and ordinary wear and tear excepted. All such work shall be in quality and kind equal to the original work, and shall be done only at such times and in such manner as approved in writing by Lessor. Lessor may repair, at the expense of Tenant, any damage to the Premises or to the building of which they are a part, or to its fixtures, grounds, facilities, appurtenances and equipment caused by Tenant or Tenant's guests, employees, agents or visitors. The cost of such repair shall be payable immediately as additional rent by Tenant. Tenant shall, upon expiration or sooner termination of this lease hereof, surrender the Premises to the Lessor in good condition, ordinary wear and tear and damage caused beyond the reasonable control of Tenant excepted. Except as specifically provided in an addendum, if any, to this Lease, Lessor shall have no obligation whatsoever to alter, remodel, improve, repair, decorate or paint the Premises, or any part thereof, and the parties hereto affirm that Lessor and its agent have made no representation to Tenant respecting the conditions of the Premises or the building except as specifically set forth.

9. **UTILITIES AND FEES**. As long as Tenant shall not be in default of any of the provisions of this lease, Lessor shall, during ordinary hours of generally recognized business days, furnish a reasonable amount of electricity for normal lighting and low-power usage office equipment, heat, water, sewer, trash removal, normal elevator service and air conditioning when the building is so equipped, and janitorial service if janitorial service is provided to the premises. Lessor shall not be liable nor shall rental be abated for interruption or delay of any such service. As determined by Lessor, if Tenant uses more than a reasonable amount of such services and utilities, Tenant shall upon notification pay the excess cost thereof.

10. **BUILDING CONDITION CODES AND ZONING**. Tenant hereby accepts the Premises in their condition existing as of the date of the possession hereunder, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this lease subject thereto. Tenant acknowledges that neither Lessor nor tenant's agent has made any representation or warranty as to the suitability of the Premises for the conduct of tenant's businesses, Tenant has investigated all applicable building and zoning codes, regulations, ordinances and statutes to determine whether tenant's use of the Premises is permitted. Tenant accepts the Premises as-is", subject to all applicable laws governing tenant's use of the Premises.

11. **INSURANCE**. Tenant agrees to maintain at tenant's cost, in full force and effect commercial broad form public liability insurance for property damage and for bodily injury and death, including automobile liability coverage for owned and non-owned automobiles and hired automobiles for not less than $1,000,000 single limit insuring against any and all liability of Tenant arising out of and in connection with Tenant's use maintenance and occupancy of the Premises, and shall name Lessor and Lessor's agents and employees as an additional insured.

Tenant shall furnish Lessor, prior to occupancy of Premises and all areas appurtenant thereto, a certificate indicating the insurance policy is in full force and effect, and that Lessor and Lessor's agents and employees have been named as an additional insureds, and that the policy may not be cancelled or altered unless thirty (30) days prior written notice of the proposed cancellation has been given to Lessor.

In the event of the cancellation of said policy of insurance, Tenant shall, prior to the effective date of cancellation, replace the cancelled policy of insurance and provide Lessor with a certificate assuring that the replacement insurance is in full force and effect, all as provided in compliance with the terms and conditions set forth in this agreement.

Lessor will not carry insurance on Tenant's property. All personal property on the Premises shall be at the risk of Tenant and Lessor shall not be obligated to repair any damage thereto or replace the same even if caused by the negligence of Lessor or Lessor's agents or employees. TENANT SHOULD PURCHASE ITS OWN INSURANCE COVERING TENANT'S PERSONAL PROPERTY IN THE PREMISES.

12. **HOLD HARMLESS**. Tenant shall indemnify and hold harmless Lessor against and from any and all claims arising from Tenant's use of the premises for the conduct of its business or from any activity, work, or other thing done, permitted or suffered by Tenant in or about the building, and shall further indemnify Lessor against and from any and all claims arising from any breach or default in the performance of any obligation on tenant's part to be performed under the terms of this ease, or arising from any act or negligence of the Tenant, or officer, agent, employee, or invitee of tenant, and from all costs, attorney fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought against Lessor. Tenant upon notice from Lessor shall defend the same at tenant's expense by counsel reasonably satisfactory to Lessor Tenant as a material part of the consideration to Lessor hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises, from any cause other than Lessor's negligence and hereby waives any claims in respect thereof against the Lessor.

13. **COMPLIANCE WITH LAWS AND REGULATIONS**. Tenant shall, at Tenant's expense, comply promptly with all present and future statutes, ordinances, rules, regulations, orders, requirements, including the American Disability Act (ADA), any health office, fire Marshall, building inspector, or other governmental officer Tenant will permit no waste, damage or injury to the Premises and will not use or permit in said Premises anything that will increase the rate of fire insurance, nor will tenant maintain therein anything that may be dangerous to life or limb; or overload floors; or permit any objectionable noise or odor; nor permit anything to be done in the Premises that will tend to create a nuisance or disturb any other tenant; nor use or permit the use of Premises for lodging or sleeping or any immoral or illegal purposes.

14. **ADDITIONAL TAXES**. Should there presently be in effect or should there be enacted during the term of this lease any law, statute or ordinance levying any tax (other than Federal or State income taxes) upon rents, Tenant shall pay to Lessor such tax as additional rent ten (10) days prior to the due date, or shall reimburse Lessor on demand for any such taxes paid by the Lessor.

15. **LIENS AND SOLVENCY**. Tenant shall keep the leased Premises and the property in which the leased Premises are situated, free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant and hold the Lessor harmless therefrom including all costs and attorney's fees. Lessor may require at Lessor's sole option that Tenant provide at Tenant's cost and expense a material man's labor and performance bond acceptable to Lessor in an amount equal to one and one-half (1-1/2) times the estimated cost of any improvements, additions or alterations to the Premises which Tenant desires to make to insure Lessor against any liability for mechanic's and materialman's liens and to ensure completion of the work. In the event Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Tenant, Lessor may cancel this lease at Lessor's option and Tenant shall nevertheless be liable for any loss or damage caused by Tenant.

16. **ASSIGNMENT**. Tenant shall not assign this lease or any part thereof nor sublet the whole or any part of the Premises without the prior written consent of the Lessor. Such consent shall not be unreasonably withheld. (On subletting or assignment, any rent or other consideration paid to Tenant in excess of the rent provided for in this lease shall be paid by Tenant to Lessor.) This lease shall not be assignable by operation of law. If Tenant is a corporation, then any transfer of this lease by merger, consolidation, liquidation or any change in the managing ownership, or power to vote the majority of Tenant's outstanding stock shall constitute an assignment for the purpose of this paragraph. Any assignment or subletting of the lease shall not extinguish or diminish the liability of the Tenant under the terms of this agreement. In the event of any assignment or subletting consented to by Lessor, Tenant shall pay a minimum charge of 50% of one month's rent to Lessor as consideration for consenting to such assignment or subletting. Consent once given by the Lessor to the assignment or subletting shall not relieve Tenant from obtaining written consent to any new or future assignment or subletting as required herein.

Neither this lease nor any interest herein shall pass to any trustee in bankruptcy or to any receiver or assignee for the benefit of creditors by operation of law or otherwise. No collection or acceptance of rent by Lessor from any assignee or subtenant or other occupant of the Premises, either before or after a default by Tenant, shall be deemed a waiver of this provision or a release of Tenant from any obligation under this lease.

If Lessor shall assign its interest in this lease or transfer its interest in the Premises, Lessor shall be relieved of any obligation accruing hereunder after such assignment or transfer, and such transferee shall thereafter be deemed to be the Lessor hereunder, Lessor shall transfer Tenant's security to such transferee, and tenant shall look solely to such transferee forthe return of said deposit.

17. **ACCESS**. Tenant will allow Lessor or Lessor's agent access at all reasonable times to said Premises for the purposes of inspections, cleaning, or making repairs, additions or alterations to the Premises or to any property owned or under the control of Lessor. The Lessor shall have the right to place and maintain "For Rent" signs in a conspicuous place on said Premises and to show Premises to prospective tenants for 60 days prior to the expiration of this lease,

18. **POSSESSION**. In the event the Lessor is unable to deliver possession of the Premises, or any portion thereof, at the time of the beginning of the term of this lease, neither Lessor nor Lessor's agents shall be liable for any damage caused thereby, nor shall this lease thereby become void or voidable, nor shall the term herein specified to be in any way extended, but in such event, Tenant shall not be liable for any rent until such time as Lessor can deliver possession. If the Tenant shall take possession of the Premises prior to the beginning date of this lease, Tenant and Lessor agree to be bound by all of the provisions and obligations hereunder during such prior period, including payment of rent at the rate stated herein.

19. **DAMAGE OR DESTRUCTION**. In the event the Premises are damaged to such extent as to render the same untenable in whole or in substantial part and Lessor elects to repair or rebuild, the work shall be done without unnecessary delay. Rent shall be abated while such work is in progress, in the same ratio that the portion of the Premises unfit for occupancy shall bear to the whole of the Premises. If after a reasonable time the Lessor fails to proceed to repair or rebuild, Tenant has the right to declare this lease terminated by written notice served upon the Lessor. In the event the building, in which the leased Premises are located, shall be destroyed or damaged to such extent that in the opinion of the lessor it shall not be practical to repair or rebuild, it shall be the Lessor's option to terminate this lease by written notice mailed to Tenant.

20. **SIGNS**. No sign, symbol, picture, advertising or notice shall be displayed, inscribed, painted or affixed to any of the glass, walls or woodwork or other part of the Premises or Common Area except those approved by the Lessor in writing and painted by a sign vendor approved by the Lessor and at cost of Tenant. All such signs shall be removed at Tenant's expense prior to termination of tenancy. No signs or devices shall be hung or placed against the windows of said Premises nor on the exterior wall of the building; and no furniture, curtain or other obstruction of any kind or size shall be placed against or in front of any glass partition dividing said Premises from the corridors of said building, or placed in any way so as to interfere with the typical and ordinary appearance or the Premises as viewed from the corridor without written consent of Lessor.

21. **ALTERATIONS**. Tenant shall not make any alterations, additions, or improvements to said Premises or Common Area without first obtaining the consent of Lessor in writing. All such alterations, additions and improvements shall be at the cost and expense of Tenant, and shall become the property of the Lessor and shall remain in and be surrendered with the Premises as a part thereof at the termination of this lease, without disturbance, molestation, or injury except for any improvements that Lessor may elect to request Tenant to remove. If the Tenant shall perform work with the consent of the Lessor, as aforesaid, Tenant agrees to comply with all laws, ordinances, rules and regulations of the appropriate city or county, and any other authorized public authority. Tenant further agrees to hold Lessor harmless from damage, loss or cost arising out of the said work. Tenant agrees that Lessor has the right to make alterations to the Premises, Common Area and to the building in which the Premises are situated and Lessor shall not be liable for any damage which Tenant might suffer by reason of such undertaking. Lessor shall have the right at any time and from time to time to post and maintain on the Premises and Common Area such notices as Lessor reasonably deems necessary to protect the Premises and Lessor from mechanics liens, materialmens liens or other liens. Tenant at no time shall paint any doors, interior or exterior.

22. **OWNERSHIP OF IMPROVEMENTS AND FIXTURES**. All improvements, alterations and additions including without limitation lighting fixtures installed in the Premises and which in any manner are attached to the floors, walls or ceilings, and any linoleum and carpeting or other floor material which may be cemented or otherwise adhesively affixed to the floor of Premises, shall remain and be surrendered with the Premises as a part thereof upon the termination of this lease.

23. **DEFAULT AND RE-ENTRY**. If any rents reserved, or other obligations provided herein, or any part thereof, shall be and remain unpaid when the same shall become due, or if Tenant shall violate or default in any of the covenants and agreements herein contained, then the Lessor may cancel this lease upon giving the notice required bylaw, and re-enter said Premises, using such force as may be required. Notwithstanding such re-entry by the lessor, the liability of the Tenant for the rent provided for herein shall not be extinguished for the balance of the term of this lease, and Tenant covenants and agrees to make good to the Lessor any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. Lessor shall have the right to declare the entire balance of the rent for the remainder of the term of this lease to be due and payable immediately, and upon demand Tenant shall pay to Landlord the net present value of such rent (using a discount rate that is one percentage point above the discount rate then in effect at the Federal Reserve Bank nearest to the Premises) or otherwise calculated by Landlord in any manner not inconsistent with applicable law. Accelerated payments payable under this lease shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of rent in advance. In the event it becomes reasonably necessary to make any changes, alterations or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Tenant shall be responsible for such cost.

24. **NON-WAIVER**. The failure of the Lessor to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances! shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

25. **DISPUTE RESOLUTION, COSTS, AND ATTORNEYS' FEES**. In the event of a dispute or controversy relating to this lease, the parties agree to attempt to resolve such dispute or controversy informally. If, after thirty (30) days of good faith negotiations between the parties, the parties cannot resolve their dispute or controversy, they agree to submit such dispute or controversy to arbitration for resolution, which arbitration shall be conducted in Seattle, Washington, before one arbitrator, in accordance with the rules of the American Arbitration Association ("AAA"), but not subject to administration before the AAA unless both parties agree. If the parties cannot agree on an arbitrator, then each party shall select an arbitrator, and the two arbitrators together shall select a third arbitrator to resolve the matter. The decision of the arbitrator shall be binding on the parties and judgment upon the award or arbitration rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall limit its judgment to the matters permitted to be submitted to it, and shall decide any such matter strictly in accordance with the terms and conditions of this lease.

Notwithstanding the above paragraph, each party shall be entitled to all remedies available at law or equity, specifically including, without limitation, the right to seek an injunction or similar equitable relief, without bond or with a nominal bond if allowed by law. The prevailing party in any arbitration or legal proceeding, including any appeal or action for equitable relief, shall be entitled to reimbursement from the other party of its reasonable costs and expenses, including attorneys' fees. Notwithstanding the foregoing, in no event shall this section affect or delay Landlord's unlawful detainer rights under Washington law and Landlord shall not be required to submit to arbitration before seeking possession of the Premises under applicable legal principles.

26. **REMOVAL OF PROPERTY**. In the event of any re-entry or taking possession of the leased Premises for default, the Lessor shall have the right, but not the obligation, to remove from the leased Premises all personal property located therein, and may store the same in any place selected by Lessor, including, but not limited to a public warehouse, at the expense and risk of the owners thereof. Lessor shall have the right to sell such stored property, without notice to Tenant, after it has been stored for a period of 30 days or more. The proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges forthe storage, if any! and third to the payment of any sums of money which may then be due from Tenant to Lessor under any of the terms hereof, the balance if any without interest to be paid to Tenant.

Tenant hereby waives all claims for damages that may be caused by Lessor's re-entering and taking possession of the Premises or removing and storing and selling the property of Tenant as provided in this lease, and will hold Lessor harmless from loss, costs or damages occasioned Lessor thereby. No such re-entry shall be considered or construed to be a forcible entry.

27. **TERMINATION FOR GOVERNMENT USE**. In the event that any federal, state or local government or agency or instrumentality thereof shall by condemnation, or threat of condemnation or otherwise, take title, possession or exercise the right to possession of the Premises, or any part thereof, Lessor may at its option terminate this lease as of the date of such taking. Provided the tenant is not in default under any of the provisions of this lease on said date, any rent prepaid by Tenant shall, to the extent allowable for any period subsequent to the effective date of the termination, be refunded to Tenant. All awards for such taking shall be the property of the Lessor.

28. **HOLDOVER**. If the Tenant shall, with the written consent of Lessor, holdover after the expiration of this lease, such tenancy shall be for an indefinite period of time on a month-to-month tenancy, which tenancy may be terminated as provided by law. During such tenancy, Tenant agrees to pay the Lessor, a rental amount equal to 125% of rent paid during the final term of the lease, unless a different rent is agreed upon, and to be bound by all of the applicable terms and conditions of this lease.

29. **SUBORDINATION**. This lease is subordinate to all present and future mortgages, deeds of trust and other encumbrances affecting the leased Premises or the property of which said Premises are a part! Tenant agrees to execute, at no expenses to Lessor, any instrument which may be deemed necessary or desirable by the Lessor to further effect the subordination of this lease to any mortgage, deed of trust or encumbrance Tenant irrevocably appoints and constitutes the Lessor as the true and lawful attorney in fact for Tenant at any time in Tenant's name, place and stead, to execute proper subordination agreements for this purpose.

30. **MUTUAL RELEASE AND WAIVER**. To the extent a loss is covered by insurance in force, the Lessor and Tenant hereby mutually release each other from liability and waive all right of recovery against each otherfor any loss from perils insured against under their respective fire or other insurance policies, including any extended coverage endorsements or all risk endorsements thereto; provided that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of the Lessor or the Tenant.

31. **HEIRS AND SUCCESSORS**. Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this lease shall be binding upon the heirs, legal representatives, successors and assigns of any or all of the parties hereto.

32. **NOTICES**. All notices to be given by the parties hereto shall be in writing and may either be served personally or may be deposited in the United States Mail, postage prepaid, by either certified mail or regular mail, and if to Lessor, to be addressed to the Lessor, or Lessors agent, or, if to Tenant, may be addressed to Tenant at the leased Premises.

33. **HAZARDOUS SUBSTANCES**. Tenant shall not, without Lessor's prior written consent, keep or allow on or about the Premises or Common Areas, or allow any substances designated by law or regulation as hazardous, dangerous, toxic or harmful (collectively referred to as Hazardous Substances), and which are subject to regulation by federal, state, or local laws or regulations.

With respect to such Hazardous Substances Tenant shall comply promptly and completely with all governmental rules, requirements and regulations, and Lessor or Lessor's agent may come on the Premises to check Tenant's compliance with all governmental rules, requirements and regulations.

All costs and attorneys fees incurred by Lessor in connection with Lessor's inspection of the Premises shall be due and payable to Lessor upon demand.

Should Tenant fail to comply with this paragraph 33, Lessor shall have all of the rights and remedies set forth in this lease and tenant shall; (a) be liable to Lessor for all clean-up costs, and all losses or damages suffered by Lessor, together with any and all fees, penalties (civil and criminal) imposed by any governmental authority because of Hazardous Substances in or about the Premises or Common Areas: (b) indemnify, defend and save Lessor harmless from any and afi costs, fees, penalties and charges assessed or imposed upon Lessor (as well as lessor's attorney's fees and costs) as the result of Tenant allowing or permitting Hazardous Substances in or about the Premises or Common Areas.

Tenant acknowledges that the Premises may contain asbestos or other hazardous materials, and Tenant accepts the Premises, notwithstanding such materials. If Lessor is required by any statute, regulation, order, decree, judgment or other law to take any action to remove or abate the hazardous materials, or if Lessor deems it necessary to conduct special maintenance or testing procedures with regard to the hazardous materials, Lessor may take such action or conduct such procedures at times in a manner that Lessor deems appropriate under the circumstances, and Tenant shall permit the same. Tenant shall have no liability for hazardous substances on the Premises predating this ease.

34. **TIME IS OF THE ESSENCE OF THIS LEASE**.

35. **CORPORATE AUTHORITY**. If Tenant is a corporation, each individual executing this lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute this lease on behalf of said corporation, and that this lease is binding upon said corporation.

36. **RULES AND REGULATIONS**. Tenant agrees to abide and be bound by the rules, regulations and policies of Lessor, which shall be considered as covenants of this lease.

(a) **Light and Air**. This lease does not grant or purport to grant any rights or access to outside light or air and this lease does not warrant or protect against interferences with light, air or view from the Premises.

(b) **Admittance by Lessor**. The Lessor shall not be liable for the consequences of admitting or refusing to admit to said Premises, the Tenant or any of the Tenant's agents or employees. No additional lock shall be put on any door without the written consent of Lessor.

(c) **Electrical Installations**. Tenant shall not operate or install any electrical equipment or machinery (other than ordinary office equipment) without the written consent of Lessor, nor replace or move any electric light fixtures without the written consent of Lessor. Tenant may, with the consent of Lessor, replace building light fixtures with fixtures of Tenant's own choice provided that such installation will not increase Tenant's Consumption of electricity, and the cost of such fixtures and installation shall be at Tenant's expense. Tenant shall at the expiration or sooner termination of the lease, upon demand of Lessor, pay the cost of replacing and installing the light fixtures belonging to Lessor.

(d) **Awnings**. No awnings shall be attached to the outside of any windows or doors of the building of which the Premises are a part without Lessor's written consent.

(e) **Windows**. The Tenant shall not allow anything to be placed on the outside window ledge nor shall place or attach anything to the inside and/or outside of windows of said Premises without written consent of Lessor, and nothing shall be hung or thrown by the Tenant or others out of the windows of said building.

(f) **Floor Coverings**. The Tenant or other person shall not lay any resilient floor covering, carpeting or other covering with any materials that cannot be easily removed with water. The use of cement or similar adhesive material is prohibited. The tacking or fastening of any flooring material to the baseboard or baseboard molding is prohibited. Tacking strips installed by Tenant with Lessor's consent, shall at the option of Lessor, be removed by Tenant and the floor repaired at the expiration of the lease, at Tenant's expense.

(g) **Furniture and Bulky Articles**. Safes and bulky furniture or articles shall only be moved in or out of said Premises at such hours and in such manner as shall least inconvenience other Tenants, as determined by Lessor. Safes or other articles of over 1,000 pounds shall be moved into said Premises only with the written consent of the Lessor, and Lessor shall have the right to fix the location of any article of such weight in said Premises.

(h) **Miscellaneous**.

(1) Tenant shall use great care not to leave windows open when it rains, snows, or during windstorms. Damage resulting to Lessor or to other Tenants from failure to observe this precaution shall be chargeable to the Tenant in whose Premises the neglect occurred. If space is air conditioned, windows shall be kept closed while in operation.

(2) Water closets and other water fixtures shall not be used for any purposes other than those for which they are intended and any damage resulting form misuse on the part of the Tenant, its agents or employees shall be paid for by Tenant. No person shall waste water by interfering or tampering with faucets or otherwise. Leaking faucets or valves shall be immediately fixed or reported to the Lessor.

(3) Lessor reserves the right to close and keep locked all entrance and exit doors of the building during such hours as Lessor may deem to be advisable for adequate protection or security.

(4) Tenant shall not permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Lessor or other Tenants of the building by reason of noise, odors and/or vibrations or interfere in any way with other Tenants or those having business therein, nor shall any animals or birds be brought in or kept on or about the Premises.

(5) Lessor reserves the right to make other and further regulations that may be reasonably necessary or desirable for the security, safety, care and cleanliness of the Premises and Common Areas and the building and the preservation of good order therein.

37. **RIDERS**. The riders, _________________________ attached hereto, are made a part of this lease.

IN WITNESS WHEREOF, the Lessor and Tenant have executed this lease the day and year first above written.

Sander Properties, LLC	Atossa Genetics Inc. (a Delaware Corporation)
By: /s/ Robert L. Sander Robert L. Sander	By: /s/ Steven C. Quay Dr. Steven C. Quay
Its: Managing Member	Its: Chief Executive Officer

GUARANTY

The Undersigned personally guaranty the Payment of all rentals and the performance of all terms and covenants of this lease by Lessee.

/s/ Steven C. Quay	Guarantor's Address: 3619 E. Pine St.
Dr. Steven C. Quay Guarantor	Seattle, WA 98122
DATED 31 March 2011.	Guarantor's Phone: 206-419-4873

CORPORATE

STATE OF WASHINGTON)
COUNTY OF KING) ss.

On this 5th day of April, A.D. 2011 before me personally appeared Robert L. Sander to me known to be the Managing Member to me known to be the _______________ of Sander Properties LLC, the corporation that executed the within and foregoing instrument, and acknowledged the same Instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they were authorized to execute said Instrument.

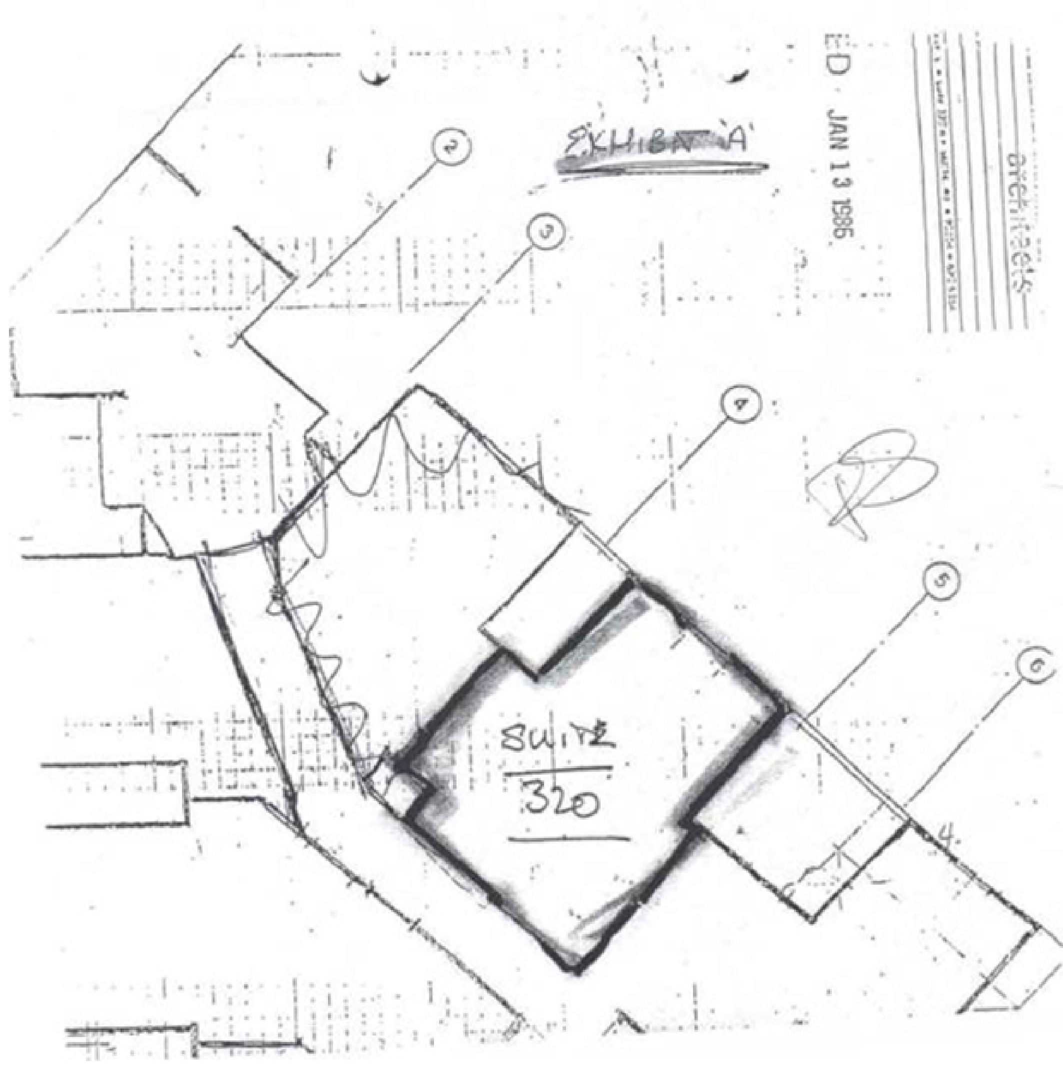
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

/s/ Michael M. Sander

Michael M. Sander
Printed Name
Notary Public in and for the State of Washington,
Residing at Seattle, WA
My commission expires on 12-10-11

LEGAL DESCRIPTION

That Portion of Block 14 of the replat of John J. McGilvra's 3rd Addition to the City of Seattle as recorded in Volume 6, page 34 Records of King County. Beginning on the North line of E. Blaine Street at a point which is 75.27' westerly from the West line of 42nd Ave. E. thence Northerly parallel with said 42nd Ave..N. 30', thence westerly parallel with said E. Blaine St. 12.595 feet, thence N. 45 degrees 05' 17" West 46.135 feet to the East line of E. Madison St., thence southwest along said E. Madison St. 87.42' to the N. Line of said E. Blaine St. thence Easterly along said E. Blaine St. 106.7' to the point of beginning.



OFFICE LEASE

Sander Properties, LLC
4105 E. Madison St., Suite 300
Seattle, WA 98112

Phone: 206-323-8822
Fax: 206-328-7197

Monthly Rental $600.00
Common Area Charges
Security Deposit $1200.00
Keys Out __1__

THIS LEASE, dated this 8th day of July 2011 between Sander Properties , LLC hereinafter called lessor, and Atossa Genetics Inc. (a Delaware Coporation) , hereinafter called Tenant.

1. Lessor leases to Tenant and tenant leases from Lessor, in accordance with the terms hereof, the Premises situated in the City of Seattle , County of King , State of Washington , described as follows:

Suite 350 measuring approximately 315 sq. ft. situated on the third floor of the building at E. Madison Street and E. Blaine Street. As shown on Exhibit A and Legal description attached.

Post Office Address: 4105 E. Madison St., Suite 350
Seattle, WA 98112

2. **BUSINESS PURPOSE**. The Premises shall be used by Tenant for the purposes of a corporate executive office and for no other purpose without prior written consent of Lessor.

3. **TERM**. The term of this lease shall be for 1 year (s) and 3 weeks, commencing on the 11th[t] day of July, 2011 and ending on the 31st day of July, 2012.

4. **RENT**. Tenant agrees to pay to Lessor at the office designated by Lessor as rental for the Premises payable in advance on the first day of each calendar month of the lease term or any period prior or subsequent thereto while Tenant is in possession of the Premises the minimum monthly rent of:

$600.00 (six hundred dollars) per month from July 11, 2011 through July 31, 2012

Rent for a partial month shall be prorated. Tenant shall pay a collection charge of $100.00 if monthly rent due on the first day of the month is not paid by the fifth day of the month and $50 for every check returned NSF or for any other reason. In addition, 1 -1/2°/o per month interest (not in excess of the highest rate allowed by law) is due for any delinquent rental not paid by the first day of the month. Said rental is exclusive of any sales, franchise, business and occupation or other tax based on rents and should such taxes apply during the life of this lease the rent shall be increased by such amount. Rent is also subject to escalation as called for in Clause 7, "Rent Adjustment Based on Operating Expenses."

5. **SECURITY DEPOSIT**. Receipt is acknowledged of the sum of $ 1200.00 (dollars), as security for the performance by Tenant of its obligations under this lease. Lessor may at any time apply such deposit against any money due Lessor for any loss or damage sustained by reason of any default by Tenant, including but not limited to the payment of rent and the cost of cleaning and repairing said Premises or any other reason. Lessor shall return any remaining part of the lease deposit without interest to Tenant. If any portion of the security deposit is used or applied by Lessor as provided herein, Tenant will upon demand immediately deposit additional money to restore security deposit to its original amount. No trust relationship is created between Lessor and Tenant with respect to the security deposit.

6. **PERCENTAGE OF OCCUPANCY**. For the purposes of this ease it is agreed that the Tenant occupies and uses (Premises) 3.4 % percent of the total rentable and Common Area of the properly in which the herein Premises are situated.

7. **RENT ADJUSTMENT BASED ON OPERATING EXPENSES**. It is agreed by Lessor and Tenant that the minimum monthly rental called for herein is subject to automatic increases on May 1st of each year of the term hereof. Such increase, if any, shall be based on changes in Lessor's cost of operating the entire building and Common Areas in which the Premises are located on a prorata basis. These operating costs shall include, but shall not be limited to the following: Real estate taxes: general and special assessments: amortization of the costs of complying with retrofit fire and life safety improvements as required by governmental regulation; utilities; elevator and air conditioning maintenance costs; management expenses and fees: janitorial service; building security; refuse and garbage and all other expenses constituting direct operating costs according to standard accounting practices, together with 8% of such increased costs for administrative overhead. Depreciation, interest, commissions, expenditures for capital items and similar expenses will not be included in operating costs. Any increase in rental shall be determined as follows:

(a) As of May 1st of each year of the lease or as soon thereafter as it can reasonably be determined, the operating costs of the building and Common Area for the preceding calendar year shall be computed. If the building in which the Premises are situated is new and has been occupied for less than 12 months but more than 6 months, the costs shall be based on a 12 month projection of the operating experience of such a shorter period.

(b) Operating costs for the following calendar year shall then be calculated by the operating costs referred to in (a) above, the amount of change that has occurred in the cost of each item of operating expenses between January 1st and December 31st of the preceding year. The net difference shall then be determined and *1/12*th of this difference times the percentage factor described in (c) below shall be the amount by which the monthly rental shall be changed.

(c) Any increase in rental shall be based on Tenant's proportionate share of the increase in operating expenses calculated as provided herein on the ratio determined herein which the area leased by Tenant bears to the total rentable and Common Areas in the property reasonably adjusted for changes in total occupancy. The percentage of occupancy may be reasonably adjusted by Lessor to reflect the different utilities and services provided individual Tenants.

(d) If the Premises are a part of a new building, real estate taxes shall not be included in the rental adjustment computation until the May 1st following the year in which the building is first taxed as a completed building.

(e) Such rental increase, if any, so determined shall be effective as of May 1st of each year of the term of this lease and continue at least until April 30th of the following year or until the termination of this lease, whichever occurs first. Tenant shall be notified in writing of such adjustment, and Lessor shall make available upon request the account information on which any change in rental is based.

(f) During the term of this lease, the cost of complying with any applicable governmental codes and regulations pertaining to fire and life safety will be included for the purpose of this clause only, as an operating expense by amortizing such costs together with reasonable interest on a schedule consistent with generally accepted accounting practices.

8. **REPAIRS AND MAINTENANCE**. By taking possession of the Premises, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair, damage thereto from causes beyond the reasonable control of Tenant and ordinary wear and tear excepted. All such work shall be in quality and kind equal to the original work, and shall be done only at such times and in such manner as approved in writing by Lessor. Lessor may repair, at the expense of Tenant, any damage to the Premises or to the building of which they are a part, or to its fixtures, grounds, facilities, appurtenances and equipment caused by Tenant or Tenant's guests, employees, agents or visitors. The cost of such repair shall be payable immediately as additional rent by Tenant. Tenant shall, upon expiration or sooner termination of this lease hereof, surrender the Premises to the Lessor in good condition, ordinary wear and tear and damage caused beyond the reasonable control of Tenant excepted. Except as specifically provided in an addendum, if any, to this Lease, Lessor shall have no obligation whatsoever to alter, remodel, improve, repair, decorate or paint the Premises, or any part thereof, and the parties hereto affirm that Lessor and its agent have made no representation to Tenant respecting the conditions of the Premises or the building except as specifically set forth.

9. **UTILITIES AND FEES**. As long as Tenant shall not be in default of any of the provisions of this lease, Lessor shall, during ordinary hours of generally recognized business days, furnish a reasonable amount of electricity for normal lighting and low-power usage office equipment, heat, water, sewer, trash removal, normal elevator service and air conditioning when the building is so equipped, and janitorial service if janitorial service is provided to the premises. Lessor shall not be liable nor shall rental be abated for interruption or delay of any such service. As determined by Lessor, if Tenant uses more than a reasonable amount of such services and utilities, Tenant shall upon notification pay the excess cost thereof.

10. **BUILDING CONDITION CODES AND ZONING**. Tenant hereby accepts the Premises in their condition existing as of the date of the possession hereunder, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this lease subject thereto. Tenant acknowledges that neither Lessor nor tenant's agent has made any representation or warranty as to the suitability of the Premises for the conduct of tenant's businesses. Tenant has investigated all applicable building and zoning codes, regulations, ordinances and statutes to determine whether tenant's use of the Premises is permitted. Tenant accepts the Premises as-is", subject to all applicable laws governing tenant's use of the Premises.

11. **INSURANCE**. Tenant agrees to maintain at tenant's cost, in full force and effect commercial broad form public liability insurance for property damage and for bodily injury and death, including automobile liability coverage for owned and non-owned automobiles and hired automobiles for not less than $1,000,000 single limit insuring against any and all liability of Tenant arising out of and in connection with Tenant's use maintenance and occupancy of the Premises, and shall name Lessor and Lessor's agents and employees as an additional insured. Tenant shall furnish Lessor, prior to occupancy of Premises and all areas appurtenant thereto, a certificate indicating the insurance policy is in full force and effect, and that Lessor and Lessor's agents and employees have been named as an additional insureds, and that the policy may not be cancelled or altered unless thirty (30) days prior written notice of the proposed cancellation has been given to Lessor.

In the event of the cancellation of said policy of insurance, Tenant shall, prior to the effective date of cancellation, replace the cancelled policy of insurance and provide Lessor with a certificate assuring that the replacement insurance is in full force and effect, all as provided in compliance with the terms and conditions set forth in this agreement.

Lessor will not carry insurance on Tenant's property. All personal property on the Premises shall be at the risk of Tenant and Lessor shall not be obligated to repair any damage thereto or replace the same even if caused by the negligence of Lessor or Lessor's agents or employees. TENANT SHOULD PURCHASE ITS OWN INSURANCE COVERING TENANT'S PERSONAL PROPERTY IN THE PREMISES.

12. **HOLD HARMLESS**. Tenant shall indemnify and hold harmless Lessor against and from any and all claims arising from Tenant's use of the premises for the conduct of its business or from any activity, work, or other thing done, permitted or suffered by Tenant in or about the building, and shall further indemnify Lessor against and from any and all claims arising from any breach or default in the performance of any obligation on tenant's part to be performed under the terms of this ease, or arising from any act or negligence of the Tenant, or officer, agent, employee, or invitee of tenant, and from all costs, attorney fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought against Lessor. Tenant upon notice from Lessor shall defend the same at tenant's expense by counsel reasonably satisfactory to Lessor Tenant as a material part of the consideration to Lessor hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises, from any cause other than Lessor's negligence and hereby waives any claims in respect thereof against the Lessor.

13. **COMPLIANCE WITH LAWS AND REGULATIONS**. Tenant shall, at Tenant's expense, comply promptly with all present and future statutes, ordinances, rules, regulations, orders, requirements, including the American Disability Act (ADA), any health office, fire Marshall, building inspector, or other governmental officer Tenant will permit no waste, damage or injury to the Premises and will not use or permit in said Premises anything that will increase the rate of fire insurance, nor will tenant maintain therein anything that may be dangerous to life or limb; or overload floors; or permit any objectionable noise or odor; nor permit anything to be done in the Premises that will tend to create a nuisance or disturb any other tenant; nor use or permit the use of Premises for lodging or sleeping or any immoral or illegal purposes.

14. **ADDITIONAL TAXES**. Should there presently be in effect or should there be enacted during the term of this lease any law, statute or ordinance levying any tax (other than Federal or State income taxes) upon rents, Tenant shall pay to Lessor such tax as additional rent ten (10) days prior to the due date, or shall reimburse Lessor on demand for any such taxes paid by the Lessor.

15. **LIENS AND SOLVENCY**. Tenant shall keep the leased Premises and the property in which the leased Premises are situated, free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant and hold the Lessor harmless therefrom including all costs and attorney's fees. Lessor may require at Lessor's sole option that Tenant provide at Tenant's cost and expense a material man's labor and performance bond acceptable to Lessor in an amount equal to one and one-half (1-1/2) times the estimated cost of any improvements, additions or alterations to the Premises which Tenant desires to make to insure Lessor against any liability for mechanic's and materialman's liens and to ensure completion of the work. In the event Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Tenant, Lessor may cancel this lease at Lessor's option and Tenant shall nevertheless be liable for any loss or damage caused by Tenant.

16. **ASSIGNMENT**. Tenant shall not assign this lease or any part thereof nor sublet the whole or any part of the Premises without the prior written consent of the Lessor. Such consent shall not be unreasonably withheld. (On subletting or assignment, any rent or other consideration paid to Tenant in excess of the rent provided for in this lease shall be paid by Tenant to Lessor.) This lease shall not be assignable by operation of law. If Tenant is a corporation, then any transfer of this lease by merger, consolidation, liquidation or any change in the managing ownership, or power to vote the majority of Tenant's outstanding stock shall constitute an assignment for the purpose of this paragraph. Any assignment or subletting of the lease shall not extinguish or diminish the liability of the Tenant under the terms of this agreement. In the event of any assignment or subletting consented to by Lessor, Tenant shall pay a minimum charge of 50% of one month's rent to Lessor as consideration for consenting to such assignment or subletting. Consent once given by the Lessor to the assignment or subletting shall not relieve Tenant from obtaining written consent to any new or future assignment or subletting as required herein.

Neither this lease nor any interest herein shall pass to any trustee in bankruptcy or to any receiver or assignee for the benefit of creditors by operation of law or otherwise. No collection or acceptance of rent by Lessor from any assignee or subtenant or other occupant of the Premises, either before or after a default by Tenant, shall be deemed a waiver of this provision or a release of Tenant from any obligation under this lease.

If Lessor shall assign its interest in this lease or transfer its interest in the Premises, Lessor shall be relieved of any obligation accruing hereunder after such assignment or transfer, and such transferee shall thereafter be deemed to be the Lessor hereunder, Lessor shall transfer Tenant's security to such transferee, and tenant shall look solely to such transferee forthe return of said deposit.

17. **ACCESS**. Tenant will allow Lessor or Lessor's agent access at all reasonable times to said Premises for the purposes of inspections, cleaning, or making repairs, additions or alterations to the Premises or to any property owned or under the control of Lessor. The Lessor shall have the right to place and maintain "For Rent" signs in a conspicuous place on said Premises and to show Premises to prospective tenants for 60 days prior to the expiration of this lease.

18. **POSSESSION**. In the event the Lessor is unable to deliver possession of the Premises, or any portion thereof, at the time of the beginning of the term of this lease, neither Lessor nor Lessor's agents shall be liable for any damage caused thereby, nor shall this lease thereby become void or voidable, nor shall the term herein specified to be in any way extended, but in such event, Tenant shall not be liable for any rent until such time as Lessor can deliver possession. If the Tenant shall take possession of the Premises prior to the beginning date of this lease, Tenant and Lessor agree to be bound by all of the provisions and obligations hereunder during such prior period, including payment of rent at the rate stated herein.

19. **DAMAGE OR DESTRUCTION**. In the event the Premises are damaged to such extent as to render the same untenable in whole or in substantial part and Lessor elects to repair or rebuild, the work shall be done without unnecessary delay. Rent shall be abated while such work is in progress, in the same ratio that the portion of the Premises unfit for occupancy shall bear to the whole of the Premises. If after a reasonable time the Lessor fails to proceed to repair or rebuild, Tenant has the right to declare this lease terminated by written notice served upon the Lessor. In the event the building, in which the leased Premises are located, shall be destroyed or damaged to such extent that in the opinion of the lessor it shall not be practical to repair or rebuild, it shall be the Lessor's option to terminate this lease by written notice mailed to Tenant.

20. **SIGNS**. No sign, symbol, picture, advertising or notice shall be displayed, inscribed, painted or affixed to any of the glass, walls or woodwork or other part of the Premises or Common Area except those approved by the Lessor in writing and painted by a sign vendor approved by the Lessor and at cost of Tenant. All such signs shall be removed at Tenant's expense prior to termination of tenancy. No signs or devices shall be hung or placed against the windows of said Premises nor on the exterior wall of the building; and no furniture, curtain or other obstruction of any kind or size shall be placed against or in front of any glass partition dividing said Premises from the corridors of said building, or placed in any way so as to interfere with the typical and ordinary appearance or the Premises as viewed from the corridor without written consent of Lessor.

21. **ALTERATIONS**. Tenant shall not make any alterations, additions, or improvements to said Premises or Common Area without first obtaining the consent of Lessor in writing. All such alterations, additions and improvements shall be at the cost and expense of Tenant, and shall become the property of the Lessor and shall remain in and be surrendered with the Premises as a part thereof at the termination of this lease, without disturbance, molestation, or injury except for any improvements that Lessor may elect to request Tenant to remove. If the Tenant shall perform work with the consent of the Lessor, as aforesaid, Tenant agrees to comply with all laws, ordinances, rules and regulations of the appropriate city or county, and any other authorized public authority. Tenant further agrees to hold Lessor harmless from damage, loss or cost arising out of the said work. Tenant agrees that Lessor has the right to make alterations to the Premises, Common Area and to the building in which the Premises are situated and Lessor shall not be liable for any damage which Tenant might suffer by reason of such undertaking. Lessor shall have the right at any time and from time to time to post and maintain on the Premises and Common Area such notices as Lessor reasonably deems necessary to protect the Premises and Lessor from mechanics liens, materialmens liens or other liens. Tenant at no time shall paint any doors, interior or exterior.

22. OWNERSHIP OF IMPROVEMENTS AND FIXTURES. All improvements, alterations and additions including without limitation lighting fixtures installed in the Premises and which in any manner are attached to the floors, walls or ceilings, and any linoleum and carpeting or other floor material which may be cemented or otherwise adhesively affixed to the floor of Premises, shall remain and be surrendered with the Premises as a part thereof upon the termination of this lease.

23. DEFAULT AND RE-ENTRY. If any rents reserved, or other obligations provided herein, or any part thereof, shall be and remain unpaid when the same shall become due, or if Tenant shall violate or default in any of the covenants and agreements herein contained, then the Lessor may cancel this lease upon giving the notice required bylaw, and re-enter said Premises, using such force as may be required. Notwithstanding such re-entry by the lessor, the liability of the Tenant for the rent provided for herein shall not be extinguished for the balance of the term of this lease, and Tenant covenants and agrees to make good to the Lessor any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. Lessor shall have the right to declare the entire balance of the rent for the remainder of the term of this lease to be due and payable immediately, and upon demand Tenant shall pay to Landlord the net present value of such rent (using a discount rate that is one percentage point above the discount rate then in effect at the Federal Reserve Bank nearest to the Premises) or otherwise calculated by Landlord in any manner not inconsistent with applicable law. Accelerated payments payable under this lease shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of rent in advance. In the event it becomes reasonably necessary to make any changes, alterations or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Tenant shall be responsible for such cost.

24. NON-WAIVER. The failure of the Lessor to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances! shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

25. DISPUTE RESOLUTION, COSTS, AND ATTORNEYS' FEES. In the event of a dispute or controversy relating to this lease, the parties agree to attempt to resolve such dispute or controversy informally. If, after thirty (30) days of good faith negotiations between the parties, the parties cannot resolve their dispute or controversy, they agree to submit such dispute or controversy to arbitration for resolution, which arbitration shall be conducted in Seattle, Washington, before one arbitrator, in accordance with the rules of the American Arbitration Association ("AAA"), but not subject to administration before the AAA unless both parties agree. If the parties cannot agree on an arbitrator, then each party shall select an arbitrator, and the two arbitrators together shall select a third arbitrator to resolve the matter. The decision of the arbitrator shall be binding on the parties and judgment upon the award or arbitration rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall limit its judgment to the matters permitted to be submitted to it, and shall decide any such matter strictly in accordance with the terms and conditions of this lease.

Notwithstanding the above paragraph, each party shall be entitled to all remedies available at law or equity, specifically including, without limitation, the right to seek an injunction or similar equitable relief, without bond or with a nominal bond if allowed by law. The prevailing party in any arbitration or legal proceeding, including any appeal or action for equitable relief, shall be entitled to reimbursement from the other party of its reasonable costs and expenses, including attorneys' fees. Notwithstanding the foregoing, in no event shall this section affect or delay Landlord's unlawful detainer rights under Washington law and Landlord shall not be required to submit to arbitration before seeking possession of the Premises under applicable legal principles.

26. **REMOVAL OF PROPERTY**. In the event of any re-entry or taking possession of the leased Premises for default, the Lessor shall have the right, but not the obligation, to remove from the leased Premises all personal property located therein, and may store the same in any place selected by Lessor, including, but not limited to a public warehouse, at the expense and risk of the owners thereof. Lessor shall have the right to sell such stored property, without notice to Tenant, after it has been stored for a period of 30 days or more. The proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges forthe storage, if any! and third to the payment of any sums of money which may then be due from Tenant to Lessor under any of the terms hereof, the balance if any without interest to be paid to Tenant.

Tenant hereby waives all claims for damages that may be caused by Lessor's re-entering and taking possession of the Premises or removing and storing and selling the property of Tenant as provided in this lease, and will hold Lessor harmless from loss, costs or damages occasioned Lessor thereby. No such reentry shall be considered or construed to be a forcible entry.

27. **TERMINATION FOR GOVERNMENT USE**. In the event that any federal, state or local government or agency or instrumentality thereof shall by condemnation, or threat of condemnation or otherwise, take title, possession or exercise the right to possession of the Premises, or any part thereof, Lessor may at its option terminate this lease as of the date of such taking. Provided the tenant is not in default under any of the provisions of this lease on said date, any rent prepaid by Tenant shall, to the extent allowable for any period subsequent to the effective date of the termination, be refunded to Tenant. All awards for such taking shall be the property of the Lessor.

28. **HOLDOVER.** If the Tenant shall, with the written consent of Lessor, holdover after the expiration of this lease, such tenancy shall be for an indefinite period of time on a month-to-month tenancy, which tenancy may be terminated as provided by law. During such tenancy, Tenant agrees to pay the Lessor, a rental amount equal to 125% of rent paid during the final term of the lease unless a different rent is agreed upon, and to be bound by all of the applicable: terms and conditions of this lease.

29. **SUBORDINATION**. This lease is subordinate to all present and future mortgages, deeds of trust and other encumbrances affecting the leased Premises or the property of which said Premises are a part! Tenant agrees to execute, at no expenses to Lessor, any instrument which may be deemed necessary or desirable by the Lessor to further effect the subordination of this lease to any mortgage, deed of trust or encumbrance Tenant irrevocably appoints and constitutes the Lessor as the true and lawful attorney in fact for Tenant at any time in Tenant's name, place and stead, to execute proper subordination agreements for this purpose.

30. **MUTUAL RELEASE AND WAIVER**. To the extent a loss is covered by insurance in force, the Lessor and Tenant hereby mutually release each other from liability and waive all right of recovery against each otherfor any loss from perils insured against under their respective fire or other insurance policies, including any extended coverage endorsements or all risk endorsements thereto; provided that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of the Lessor or the Tenant.

31. **HEIRS AND SUCCESSORS.** Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this lease shall be binding upon the heirs, legal representatives, successors and assigns of any or all of the parties hereto.

32. **NOTICES.** All notices to be given by the parties hereto shall be in writing and may either be served personally or may be deposited in the United States Mail, postage prepaid, by either certified mail or regular mail, and if to Lessor, to be addressed to the Lessor, or Lessors agent, or, if to Tenant, may be addressed to Tenant at the leased Premises.

33. **HAZARDOUS SUBSTANCES.** Tenant shall not, without Lessor's prior written consent, keep or allow on or about the Premises or Common Areas, or allow any substances designated by law or regulation as hazardous, dangerous, toxic or harmful (collectively referred to as Hazardous Substances), and which are subject to regulation by federal, state, or local laws or regulations.

With respect to such Hazardous Substances Tenant shall comply promptly and completely with all governmental rules, requirements and regulations, and Lessor or Lessor's agent may come on the Premises to check Tenant's compliance with all governmental rules, requirements and regulations.

All costs and attorneys fees incurred by Lessor in connection with Lessor's inspection of the Premises shall be due and payable to Lessor upon demand.

Should Tenant fail to comply with this paragraph 33, Lessor shall have all of the rights and remedies set forth in this lease and tenant shall; (a) be liable to Lessor for all clean-up costs, and all losses or damages suffered by Lessor, together with any and all fees, penalties (civil and criminal) imposed by any governmental authority because of Hazardous Substances in or about the Premises or Common Areas: (b) indemnify, defend and save Lessor harmless from any and afi costs, fees. penalties and charges assessed or imposed upon Lessor (as well as lessor's attorney's fees and costs) as the result of Tenant allowing or permitting Hazardous Substances in or about the Premises or Common Areas.

Tenant acknowledges that the Premises may contain asbestos or other hazardous materials, and Tenant accepts the Premises, notwithstanding such materials. If Lessor is required by any statute, regulation, order, decree, judgment or other law to take any action to remove or abate the hazardous materials, or if Lessor deems it necessary to conduct special maintenance or testing procedures with regard to the hazardous materials, Lessor may take such action or conduct such procedures at times in a manner that Lessor deems appropriate under the circumstances, and Tenant shall permit the same. Tenant shall have no liability for hazardous substances on the Premises predating this ease.

34. TIME IS OF THE ESSENCE OF THIS LEASE.

35. CORPORATE AUTHORITY. If Tenant is a corporation, each individual executing this lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute this lease on behalf of said corporation, and that this lease is binding upon said corporation.

36. **RULES AND REGULATIONS.** Tenant agrees to abide and be bound by the rules, regulations and policies of Lessor, which shall be considered as covenants of this lease.

(a) Light and Air. This lease does not grant or purport to grant any rights or access to outside light or air and this lease does not warrant or protect against interferences with light, air or view from the Premises.

(b) Admittance by Lessor. The Lessor shall not be liable for the consequences of admitting or refusing to admit to said Premises, the Tenant or any of the Tenant's agents or employees. No additional lock shall be put on any door without the written consent of Lessor.

(c) Electrical Installations. Tenant shall not operate or install any electrical equipment or machinery (other than ordinary office equipment) without the written consent of Lessor, nor replace or move any electric light fixtures without the written consent of Lessor. Tenant may, with the consent of Lessor, replace building light fixtures with fixtures of Tenant's own choice provided that such installation will not increase Tenant's Consumption of electricity, and the cost of such fixtures and installation shall be at Tenant's expense. Tenant shall at the expiration or sooner termination of the lease, upon demand of Lessor, pay the cost of replacing and installing the light fixtures belonging to Lessor.

(d) Awnings. No awnings shall be attached to the outside of any windows or doors of the building of which the Premises are a part without Lessor's written consent.

(e) Windows. The Tenant shall not allow anything to be placed on the outside window ledge nor shall place or attach anything to the inside and/or outside of windows of said Premises without written consent of Lessor, and nothing shall be hung or thrown by the Tenant or others out of the windows of said building.

(f) Floor Coverings. The Tenant or other person shall not lay any resilient floor covering, carpeting or other covering with any materials that cannot be easily removed with water. The use of cement or similar adhesive material is prohibited. The tacking or fastening of any flooring material to the baseboard or baseboard molding is prohibited. Tacking strips installed by Tenant with Lessor's consent, shall at the option of Lessor, be removed by Tenant and the floor repaired at the expiration of the lease, at Tenant's expense.

(g) Furniture and Bulky Articles. Safes and bulky furniture or articles shall only be moved in or out of said Premises at such hours and in such manner as shall least inconvenience other Tenants, as determined by Lessor. Safes or other articles of over 1,000 pounds shall be moved into said Premises only with the written consent of the Lessor, and Lessor shall have the right to fix the location of any article of such weight in said Premises.

(h) Miscellaneous.

(1) Tenant shall use great care not to leave windows open when it rains, snows, or during windstorms. Damage resulting to Lessor or to other Tenants from failure to observe this precaution shall be chargeable to the Tenant in whose Premises the neglect occurred. If space is air conditioned, windows shall be kept closed while in operation.

(2) Water closets and other water fixtures shall not be used for any purposes other than those for which they are intended and any damage resulting form misuse on the part of the Tenant, its agents or employees shall be paid for by Tenant. No person shall waste water by interfering or tampering with faucets or otherwise. Leaking faucets or valves shall be immediately fixed or reported to the Lessor.

(3) Lessor reserves the right to close and keep locked all entrance and exit doors of the building during such hours as Lessor may deem to be advisable for adequate protection or security.

(4) Tenant shall not permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Lessor or other Tenants of the building by reason of noise, odors and/or vibrations or interfere in any way with other Tenants or those having business therein, nor shall any animals or birds be brought in or kept on or about the Premises.

(5) Lessor reserves the right to make other and further regulations that may be reasonably necessary or desirable for the security, safety, care and cleanliness of the Premises and Common Areas and the building and the preservation of good order therein.

37. **RIDERS**. The riders, NA attached hereto, are made a part of this lease.

IN WITNESS WHEREOF, THE Lessor and Tenant have executed this lease the day and year first above written

Sander Properties, LLC	Atossa Genetics Inc. (a Delaware Corporation)
By: /s/ Robert L. Sander Robert L. Sander	By: /s/ Steven C. Quay Dr. Steven C. Quay
Its: Managing Member	Its: Chief Executive Officer

GUARANTY

The Undersigned personally guaranty the Payment of all rentals and the performance of all terms and covenants of this least by Lessee

/s/ Steven C. Quay	Guarantor's Address: 3619 E. Pine St.
Dr. Steven C. Quay	Seattle, WA 98122
DATED , 7-11	Guarantor's Phone: 206-419-4873

CORPORATE

STATE OF WASHINGTON)
COUNTY OF KING)ss.

On this 11 day of July , A.D. 20 11 before me personally appeared R.L. Sander to me known to be the Managing Member and ——————————— to me known to be the ———— of Sander Properties, LLC the corporation that executed the within and foregoing instrument, and acknowledged the same Instrument to be the free and voluntary at and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they were authorized to execute said Instrument.

IN WITNESS WEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

/s/ Brooke O' Malley
Brooke O' Malley
Printed Name
Notary Public in and for the Sate of Washington,
Residing at Seattle WA
My commission expires on June 21 2012

OFFICE LEASE

Sander Properties, LLC
4105 E. Madison St., Suite 300
Seattle, WA 98112

Phone: 206-323-8822
Fax: 206-328-7197

Monthly Rental $1400.00
Common Area Charges
Security Deposit $1000.00
Keys Out _________

THIS LEASE, dated this 20th day of September , 2011 between Sander Properties, LLC hereinafter called lessor, and Atossa Genetics Inc. (a Delaware Coporation) , hereinafter called Tenant.

1. Lessor leases to Tenant and tenant leases from Lessor, in accordance with the terms hereof, the Premises situated in the City of Seattle , County of King , State of Washington , described as follows:

A portion of Suite 200 including the waiting room, common areas and room D as shown on Exhibit A situated on the second floor of the building at 4105 E. Madison St.

Post Office Address: 4105 E. Madison St., Suite 200
Seattle, WA 98112

2. **BUSINESS PURPOSE**. The Premises shall be used by Tenant for the purposes of a corporate executive office and for no other purpose without prior written consent of Lessor.

3. **TERM.** The term of this lease shall be for 6 months, commencing on the 1st day of October, 2011 and ending on the 31st day of March, 2012.

4. **RENT.** Tenant agrees to pay to Lessor at the office designated by Lessor as rental for the Premises payable in advance on the first day of each calendar month of the lease term or any period prior or subsequent thereto while Tenant is in possession of the Premises the minimum monthly rent of:

$1400.00 (one thousand four hundred dollars) per month from October 1, 2011 through March 31, 2012

Rent for a partial month shall be prorated. Tenant shall pay a collection charge of $100.00 if monthly rent due on the first day of the month is not paid by the fifth day of the month and $50 for every check returned NSF or for any other reason. In addition, 1 -1/2º/o per month interest (not in excess of the highest rate allowed by law) is due for any delinquent rental not paid by the first day of the month. Said rental is exclusive of any sales, franchise, business and occupation or other tax based on rents and should such taxes apply during the life of this lease the rent shall be increased by such amount. Rent is also subject to escalation as called for in Clause 7, "Rent Adjustment Based on Operating Expenses."

5. **SECURITY DEPOSIT**. Receipt is acknowledged of the sum of $ 1000.00 (dollars), as security for the performance by Tenant of its obligations under this lease. Lessor may at any time apply such deposit against any money due Lessor for any loss or damage sustained by reason of any default by Tenant, including but not limited to the payment of rent and the cost of cleaning and repairing said Premises or any other reason. Lessor shall return any remaining part of the lease deposit without interest to Tenant. If any portion of the security deposit is used or applied by Lessor as provided herein, Tenant will upon demand immediately deposit additional money to restore security deposit to its original amount. No trust relationship is created between Lessor and Tenant with respect to the security deposit.

6. **PERCENTAGE OF OCCUPANCY**. For the purposes of this ease it is agreed that the Tenant occupies and uses (Premises) 3.4 % percent of the total rentable and Common Area of the properly in which the herein Premises are situated.

7. RENT ADJUSTMENT BASED ON OPERATING EXPENSES. It is agreed by Lessor and Tenant that the minimum monthly rental called for herein is subject to automatic increases on May 1st of each year of the term hereof. Such increase, if any, shall be based on changes in Lessor's cost of operating the entire building and Common Areas in which the Premises are located on a prorata basis. These operating costs shall include, but shall not be limited to the following: Real estate taxes; general and special assessments: amortization of the costs of complying with retrofit fire and life safety improvements as required by governmental regulation; utilities; elevator and air conditioning maintenance costs; management expenses and fees: janitorial service; building security; refuse and garbage and all other expenses constituting direct operating costs according to standard accounting practices, together with 8% of such increased costs for administrative overhead. Depreciation, interest, commissions, expenditures for capital items and similar expenses will not be included in operating costs. Any increase in rental shall be determined as follows:

(a) As of May 1st of each year of the lease or as soon thereafter as it can reasonably be determined, the operating costs of the building and Common Area for the preceding calendar year shall be computed. If the building in which the Premises are situated is new and has been occupied for less than 12 months but more than 6 months, the costs shall be based on a 12 month projection of the operating experience of such a shorter period.

(b) Operating costs for the following calendar year shall then be calculated by the operating costs referred to in (a) above, the amount of change that has occurred in the cost of each item of operating expenses between January 1st and December 31st of the preceding year. The net difference shall then be determined and *1/12*th of this difference times the percentage factor described in (c) below shall be the amount by which the monthly rental shall be changed.

(c) Any increase in rental shall be based on Tenant's proportionate share of the increase in operating expenses calculated as provided herein on the ratio determined herein which the area leased by Tenant bears to the total rentable and Common Areas in the property reasonably adjusted for changes in total occupancy. The percentage of occupancy may be reasonably adjusted by Lessor to reflect the different utilities and services provided individual Tenants.

(d) If the Premises are a part of a new building, real estate taxes shall not be included in the rental adjustment computation until the May 1st following the year in which the building is first taxed as a completed building.

(e) Such rental increase, if any, so determined shall be effective as of May 1st of each year of the term of this lease and continue at least until April 30th of the following year or until the termination of this lease, whichever occurs first. Tenant shall be notified in writing of such adjustment, and Lessor shall make available upon request the account information on which any change in rental is based.

(f) During the term of this lease, the cost of complying with any applicable governmental codes and regulations pertaining to fire and life safety will be included for the purpose of this clause only, as an operating expense by amortizing such costs together with reasonable interest on a schedule consistent with generally accepted accounting practices.

8. **REPAIRS AND MAINTENANCE**. By taking possession of the Premises, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair, damage thereto from causes beyond the reasonable control of Tenant and ordinary wear and tear excepted. All such work shall be in quality and kind equal to the original work, and shall be done only at such times and in such manner as approved in writing by Lessor. Lessor may repair, at the expense of Tenant, any damage to the Premises or to the building of which they are a part, or to its fixtures, grounds, facilities, appurtenances and equipment caused by Tenant or Tenant's guests, employees, agents or visitors. The cost of such repair shall be payable immediately as additional rent by Tenant. Tenant shall, upon expiration or sooner termination of this lease hereof, surrender the Premises to the Lessor in good condition, ordinary wear and tear and damage caused beyond the reasonable control of Tenant excepted. Except as specifically provided in an addendum, if any, to this Lease, Lessor shall have no obligation whatsoever to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, and the parties hereto affirm that Lessor and its agent have made no representation to Tenant respecting the conditions of the Premises or the building except as specifically set forth.

9. **UTILITIES AND FEES**. As long as Tenant shall not be in default of any of the provisions of this lease, Lessor shall, during ordinary hours of generally recognized business days, furnish a reasonable amount of electricity for normal lighting and low-power usage office equipment, heat, water, sewer, trash removal, normal elevator service and air conditioning when the building is so equipped, and janitorial service if janitorial service is provided to the premises. Lessor shall not be liable nor shall rental be abated for interruption or delay of any such service. As determined by Lessor, if Tenant uses more than a reasonable amount of such services and utilities, Tenant shall upon notification pay the excess cost thereof.

10. **BUILDING CONDITION CODES AND ZONING**. Tenant hereby accepts the Premises in their condition existing as of the date of the possession hereunder, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this lease subject thereto. Tenant acknowledges that neither Lessor nor tenant's agent has made any representation or warranty as to the suitability of the Premises for the conduct of tenant's businesses. Tenant has investigated all applicable building and zoning codes, regulations, ordinances and statutes to determine whether tenant's use of the Premises is permitted. Tenant accepts the Premises as-is", subject to all applicable laws governing tenant's use of the Premises.

11. **INSURANCE**. Tenant agrees to maintain at tenant's cost, in full force and effect commercial broad form public liability insurance for property damage and for bodily injury and death, including automobile liability coverage for owned and non-owned automobiles and hired automobiles for not less than $1,000,000 single limit insuring against any and all liability of Tenant arising out of and in connection with Tenant's use maintenance and occupancy of the Premises, and shall name Lessor and Lessor's agents and employees as an additional insured.

Tenant shall furnish Lessor, prior to occupancy of Premises and all areas appurtenant thereto, a certificate indicating the insurance policy is in full force and effect, and that Lessor and Lessor's agents and employees have been named as an additional insureds, and that the policy may not be cancelled or altered unless thirty (30) days prior written notice of the proposed cancellation has been given to Lessor.

In the event of the cancellation of said policy of insurance, Tenant shall, prior to the effective date of cancellation, replace the cancelled policy of insurance and provide Lessor with a certificate assuring that the replacement insurance is in full force and effect, all as provided in compliance with the terms and conditions set forth in this agreement.

Lessor will not carry insurance on Tenant’s property. All personal property on the Premises shall be at the risk of Tenant and Lessor shall not be obligated to repair any damage thereto or replace the same even if caused by the negligence of Lessor or Lessor’s agents or employees. TENANT SHOULD PURCHASE ITS OWN INSURANCE COVERING TENANT'S PERSONAL PROPERTY IN THE PREMISES.

12. **HOLD HARMLESS**. Tenant shall indemnify and hold harmless Lessor against and from any and all claims arising from Tenant’s use of the premises for the conduct of its business or from any activity, work, or other thing done, permitted or suffered by Tenant in or about the building, and shall further indemnify Lessor against and from any and all claims arising from any breach or default in the performance of any obligation on tenant’s part to be performed under the terms of this ease, or arising from any act or negligence of the Tenant, or officer, agent, employee, or invitee of tenant, and from all costs, attorney fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought against Lessor. Tenant upon notice from Lessor shall defend the same at tenant’s expense by counsel reasonably satisfactory to Lessor Tenant as a material part of the consideration to Lessor hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises, from any cause other than Lessor’s negligence and hereby waives any claims in respect thereof against the Lessor.

13. **COMPLIANCE WITH LAWS AND REGULATIONS**. Tenant shall, at Tenant’s expense, comply promptly with all present and future statutes, ordinances, rules, regulations, orders, requirements, including the American Disability Act (ADA), any health office, fire Marshall, building inspector, or other governmental officer Tenant will permit no waste, damage or injury to the Premises and will not use or permit in said Premises anything that will increase the rate of fire insurance, nor will tenant maintain therein anything that may be dangerous to life or limb; or overload floors; or permit any objectionable noise or odor; nor permit anything to be done in the Premises that will tend to create a nuisance or disturb any other tenant; nor use or permit the use of Premises for lodging or sleeping or any immoral or illegal purposes.

14. **ADDITIONAL TAXES**. Should there presently be in effect or should there be enacted during the term of this lease any law, statute or ordinance levying any tax (other than Federal or State income taxes) upon rents, Tenant shall pay to Lessor such tax as additional rent ten (10) days prior to the due date, or shall reimburse Lessor on demand for any such taxes paid by the Lessor.

15. **LIENS AND SOLVENCY**. Tenant shall keep the leased Premises and the property in which the leased Premises are situated, free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant and hold the Lessor harmless therefrom including all costs and attorney’s fees. Lessor may require at Lessor’s sole option that Tenant provide at Tenant’s cost and expense a material man’s labor and performance bond acceptable to Lessor in an amount equal to one and one-half (1-1/2) times the estimated cost of any improvements, additions or alterations to the Premises which Tenant desires to make to insure Lessor against any liability for mechanic’s and materialman’s liens and to ensure completion of the work. In the event Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Tenant, Lessor may cancel this lease at Lessor’s option and Tenant shall nevertheless be liable for any loss or damage caused by Tenant.

16. **ASSIGNMENT.** Tenant shall not assign this lease or any part thereof nor sublet the whole or any part of the Premises without the prior written consent of the Lessor. Such consent shall not be unreasonably withheld. (On subletting or assignment, any rent or other consideration paid to Tenant in excess of the rent provided for in this lease shall be paid by Tenant to Lessor.) This lease shall not be assignable by operation of law. If Tenant is a corporation, then any transfer of this lease by merger, consolidation, liquidation or any change in the managing ownership, or power to vote the majority of Tenant's outstanding stock shall constitute an assignment for the purpose of this paragraph. Any assignment or subletting of the lease shall not extinguish or diminish the liability of the Tenant under the terms of this agreement. In the event of any assignment or subletting consented to by Lessor, Tenant shall pay a minimum charge of 50% of one month's rent to Lessor as consideration for consenting to such assignment or subletting. Consent once given by the Lessor to the assignment or subletting shall not relieve Tenant from obtaining written consent to any new or future assignment or subletting as required herein.

Neither this lease nor any interest herein shall pass to any trustee in bankruptcy or to any receiver or assignee for the benefit of creditors by operation of law or otherwise. No collection or acceptance of rent by Lessor from any assignee or subtenant or other occupant of the Premises, either before or after a default by Tenant, shall be deemed a waiver of this provision or a release of Tenant from any obligation under this lease.

If Lessor shall assign its interest in this lease or transfer its interest in the Premises, Lessor shall be relieved of any obligation accruing hereunder after such assignment or transfer, and such transferee shall thereafter be deemed to be the Lessor hereunder,. Lessor shall transfer Tenant's security to such transferee, and tenant shall look solely to such transferee forthe return of said deposit.

17. **ACCESS.** Tenant will allow Lessor or Lessor's agent access at all reasonable times to said Premises for the purposes of inspections, cleaning, or making repairs, additions or alterations to the Premises or to any property owned or under the control of Lessor. The Lessor shall have the right to place and maintain "For Rent" signs in a conspicuous place on said Premises and to show Premises to prospective tenants for 60 days prior to the expiration of this lease.

18. **POSSESSION**. In the event the Lessor is unable to deliver possession of the Premises, or any portion thereof, at the time of the beginning of the term of this lease, neither Lessor nor Lessor's agents shall be liable for any damage caused thereby, nor shall this lease thereby become void or voidable, nor shall the term herein specified to be in any way extended, but in such event, Tenant shall not be liable for any rent until such time as Lessor can deliver possession. If the Tenant shall take possession of the Premises prior to the beginning date of this lease, Tenant and Lessor agree to be bound by all of the provisions and obligations hereunder during such prior period, including payment of rent at the rate stated herein.

19. **DAMAGE OR DESTRUCTION**. In the event the Premises are damaged to such extent as to render the same untenable in whole or in substantial part and Lessor elects to repair or rebuild, the work shall be done without unnecessary delay. Rent shall be abated while such work is in progress, in the same ratio that the portion of the Premises unfit for occupancy shall bear to the whole of the Premises. If after a reasonable time the Lessor fails to proceed to repair or rebuild, Tenant has the right to declare this lease terminated by written notice served upon the Lessor. In the event the building, in which the leased Premises are located, shall be destroyed or damaged to such extent that in the opinion of the lessor it shall not be practical to repair or rebuild, it shall be the Lessor's option to terminate this lease by written notice mailed to Tenant.

20. **SIGNS**. No sign, symbol, picture, advertising or notice shall be displayed, inscribed, painted or affixed to any of the glass, walls or woodwork or other part of the Premises or Common Area except those approved by the Lessor in writing and painted by a sign vendor approved by the Lessor and at cost of Tenant. All such signs shall be removed at Tenant's expense prior to termination of tenancy. No signs or devices shall be hung or placed against the windows of said Premises nor on the exterior wall of the building; and no furniture, curtain or other obstruction of any kind or size shall be placed against or in front of any glass partition dividing said Premises from the corridors of said building, or placed in any way so as to interfere with the typical and ordinary appearance or the Premises as viewed from the corridor without written consent of Lessor.

21. **ALTERATIONS**. Tenant shall not make any alterations, additions, or improvements to said Premises or Common Area without first obtaining the consent of Lessor in writing. All such alterations, additions and improvements shall be at the cost and expense of Tenant, and shall become the property of the Lessor and shall remain in and be surrendered with the Premises as a part thereof at the termination of this lease, without disturbance, molestation, or injury except for any improvements that Lessor may elect to request Tenant to remove. If the Tenant shall perform work with the consent of the Lessor, as aforesaid, Tenant agrees to comply with all laws, ordinances, rules and regulations of the appropriate city or county, and any other authorized public authority. Tenant further agrees to hold Lessor harmless from damage, loss or cost arising out of the said work. Tenant agrees that Lessor has the right to make alterations to the Premises, Common Area and to the building in which the Premises are situated and Lessor shall not be liable for any damage which Tenant might suffer by reason of such undertaking. Lessor shall have the right at any time and from time to time to post and maintain on the Premises and Common Area such notices as Lessor reasonably deems necessary to protect the Premises and Lessor from mechanics liens, materialmens liens or other liens. Tenant at no time shall paint any doors, interior or exterior.

22. OWNERSHIP OF IMPROVEMENTS AND FIXTURES. All improvements, alterations and additions including without limitation lighting fixtures installed in the Premises and which in any manner are attached to the floors, walls or ceilings, and any linoleum and carpeting or other floor material which may be cemented or otherwise adhesively affixed to the floor of Premises, shall remain and be surrendered with the Premises as a part thereof upon the termination of this lease.

23. DEFAULT AND RE-ENTRY. If any rents reserved, or other obligations provided herein, or any part thereof, shall be and remain unpaid when the same shall become due, or if Tenant shall violate or default in any of the covenants and agreements herein contained, then the Lessor may cancel this lease upon giving the notice required bylaw, and re-enter said Premises, using such force as may be required. Notwithstanding such re-entry by the lessor, the liability of the Tenant for the rent provided for herein shall not be extinguished for the balance of the term of this lease, and Tenant covenants and agrees to make good to the Lessor any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. Lessor shall have the right to declare the entire balance of the rent for the remainder of the term of this lease to be due and payable immediately, and upon demand Tenant shall pay to Landlord the net present value of such rent (using a discount rate that is one percentage point above the discount rate then in effect at the Federal Reserve Bank nearest to the Premises) or otherwise calculated by Landlord in any manner not inconsistent with applicable law. Accelerated payments payable under this lease shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of rent in advance. In the event it becomes reasonably necessary to make any changes, alterations or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Tenant shall be responsible for such cost.

24. **NON-WAIVER**. The failure of the Lessor to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances! shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

25. DISPUTE RESOLUTION, COSTS, AND ATTORNEYS' FEES. In the event of a dispute or controversy relating to this lease, the parties agree to attempt to resolve such dispute or controversy informally. If, after thirty (30) days of good faith negotiations between the parties, the parties cannot resolve their dispute or controversy, they agree to submit such dispute or controversy to arbitration for resolution, which arbitration shall be conducted in Seattle, Washington, before one arbitrator, in accordance with the rules of the American Arbitration Association ("AAA"), but not subject to administration before the AAA unless both parties agree. If the parties cannot agree on an arbitrator, then each party shall select an arbitrator, and the two arbitrators together shall select a third arbitrator to resolve the matter. The decision of the arbitrator shall be binding on the parties and judgment upon the award or arbitration rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall limit its judgment to the matters permitted to be submitted to it, and shall decide any such matter strictly in accordance with the terms and conditions of this lease.

Notwithstanding the above paragraph, each party shall be entitled to all remedies available at law or equity, specifically including, without limitation, the right to seek an injunction or similar equitable relief, without bond or with a nominal bond if allowed by law. The prevailing party in any arbitration or legal proceeding, including any appeal or action for equitable relief, shall be entitled to reimbursement from the other party of its reasonable costs and expenses, including attorneys' fees. Notwithstanding the foregoing, in no event shall this section affect or delay Landlord's unlawful detainer rights under Washington law and Landlord shall not be required to submit to arbitration before seeking possession of the Premises under applicable legal principles.

26. **REMOVAL OF PROPERTY**. In the event of any re-entry or taking possession of the leased Premises for default, the Lessor shall have the right, but not the obligation, to remove from the leased Premises all personal property located therein, and may store the same in any place selected by Lessor, including, but not limited to a public warehouse, at the expense and risk of the owners thereof. Lessor shall have the right to sell such stored property, without notice to Tenant, after it has been stored for a period of 30 days or more. The proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges forthe storage, if any! and third to the payment of any sums of money which may then be due from Tenant to Lessor under any of the terms hereof, the balance if any without interest to be paid to Tenant.

Tenant hereby waives all claims for damages that may be caused by Lessor's re-entering and taking possession of the Premises or removing and storing and selling the property of Tenant as provided in this lease, and will hold Lessor harmless from loss, costs or damages occasioned Lessor thereby. No such re-entry shall be considered or construed to be a forcible entry.

27. **TERMINATION FOR GOVERNMENT USE**. In the event that any federal, state or local government or agency or instrumentality thereof shall by condemnation, or threat of condemnation or otherwise, take title, possession or exercise the right to possession of the Premises, or any part thereof, Lessor may at its option terminate this lease as of the date of such taking. Provided the tenant is not in default under any of the provisions of this lease on said date, any rent prepaid by Tenant shall, to the extent allowable for any period subsequent to the effective date of the termination, be refunded to Tenant. All awards for such taking shall be the property of the Lessor.

28. **HOLDOVER**. If the Tenant shall, with the written consent of Lessor, holdover after the expiration of this lease, such tenancy shall be for an indefinite period of time on a month-to-month tenancy, which tenancy may be terminated as provided by law. During such tenancy, Tenant agrees to pay the Lessor, a rental amount equal to 125% of rent paid during the final term of the lease, unless a different rent is agreed upon, and to be bound by all of the applicable terms and conditions of this lease.

29. **SUBORDINATION**. This lease is subordinate to all present and future mortgages, deeds of trust and other encumbrances affecting the leased Premises or the property of which said Premises are a part! Tenant agrees to execute, at no expenses to Lessor, any instrument which may be deemed necessary or desirable by the Lessor to further effect the subordination of this lease to any mortgage, deed of trust or encumbrance Tenant irrevocably appoints and constitutes the Lessor as the true and lawful attorney in fact for Tenant at any time in Tenant’s name, place and stead, to execute proper subordination agreements for this purpose.

30. **MUTUAL RELEASE AND WAIVER**. To the extent a loss is covered by insurance in force, the Lessor and Tenant hereby mutually release each other from liability and waive all right of recovery against each otherfor any loss from perils insured against under their respective fire or other insurance policies, including any extended coverage endorsements or all risk endorsements thereto; provided that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of the Lessor or the Tenant.

31. **HEIRS AND SUCCESSORS.** Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this lease shall be binding upon the heirs, legal representatives, successors and assigns of any or all of the parties hereto.

32. **NOTICES**. All notices to be given by the parties hereto shall be in writing and may either be served personally or may be deposited in the United States Mail, postage prepaid, by either certified mail or regular mail, and if to Lessor, to be addressed to the Lessor, or Lessors agent, or, if to Tenant, may be addressed to Tenant at the leased Premises.

33. **HAZARDOUS SUBSTANCES.** Tenant shall not, without Lessor’s prior written consent, keep or allow on or about the Premises or Common Areas, or allow any substances designated by law or regulation as hazardous, dangerous, toxic or harmful (collectively referred to as Hazardous Substances), and which are subject to regulation by federal, state, or local laws or regulations.

With respect to such Hazardous Substances Tenant shall comply promptly and completely with all governmental rules, requirements and regulations, and Lessor or Lessor’s agent may come on the Premises to check Tenant’s compliance with all governmental rules, requirements and regulations.

All costs and attorneys fees incurred by Lessor in connection with Lessor’s inspection of the Premises shall be due and payable to Lessor upon demand.

Should Tenant fail to comply with this paragraph 33, Lessor shall have all of the rights and remedies set forth in this lease and tenant shall; (a) be liable to Lessor for all clean-up costs, and all losses or damages suffered by Lessor, together with any and all fees, penalties (civil and criminal) imposed by any governmental authority because of Hazardous Substances in or about the Premises or Common Areas: (b) indemnify, defend and save Lessor harmless from any and afi costs, fees. penalties and charges assessed or imposed upon Lessor (as well as lessor’s attorney’s fees and costs) as the result of Tenant allowing or permitting Hazardous Substances in or about the Premises or Common Areas.

Tenant acknowledges that the Premises may contain asbestos or other hazardous materials, and Tenant accepts the Premises, notwithstanding such materials. If Lessor is required by any statute, regulation, order, decree, judgment or other law to take any action to remove or abate the hazardous materials, or if Lessor deems it necessary to conduct special maintenance or testing procedures with regard to the hazardous materials, Lessor may take such action or conduct such procedures at times in a manner that Lessor deems appropriate under the circumstances, and Tenant shall permit the same. Tenant shall have no liability for hazardous substances on the Premises predating this ease.

34. TIME IS OF THE ESSENCE OF THIS LEASE.

35. CORPORATE AUTHORITY. If Tenant is a corporation, each individual executing this lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute this lease on behalf of said corporation, and that this lease is binding upon said corporation.

36. **RULES AND REGULATIONS**. Tenant agrees to abide and be bound by the rules, regulations and policies of Lessor, which shall be considered as covenants of this lease.

(a) **Light and Air**. This lease does not grant or purport to grant any rights or access to outside light or air and this lease does not warrant or protect against interferences with light, air or view from the Premises.

(b) **Admittance by Lessor.** The Lessor shall not be liable for the consequences of admitting or refusing to admit to said Premises, the Tenant or any of the Tenant's agents or employees. No additional lock shall be put on any door without the written consent of Lessor.

(c) **Electrical Installations**. Tenant shall not operate or install any electrical equipment or machinery (other than ordinary office equipment) without the written consent of Lessor, nor replace or move any electric light fixtures without the written consent of Lessor. Tenant may, with the consent of Lessor, replace building light fixtures with fixtures of Tenant's own choice provided that such installation will not increase Tenant's Consumption of electricity, and the cost of such fixtures and installation shall be at Tenant's expense. Tenant shall at the expiration or sooner termination of the lease, upon demand of Lessor, pay the cost of replacing and installing the light fixtures belonging to Lessor.

(d) **Awnings**. No awnings shall be attached to the outside of any windows or doors of the building of which the Premises are a part without Lessor's written consent.

(e) **Windows**. The Tenant shall not allow anything to be placed on the outside window ledge nor shall place or attach anything to the inside and/or outside of windows of said Premises without written consent of Lessor, and nothing shall be hung or thrown by the Tenant or others out of the windows of said building.

(f) **Floor Coverings**. The Tenant or other person shall not lay any resilient floor covering, carpeting or other covering with any materials that cannot be easily removed with water. The use of cement or similar adhesive material is prohibited. The tacking or fastening of any flooring material to the baseboard or baseboard molding is prohibited. Tacking strips installed by Tenant with Lessor's consent, shall at the option of Lessor, be removed by Tenant and the floor repaired at the expiration of the lease, at Tenant's expense.

(g) **Furniture and Bulky Articles**. Safes and bulky furniture or articles shall only be moved in or out of said Premises at such hours and in such manner as shall least inconvenience other Tenants, as determined by Lessor. Safes or other articles of over 1,000 pounds shall be moved into said Premises only with the written consent of the Lessor, and Lessor shall have the right to fix the location of any article of such weight in said Premises.

(h) **Miscellaneous.**

(1) Tenant shall use great care not to leave windows open when it rains, snows, or during windstorms. Damage resulting to Lessor or to other Tenants from failure to observe this precaution shall be chargeable to the Tenant in whose Premises the neglect occurred. If space is air conditioned, windows shall be kept closed while in operation.

(2) Water closets and other water fixtures shall not be used for any purposes other than those for which they are intended and any damage resulting form misuse on the part of the Tenant, its agents or employees shall be paid for by Tenant. No person shall waste water by interfering or tampering with faucets or otherwise. Leaking faucets or valves shall be immediately fixed or reported to the Lessor.

(3) Lessor reserves the right to close and keep locked all entrance and exit doors of the building during such hours as Lessor may deem to be advisable for adequate protection or security.

(4) Tenant shall not permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Lessor or other Tenants of the building by reason of noise, odors and/or vibrations or interfere in any way with other Tenants or those having business therein, nor shall any animals or birds be brought in or kept on or about the Premises.

(5) Lessor reserves the right to make other and further regulations that may be reasonably necessary or desirable for the security, safety, care and cleanliness of the Premises and Common Areas and the building and the preservation of good order therein.

37. **RIDERS**. The riders, #l____________________ attached hereto, are made a part of this lease.

Rider #1: Tenant acknowledges they are sharing Suite 200 with an adjacent therapist office and will be a respectful and quiet neighbor as not to disrupt therapy sessions.

IN WITNESS WHEREOF, the Lessor and Tenant have executed this lease the day and year first above written.

Sander Properties, LLC	Atossa Genetics Inc. (a Delaware Corporation)
By: /s/ R.L. Sander Robert L. Sander	By: /s/ Steven C. Quay Dr. Steven C. Quay
Its: Managing Member	Its: Chief Executive Officer

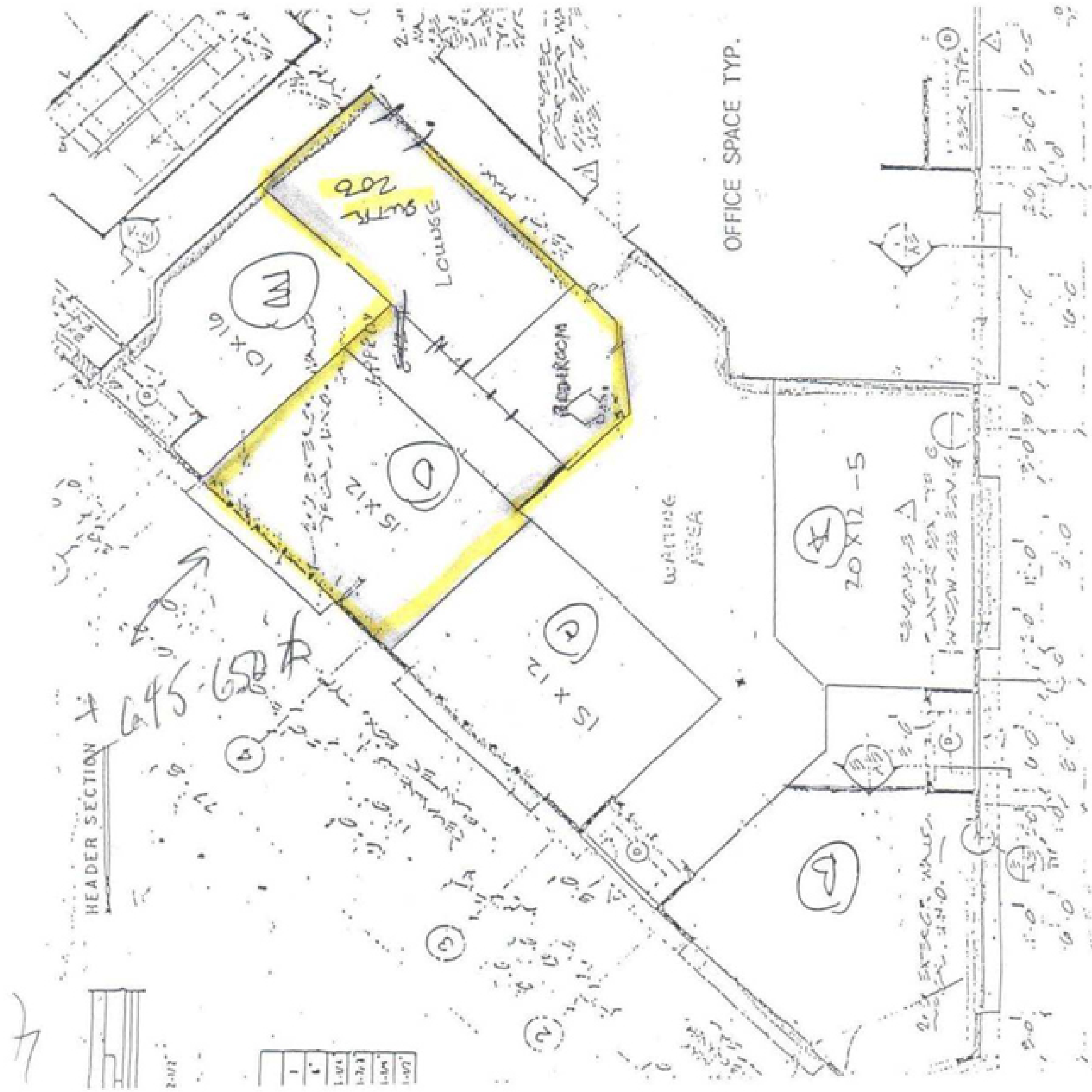
GUARANTY

The Undersigned personally guaranty the Payment of all rentals and the performance of all terms and covenants of this lease by Lessee.

/s/ Steven C. Quay	Guarantor's Address: 3619 E. Pine St. .
Dr. Steven C. Quay Guarantor	Seattle, WA 98122 .
DATED, 09.27 2011.	Guarantor's Phone: 206-419-4873

LEGAL DESCRIPTION EXHIBIT A

That Portion of Block 14 of the replat of John J. McGilvra's 3rd Addition to the City of Seattle as recorded in Volumn 6, page 34 Records of King County. Beginning on the North line of E. Blaine Street at a point which is 75.27'·westerly from the West line of 42nd Ave. E. thence Northerly parallel with said 42nd Ave..N. 30', thence westerly parallel with said E. Blaine St. 12.595 feet, thence N. 45 degrees 05' 17" West 46.135 feet to the East line of E. Madison St., thence southwest along said E. Madison St. 87.42' to the N. Line of said E. Blaine St. thence Easterly along said E. Blaine St. 106.7' to the point of beginning



SUBLEASE
For
1616 Eastlake Avenue East

This Sublease is made as of December 9, 2011, by and between FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation ("**FHCRC**") and ATOSSA GENETICS INC., a Delaware corporation ("**Atossa**").

Recitals

A. FHCRC is the tenant under a Lease Agreement dated as of January 16, 2004, as amended by First Amendment to Lease Agreement dated as of March 31, 2004, Second Amendment to Lease dated as of December 23, 2005, Third Amendment to Lease dated September 27, 2006, and Fourth Amendment to Lease dated November 13, 2007 (collectively, the **"Master Lease")** between FHCRC as tenant and ARE-Eastlake Avenue No. 3, LLC Annex **("Master Landlord")** as landlord, covering space in the building located at 1616 Eastlake Avenue East, Seattle, Washington (the **"Building"** or **"Project").** A copy of the Master Lease is attached hereto as Exhibit A and incorporated by reference. Unless the context indicates otherwise, capitalized terms not defined herein will have the meanings set forth in the Master Lease.

B. The Building is a five-story building consisting of 165,493 rental square feet ("**RSF**") of space (which includes 8,471 RSF of retail space on the 1st floor) and is equipped with a mechanical system that accommodates both research and development laboratory space or standard Class-A office space, standard plumbing and supplemental provisions for industrial labs, and fire protection systems, as well as standby power for emergency purposes. FHCRC currently occupies space in the Building that includes office space on the 4th and 5th floors, and mixed office and laboratory space on the 2nd and 3rd floors (collectively, "**FHCRC's Premises**").

C. Atossa desires to sublease from FHCRC office and laboratory space in the Building and FHCRC is willing to sublease such space to Atossa on the terms and conditions of this Sublease.

Agreement

Therefore, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, FHCRC and Atossa agree as follows:

1. **Subleased Premises.** Upon the terms and conditions of this Sublease, FHCRC hereby subleases to Atossa and Atossa hereby subleases from FHCRC the Temporary Premises and the Permanent Premises, as described below (collectively, the **"Subleased Premises").**

a. **Temporary Premises.** The **"Temporary Premises"** will consist of (i) 5,474 RSF of laboratory and support space on the 2nd floor of the Building, as shown on the floor plan attached as Exhibit B **("Temporary Lab Space"),** and (ii) 868 RSF of office space on the 4th floor of the Building, consisting of Rooms 4409, 4411, 4413, 4415, 4417 and 4419, together with access to and shared use of the kitchen/lunch room on the 4th floor of the Building, as shown on the floor plan attached Exhibit C, and a right of access to and over the hallway from the Subleased Premises to the Building elevator lobby **("Temporary Office Space").**

b. Permanent Premises. Upon delivery, the **"Permanent Premises"** will consist of (i) 6,130 RSF of laboratory and support space on the 3rd floor of the Building (also sometimes referred to as "Suite 360"), as shown on the floor plan attached as Exhibit D **("Permanent Lab Space"),** and (ii) 1,374 RSF of office space on the 5th floor of the Building, consisting of Rooms 5050, 5052, and 5054, and the spaces designated as 5051, 5439, 5441 and 5905, as shown on the floor plan attached as Exhibit E, together with a right of access to and over the hallway from the Subleased Premises to the Building elevator lobby **("Permanent Office Space").** Atossa acknowledges that the Permanent Premises will not include any access to or use of any kitchen/lunch area or conference space of FHCRC.

c. Positive Pressure Rooms. The Temporary Lab Space and the Permanent Lab Space each will include a **"positive pressure room,"** which will be achieved by adjusting the air flow to the room so that the supply air flow is at least 100 cubic feet per minute greater than the exhaust air flow.

d. Shared Lab Area. The Subleased Premises will include the right to use the Shared Lab Area on the 3rd floor of the Building (which includes glasswash and other laboratory support equipment), subject to obtaining Master Landlord's consent to such use, and execution by Atossa of a license agreement in form and substance satisfactory to Master Landlord. While Atossa is occupying the Temporary Lab Space, Atossa's right to use the Shared Lab Area will be in common with FHCRC (together with any third parties granted similar use rights by Master Landlord), and Atossa will pay to FHCRC $815.00 per month as Additional Rent (representing approximately one-half of the average rent and operating expenses that FHCRC will pay for the Shared Lab Area during the period that Atossa occupies the Temporary Lab Space). Upon taking Atossa possession of the Permanent Lab Space, (i) Atossa will assume all of FHCRC's rights and obligations with respect to the Shared Lab Area, including payment of base rent therefor to Master Landlord, (ii) Atossa's obligation to pay Additional Rent to FHCRC with respect to the Shared Lab Space will terminate, and (iii) as between Atossa and FHCRC, FHCRC will not have any further liability with respect to the Shared Lab Area. Atossa will indemnify, defend and hold harmless FHCRC from and against all claims and liabilities of any kind whatsoever that may arise out of or relate to Atossa's use of the Shared Lab Area, and FHCRC will indemnify, defend and hold harmless Atossa from and against all claims and liabilities of any kind whatsoever that may arise out of or relate to FHCRC's use of the Shared Lab Area.

2. Term. The term of this Sublease will commence upon delivery of the Temporary Office Space to Atossa, as provided in Section 3.a below **("Commencement Date"),** and will continue through November 29, 2014, unless earlier terminated as provided herein or in the Master Lease ("**Term**"). Notwithstanding the foregoing, if the Master Lease is terminated, this Sublease will terminate simultaneously therewith. Upon termination of this Sublease, all of Atossa's and FHCRC's respective rights and obligations hereunder will terminate other than those rights and obligations that expressly survive such termination pursuant to this Sublease or pursuant to the Master Lease. Atossa will not have any right to extend the Term of this Sublease nor to hold over in the Subleased Premises after expiration of the Term.

3. **Possession.** FHCRC will deliver possession of the Subleased Premises to Atossa as follows:

a. **Temporary Office Space.** FHCRC will deliver possession of the Temporary Office Space to Atossa upon execution of this Sublease, subject to receipt of Master Landlord's consent as provided in Section 29 below;

b. **Temporary Lab Space.** FHCRC will deliver possession of the Temporary Lab Space to Atossa on or before February 24, 2012; and

c. **Permanent Premises.** FHCRC will deliver possession of the Permanent Premises to Atossa as soon as possible after the respective spaces have been vacated and prepared for delivery to Atossa.

(i) FHCRC will deliver the Permanent Office Space to Atossa on or before September 30, 2012. Atossa acknowledges that, pursuant to the Master Lease, FHCRC must vacate the 4th floor of the Building by September 30, 2012, and that Atossa therefore must vacate the Temporary Office Space and return it to FHCRC in accordance with Section 30 below by no later than September 30, 2012.

(ii) FHCRC anticipates, but cannot guarantee, that the Permanent Lab Space will be delivered to Atossa on or about October 4, 2012. However, Atossa may remain in possession of the Temporary Lab Space for a reasonable period of time (not to exceed thirty days) after delivery of the Permanent Lab Space, in order to complete an orderly transition from the Temporary Lab Space into the Permanent Lab Space. If Atossa remains in possession of the Temporary Lab Space after delivery of the Permanent Lab Space, the first two weeks of such possession shall be rent free, but after the first two weeks, Atossa will be required to pay Base Rent and Additional Rent for the Temporary Lab Space (at the rental rates then in effect) in addition to the Additional Rent that will be due for the Permanent Lab Space.

d. **Coordination.** The parties agree to cooperate and coordinate with each other with respect to Atossa's moves from the Temporary Premises to the Permanent Premises, and FHCRC will give Atossa at least sixty (60) days written notice of the dates on which the Permanent Lab Space and the Permanent Office Space will be available for delivery to Atossa (each a **"Delivery Date").** To the extent possible, FHCRC will provide Atossa with access to the Permanent Premises prior to the respective Delivery Dates.

4. **Rent.**

a. **Payment.** Atossa will pay to FHCRC 1/12th of the following annual Base Rent and Additional Rent monthly in advance on the first (1st) day of each and every calendar month during the Term ("**Rent**"); provided that the monthly Rent for the first month of the Term for the Temporary Office Space will be paid to FHCRC upon execution of this Sublease, and Rent for any partial month will be prorated based upon the actual number of says in the month. All Rent and other amounts due under this Sublease will be paid by Atossa by wire transfer or direct deposit to such bank account, or otherwise, as directed by FHCRC from time to time, in advance without notice, set-off or deduction except as provided herein, in lawful money of the United States. Rent will commence for each space (Temporary Office Space, Temporary Lab Space, Permanent Lab Space and Permanent Office Space, respectively), upon delivery of such space to Atossa, and will cease with respect to each space as of the date such space is vacated by Atossa and returned to FHCRC as provided herein.

b. **Base Rent.** Atossa will pay annual **"Base Rent"** in advance to FHCRC in accordance with the following schedule:

Schedule of Annual Base Rent
(per RSF)

Period	Office Space Gross		Lab Space NNN (Temporary or Permanent)	
Commencement Date through August 31, 2012	$	28.00	$	31.50
September 1, 2012 through August 31, 2013	$	29.00	$	32.50
September 1, 2013 through November 29, 2014	$	30.00	$	33.50

c. **Abatement of Base Rent.** Notwithstanding the foregoing, Base Rent for the Permanent Lab Space will be abated for the first six and one-quarter months after the Permanent Lab Space has been delivered to Atossa. For example, if the Delivery Date for the Permanent Lab Space is October 1, 2012, no Base Rent will be payable for October 2012 through March 2013, and Base Rent for April 2013 in the amount of $12,451.56 (75% of the Base Rent otherwise due for the Permanent Lab Space) will be paid on April 1, 2013.

d. **Additional Rent.** In addition to the Base Rent payable under Section 4.b above, Atossa will pay to FHCRC as **"Additional Rent"** at the same time that Atossa pays Base Rent Atossa's proportionate share (based on the rentable area of the space divided by the rentable area of FHCRC's Premises) of the Operating Expenses and pass-through costs that FHCRC is required to pay under the Master Lease for laboratory space **("Operating Costs"),** which will be adjusted effective as of January 1 of each year. Notwithstanding abatement of Base Rent pursuant to Section 4.c above, Operating Costs will be payable for the Temporary Lab Space and the Permanent Lab Space commencing on the Delivery Dates for such spaces. Atossa will not be required to pay Operating Costs for the Temporary Office Space or the Permanent Office Space.

e. Adjustment Statements and Review. Within five (5) business days following FHCRC's receipt of the Annual Statement from Master Landlord, FHCRC will provide a copy of such Annual Statement to Atossa. However, Atossa acknowledges that the most current Annual Statement received from Master Landlord pursuant to Section 5(c) of the Master Lease does not break out Operating Expenses separately for office space and laboratory space. Atossa further acknowledges that the operating costs for laboratory space are greater than the operating costs for office space, that the proportionate amount of laboratory space included in the Subleased Premises is significantly higher than the proportionate amount of laboratory space included in FHCRC's Premises, and that allocating Operating Expenses based upon the ratio of the Subleased Premises to FHCRC's Premises is not equitable. Therefore, any reconciliation of estimated to actual costs will be difficult if not impossible unless Master Landlord provides that information to FHCRC. Accordingly, unless and until such information is provided by Master Landlord, the parties agree that for purposes of this Sublease the amounts payable by Atossa as Operating Costs will be adjusted each year by the overall percentage increase in Operating Expenses shown on the Annual Statements from Master Landlord. Notwithstanding the foregoing, Atossa may, in its sole discretion and within a reasonable time, provide FHCRC comments upon the Annual Statement which FHCRC will in good faith consider in deciding whether to contest any item in the Annual Statement as provided in Section 5(d) of the Master Lease. Atossa will pay FHCRC such additional amounts and FHCRC will refund such overpayments, as the case may be in any year, within thirty (30) days after Atossa's receipt of the Annual Statement, unless FHCRC contests the Annual Statement, in which event, such payments will be due within thirty (30) days of FHCRC's notice to Atossa that the contest has been resolved and the consequent adjustment determined thereby.

5. Taxes. Atossa acknowledges that FHCRC is exempt from payment of real and personal property taxes with respect to FHCRC's Premises because FHCRC's Premises are being used by FHCRC for medical research (exempt under RCW 84.36.045) and/or for a nonprofit cancer clinic or center (exempt under RCW 84.36.046), but that Atossa's use of the Subleased Premises does not qualify for such exemptions. Accordingly, Atossa hereby agrees that it will pay all Taxes (as defined in the Master Lease) that become due with respect to the Subleased Premises during the Term, including Atossa's Share of real property taxes assessed against the Project. For purposes of this Section, **"Atossa's Share"** will be a percentage equal to the rentable area of the Subleased Premises divided by the rentable area of the Project.

6. Security Deposit. Atossa will deposit with FHCRC upon execution hereof a sum equal to two months' Base Rent and Operating Costs, as security for Atossa's faithful performance of Atossa's obligations under this Lease **("Security Deposit").** Provided no defaults exist, the Security Deposit will be applied to Rent for the 13th month of the Term, or the first month thereafter that Rent is payable. If, at the expiration of this Lease, Atossa has complied with all of the terms and conditions of this Lease, but not otherwise, any Security Deposit (together with accrued interest) may be credited upon the payment of the Rent last due under this Sublease or, at FHCRC's option, refunded to Atossa. If Atossa fails to pay Rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Sublease, FHCRC may use, apply or retain all or any portion of the Security Deposit for the payment of any Rent or other charge in default or for the payment of any other sum to which FHCRC may become obligated by reason of Atossa's default, or to compensate FHCRC for any loss or damage which FHCRC may suffer thereby. No trust relationship is created between FHCRC and Atossa with respect to the Security Deposit.

7. Use. Atossa shall use and occupy the Subleased Premises exclusively for laboratory and related office uses, and for no other purpose without the prior written consent of FHCRC, which may be withheld in FHCRC's sole discretion. Atossa agrees not to use or permit the use of the Subleased Premises in any manner that would (i) violate any Federal, state and local laws and regulations, or (ii) adversely affect any license or accreditation of FHCRC's facilities.

8. Furnishings, Fixtures and Equipment.

a. Temporary Premises. Atossa may use the furnishings, fixtures and equipment ("**FF&E**") of FHCRC (including telephone and data wiring) that are located in the Temporary Premises upon delivery of the spaces to Atossa. The parties will jointly prepare a list of the FF&E located in the Temporary Premises, which list will be attached hereto as Exhibit F. Such FF&E will remain the property of FHCRC and will not be removed from the Subleased Premises.

b. Permanent Premises. Atossa may use the FF&E of FHCRC (including telephone and data wiring) that are located in the Permanent Premises upon delivery of the spaces to Atossa. The parties will jointly prepare a list of the FF&E located in the Permanent Premises, which list will be attached hereto as Exhibit G. Such FF&E will remain the property of FHCRC, and will not be removed from the Subleased Premises; provided that Atossa will have the option to purchase the cubicle fixtures and furniture located in the Permanent Office Space for a price of $500 per cubicle. Atossa acknowledges that the spaces designated as 5051, 5439, 5441 and 5905 on attached Exhibit E will not be furnished and that Atossa will need to provide its own FF&E for those spaces (including but not limited to cubicle fixtures and furniture).

c. Data Closet. As of the Commencement Date, telephone and data wiring will be run to, and related equipment will be located in, a data and communications closet located in FHCRC's Premises **("Data Closet").** If access to the Data Closet or support by FHCRC's staff is required for Atossa's use or installation of any telephone or data wiring or related equipment in the Subleased Premises or the Data Closet, such access must be coordinated in advance with FHCRC, and Atossa will be responsible for any costs incurred by FHCRC in connection therewith. Atossa acknowledges that upon delivery of the Permanent Premises, the Data Closet may no longer be located in or a part of FHCRC's Premises, in which case the parties agree to cooperate with each other and with Master Landlord to devise appropriate protocols and procedures for access to and use of the Data Closet. In no event will Atossa or FHCRC do or cause any action or install any telephone or data wiring or equipment in the Data Closet that may interfere with telephone or data wiring or equipment of the other or any third party.

d. FF&E of FHCRC. Atossa will be responsible for the maintenance, repair and replacement (in the case of damage or destruction) of all FF&E of FHCRC in the Subleased Premises, and will return such FF&E to FHCRC upon Atossa's vacation of the Subleased Premises in the same condition as existed at the Delivery Date, reasonable wear and tear excepted.

e. FF&E of Atossa. Atossa may install its own FF&E in the Subleased Premises, as provided in this Sublease and the Master Lease, which FF&E will be identified as Atossa property with a label attached thereto and will remain Atossa property upon vacation of the Subleased Premises or the Permanent Premises (as the case may be) and at the end of the Term. If installation of any FF&E by Atossa requires the removal of any FF&E of FHCRC, Atossa will be responsible for all costs associated with the removal, and reinstallation at the end of the Term, of such FF&E of FHCRC.

9. **Parking.** Subject to obtaining Master Landlord's consent, FHCRC will assign to Atossa FHCRC's rights to twelve (12) of the parking spaces allocated to FHCRC pursuant to Section 10 of the Master Lease. After such assignment, Atossa will pay Master Landlord for the parking spaces, and FHCRC will not have any further liability therefor. Atossa acknowledges that the parking spaces will be in those areas designated for non-reserved parking for office and laboratory tenants of the Project (but not retail tenants or their customers or visitors of the Project), subject in each case to the terms of the Master Lease and Master Landlord's rules and regulations. Neither Master Landlord nor FHCRC will be responsible for enforcing Atossa's parking rights against any third parties, including other tenants of the Project. Atossa agrees to cooperate with Master Landlord and FHCRC in complying with the transportation plan approved by the City of Seattle.

10. **Confidentiality.**

a. **Confidential Information.** Atossa acknowledges that in its use and occupancy of the Subleased Premises, including but not limited to Atossa's right of shared use of the kitchen/lunch room on the 4th floor of the Building as part of the Temporary Premises, its right to use the Shared Lab Area, and its right of access to and over the hallway from the Subleased Premises to the Building elevator lobby, Atossa or its officers, directors, employees, agents, contractors or invitees **("Atossa Party")** may become aware of Confidential Information (defined below) of FHCRC. Atossa agrees to use reasonable care to prevent improper disclosure of Confidential Information and to ensure that Confidential Information is treated in the manner required by this Section.

b. **Definition.** For the purposes of this Section, the term **"Confidential Information"** will mean any and all information, knowledge, trade secrets, technology, designs, research, processes, techniques, concepts, or other proprietary information in any way relating to the research, business and other activities of FHCRC, including without limitation any proprietary information of FHCRC that is (i) designated by FHCRC as confidential, or (ii) acquired by observation or otherwise which the acquirer has reason to believe is treated as confidential.

c. **Restrictions on Use and Disclosure.** Without the approval of FHCRC, neither Atossa nor any Atossa Party will use, exploit, disseminate, disclose, communicate, divulge, deliver, release or permit the release of any Confidential Information of FHCRC directly or indirectly in any form whatsoever to any person or entity.

d. **Disclosure Required by Law.** If Atossa is required by law to disclose any Confidential Information including, without limitation, by discovery, subpoena or other legal or administrative process, Atossa agrees to provide FHCRC prompt notice of the required disclosure to permit FHCRC, at its option and expense, to seek an appropriate protective order or waive the requirements of this Section. If no protective order or waiver is obtained, such disclosure may be made but only to the extent legally required. Atossa will not oppose any action by FHCRC to obtain an appropriate protective order or other assurance that Confidential Information which must be disclosed will be accorded confidential treatment.

e. **Exclusions.** "Confidential Information" does not include any such information which (i) has become part of the public domain other than through misappropriation or breach of any obligation of confidentiality by an Atossa Party, (ii) is obtained by an Atossa Party from a third person who had a lawful and independent right to such information, or (iii) was lawfully in the possession of an Atossa Party prior to entering into this Agreement. Atossa will, at all times, protect and maintain all Confidential Information in the strictest confidence, and will take all necessary precautions, and utilize the highest degree of care to preserve such confidentiality and avoid all unauthorized use or disclosure.

f. Survival. The provisions of this Section will become effective as of the execution of this Sublease and will survive any termination or expiration of this Sublease.

11. Right of First Opportunity. In the event that, during the Term of this Sublease, FHCRC wishes to sublet all or a portion of FHCRC's Premises on the 2nd floor of the Building, Atossa will have a right of first opportunity **("Right of First Opportunity")** to sublease all but not part of such space, subject to the terms and conditions of this Sublease and the Master Lease. Atossa will have seven (7) business days after receipt of FHCRC's notice in which to exercise the Right of First Opportunity by notice to FHCRC. Upon exercise of the Right of First Opportunity, the space will be subleased to Atossa for the remaining Term of this Sublease on the same terms and conditions as set forth in this Sublease. If Atossa fails to exercise its Right of First Opportunity as provided above, Atossa's Right of First Opportunity will terminate, and FHCRC will have the right to sublease such space to a third party.

12. Signage. Subject to the requirements of Section 38 of the Master Lease (including but not limited to obtaining Master Landlord's consent), FHCRC will, at its expense, provide signage, identifying Atossa as a tenant in the Building, in the directory tablets in the First Floor lobby of the Building and in the elevator lobby on the Third Floor. The First Floor lobby signage will be provided as soon as reasonably practicable after the Commencement Date; the Third Floor elevator lobby signage will be provided contemporaneously with delivery of the Permanent Lab Space to Atossa. Atossa will be responsible for obtaining Master Landlord approval for, and paying the cost of, any additional signage desired by Atossa.

13. Master Lease. This Sublease and all of Atossa's rights hereunder are subject and subordinate to all of the terms of the Master Lease except Sections 35, 39, 40 and 41 of the Master Lease, which are not applicable to this Sublease. Except as may be inconsistent with the terms hereof, all the terms, covenants and conditions contained in the Master Lease will be applicable to this Sublease with the same force and effect as if FHCRC were the landlord under the Master Lease and Atossa were the tenant thereunder, and FHCRC will have all rights against Atossa as would be available to the landlord against the tenant under the Master Lease if such breach were by the tenant thereunder, along with all other rights and remedies available under law or equity. Atossa hereby acknowledges that it has received a copy of the Master Lease, and except as otherwise provided in this Sublease, Atossa will be bound by the Master Lease. Atossa acknowledges that termination of the Master Lease will result in a termination of this Sublease. Atossa will neither do nor permit anything to be done that would cause the Master Lease to be terminated or forfeited, and Atossa will indemnify and hold FHCRC harmless from and against all claims and liabilities of any kind whatsoever by reason of any breach or default on the part of Atossa that results in the termination or forfeiture of the Master Lease.

14. Performance of Master Lease.

a. Performance of Tenant Obligations. FHCRC hereby agrees to perform all of its obligations under the Master Lease as when due (including payment of Base Rent and all other sums due under the Master Lease) and to keep the Master Lease in good standing. FHCRC will indemnify and hold Atossa harmless from any loss or damage incurred by Atossa as a result of FHCRC's breach of its obligations under the Master Lease except to the extent such breach is caused by Atossa's breach of its obligations hereunder. FHCRC will provide Atossa with copies of all notices received from Master Landlord under the Master Lease that pertain to the Subleased Premises or this Sublease. If Atossa receives a notice of default from Master Landlord, Atossa may pay all Base Rent and Additional Rent and any other amounts due under this Sublease directly to Master Landlord and such payment will satisfy Atossa's obligations under this Sublease. With respect to the Subleased Premises, Atossa will be entitled to exercise all rights and remedies granted to FHCRC as tenant under the Master Lease with respect to any default by Master Landlord or FHCRC, along with all other rights and remedies available under law or equity.

b. Covenants of FHCRC. FHCRC agrees that, so long as Atossa is not in default under this Sublease after notice and expiration of any applicable cure period, FHCRC will: (i) not affirmatively undertake any act or omission that will alter or impair Atossa's right to use and occupy the Subleased Premises; (ii) pay rent to Master Landlord under the Master Lease; (iii) promptly deliver to Atossa a copy of any and all notices relating to the Subleased Premises received by FHCRC from Master Landlord or otherwise delivered to FHCRC; (iv) not amend the Master Lease in a manner that would reasonably affect Atossa's right to use and occupy the Subleased Premises without the prior written consent of Atossa (which will not be unreasonably withheld, delayed or conditioned); (v) not exercise its Termination Option under Section 40 of the Master Lease with respect to the Subleased Premises or otherwise voluntarily terminate the Master Lease without the prior written consent of Atossa, (which may be withheld in Atossa's sole discretion) notwithstanding that exercise of such Termination Option or such other termination as may be permitted by the terms of the Master Lease; and (vi) upon Atossa's reasonable request and when required by this Sublease, the Master Lease or applicable law, promptly seek at Atossa's expense the consent, approval and/or cooperation of Master Landlord to any actions taken by Atossa that are permitted under the terms of this Sublease.

c. Performance by Master Landlord. FHCRC will exercise reasonable efforts to obtain the performance of Master Landlord under the Master Lease, for the benefit of Atossa under this Sublease. Upon Atossa's written request and provided that Atossa is not in default under this Sublease after notice and expiration of any applicable cure period, FHCRC will use reasonable efforts, at Atossa's expense, to enforce its rights under the Master Lease for Atossa's benefit, including without limitation, giving notices, claims and demands to and on Master Landlord.

d. Obligations of Atossa. Atossa will not be responsible for the payment and performance of any obligations of FHCRC as Tenant under the Master Lease with respect to the Subleased Premises other than as expressly set forth in this Sublease.

15. <u>Alterations</u>.

a. **Consent Required.** Atossa will not make any alterations, additions or improvements in the Subleased Premises without the prior written consent of FHCRC and Master Landlord (to the extent so required under the Master Lease). The consent of FHCRC will not be unreasonably withheld provided Atossa gives FHCRC satisfactory assurances that such alterations, additions or improvements will not reduce the value of the Subleased Premises and that Atossa will repair any damage to the Subleased Premises if such alterations, additions or improvements are to be removed at the end of the Term. Atossa will be responsible for procuring the consent of Master Landlord (if required) at Atossa's expense. All alterations, additions or improvements will be made in strict conformity with, and will be subject to, the applicable terms and conditions of the Master Lease.

b. **Subtenant Alterations.** Notwithstanding <u>Section 15.a</u>, FHCRC understands that Atossa may desire to construct additional improvements and alterations to the Subleased Premises, at Atossa's sole expense, to make the Subleased Premises more suitable for Atossa's use hereunder over time **("Subtenant Alterations").** If Atossa desires to make such Subtenant Alterations, it will be the responsibility of Atossa to obtain the prior written approval of Master Landlord as to all matters with respect to the Subtenant Alterations that would require Master Landlord's approval or consent under the Master Lease; provided that FHCRC will cooperate with any request for such approval or consent and Atossa will reimburse FHCRC for reasonable labor costs and out-of-pocket expenses actually incurred in so cooperating. Except as such requirements may be expressly modified herein, and consented to by Master Landlord, Atossa will comply with all requirements under the Master Lease in connection with the Subtenant Alterations and the construction thereof.

c. **Inspection and Compliance.** FHCRC and Master Landlord will at all reasonable times have the right to inspect all alterations, additions or improvements in the Subleased Premises (including without limitation any Subtenant Alterations) and the construction thereof; provided that FHCRC and Master Landlord (to the extent so required under the Master Lease) will comply with all reasonable safety and health requirements imposed by Atossa or its contractors and will not unreasonably interfere with completion of such alterations, additions or improvements. Atossa will be responsible for any reasonable fees or costs that must be paid to Master Landlord in connection with all alterations, additions or improvements.

d. **Liens and Insurance.** Atossa will not permit any liens to encumber the Subleased Premises. During the construction of any alterations, additions or improvements, Atossa will maintain worker's compensation and such other insurance as is required under the Master Lease or by Master Landlord.

e. **Removal of Alterations.** Notwithstanding any provision to the contrary, if Master Landlord or FHCRC elected at the time Master Landlord approved the Subtenant Alteration to cause Atossa to remove the Subtenant Alteration upon the termination of the Sublease as generally provided in Section 12(c) of the Master Lease, then Atossa will be responsible at Atossa's sole expense for the removal of any such Subtenant Alteration installed by Atossa and for restoration of the Subleased Premises.

16. Condition of Subleased Premises.

a. Condition on Delivery. To FHCRC's knowledge: (i)the Sublease Premises and all mechanical, electrical, plumbing and other operating systems therein (the **"Systems")** are in good working order as of the Delivery Date for the respective space; and (ii) all fixtures and improvements presently existing in the Subleased Premises **("Tenant Improvements")** have been constructed and installed in a workmanlike manner, meet all reasonable standards of quality and performance for similar fixtures and improvements for similar space being used in the Seattle region for similar purposes, and are in good working order.

b. Decommissioning Lab Spaces. FHCRC will comprehensively decommission and decontaminate the Temporary Lab Space and the Permanent Lab Space prior to the Delivery Dates for the respective spaces. This includes removing all Hazardous Materials including equipment containing Hazardous Materials and any contaminated equipment.

c. Alterations Prior to Delivery. FHCRC will not be required to make any improvements, repairs or alterations to the Subleased Premises, except that (i) FHCRC will complete all work necessary to deliver the Temporary Lab Space and the Permanent Lab Space with positive pressure rooms, (ii) FHCRC will complete all work required to create the spaces designated as 5051, 5439, 5441 and 5905 as shown on attached Exhibit E, and (iii) the Subleased Premises will be delivered to Atossa broom clean, vacant of equipment and personal items, and with all Systems and Tenant Improvements in good operating condition, and Atossa will accept the Subleased Premises, or the portion thereof, on the date delivered "AS IS," without warranties, express or implied, regarding fitness, habitability or other conditions and without any allowance for tenant improvements.

d. Acceptance. Atossa's taking possession of the Subleased Premises upon delivery will be conclusive evidence that Atossa accepts the Subleased Premises and that the Subleased Premises were in good condition at the time possession was taken. Atossa acknowledges and represents that (i) neither FHCRC nor any agent of FHCRC has made any representation or warranty with respect to the condition of all or any portion of the Subleased Premises or the suitability of the Subleased Premises for the conduct of Atossa's business, and Atossa waives any implied warranty that the Premises are suitable for Atossa's intended use; and (ii) Atossa is entering into this Sublease without relying upon any statement, representations or warranty made by the FHCRC or by any agent or by any other person except as set forth herein or in the Master Lease.

17. FHCRC's Representations and Warranties. FHCRC represents and warrants the following to Atossa as of the date of this Sublease: (i) the document attached hereto as Exhibit A is a true, accurate and complete copy of the Master Lease, and there is no other document, agreement or understanding between FHCRC and Master Landlord with respect to FHCRC's Premises; (ii) to FHCRC's knowledge, there exists no default under the Master Lease, or any condition which with the passage of time or the giving of notice, or both, would constitute a default under the Master Lease on the part of either FHCRC or Master Landlord; and (iii) the current expiration date of the Master Lease for the Subleased Premises is November 30, 2014.

18. **Operating Rules.** Atossa agrees to comply with (i) all laws, regulations and codes, including without limitation building, fire and safety codes, relating to Atossa's use of the Subleased Premises or Atossa's use, care and maintenance of the laboratories in the Subleased Premises; and (ii) all rules and regulations of Master Landlord applicable to the Subleased Premises. Atossa further agrees to permit periodic inspections of the Subleased Premises by FHCRC and all regulatory personnel at any time during normal operating hours, subject to reasonable advance notice, or, from time to time, without notice as required or permitted by applicable laws and regulations.

19. **Noise.** Atossa acknowledges that, during its initial occupancy of the Permanent Office Space, FHCRC will be conducting construction activities in adjacent spaces in the Building. FHCRC will use its best reasonable efforts to minimize noise levels during such construction, but cannot guarantee that such construction will not have any impact on the Permanent Office Space. Atossa also acknowledges that the hallways that Atossa Parties will use to access the Subleased Premises are in areas occupied by FHCRC, and Atossa will cooperate with FHCRC to minimize disruptions to occupants of FHCRC's Premises caused by use of the hallways by Atossa Parties.

20. **Insurance.**

a. **Insurance Requirements.** Atossa, at its sole cost and expense, will procure and keep in force throughout the Term of this Sublease commercial general liability and other insurance in accordance with the Master Lease.

b. **Waiver.** FHCRC, Atossa and, by its consent, Master Landlord each hereby waive any and all rights of recovery against the others, or against the officers, directors, employees, agents and representatives of the others, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control that is caused by or results from a risk which is actually insured against under this Sublease, without regard to the negligence or willful misconduct of the party so released. Such waivers will continue as long as their respective insurers so permit. Any termination of such a waiver will be by written notice of circumstances as set forth in the Master Lease.

c. **Third Party Beneficiary.** Atossa will be a third party beneficiary of Master Landlord's obligation to maintain insurance as provided in Section 17 of the Master Lease.

21. **Indemnification.**

a. **Mutual Indemnity.** To the extent permitted by law, each party will defend, indemnify and hold the other harmless from and against any damage, loss or liability from injuries to persons or property (excluding consequential damages such as lost profits) to the extent caused by the negligent acts or omissions of their respective agents, officers and employees acting in the scope of their employment.

b. **Exculpation.** To the extent permitted by law, none of FHCRC, Atossa or Master Landlord will be liable for any damages arising from any act, omission or neglect of any other tenant in the Building or the Project, or of any other third party.

22. __Hazardous Materials__.

a. Definitions. As used herein, the term **"Environmental Requirements"** means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any Governmental Authority regulating or relating to health, safety, or environmental conditions on, under, or about the Subleased Premises, FHCRC's Premises or the Project, or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. As used herein, the term **"Hazardous Materials"** means and includes any substance, material, waste, pollutant, or contaminant defined as a Hazardous Material in the Master Lease or listed or defined as hazardous or toxic, or regulated by reason of its impact or potential impact on humans, animals and/or the environment under any Environmental Requirements, asbestos, petroleum (including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas).

b. Prohibition/Compliance. Atossa will not cause or permit any Hazardous Materials to be brought upon, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Subleased Premises, FHCRC's Premises or the Project in violation of applicable Environmental Requirements by Atossa or any Atossa Party. If Atossa breaches the obligation stated in the preceding sentence, or if Atossa's acts or omissions result in contamination of the Subleased Premises, FHCRC's Premises, the Project or any adjacent property, or if contamination of the Subleased Premises, FHCRC's Premises, the Project or any adjacent property by Hazardous Materials brought into, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Subleased Premises by Atossa or any Atossa Party occurs during the Sublease Term or any holding over, Atossa hereby indemnifies and will defend and hold FHCRC, Master Landlord and their respective agents, tenants, and contractors, harmless from any and all actions (including, without limitation, remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including without limitation punitive damages and damages based upon diminution in value of the Subleased Premises, FHCRC's Premises or the Project or the loss of, or restriction on, use of the Subleased Premises, FHCRC's Premises or any portion of the Project), expenses (including, without limitation, attorneys', consultants' and experts' fees, court costs and amounts paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal injury, property damage, or contamination of, or adverse effects upon, the environment, water tables or natural resources), liabilities or losses (collectively, **"Environmental Claims")** which arise during or after the Sublease Term as a result of such contamination. This indemnification of FHCRC and Master Landlord by Atossa includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, treatment, remedial, removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Materials present in the air, soil or ground water above on or under the Subleased Premises, FHCRC's Premises, the Project or any adjacent property caused or permitted by Atossa or any Atossa Party. Without limiting the foregoing, if the presence of any Hazardous Materials on the Subleased Premises, FHCRC's Premises, the Project or any adjacent property, caused or permitted by Atossa or any Atossa Party results in any contamination of the Subleased Premises, FHCRC's Premises, the Project or any adjacent property, Atossa will promptly take all actions at its sole expense and in accordance with applicable Environmental Requirements as are necessary to return the Subleased Premises, FHCRC's Premises, the Project or any adjacent property, to the condition existing prior to the time of such contamination, provided that FHCRC's and Master Landlord's approval of such action must first be obtained, which approval will not unreasonably be withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Subleased Premises, FHCRC's Premises or the Project.

c. **Business.** FHCRC acknowledges that it is not the intent of this Section 21 to prohibit Atossa from using the Subleased Premises for the Permitted Use. Atossa may operate its business according to prudent industry practices so long as the use or presence of Hazardous Materials is strictly and properly monitored according to all then applicable Environmental Requirements. As a material inducement to FHCRC to allow Atossa to use Hazardous Materials in connection with its business, Atossa agrees to deliver to FHCRC prior to the Commencement Date a list identifying each type of Hazardous Materials to be brought upon, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Subleased Premises and setting forth any and all governmental approvals or permits required in connection with the presence, use, storage, handling, treatment, generation, release or disposal of such Hazardous Materials on or from the Subleased Premises **("Hazardous Materials List").** Atossa will deliver to FHCRC an updated Hazardous Materials List at least once a year and will also deliver an updated list before any new Hazardous Material is brought onto, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Subleased Premises. Atossa will deliver to FHCRC true and correct copies of the following documents (the **"Haz Mat Documents")** relating to the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials prior to the Commencement Date, or if unavailable at that time, concurrent with the receipt from or submission to a Governmental Authority: permits; approvals; reports and correspondence; storage and management plans, notice of violations of any Legal Requirements; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks will only be permitted after FHCRC and Master Landlord have given Atossa their written consent to do so, which consent may be withheld in the sole and absolute discretion of FHCRC and Master Landlord); all closure plans or any other documents required by any and all federal, state and local Governmental Authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks; and a Surrender Plan (to the extent surrender in accordance with Section 28 of the Master Lease cannot be accomplished in three months). Atossa is not required, however, to provide FHCRC with any portion(s) of the Haz Mat Documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities. It is not the intent of this Section to provide FHCRC with information which could be detrimental to Atossa's business should such information become possessed by Atossa's competitors.

d. Testing. At any time, and from time to time, prior to the expiration or earlier termination of the Term, FHCRC will have the right to conduct appropriate tests of the Subleased Premises, FHCRC's Premises and the Project to determine if contamination has occurred as a result of Atossa's use of the Subleased Premises. In connection with such testing, upon the request of FHCRC, Atossa will deliver to FHCRC or its consultant such non-proprietary information concerning the use of Hazardous Materials in or about the Subleased Premises by Atossa or any Atossa Party. If contamination has occurred for which Atossa is liable under this Section 21, Atossa will pay all costs to conduct such tests (which will not constitute an Operating Cost). If no such contamination is found, FHCRC will pay the costs of such tests. FHCRC will provide Atossa with a copy of all third party, non-confidential reports and tests of the Subleased Premises made by or on behalf of FHCRC during the Term without representation or warranty and subject to a confidentiality agreement. Atossa will, at its sole cost and expense, promptly and satisfactorily remediate any environmental conditions identified by such testing in accordance with all Environmental Requirements. FHCRC's receipt of or satisfaction with any environmental assessment in no way waives any rights which FHCRC may have against Atossa.

e. Atossa's Obligations. Atossa's obligations under this Section 21 will survive the expiration or earlier termination of the Sublease. During any period of time after the expiration or earlier termination of this Sublease required by Atossa or FHCRC to complete the removal from the Subleased Premises of any Hazardous Materials (including, without limitation, the release and termination of any licenses or permits restricting the use of the Subleased Premises and the completion of the approved Surrender Plan), Atossa will continue to pay the full Rent in accordance with this Sublease for any portion of the Subleased Premises not relet by FHCRC in FHCRC's discretion, which Rent will be prorated daily.

23. Successors and Assigns. Atossa will not assign this Sublease, or sublet the Subleased Premises in whole or in part, or otherwise transfer or hypothecate this Sublease or all or any part of the Subleased Premises without the prior written consent of FHCRC, which will not be unreasonably conditioned or withheld. Any of the foregoing acts without FHCRC's prior written consent will be void and will at the option of FHCRC terminate this Sublease. Approval by FHCRC of any assignment or subleasing will not release Atossa from its obligations under this Sublease, nor will such consent constitute consent to any other or additional assignment or subleasing. In connection with any assignment or sublease by Atossa, Atossa will provide an original fully signed assignment and assumption or sublease document to FHCRC in a form acceptable to FHCRC. Subject to the foregoing, this Sublease will be binding upon and inure to the benefit of the legal representatives, successors and assigns of the parties.

24. Nondiscrimination. FHCRC and Atossa each certifies it will not discriminate in employment on the basis of race, color, religion, sex, national origin, veteran status or physical or mental disability in regard to any position for which the employee is qualified, in compliance with (i) Presidential Executive Order 11246, as amended, including the Equal Opportunity Clause contained therein; (ii) Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans Readjustment Act of 1974, as amended, and the Affirmative Action Clauses contained therein; (iii) the Americans with Disabilities Act of 1990, as amended; and (iv) Title VI of the Civil Rights Act of 1964. FHCRC and Atossa each agrees it will not maintain facilities which are segregated on the basis of race, color, religion or national origin in compliance with Presidential Executive Order 11246, as amended, and will comply with the Americans with Disabilities Act of 1990, as amended, regarding its programs, services, activities and employment practices.

25. **Default.**

a. **Default by Atossa.** If (i) Atossa fails to pay any installment of Rent or any other payment hereunder when due, or (ii) any event of "Default" occurs as described in Section 20 of the Master Lease, or (iii) Atossa fails to perform any of the other covenants or conditions that Atossa is required to observe and perform under this Sublease for twenty (20) days following FHCRC's written notice to Atossa of such failure to perform or such longer period of time as may be necessary provided Atossa has commenced to cure and is diligently pursuing the same, then FHCRC may treat the occurrence of any one or more of the foregoing events as a default by Atossa under this Sublease, and thereupon, FHCRC may terminate this Sublease and pursue any and all other rights and remedies provided FHCRC at law or in equity.

b. **Default by FHCRC.** If FHCRC (i) fails to make payment of any sum to be paid by FHCRC under this Sublease for ten (10) days following Atossa's written notice to FHCRC of such failure to pay, or (ii) fails to perform any of the other covenants or conditions that FHCRC is required to observe and perform under this Sublease for thirty (30) days following Atossa's written notice to FHCRC of such failure to perform or such longer period of time as may be necessary provided FHCRC has commenced to cure and is diligently pursuing the same, then Atossa may treat the occurrence of any one or more of the foregoing events as a default by FHCRC under this Sublease, and thereupon, Atossa may terminate this Sublease and pursue any and all other rights and remedies provided Atossa at law or in equity.

26. **Notices.** Any notice or communication under this Sublease will be effective only if in writing and delivered in person, by overnight courier service or facsimile transmission, or mailed by registered or certified mail return receipt requested postage prepaid to the addressee's address below or to any other address the addressee may have notified the sender beforehand referring to this Sublease. All notices and communications will be deemed given when delivered in person or overnight courier service, three (3) days after mailing if mailed, or when sent by facsimile transmission if confirmation is received. Notwithstanding the foregoing, any notice or other communication to Master Landlord will be given only in accordance with the Master Lease.

If to FHCRC, to:

Fred Hutchinson Cancer Research Center
Attention: Scott Rusch, Vice President, Facilities and Operations
1100 Fairview Avenue N., MS J5-100
Post Office Box 19024
Seattle, Washington 98109-1024
Fax: (206) 667-5104

If to Atossa, to:
Before Sublease Commencement:

Atossa Genetics Inc.
Attention: Steven C Quay, MD, PhD, FCAP
CEO & President, Atossa Genetics, Inc.
4105 E Madison St, Suite 320
Seattle, WA 98112
Fax: ____________________

After Sublease Commencement:

Atossa Genetics Inc.
Attention: Steven C Quay, MD, PhD, FCAP
CEO & President, Atossa Genetics, Inc.
1616 Eastlake Avenue East
Seattle, WA 98102

Fax: ______________________________

27. **FHCRC's Entry.** Subject to the requirements of Section 21 of this Sublease or as otherwise provided herein, FHCRC and its agents, except in the case of emergency or other imminent danger thereof to the Subleased Premises, FHCRC's Premises or the Building or their occupants, or by consent of Atossa or its employees, will provide Atossa with twenty-four (24) hours' notice prior to entry of the Subleased Premises; any entry by FHCRC and its agents will not impair Atossa's operations more than reasonably necessary; and Atossa will have the right to have an employee accompany FHCRC at all times that FHCRC is present on the Subleased Premises.

28. **Disputes.** This Sublease will be governed by the laws of the State of Washington. Atossa hereby irrevocably submits to the jurisdiction of the federal or state courts located in King County, Washington, and agrees that the venue of any action or proceeding involving this Sublease will lie in King County, Washington, such venue constituting a convenient forum for the parties. In the event of any dispute arising out of or relating to this Sublease, whether suit or other proceeding is commenced or not, and whether in mediation, arbitration, at trial, on appeal, in administrative proceedings or in bankruptcy (including without limitation any adversary proceeding or contested matter in any bankruptcy case), the prevailing party will be entitled to recover its costs and expenses incurred, including reasonable attorneys' fees.

29. **Master Landlord's Consent.** This Sublease is subject to Master Landlord's consent as provided under the Master Lease, and will be effective only upon receipt of such consent.

30. **Surrender of Premises.** Atossa will, on the last day of the Term of this Sublease, or upon any earlier termination, remove all of its furniture, furnishings, personal property, equipment and fixtures installed by Atossa in the Subleased Premises, and surrender to FHCRC the Subleased Premises broom clean in good order, condition and state of repair, reasonable wear and tear excepted. Without limiting the foregoing, Atossa will (i) repair any damage to the Subleased Premises caused by the removal of any of its furniture, furnishings, personal property, equipment or fixtures; and (ii) comprehensively decommission and decontaminate the Subleased Premises, which will include removing all Hazardous Materials including equipment containing Hazardous Materials and any contaminated equipment. If Atossa fails to adequately decommission and decontaminate the Subleased Premises, Atossa will pay FHCRC, as Additional Rent, an amount equal to the actual, reasonable costs, including reasonable labor costs, incurred by FHCRC in so decommissioning and decontaminating the Subleased Premises.

31. **Brokerage.** Atossa and FHCRC each represents and warrants that it has not dealt with any real estate broker in connection with this transaction other than CBRE on behalf of Atossa and Kinzer Real Estate Services on behalf of FHCRC. FHCRC agrees to pay the commissions or other compensation due to said brokers pursuant to separate agreements. FHCRC and Atossa agree to indemnify and hold harmless the other with respect to claims of any other real estate broker or finder for commissions or fees in connection with this Sublease arising from their respective actions.

32. **Force Majeure.** Time periods for either party's performance under any provisions of this Sublease (excluding payment of Rent) will be extended for periods of time during which the party's performance is prevented due to circumstances beyond such party's control, including without limitation, fires, floods, earthquakes, lockouts, strikes, embargoes, governmental regulations, acts of God, public enemy, war or other strife.

33. **General.** This Sublease represents the entire understanding of the parties with respect to the subject matter covered, supersedes all prior and contemporaneous oral understandings with respect to such subject matter, may only be amended in a writing signed by both parties, and will be executed in two or more counterparts so that each party may retain a fully executed original. The parties acknowledge that this Sublease was negotiated by the parties, that they have had the opportunity to have this Sublease reviewed by their respective legal counsel, and that the terms and conditions of this Sublease are not to be construed against either party. Time is of the essence of this Sublease.

Executed as of the date first written above.

FHCRC:		**Atossa:**	
FRED HUTCHINSON CANCER RESEARCH CENTER		ATOSSA GENETICS INC.	
By:	/s/Scott Rusch	By:	/s/ Steven C Quay
Its:	VP, Facilities & Operations	Its:	CEO

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Scott Rusch is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as the Vice President-Facilities of FRED HUTCHINSON CANCER RESEARCH CENTER to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Steven Quay is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as the ________CEO________ of ATOSSA GENETICS INC. to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

Exhibit A

Master Lease

(*See attached copy*)

LEASE AGREEMENT

1616 EASTLAKE AVENUE EAST

SEATTLE, WASHINGTON

Between

ARE-Eastlake Avenue No. 3

as

Landlord

and

Fred Hutchinson Cancer Research Center

as Tenant

January 16, 2004

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LEASE AGREEMENT

THIS LEASE AGREEMENT is made this 16th day of January 2004, between **ARE-Eastlake Avenue No. 3,** a Delaware limited liability company **("Landlord"),** and **Fred Hutchinson Cancer Research Center,** a Washington nonprofit corporation **("Tenant").**

Basic Lease Provisions

Address: 1616 Eastlake Avenue East, Seattle, Washington.

Premises: That portion of the Project, containing approximately 90,486 rentable square feet, as shown on attached **Exhibit A,** which shall be delivered to Tenant as set forth herein.

Project: The real property on which the building (the **"Building")** in which the Premises are located, together with all improvements thereon and appurtenances thereto as described on attached **Exhibit B.**

Base Rent: ______ per rsf per year

Rentable Area of Premises: Approximately 90,486 sq. ft.

Rentable Area of Project: Approximately 165,493 sq. ft.

Tenant's Share: See Section 6(c) hereof

Security Deposit: None

Target Commencement Date: January 19, 2004

Rent Commencement Date: August 15, 2004

Rent Adjustment Percentage: 2.5%

Base Term: Beginning on the Commencement Date and ending 120 months from the first day of the first full month following the Rent Commencement Date.

Permitted Use: Office and related uses, and research and development laboratory uses, consistent with the character of the Project and otherwise in compliance with the provisions of Section 7 hereof.

Address for Rent Payment:

135 N. Los Robles Avenue, Suite 250
Pasadena, CA 91101
Attention: Accounts Receivable

Landlord's Notice Address:

135 N. Los Robles Avenue, Suite 250
Pasadena, CA 91101
Attention: Corporate Secretary

Tenant's Notice Address:

Fred Hutchinson Cancer Research Center P.O. Box 19024, MS J5-100
Seattle, WA 98109-1024
Attention: Scott Rusch
Vice President, Facilities and
Operations

The following Exhibits and Addenda are attached hereto and incorporated herein by this reference:

EXHIBIT A - PREMISES DESCRIPTION
EXHIBIT A-l - INITIAL PREMISES DESCRIPTION
EXHIBIT A-2 - ADDITIONAL OFFICE AND ADDITIONAL LABORATORY
EXHIBIT B - DESCRIPTION OF PROJECT
EXHIBIT C - WORK LETTER
EXHIBIT D - COMMENCEMENT DATE
EXHIBIT E - RULES AND REGULATIONS
EXHIBIT F - TENANT'S PERSONAL PROPERTY
EXHIBIT G - SPACE NOT SUBJECT TO RIGHT OF FIRST NEGOTIATION

Terms

1. **Lease of Premises**.

(a) **Lease.** Upon and subject to all of the terms and conditions hereof, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord.

(b) **Premises.** The Premises shall consist of:

(i) Approximately 65,000 rentable square feet of space, comprising approximately 5,000 square feet of laboratory space on the second floor of the Building **("Initial Laboratory Premises"),** and approximately 60,000 square feet of office space on the fourth and fifth floors of the Building, all as shown more particularly on attached **Exhibit A-l** (collectively, the **"Initial Premises");** and

on the fourth and fifth floors of the Building, all as shown more particularly on attached **Exhibit A-l** (collectively, the **"Initial Premises");** and

(ii) Approximately 14,232 square feet of office space on the fourth and fifth floors (the **"Additional Office Premises")** and approximately 11,254 square feet of laboratory space, which shall be an expansion of the Initial Laboratory Premises (the **"Additional Laboratory Premises"),** all as shown more particularly on attached **Exhibit A-2** (collectively, the **"Additional Premises").**

(c) **Common Areas.** Tenant shall have the right to use the portions of the Project which are for the non-exclusive use of tenants of the Project, collectively referred to herein as the **"Common Areas."** Landlord reserves the right to modify Common Areas, provided that such modifications do not materially adversely affect Tenant's use of the Premises for the Permitted Use.

(d) **Storage Space.** In addition, Landlord grants to Tenant for the Term a license to use Tenant's Share of existing, unreserved storage lockers located on the first floor of the Building (the **"Storage Space").** The Storage Space shall be made available to Tenant in broom clean condition. Landlord has no obligation to make any improvement to the Storage Space, or to repair the Storage Space. Tenant's use of the Storage Space shall at all times be in compliance with the provisions of this Lease, including without limitation those provisions concerning Environmental Requirements and Hazardous Materials. Tenant's rights to use the Storage Space shall cease and terminate upon the expiration or sooner termination of this Lease. Tenant shall not be required to pay any Additional Rent for the use of the Storage Space. Landlord may from time to time upon 30 days prior notice Tenant relocate any or all of the Storage Space to other storage areas in the Building **("New Storage Space")** in which event the New Storage Space shall be deemed to be the Storage Space hereunder. Landlord shall pay the actual and reasonable expenses of physically moving Tenant's property to the New Storage Space.

2. **Delivery; Acceptance of Premises; Commencement Date**.

(a) **Delivery.** Landlord shall use reasonable efforts to make the Premises available to Tenant for Tenant's Work under the Work Letter **("Delivery"** or **"Deliver")** within 5 days after full execution of this Lease and Tenant's delivery of evidence of the insurance required hereby and by the Work Letter. As used herein, the term **"Tenant's Work"** shall have the meaning set forth for such term in the Work Letter.

(b) **Failure to Deliver.** If Landlord fails to timely Deliver any portion of the Premises, Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and this Lease shall not be void or voidable except as provided herein. If Landlord does not Deliver the Premises within 60 days of the Target Commencement Date (set forth in the Basic Lease Provisions on page 1 of this Lease), or such greater period with respect to the Additional Premises as Landlord and Tenant may mutually agree in writing, for any reason other than Force Majeure (as defined in Section 34 hereof), this Lease may be terminated by Landlord or Tenant by written notice to the other, and if so terminated, neither Landlord nor Tenant shall have any further rights, duties or obligations under this Lease, except with respect to provisions which expressly survive termination of this Lease. If neither Landlord nor Tenant elects to void this Lease within 5 business days of the lapse of such 60 day period (subject to any extension as described above), such right to void this Lease shall be waived and this Lease shall remain in full force and effect.

(c) Commencement Date and Term. The **"Commencement Date"** shall be the date Landlord Delivers the Initial Premises to Tenant. The **"Rent Commencement Date"** shall be the date set forth in the Basic Lease Provisions on page 1 of this Lease. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Commencement Date, the Rent Commencement Date and the expiration date of the Term when such are established in the form of the "Acknowledgment of Commencement Date" attached to this Lease as **Exhibit D;** provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. The **"Term"** of this Lease shall be the Base Term, as defined the Basic Lease Provisions on page 1 of this Lease and any Extension Terms which Tenant may elect pursuant to Section 39 hereof.

(d) Condition of Premises. Except as set forth in the Work Letter, if applicable: (i) Tenant shall accept the Premises in their condition as of the Commencement Date, subject to all applicable Legal Requirements (as defined in Section 7 hereof); (ii) Landlord shall have no liability to Tenant for any defects in the Premises, provided Landlord shall be responsible for enforcing rights under any applicable warranty and Landlord's repair obligations under Section 18 hereof; and (iii) Tenant's taking possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken. Any occupancy of the Premises by Tenant before the Commencement Date shall be subject to all of the terms and conditions of this Lease other than payment of Base Rent.

(e) Access. After Delivery, Tenant shall have access to the Premises, and the Building shall be open and available for Tenant's use, at all times, 24 hours per day, 7 days per week (including without limitation on nights, weekends and holidays).

(f) Confirmation of Square Footage. Landlord shall measure the rentable square footage of the Project and the Premises within the period of 90 days following the Rent Commencement Date. Such measurement shall be performed in accordance with the 1996 Standard Method of Measuring Floor Area in Office Buildings as adopted by the Building Owners and Managers Association (ANSI/BOMA Z65.1-1996) **("BOMA Standards").** In the event of any change in the rentable square footage of the Project or the Premises (due to additional vertical penetrations or otherwise), Landlord will re-calculate the rentable square footage the Premises and the Project using BOMA Standards by deducting the modification to the Project or the Premises.

3. Rent.

(a) Base Rent.

(i) The first month's Base Rent shall be due and payable on delivery of an executed copy of this Lease to Landlord. Except as provided herein, Tenant shall pay to Landlord in advance, without demand, abatement, deduction or set-off, monthly installments of Base Rent on or before the first day of each calendar month during the Term hereof after the Rent Commencement Date, in lawful money of the United States of America, at the office of Landlord for payment of Rent set forth above, or to such other person or at such other place as Landlord may from time to time designate in writing. During the first year of the Term, Tenant shall pay Base Rent only on the Initial Premises.

(ii) From and after the earlier of (A) the first anniversary of the Rent Commencement Date or (B) the date Tenant commences occupancy and use of the Additional Office Premises, Tenant shall pay Base Rent on the Additional Office Premises, at the same rate as Base Rent for the Initial Premises and at the time.

(iii) Commencing September 1, 2005 (the **"Additional Laboratory Commencement Date"),** Tenant shall commence paying Base Rent on the Additional Laboratory Premises as follows. Tenant shall be responsible for making any improvements to the Additional Laboratory Premises. Commencing on the Additional Laboratory Commencement Date, Tenant shall begin to pay Base Rent at the rate of Shell Rent for the Additional Laboratory Premises. Commencing on the earlier of (A) the date of substantial completion of the improvements to the Additional Laboratory Premises or (B) June 1, 2006, Tenant shall pay Base Rent on the Additional Laboratory Premises at the rate of Improved Rent. **"Shell Rent"** shall mean $____ per rentable square foot per annum, on a triple net basis. **"Improved Rent"** shall mean $____ per rentable square foot per annum, on a triple net basis. Such Base Rent shall be adjusted annually as provided in Section 4 hereof, and shall further be adjusted for any portion of the Additional Tenant Improvement Allowance elected to be used by Tenant at any time during the Term.

(iv) Payments of Base Rent for any fractional calendar month shall be prorated. The obligation of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Tenant shall have no right at any time to abate any Rent (as defined in Section 5) due hereunder except for any abatement as may be expressly provided in this Lease.

(b) **Additional Rent.** In addition to Base Rent, Tenant agrees to pay to Landlord as additional rent **("Additional Rent")**: (i) Tenant's Share of Operating Expenses (as defined in Section 5 hereof), and (ii) any and all other amounts Tenant assumes or agrees to pay under the provisions of this Lease, including, without limitation, any and all other sums that may become due by reason of any default of Tenant or failure to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant, after any applicable notice and cure period.

4. Base Rent Adjustments.

(a) **Adjustment.** Base Rent shall be increased by an amount equal to $____ per annum for each dollar or portion thereof of the Additional Tenant Improvement Allowance elected to be used by Tenant pursuant to Section 5(b)(ii) of the Work Letter. Such increase will take effect (i) as of the Rent Commencement Date for the Additional Tenant Improvement Allowance used for the Initial Laboratory Premises, and (ii) as of the Additional Laboratory Commencement Date for the Additional Tenant Improvement Allowance used for the Additional Laboratory Premises.

(b) **Adjustment Date.** On each anniversary of the first day of the first full month following the Rent Commencement Date during the Term of this Lease (each an **"Adjustment Date"),** Base Rent shall be increased by multiplying the Base Rent payable immediately before such Adjustment Date by the Rent Adjustment Percentage and adding the resulting amount to the Base Rent payable immediately before such Adjustment Date. Base Rent, as so adjusted, shall thereafter be due as provided herein. Base Rent adjustments for any fractional calendar month shall be prorated.

5. **Operating Expense Payments**.

(a) **Annual Estimate.** Landlord shall deliver to Tenant a written estimate (the **"Annual Estimate")** of Operating Expenses for each calendar year during the Term, together with a statement of any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Project that includes the Premises **("Tenant Reimbursable Expense"),** which Annual Estimate may be revised by Landlord from time to time during such calendar year. During each month of the Term, on the same date that Base Rent is due, Tenant shall pay Landlord an amount equal to l/12th of Tenant's Share of the Annual Estimate. Payments for any fractional calendar month shall be prorated.

(b) **Definition.** The term **"Operating Expenses"** means all costs and expenses of any kind or description whatsoever incurred or accrued each calendar year by Landlord with respect to the Project (including the Building's share of all costs and expenses of any kind or description incurred or accrued by Landlord with respect to the Project which are not specific to the Building or any other building located in the Project), including, without duplication, capital repairs and improvements amortized over the useful life of such capital items, and property management rent in the amount of 3.0% of Base Rent, excluding only Taxes (as defined in Section 9 hereof) and,:

(i) the original construction costs of the Project and renovation prior to the date of the Lease and costs of correcting defects in such original construction or renovation;

(ii) capital expenditures for expansion of the Project;

(iii) capital expenditures required by Landlord's failure to comply with Legal Requirements enacted on or before the commencement of the Lease Term;

(iv) costs incurred by Landlord for the repair of damage to the Building occasioned by fire, windstorm, earthquake, flood or other casualty or loss in excess of any insurance proceeds therefore, or by the exercise of eminent domain, and any costs incurred by Landlord for the repair of damage to the extent that Landlord is reimbursed by insurance proceeds;

(v) interest, principal payments of Mortgage (as defined in Section 27 hereof) debts of Landlord, financing costs and amortization of funds borrowed by Landlord, whether secured or unsecured and all payments of base rent (but not taxes or operating expenses) under any ground lease or other underlying lease of all or any portion of the Project;

(vi) depreciation of the Project (except for capital improvements, the cost of which are includable in Operating Expenses);

(vii) advertising, legal and space planning expenses and leasing commissions and other costs and expenses incurred in procuring and leasing space to tenants for the Project, including any leasing office maintained in the Project, free rent and construction allowances for tenants;

(viii) legal and other expenses incurred in the negotiation or enforcement of leases;

(ix) completing, fixturing, improving, renovating, painting, redecorating or other work, which Landlord pays for or performs for other tenants within their premises, and costs of correcting defects in such work;

(x) costs of utilities outside normal business hours sold to tenants of the Project;

(xi) costs to be reimbursed by other tenants of the Project or Taxes to be paid directly by Tenant or other tenants of the Project, whether or not actually paid;

(xii) salaries, wages, benefits and other compensation paid to officers and employees of Landlord who are not assigned in whole or in part to the operation, management, maintenance or repair of the Project;

(xiii) general organizational, administrative and overhead costs relating to maintaining Landlord's existence, either as a corporation, partnership, or other entity, including general corporate, legal and accounting expenses;

(xiv) costs (including attorneys' fees and costs of settlement, judgments and payments in lieu thereof) incurred in connection with disputes with tenants, other occupants, or prospective tenants, and costs and expenses, including legal fees, incurred in connection with negotiations or disputes with employees, consultants, management agents, leasing agents, purchasers or mortgagees of the Building;

(xv) costs incurred by Landlord due to the violation by Landlord, its employees, agents or contractors or any tenant of the terms and conditions of any lease of space in the Project or any Legal Requirement (as defined in Section 7 hereof);

(xvi) penalties, fines or interest incurred as a result of Landlord's inability or failure to make payment of Taxes and/or to file any tax or informational returns when due, or from Landlord's failure to make any payment of Taxes required to be made by Landlord hereunder before delinquency;

(xvii) overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in or to the Project to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis;

(xviii) costs of Landlord's charitable or political contributions;

(xix) costs in connection with services (including electricity), items or other benefits of a type which are not standard for the Project and which are not available to Tenant without specific charges therefor, but which are provided to another tenant or occupant of the Project, whether or not such other tenant or occupant is specifically charged therefor by Landlord;

(xx) costs incurred in the sale or refinancing of the Project;

(xxi) net income taxes of Landlord or the owner of any interest in the Project, franchise, capital stock, gift, estate or inheritance taxes or any federal, state or local documentary taxes imposed against the Project or any portion thereof or interest therein;

(xxii) electric power costs for which any tenant directly contracts with the local public service company;

(xxiii) services provided and costs incurred in connection with the operation of any retail restaurant in the Building to the extent such retail costs exceed the costs for non-retail business offices; provided, however, the square footage of such retail operations must be included in the denominator of the fraction utilized to determine Tenant's percentage share of Operating Expenses;

(xxiv) costs incurred in connection with upgrading the Building to comply with handicap, life, fire and safety codes in effect prior to the Commencement Date;

(xxv) costs arising from the presence or removal of hazardous material in the Building or the Project prior to the Commencement Date, including, without limitations, asbestos in the Building or hazardous substances in the ground water or soil, and costs and expenses incurred in defending against claims in regard to the existence or release of hazardous substances or materials at or in the Building;

(xxvi) costs arising from latent defects in all or any portion of the structural, exterior, parking and other Common Areas, including any Building Systems (except those installed by Tenant);

(xxvii) costs for sculpture, paintings or other subjects of art;

(xxviii) costs incurred by Landlord in providing entertainment (including but not limited to musical performances, exhibits, contests, meals, etc.) where such entertainment is not specifically related to promotion or advertising;

(xxix) deductibles under Landlord's insurance policies to the extent those deductibles exceed $____ per claim; except for earthquake and flood insurance, for which deductibles shall not exceed $____ per claim;

(xxx) rental concessions or lease buyouts;

(xxxi) expenses incurred in relocating tenants in the Building;

(xxxii) the cost of installing, operating and maintaining any specialty service or special facility such as a health club (not including locker rooms), cafeteria or dining facility;

(xxxiii) premiums for Landlord's errors and omissions insurance as described in Section 17(a) hereof;

(xxxiv) costs associated with compliance with the City of Seattle approved Transportation Management Plan on behalf of other tenants in the Building; and

(xxxv) any expenses otherwise includable within Operating Expenses to the extent actually reimbursed by persons other than tenants of the Project under leases for space in the Project.

(c) **Annual Statement.** Within 90 days after the end of each calendar year (or such longer period as may be reasonably required), Landlord shall furnish to Tenant a statement (an **"Annual Statement")** showing in reasonable detail: (i) the total of actual Operating Expenses for the previous calendar year; (ii) the amount of the following (collectively, **"Operating Expense Obligation")** Tenant's Share of actual Operating Expenses for the previous calendar year, plus any items of Tenant Reimbursable Expense; and (iii) the total of Tenant's payments in respect of Tenant's Operating Expense Obligation for such year. If Tenant's actual Operating Expense Obligation for such year exceeds Tenant's payments for such year with respect to Tenant's estimated Operating Expense Obligation, the excess shall be due and payable by Tenant as Rent within 30 days after delivery of such Annual Statement to Tenant. If Tenant's payments with respect to Tenant's estimated Operating Expense Obligation for such year exceed Tenant's actual Operating Expense Obligation for such year Landlord shall pay the excess to Tenant within 30 days after delivery of such Annual Statement, except that after the expiration, or earlier termination of the Term or if Tenant is delinquent in its obligation to pay Rent, Landlord shall pay the excess to Tenant after deducting all other amounts due Landlord.

(d) **Review.** The Annual Statement shall be final and binding upon Tenant unless Tenant, within 90 days after Tenant's receipt thereof, shall contest any item therein by giving written notice to Landlord, specifying each item contested and the reason therefor. If, during such 90 day period, Tenant reasonably and in good faith questions or contests the accuracy of Landlord's statement of Tenant's Operating Expense Obligation, Landlord will provide Tenant with access to Landlord's books and records relating to the operation of the Project and such information as Landlord reasonably determines to be responsive to Tenant's questions (the **"Expense Information")**. If after Tenant's review of such Expense Information, Landlord and Tenant cannot agree upon the amount of Tenant's Operating Expense Obligation, then Tenant shall have the right to have an independent public accounting firm selected by Tenant from among the 5 largest in the United States, working pursuant to a fee arrangement other than a contingent fee (at Tenant's sole cost and expense) and approved by Landlord (which approval shall not be unreasonably withheld or delayed), audit and/or review the Expense Information for the year in question (the **"Independent Review"**). The results of any such Independent Review shall be binding on Landlord and Tenant. If the Independent Review shows that the payments actually made by Tenant with respect to Tenant's estimated Operating Expense Obligation for the calendar year in question exceeded Tenant's actual Operating Expense Obligation for such calendar year, Landlord shall at Landlord's option either (i) credit the excess amount to the next succeeding installments of Tenant's estimated Operating Expense Obligation or (ii) pay the excess to Tenant within 30 days after delivery of such statement, except that after the expiration or earlier termination of this Lease or if Tenant is delinquent in its obligation to pay Rent, Landlord shall pay the excess to Tenant after deducting all other amounts due Landlord. If the Independent Review shows that Tenant's payments with respect to Tenant's Operating Expense Obligation for such calendar year were less than Tenant's actual Operating Expense Obligation for the calendar year, Tenant shall pay the deficiency to Landlord within 30 days after delivery of such statement. If the Independent Review shows that Tenant has overpaid with respect to Tenant's Operating Expense Obligation by more than 5% then Landlord shall reimburse Tenant for all costs incurred by Tenant for the Independent Review. Tenant's Operating Expense Obligation for the calendar years in which Tenant's obligation to share therein begins and ends shall be prorated. Notwithstanding anything set forth herein to the contrary, if the Building is not at least 95% occupied on average during any year of the Term, Tenant's Operating Expense Obligation for such year shall be computed as though the Building had been 95% occupied on average during such year.

(e) "**Tenant's Share**" shall be a percentage equal to the rentable area of the Premises divided by the rentable area of the Project, provided that the rentable area of the Additional Office Premises and the rentable area of the Additional Laboratory Premises shall not be included in the calculation of Tenant's Share until Tenant commences paying Base Rent thereon. Tenant's Share may be adjusted reasonably by Landlord following a measurement of the rentable area of the Project and the Premises. Base Rent, Tenant's Operating Expense Obligation, Additional Rent and all other amounts payable by Tenant to Landlord hereunder are collectively referred to herein as **"Rent."**

6. **Security Deposit.** Tenant shall not be required to provide any security deposit in connection with this Lease.

7. Use.

(a) Permitted Use/Legal Requirements. The Premises shall be used solely for the Permitted Use set forth in the Basic Lease Provisions on page 1 of this Lease, and in compliance with all laws, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises, and to the use and occupancy thereof, including, without limitation, the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq. (together with the regulations promulgated pursuant thereto, **"ADA"**) (collectively, **"Legal Requirements"** and each, a **"Legal Requirement"**). Tenant shall, upon 5 business days' written notice from Landlord, discontinue any use of the Premises which is declared by any Governmental Authority (as defined in Section 9 hereof) having jurisdiction to be a violation of a Legal Requirement. Tenant will not use or permit the Premises to be used for any purpose or in any manner that would void Tenant's or Landlord's insurance, increase the insurance risk, or cause the disallowance of any sprinkler or other credits. Tenant shall not permit any part of the Premises to be used as a "place of public accommodation," as defined in the ADA or any similar Legal Requirement. Tenant shall reimburse Landlord promptly upon demand for any additional premium charged for any such insurance policy by reason of Tenant's failure to comply with the provisions of this Section or otherwise caused by Tenant's use and/or occupancy of the Premises. Tenant will use the Premises in a careful, safe and proper manner and will not commit or permit waste, overload the floor or structure of the Premises, subject the Premises to use that would damage the Premises or obstruct or interfere with the rights of Landlord or other tenants or occupants of the Project, including conducting or giving notice of any auction, liquidation, or going out of business sale on the Premises, or using or allowing the Premises to be used for any unlawful purpose. Tenant shall cause any equipment or machinery to be installed in the Premises so as to reasonably prevent sounds or vibrations from the Premises from extending into Common Areas, or other space in the Project. Tenant shall not place any machinery or equipment weighing 500 pounds or more in or upon the Premises or transport or move such items through the Common Areas of the Project or in the Project elevators without the prior written consent of Landlord. Except as may be provided under the Work Letter, Tenant shall not, without the prior written consent of Landlord, use the Premises in any manner which will require ventilation, air exchange, heating, gas, steam, electricity or water beyond the existing capacity of the Project as proportionately allocated to the Premises based upon Tenant's Share as usually furnished for the Permitted Use.

(b) Compliance with Legal Requirements. Landlord shall be responsible for the compliance of the Building Systems (defined in Section 13 hereof), structure, exterior, parking and other Common Areas of the Project with Legal Requirements (including, without limitation, the ADA) in effect as of the Commencement Date. Landlord shall, as an Operating Expense (unless excluded from the definition of Operating Expense under Section 5(b) hereof), be responsible for keeping the Building Systems, structure, exterior, parking and other Common Areas of the Project in compliance with Legal Requirements during the Term. Tenant shall make any alterations or modifications to the interior or the exterior of the Premises or the Project that are required by Legal Requirements (including, without limitation, compliance of the Premises with the ADA) related to Tenant's use or occupancy of the Premises, at Tenant's sole expense unless part of Tenant's Work under the Work Letter.

(c) Indemnity.

(i) Notwithstanding any other provision herein to the contrary, Tenant shall be responsible for any and all Claims (as defined in Section 7(d) hereof) arising out of or in connection with Tenant's failure to meet Tenant's obligations under this Lease to comply with Legal Requirements, and Tenant shall indemnify, defend, hold and save Landlord harmless from and against any and all Claims arising out of or in connection with any failure by Tenant to meet Tenant's obligations under this Lease to comply with any Legal Requirement.

(ii) Notwithstanding any other provision herein to the contrary, Landlord shall be responsible for any and all Claims arising out of or in connection with Landlord's failure to meet Landlord's obligations under this Lease to comply with Legal Requirements, and Landlord shall indemnify, defend, hold and save Tenant harmless from and against any and all Claims arising out of or in connection with any failure by Landlord to meet Landlord's obligations under this Lease to comply with any Legal Requirement.

(d) **Claims.** As used herein, **"Claims"** shall mean any and all demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages or judgments, and all reasonable expenses incurred in investigating or resisting the same (including, without limitation, reasonable attorneys' fees, charges and disbursements and costs of suit).

8. **Holding Over**.

(a) **Hold Over with Consent.** If, with Landlord's express written consent, Tenant retains possession of the Premises after the termination of the Term, unless otherwise agreed in such written consent, (i) such possession shall be subject to immediate termination by Landlord at any time, (ii) all of the other terms and provisions of this Lease (including, without limitation, the adjustment of Base Rent pursuant to Section 4 hereof) shall remain in full force and effect (excluding any expansion or renewal option or other similar right or option) during such holdover period, (iii) Tenant shall continue to pay Base Rent in the amount payable upon the date of the expiration or earlier termination of this Lease or such other amount as Landlord may indicate, in Landlord's sole and absolute discretion, in such written consent, and (iv) all other payments shall continue under the terms of this Lease.

(b) **Hold Over without Consent.** If Tenant remains in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Landlord, (i) Tenant shall become a tenant at sufferance upon the terms of this Lease except that the monthly rental shall be equal to 150% of Rent in effect during the last 30 days of the Term, and (ii) Tenant shall be responsible for all damages suffered by Landlord resulting from or occasioned by Tenant's holding over, including consequential damages.

(c) **No Deemed Consent or Extension.** No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Section 8 shall not be construed as consent for Tenant to retain possession of the Premises. Acceptance by Landlord of Rent after the expiration of the Term or earlier termination of this Lease shall not result in a renewal or reinstatement of this Lease.

9. Taxes.

(a) Payment of Taxes. Except as provided in Section 9(b) hereof, Landlord shall pay all taxes, levies, assessments and governmental charges of any kind (collectively referred to as "**Taxes**") imposed by any federal, state, regional, municipal, local or other governmental authority or agency, including, without limitation, quasi-public agencies (collectively, **"Governmental Authority")** during the Term, including, without limitation, all Taxes: (i) imposed on or measured by or based, in whole or in part, on rent payable to Landlord under this Lease and/or from the rental by Landlord of the Project or any portion thereof, or (ii) based on the square footage, assessed value or other measure or evaluation of any kind of the Premises or the Project, or (iii) assessed or imposed by or on the operation or maintenance of any portion of the Premises or the Project, including parking, or (iv) assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by, any Governmental Authority, or (v) imposed as a license or other fee on Landlord's business of leasing space in the Project. Landlord may contest by appropriate legal proceedings the amount, validity, or application of any Taxes or liens securing Taxes. Taxes shall not include any net income taxes imposed on Landlord unless such net income taxes are in substitution for any Taxes payable hereunder. If any such Tax is levied or assessed directly against Tenant, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall pay, prior to delinquency, any and all Taxes levied or assessed against any personal property or trade fixtures placed by Tenant in the Premises, whether levied or assessed against Landlord or Tenant. If any Taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property, or if the assessed valuation of the Project is increased by a value attributable to improvements in or alterations to the Premises, whether owned by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, higher than the base valuation on which Landlord from time-to-time allocates Taxes to all tenants in the Project, Landlord shall have the right, but not the obligation, to pay such Taxes. Landlord's determination of any excess assessed valuation shall be binding and conclusive, absent manifest error. The amount of any such payment by Landlord shall constitute Additional Rent due from Tenant to Landlord immediately upon demand.

(b) Taxes. Notwithstanding anything set forth herein to the contrary, Tenant hereby agrees that it will pay all Taxes that become due with respect to the Premises during the Term, including Tenant's Share of real property taxes assessed against the Project. Landlord will provide Tenant with copies of current statements of real property taxes within 15 days after execution of this Lease. Thereafter, Landlord will provide Tenant with copies of statements of real property taxes within 45 days after receipt by Landlord. Each month during the Term, Tenant shall pay one-twelfth (1/12) of the annual Taxes, including annual real property taxes, due with respect to the Premises either to Landlord or directly to the taxing authority. If Tenant receives an exemption from ad valorem taxes as contemplated in Section 9(c) hereof, (i) if Tenant has paid real property taxes to Landlord, Tenant shall be entitled to be refunded or reimbursed for any real property taxes paid to Landlord upon Landlord's receipt of any refund from the taxing authority; or (ii) if Tenant has paid real property taxes directly to the taxing authority, Tenant shall be entitled to any refund with respect to such taxes.

(c) **Tax Exemption.** Landlord acknowledges that Tenant conducts biomedical research and provides bone marrow transplant and related hospital services for the sick, and the property that Tenant uses for these purposes is generally exempt from ad valorem property taxes pursuant to the provisions of Chapter 84.36 RCW. Landlord agrees that Tenant may apply to the Washington Department of Revenue to obtain a property tax exemption for the Premises. At its own expense and in its own name, Tenant may contest and review by legal proceedings any denial by the Department of Revenue or any court of competent jurisdiction of an exemption from ad valorem property taxes for the Premises during the Term. If Tenant exercises this right, Landlord agrees to cooperate in the legal proceedings and not hinder efforts by Tenant. As used herein, **"legal proceedings"** shall include, but not be limited to, appropriate appeals of all administrative and judicial determinations and judgments, decrees, orders and certiorari proceedings and appeals of orders therein, including appeals to the court of last resort. Tenant agrees to indemnify and hold Landlord harmless from any costs or expenses Landlord may incur in connection with such legal proceedings.

10. Parking. Subject to all matters of record, Force Majeure, a Taking (as defined in Section 19 hereof) and the exercise by Landlord of its rights hereunder, Tenant shall be allocated Tenant's Share of all parking spaces available for use by tenants of the Building, in those areas designated for non-reserved parking for office and laboratory tenants of the Project (but not retail tenants or their customers or visitors of the Project), subject in each case to Landlord's rules and regulations. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties, including other tenants of the Project. Tenant shall pay, in monthly installments in advance, for each of the parking spaces allocated to Tenant, Additional Rent in the amount of $__ per parking space **("Parking Rent"),** the first monthly installment of which shall be payable upon the Rent Commencement Date and thereafter on or before the first day of each month of the Term. Parking Rent shall be increased by 10% as of the 6th anniversary of the Rent Commencement Date. If Landlord is able to provide extra parking spaces for Tenant's use after 7:00 p.m., in Landlord's discretion, Tenant shall not be charged for such extra parking spaces. Tenant hereby agrees to cooperate with Landlord by complying with the transportation plan approved by the City of Seattle.

11. Utilities, Services.

(a) **Provision and Payment** Subject to the terms of this Section 11. Landlord shall provide water, electricity, heat, light, power, telephone, sewer, and other utilities (including gas and fire sprinklers to the extent the Building is plumbed for such services), refuse and trash collection, and janitorial services for the Common Areas (collectively, **"Utilities").** Landlord shall pay, as Operating Expenses or subject to Tenant's reimbursement obligation, for all Utilities used on the Premises, all maintenance charges for Utilities, and any storm sewer charges or other similar charges for Utilities imposed by any Governmental Authority or Utility provider, and any taxes, penalties, surcharges or similar charges thereon. Landlord may cause, at Tenant's expense, any Utilities to be separately metered or charged directly to Tenant by the provider. Tenant shall pay directly to the Utility provider, prior to delinquency, any separately metered Utilities and services which may be furnished to Tenant or the Premises during the Term. Tenant shall pay, as part of Operating Expenses, its share of all charges for jointly metered Utilities based upon consumption, as reasonably determined by Landlord. Upon request, Landlord shall provide Tenant with evidence of the amounts of such jointly metered Utilities and the manner in which Landlord determined Tenant's Share thereof. No interruption or failure of Utilities, from any cause whatsoever other than Landlord's willful misconduct, shall result in eviction or constructive eviction of Tenant, termination of this Lease or the abatement of Rent. Tenant agrees to limit use of water and sewer with respect to Common Areas to normal restroom use.

(b) **Availability.** Utilities shall be available to Tenant for use and occupancy of the Premises at any and all times, 24 hours per day, 7 days per week (including without limitation on nights, weekends and holidays), subject to the failure of any Utility provider to provide such Utilities, or repair of other temporary interruptions.

12. Alterations and Tenant's Property.

(a) Alterations.

(i) Except as otherwise expressly provided in this Lease or the Work Letter, any alterations, additions, or improvements made to the Premises by or on behalf of Tenant, including additional locks or bolts of any kind or nature upon any doors or windows in the Premises, but excluding installation, removal or realignment of furniture systems (other than removal of furniture systems owned or paid for by Landlord) not involving any modifications to the structure or connections (other then by ordinary plugs or jacks) to Building Systems (as defined in Section 13 hereof) (**"Alterations"**) shall be subject to Landlord's prior written consent, which may be given or withheld in Landlord's sole discretion if any such Alteration affects the structure or Building Systems. If Landlord approves any Alterations, Landlord may impose reasonable conditions, including restoration obligations, on Tenant in connection with the commencement, performance and completion of such Alterations; provided, that Landlord will not be acting unreasonably if Landlord disapproves removal or material alteration of laboratory improvements. Any request for approval shall be in writing, delivered not less than 15 business days in advance of any proposed construction, and accompanied by plans, specifications, bid proposals, work contracts, evidence of contractor's insurance and such other information concerning the nature and cost of the alterations as may be reasonably requested by Landlord, including the identities and mailing addresses of all persons performing work or supplying materials. If Landlord fails to respond to Tenant within 10 business days after delivery of Tenant's request, Landlord shall be deemed to have approved the Alterations.

(ii) Notwithstanding Section 12(a)(i) hereof, Tenant may construct nonstructural Alterations in the Premises without Landlord's prior approval if the aggregate cost of all such work in any 12 month period does not exceed $____ (a **"Notice-Only Alteration"**), provided Tenant notifies Landlord in writing of such intended Notice-Only Alteration, and such notice shall be accompanied by plans, specifications, work contracts and such other information concerning the nature and cost of the Notice-Only Alteration as may be reasonably requested by Landlord, which notice and accompanying materials shall be delivered to Landlord not less than 15 business days in advance of any proposed construction.

(iii) Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to ensure that such plans and specifications or construction comply with applicable Legal Requirements. Tenant shall cause, at its sole cost and expense, all Alterations to comply with insurance requirements and with Legal Requirements and shall implement at its sole cost and expense any alteration or modification required by Legal Requirements as a result of any Alterations. Tenant shall pay to Landlord, as Additional Rent, on demand an amount equal to five percent (5%) of all charges incurred by Tenant or its contractors or agents in connection with any Alteration (other than a Notice-Only Alteration) to cover Landlord's overhead and expenses for plan review, coordination, scheduling and supervision up to a maximum of $____ per Alteration. Before Tenant begins any Alteration, Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable law. Tenant shall reimburse Landlord for, and indemnify and hold Landlord harmless from, any expense incurred by Landlord by reason of faulty work done by Tenant or its contractors, delays caused by such work, or inadequate cleanup.

(b) **Protection from Liens.** Tenant shall furnish security or make other arrangements satisfactory to Landlord to assure payment for the completion of all Alterations work (other than Notice-Only Alteration work). Tenant shall complete all Alterations work free and clear of liens, and shall provide (and cause each contractor or subcontractor to provide) certificates of insurance for workers' compensation and other coverage in amounts and from an insurance company satisfactory to Landlord protecting Landlord against liability for personal injury or property damage during construction. Upon completion of any Alterations, Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and subcontractors who did the work and final lien waivers from all such contractors and subcontractors; and (ii) "as built" plans for any such Alteration, in both hard copy and electronic format (if available).

(c) **Tenant's Property and Installations.** Other than (i) the items, if any, listed on attached **Exhibit F**, (ii) any items agreed by Landlord in writing to be included on **Exhibit F** in the future, and (iii) any trade fixtures, machinery, equipment and other personal property not paid for out of the TI Fund (as defined in the Work Letter) which may be removed without material damage to the Premises, which damage shall be repaired (including capping or terminating utility hook-ups behind walls) by Tenant during the Term (collectively, **"Tenant's Property"),** all property of any kind paid for with the TI Fund and all Alterations, real property fixtures, built-in machinery and equipment, built-in casework and cabinets and other similar additions and improvements built into the Premises so as to become an integral part of the Premises (such as fume hoods which penetrate the roof or plenum area, built-in cold rooms, built-in warm rooms, walk-in cold rooms, walk-in warm rooms, deionized water systems, glass washing equipment, autoclaves, chillers, built-in plumbing, electrical and mechanical equipment and systems, and any power generator and transfer switch) (collectively, **"Installations")** shall be and shall remain the property of Landlord during the Term and following the expiration or earlier termination of the Term, shall not be removed by Tenant at any time during the Term and shall remain upon and be surrendered with the Premises as a part thereof in accordance with Section 28 following the expiration or earlier termination of this Lease; provided, however, that Landlord shall, at the time its approval of such Installation is requested or at the time it receives notice of a Notice-Only Alteration, notify Tenant if it elects to cause Tenant to remove such Installation upon the expiration or earlier termination of this Lease. If Landlord so elects, Tenant shall remove such Installation upon the expiration or earlier termination of this Lease and restore any damage caused by or occasioned as a result of such removal, including, when removing any of Tenant's Property which was plumbed, wired or otherwise connected to any of the Building Systems, capping off all such connections behind the walls of the Premises and repairing any holes. During any such restoration period, Tenant shall pay Rent to Landlord as provided herein as if said space were otherwise occupied by Tenant.

(d) **Telecommunications Equipment.** Notwithstanding anything set forth herein to the contrary, Tenant shall have the right, subject to the reasonable approval of Landlord of the location, to use a portion of the roof top of the Building without additional charge to place 2 communication dishes (each approximately 18 inches in diameter) and antennae (the **"Telecommunications Equipment").** The Telecommunications Equipment shall be used solely by Tenant. Tenant shall pay all costs related to the installation, maintenance and removal of the Telecommunications Equipment. Tenant shall not knowingly take any action which will invalidate any warranty applicable to the roof. If Landlord delivers to Tenant written notice that the Telecommunications Equipment is causing any interference with equipment used by Landlord or another tenant of the Building, Tenant shall cause such interference to cease within 2 business days, or, thereafter, Tenant shall be required to cease using and remove the Telecommunications Equipment. Tenant shall promptly repair any damage to the roof top caused by the installation or maintenance of the Telecommunications Equipment.

13. Landlord's Repairs. Landlord, as an Operating Expense, shall maintain all of the structural, exterior, parking and other Common Areas of the Project, including HVAC, plumbing, fire sprinklers, elevators and all other building systems serving the Premises and other portions of the Project **("Building Systems"**), in good repair, reasonable wear and tear and uninsured losses and damages caused by Tenant, or by any of Tenant's agents, servants, employees, invitees and contractors (collectively, **"Tenant Parties"**) excluded. Losses and damages caused by Tenant or any Tenant Party shall be repaired by Landlord, to the extent not covered by insurance, at Tenant's sole cost and expense. Landlord reserves the right to stop Building Systems services when necessary (i) by reason of accident or emergency, or (ii) for planned repairs, alterations or improvements, which are, in the judgment of Landlord, desirable or necessary to be made, until said repairs, alterations or improvements shall have been completed. Landlord shall have no responsibility or liability for failure to supply Building Systems services during any such period of interruption; provided, however, that Landlord shall, except in case of emergency, give Tenant not less than 24 hours advance notice of any planned stoppage of Building Systems services for routine maintenance, repairs, alterations or improvements; provided that if Tenant objects to stoppage on such short notice, Landlord shall delay such stoppage for a reasonable period not to exceed 5 days unless Landlord reasonably determines that such delay will cause material damage to the Building System. Tenant shall promptly give Landlord written notice of any repair required by Landlord pursuant to this Section (or with respect to any emergency, oral notice followed immediately by written notice), after which Landlord shall effect such repair within a reasonable time. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after Tenant's written notice of the need for such repairs or maintenance. If Landlord fails to make such repairs or to perform such maintenance within a reasonable time after written notice from Tenant, Tenant shall have the right to make such repairs. If Tenant makes any such repairs or performs any such maintenance, Tenant shall indemnify and defend Landlord against any third-party Claims. Landlord shall reimburse Tenant within 10 business days for any costs incurred by Tenant with respect to Landlord's obligations under this Section 13. If Landlord fails to timely pay any such amount, either party may elect to have the matter resolved by binding arbitration pursuant to the arbitration rules of the American Arbitration Association then applying, except that the arbitration shall be held within 30 days. Any award rendered therein shall be final and binding on all parties to the arbitration and judgment may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, nothing in this Agreement shall preclude the parties from seeking injunctive or other equitable relief from a court. All parties consent to the jurisdiction and venue of the federal and state courts located in King County, Washington with respect to any such controversy or claims. Repairs required as the result of fire, earthquake, flood, vandalism, war, or similar cause of damage or destruction shall be controlled by Section 18 hereof. For purposes of this Section 13, **"reasonable time"** shall be construed in light of (i) Tenant's use of the affected portion of Premises or the Building and (ii) the circumstances at the time; provided "reasonable time" shall not to exceed 30 days unless such repair normally takes longer than 30 days in which event Landlord shall have a period of time reasonably required to complete such repairs); provided, however, that if such failure by Landlord creates or could create an emergency, Tenant may immediately commence cure of such failure.

14. Tenant's Repairs. Subject to Section 13 hereof, Tenant, at its expense, shall repair, replace and maintain in good condition all portions of the Premises, including, without limitation, entries, doors, ceilings, interior windows, interior walls, and the interior side of demising walls, unless such repair, replacement or maintenance is required due to the willful misconduct or gross negligence of Landlord or a Landlord Party (as defined in Section 17(b) hereof). Should Tenant fail to make any such repair or replacement or fail to maintain the Premises as required herein, Landlord shall give Tenant notice of such failure. If Tenant fails to commence cure of such failure within 10 business days of Landlord's notice, and thereafter diligently prosecute such cure to completion, Landlord may perform such work and shall be reimbursed by Tenant within 10 business days after demand therefor; provided, however, that if such failure by Tenant creates or could create an emergency, Landlord may immediately commence cure of such failure and shall thereafter be entitled to recover the costs of such cure from Tenant. Subject to Sections 17 and 18 hereof, Tenant shall bear the full uninsured cost of any repair or replacement to any part of the Project that results from damage caused by Tenant or any Tenant Party.

15. Mechanic's Liens. Within 30 days after the filing thereof, at Tenant's sole cost, Tenant shall discharge, by bond or otherwise, any mechanic's lien filed against the Premises or against the Project for work claimed to have been done for, or materials claimed to have been furnished to Tenant, and Tenant shall otherwise keep the Premises and the Project free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant. Should Tenant fail to discharge any lien described herein, Landlord shall have the right, but not the obligation, to pay such claim or post a bond or otherwise provide security to eliminate the lien as a claim against title to the Project and the cost thereof shall be immediately due from Tenant as Additional Rent. If Tenant shall lease or finance the acquisition of office equipment, furnishings, or other personal property of a removable nature utilized by Tenant in the operation of Tenant's business, Tenant warrants that any Uniform Commercial Code Financing Statement filed as a matter of public record by any lessor or creditor of Tenant will upon its face or by exhibit thereto indicate that such Financing Statement is applicable only to removable personal property of Tenant located within the Premises. In no event shall the address of the Project be furnished on the statement without qualifying language as to applicability of the lien only to removable personal property, located in an identified suite held by Tenant.

16. Indemnification.

(a) Indemnification by Tenant. Unless caused by the willful misconduct or gross negligence of Landlord or a Landlord Party: (i) Tenant hereby indemnifies and agrees to defend, save and hold Landlord harmless from and against any and all Claims for injury or death to persons or damage to property occurring within or about the Premises, arising directly or indirectly out of use or occupancy of the Premises or a breach or default by Tenant in the performance of any of its obligations hereunder; (ii) Landlord shall not be liable to Tenant for, and Tenant assumes all risk of damage to, personal property (including, without limitation, loss of records kept within the Premises); and (iii) Tenant waives any and all Claims for injury to Tenant's business or loss of income relating to any such damage or destruction of personal property (including, without limitation, any loss of records).

(b) Indemnification by Landlord. Landlord hereby indemnifies and agrees to defend, save and hold Tenant harmless from and against any and all Claims for injury or death to persons or damage to property occurring in or about the Project outside of the Premises caused by the willful misconduct or gross negligence of Landlord or a Landlord Party.

(c) Acts of Third Parties. Neither Landlord nor Tenant shall be liable to the other for any Claims arising from any act, omission or neglect of any tenant in the Project or of any other unrelated, non-invitee third party.

17. Insurance.

(a) Landlord's Insurance. Landlord shall maintain all-risk property and, if applicable, sprinkler damage insurance covering the full replacement cost of the Project. Landlord shall further procure and maintain commercial general liability insurance with a single loss limit of not less than $10,000,000 for bodily injury and property damage with respect to the Project, and errors and omissions insurance with a single loss limit of not less than $10,000,000; provided that any loss in excess of policy limits shall not be included as part of the Operating Expenses unless such loss is the responsibility of Tenant under this Lease. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem reasonably necessary, including, but not limited to, flood, environmental hazard and earthquake, loss or failure of building equipment, errors and omissions, rental loss during the period of repair or rebuilding, workers' compensation insurance and fidelity bonds for employees employed to perform services and insurance for any improvements installed by Tenant or which are in addition to the standard improvements customarily furnished by Landlord without regard to whether or not such are made a part of the Project. The premiums for such insurance shall be included as part of the Operating Expenses. The Project may be included in a blanket policy (in which case the cost of such insurance allocable to the Project will be determined by Landlord based upon the insurer's cost calculations). Tenant shall also reimburse Landlord for any increased premiums or additional insurance which Landlord reasonably deems necessary as a result of Tenant's use of the Premises.

(b) Tenant's Insurance. Tenant, at its sole cost and expense, shall maintain during the Term: (i) all-risk property insurance with business interruption and extra expense coverage covering all of Tenant's personal property and trade fixtures installed or placed in the Premises, with such limits and subject to such deductibles as Tenant reasonably determines appropriate; (ii) workers' compensation insurance with no less than the minimum limits required by law; (iii) employer's liability insurance with such limits as required by law; and (iv) commercial general liability insurance, with a minimum limit of not less than $2,000,000 per occurrence for bodily injury and property damage with respect to the Premises with a minimum limit of not less than $2,000,000 per occurrence. The commercial general liability insurance policy shall name Landlord, its officers, directors, employees and managers as additional insureds (collectively, **"Landlord Parties"** or individually a **"Landlord Party"**). The commercial general liability policy shall be issued by insurance companies which have a rating of not less than policyholder rating of A and financial category rating of at least Class X in "Best's Insurance Guide"; shall not be cancelable for nonpayment of premium unless 10 days prior written notice shall have been given to Landlord from the insurer; shall contain a hostile fire endorsement and a contractual liability endorsement. If Tenant's commercial general liability policy is written on a claims made basis, upon expiration or termination of the Lease, Tenant shall procure and maintain for 3 years after such expiration or termination a "tail" liability insurance policy with a minimum limit of not less than $2,000,000 per occurrence. Tenant will use reasonable commercial efforts to obtain pollution legal liability insurance with a minimum limit of not less than $2,000,000 per occurrence; provided the premium for such insurance shall not exceed $15,000 for the first year of coverage. Tenant's policy may be a "blanket policy" with an aggregate per location endorsement which specifically provides that the amount of insurance shall not be prejudiced by other losses covered by the policy.

(c) **Evidence of Insurance.** Certificates of insurance showing the limits of coverage required hereunder and showing Landlord as an additional insured shall be delivered to Landlord by Tenant upon commencement of the Term and upon each renewal of said insurance. Tenant shall, prior to the expiration of such policies, furnish Landlord with renewal certificates. In each instance where insurance is to name Landlord as an additional insured, Tenant shall upon written request of Landlord also designate and furnish certificates so evidencing Landlord as additional insured to: (i) any lender of Landlord holding a security interest in the Project or any portion thereof, (ii) the landlord under any lease wherein Landlord is tenant of the real property on which the Project is located, if the interest of Landlord is or shall become that of a tenant under a ground or other underlying lease rather than that of a fee owner, and/or (iii) any management company retained by Landlord to manage the Project.

(d) **Waiver of Subrogation.** The property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or Tenant, and their respective officers, directors, employees, managers, agents, invitees and contractors **("Related Parties"**), in connection with any loss or damage thereby insured against. Neither party nor its respective Related Parties shall be liable to the other for loss or damage caused by any risk insured against under property insurance required to be maintained hereunder, and each party waives any claims against the other party, and its respective Related Parties, for such loss or damage. The failure of a party to insure its property shall not void this waiver. Except as expressly provided in this Lease, Landlord and its respective Related Parties shall not be liable for, and Tenant hereby waives all claims against such parties for, business interruption and losses occasioned thereby which are sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises or the Project from any cause whatsoever. If the foregoing waivers shall contravene any law with respect to exculpatory agreements, the liability of Landlord or Tenant shall be deemed not released but shall be secondary to the other's insurer.

(e) **Increases in Limits.** Upon written notice to Tenant, Landlord may require insurance policy limits to be raised to conform with reasonable requirements of Landlord's lender and/or to bring coverage limits to reasonable levels then being generally required of new tenants within the Project.

18. **Restoration.**

(a) **Restoration by Landlord.** If, at any time during the Term, the Project or the Premises are damaged or destroyed by a fire or other insured casualty (**"Casualty"**), Landlord shall notify Tenant within 60 days after discovery of such Casualty as to the amount of time Landlord reasonably estimates it will take to restore the Project or the Premises, as applicable (the **"Restoration Period").** If the Restoration Period is estimated to exceed 12 months (the **"Maximum Restoration Period"**), Landlord may, in such notice, elect to terminate this Lease as of the date that is 75 days after the date of discovery of such damage or destruction; provided, however, that notwithstanding Landlord's election to restore, Tenant may elect to terminate this Lease by written notice to Landlord delivered within 5 business days of receipt of a notice from Landlord estimating a Restoration Period for the Premises longer than the Maximum Restoration Period. Unless either Landlord or Tenant so elects to terminate this Lease, upon receipt of sufficient insurance proceeds, Landlord shall promptly restore the Premises (excluding the improvements installed by Tenant or by Landlord and paid for by Tenant unless covered by the insurance Landlord maintains as an Operating Expense hereunder, in which case such improvements shall be included, to the extent of such insurance proceeds, in Landlord's restoration), subject to delays arising from the collection of insurance proceeds, from Force Majeure events or as needed to obtain any license, clearance or other authorization of any kind required to enter into and restore the Premises issued by any Governmental Authority having jurisdiction over the use, storage, handling, treatment, generation, release, disposal, removal or remediation of Hazardous Materials (as defined in Section 30 hereof) in, on or about the Premises (collectively referred to herein as **"Hazardous Materials Clearances"**); provided, however, that if repair or restoration of the Premises is not substantially complete as of the end of the Maximum Restoration Period or, if longer, the Restoration Period, Landlord may, in its sole and absolute discretion, elect not to proceed with such repair and restoration, or Tenant may by written notice to Landlord delivered within 5 business days of the expiration of the Maximum Restoration Period or, if longer, the Restoration Period, elect to terminate this Lease, in which event Landlord shall be relieved of its obligation to make such repairs or restoration and this Lease shall terminate as of the date that is 75 days after the later of: (i) discovery of such damage or destruction, or (ii) the date all required Hazardous Materials Clearances are obtained, but Landlord shall retain the right to any Rent payable by Tenant prior to such election by Landlord or Tenant. Notwithstanding the foregoing, either Landlord or Tenant may terminate this Lease if the Premises are damaged during the last year of the Term and Landlord reasonably estimates that it will take more than 2 months to repair such damage, or if insurance proceeds are not available for such restoration.

(b) **Restoration by Tenant.** In the event of a Casualty to the Premises, subject to Landlord's restoration obligations under Section 18(a) hereof, Tenant, at its expense, shall promptly perform, subject to delays arising from the collection of insurance proceeds, from Force Majeure (as defined in Section 34) events or to obtain Hazardous Material Clearances, all repairs or restoration not required to be done by Landlord and shall promptly re-enter the Premises and commence doing business in accordance with this Lease. Notwithstanding the foregoing, Landlord may terminate this Lease if the Premises are damaged during the last year of the Term and Landlord reasonably estimates that it will take more than 2 months to repair such damage, or if insurance proceeds are not available for such restoration.

(c) Abatement of Rent. In the event of a Casualty to the Premises, Rent shall be abated from the date of the Casualty until the Premises are repaired and restored, in the proportion which the area of the Premises, if any, which is not usable by Tenant bears to the total area of the Premises, unless Landlord provides Tenant with other space during the period of repair that is suitable for the temporary conduct of Tenant's business. Such abatement shall be the sole remedy of Tenant, and except as provided in this Section 18. Tenant waives any right to terminate the Lease by reason of damage or casualty loss.

(d) Waiver. The provisions of this Lease, including this Section 18, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, or any other portion of the Project, and any statute or regulation which is now or may hereafter be in effect shall have no application to this Lease or any damage or destruction to all or any part of the Premises or any other portion of the Project, the parties hereto expressly agreeing that this Section 18 sets forth their entire understanding and agreement with respect to such matters.

19. Condemnation. If the whole or any material part of the Premises or the Project is taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a **"Taking"** or **"Taken"**), and if the Taking would (i) in Landlord's reasonable judgment materially interfere with or impair Landlord's ownership or operation of the Project, or (ii) in Tenant's reasonable judgment either prevent or materially interfere with Tenant's use of the Premises, then upon written notice by Landlord or Tenant, as applicable, this Lease shall terminate and Rent shall be apportioned as of said date. If part of the Premises shall be Taken, and this Lease is not terminated as provided above, Landlord shall promptly restore the Premises and the Project as nearly as is commercially reasonable under the circumstances to their condition prior to such partial Taking and the rentable square footage of the Building, the rentable square footage of the Premises, Tenant's Share of Operating Expenses and the Rent payable hereunder during the unexpired Term shall be reduced to such extent as may be fair and reasonable under the circumstances. Upon any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recoverable by Tenant for moving expenses and damage to Tenant's trade fixtures. Tenant hereby waives any and all rights it might otherwise have pursuant to any provision of state law to terminate this Lease upon a partial Taking of the Premises or the Project.

20. Events of Default. Each of the following events shall be a default **("Default")** by Tenant under this Lease:

(a) Payment Defaults. Tenant shall fail to pay any installment of Rent or any other payment hereunder when due.

(b) Insurance. Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or shall be reduced or materially changed, or Landlord shall receive a notice of nonrenewal of any such insurance and Tenant shall fail to obtain replacement insurance at least 5 days before the expiration of the current coverage.

(c) Abandonment. Tenant shall abandon the Premises.

(d) Improper Transfer. Tenant shall assign, sublease or otherwise transfer or attempt to transfer all or any portion of Tenant's interest in this Lease or the Premises except as expressly permitted herein, or Tenant's interest in this Lease shall be attached, executed upon, or otherwise judicially seized and such action is not released within 90 days of the action.

(e) Liens. Tenant shall fail to discharge or otherwise obtain the release of any lien placed upon the Premises in violation of this Lease within 30 days after any such lien is filed against the Premises.

(f) Insolvency Events. Tenant or any guarantor or surety of Tenant's obligations hereunder shall: (i) make a general assignment for the benefit of creditors; (ii) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a **"Proceeding for Relief"**); (iii) become the subject of any Proceeding for Relief which is not dismissed within 90 days of its filing or entry; or (iv) be dissolved or otherwise fail to maintain its legal existence.

(g) Estoppel Certificate or Subordination Agreement. Tenant fails to execute any document required from Tenant under Sections 23 or 27 hereof within 5 business days after a second notice requesting such document.

(h) Other Defaults. Tenant shall fail to comply with any provision of this Lease other than those specifically referred to in this Section 20, and, except as otherwise expressly provided herein, such failure shall continue for a period of 20 days after written notice thereof from Landlord to Tenant. Any notice given under this Section 20(h) shall: (i) specify the alleged default, (ii) demand that Tenant cure such default, (iii) be in lieu of, and not in addition to, or shall be deemed to be, any notice required under any provision of applicable law, and (iv) not be deemed a forfeiture or a termination of this Lease unless Landlord elects otherwise in such notice; provided that if the nature of Tenant's default pursuant to this Section 20(h) is such that it cannot be cured by the payment of money and reasonably requires more than 20 days to cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said 20-day period and thereafter diligently prosecutes the same to completion.

21. Landlord's Remedies.

(a) Payment By Landlord; Interest. Upon a Default by Tenant hereunder, Landlord may, without waiving or releasing any obligation of Tenant hereunder, make such payment or perform such act. All sums so paid or incurred by Landlord, together with interest thereon, from the date such sums were paid or incurred, at the annual rate equal to 12% per annum or the highest rate permitted by law (the **"Default Rate"**), whichever is less, shall be payable to Landlord on demand as Additional Rent. Nothing herein shall be construed to create or impose a duty on Landlord to mitigate any damages resulting from Tenant's Default hereunder.

(b) Late Payment Rent. Late payment by Tenant to Landlord of Rent and other sums due will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impracticable to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord under any Mortgage covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Landlord within 5 days after the date such payment is due, Tenant shall pay to Landlord an additional sum equal to 6% of the overdue Rent as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. In addition to the late charge, Rent not paid when due shall bear interest at the Default Rate from the 5th day after the date due until paid.

(c) Remedies. Upon the occurrence of a Default, Landlord, at its option, without further notice or demand to Tenant, shall have in addition to all other rights and remedies provided in this Lease, at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

(i) Terminate this Lease, or at Landlord's option, Tenant's right to possession only, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor;

(ii) Upon any termination of this Lease, whether pursuant to the foregoing Section 21(c)(i) or otherwise, Landlord may recover from Tenant the following:

(A) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(B) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(C) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(D) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including, but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(E) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

(iii) Landlord may continue this Lease in effect after Tenant's Default and recover rent as it becomes due (Landlord and Tenant hereby agreeing that Tenant has the right to sublet or assign hereunder, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease following a Default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies hereunder, including the right to recover all Rent as it becomes due.

(iv) Whether or not Landlord elects to terminate this Lease following a Default by Tenant, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. Upon Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

(v) Independent of the exercise of any other remedy of Landlord hereunder or under applicable law, Landlord may conduct an environmental test of the Premises as generally described in Section 30 hereof, at Tenant's expense.

(vi) The term "**rent**" as used in this Section 21 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in this Section 21, the "**worth at the time of award**" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

(d) Effect of Exercise. Exercise by Landlord of any remedies hereunder or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, it being understood that such surrender and/or termination can be effected only by the express written agreement of Landlord and Tenant. Any law, usage, or custom to the contrary notwithstanding, Landlord shall have the right at all times to enforce the provisions of this Lease in strict accordance with the terms hereof; and the failure of Landlord at any time to enforce its rights under this Lease strictly in accordance with same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions, and covenants of this Lease or as having modified the same and shall not be deemed a waiver of Landlord's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of Rent or other payment with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. To the greatest extent permitted by law, Tenant waives the service of notice of Landlord's intention to re-enter, re-take or otherwise obtain possession of the Premises as provided in any statute, or to institute legal proceedings to that end, and also waives all right of redemption in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge.

22. Assignment and Subletting.

(a) General Prohibition. Without Landlord's prior written consent subject to and on the conditions described in this Section 22, Tenant shall not, directly or indirectly, voluntarily or by operation of law, assign this Lease or sublease the Premises or any part thereof or mortgage, pledge, or hypothecate its leasehold interest or grant any concession or license within the Premises, and any attempt to do any of the foregoing shall be void and of no effect. If Tenant is a corporation, partnership or limited liability company, the shares or other ownership interests thereof which are not actively traded upon a stock exchange or in the over-the-counter market, a transfer or series of transfers whereby 25% or more of the issued and outstanding shares or other ownership interests of such corporation are, or voting control is, transferred (but excepting transfers upon deaths of individual owners) from a person or persons or entity or entities which were owners thereof at time of execution of this Lease to persons or entities who were not owners of shares or other ownership interests of the corporation, partnership or limited liability company at time of execution of this Lease, shall be deemed an assignment of this Lease requiring the consent of Landlord as provided in this Section 22.

(b) Permitted Transfers. If Tenant desires to assign, sublease, hypothecate or otherwise transfer this Lease or sublet the Premises, then at least 15 business days, but not more than 45 business days, before the date Tenant desires the assignment or sublease to be effective (the **"Assignment Date"**), Tenant shall give Landlord a notice (the **"Assignment Notice")** containing such information about the proposed assignee or sublessee, including the proposed use of the Premises and any Hazardous Materials proposed to be used, stored handled, treated, generated in or released or disposed of from the Premises, the Assignment Date, any relationship between Tenant and the proposed assignee or sublessee, and all material terms and conditions of the proposed assignment or sublease, including a copy of any proposed assignment or sublease in its final form, and such other information as Landlord may deem reasonably necessary or appropriate to its consideration whether to grant its consent. Landlord may, by giving written notice to Tenant within 15 business days after receipt of the Assignment Notice: (i) grant such consent, (ii) refuse such consent, in its sole and absolute discretion, if the proposed assignment, hypothecation or other transfer or subletting concerns more than (together with all other then effective subleases) 50% of the Premises, (iii) refuse such consent, in its reasonable discretion, if the proposed subletting concerns (together with all other then effective subleases) 50% or less of the Premises (provided that Landlord shall further have the right to review and approve or disapprove the proposed form of sublease prior to the effective date of any such subletting), or (iv) terminate this Lease with respect to the space described in the Assignment Notice as of the Assignment Date (an **"Assignment Termination"**). If Landlord delivers notice of its election to exercise an Assignment Termination, Tenant shall have the right to withdraw such Assignment Notice by written notice to Landlord of such election within 5 business days after Landlord's notice electing to exercise the Assignment Termination. If Tenant withdraws such Assignment Notice, this Lease shall continue in full force and effect. If Tenant does not withdraw such Assignment Notice, this Lease, and the term and estate herein granted, shall terminate as of the Assignment Date with respect to the space described in such Assignment Notice. No failure of Landlord to exercise any such option to terminate this Lease, or to deliver a timely notice in response to the Assignment Notice, shall be deemed to be Landlord's consent to the proposed assignment, sublease or other transfer. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses in connection with its consideration of any Assignment Notice.

(c) Additional Conditions. As a condition to any such assignment or subletting, whether or not Landlord's consent is required, Landlord may require:

(i) That any assignee or subtenant agree, in writing at the time of such assignment or subletting, that if Landlord gives such party notice that Tenant is in default under this Lease, such party shall thereafter make all payments otherwise due Tenant directly to Landlord, which payments will be received by Landlord without any liability except to credit such payment against those due under the Lease, and any such third party shall agree to attorn to Landlord or its successors and assigns should this Lease be terminated for any reason; provided, however, in no event shall Landlord or its successors or assigns be obligated to accept such attornment; and

(ii) A list of Hazardous Materials, certified by the proposed assignee or sublessee to be true and correct, which the proposed assignee or sublessee intends to use, store, handle, treat, generate in or release or dispose of from the Premises, together with copies of all documents relating to such use, storage, handling, treatment, generation, release or disposal of Hazardous Materials by the proposed assignee or subtenant in the Premises or on the Project, prior to the proposed assignment or subletting, including, without limitation: permits; approvals; reports and correspondence; storage and management plans; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks shall only be permitted after Landlord has given its written consent to do so, which consent may be withheld in Landlord's sole and absolute discretion); and all closure plans or any other documents required by any and all federal, state and local Governmental Authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks. Neither Tenant nor any such proposed assignee or subtenant is required, however, to provide Landlord with any portion(s) of the such documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities.

(d) No Release of Tenant, Sharing of Excess Rents. Notwithstanding any assignment or subletting, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times remain fully and primarily responsible and liable for the payment of Rent and for compliance with all of Tenant's other obligations under this Lease. If the Rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto in any form) exceeds the sum of the rental payable under this Lease, (excluding however, any Rent payable under this Section) and actual and reasonable brokerage fees, legal costs and any design or construction fees directly related to and required pursuant to the terms of any such sublease **("Excess Rent")**, then Tenant shall be bound and obligated to pay Landlord as Additional Rent hereunder 50% of such Excess Rent within 10 days following receipt thereof by Tenant. If Tenant shall sublet the Premises or any part thereof, Tenant hereby immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any such subletting, and Landlord as assignee and as attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of a Default, Tenant shall have the right to collect such rent.

(e) No Waiver. The consent by Landlord to an assignment or subletting shall not relieve Tenant or any assignees of this Lease or any sublessees of the Premises from obtaining the consent of Landlord to any further assignment or subletting nor shall it release Tenant or any assignee or sublessee of Tenant from full and primary liability under the Lease. The acceptance of Rent hereunder, or the acceptance of performance of any other term, covenant, or condition thereof, from any other person or entity shall not be deemed to be a waiver of any of the provisions of this Lease or a consent to any subletting, assignment or other transfer of the Premises.

(f) Prior Conduct of Proposed Transferee. Notwithstanding any other provision of this Section 22, if (i) the proposed assignee or sublessee of Tenant has been required by any prior landlord, lender or Governmental Authority to take remedial action in connection with Hazardous Materials contaminating a property, where the contamination resulted from such party's action or use of the property in question, (ii) the proposed assignee or sublessee is subject to an enforcement order issued by any Governmental Authority in connection with the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials (including, without limitation, any order related to the failure to make a required reporting to any Governmental Authority), or (iii) because of the existence of a pre-existing environmental condition in the vicinity of or underlying the Project, the risk that Landlord would be targeted as a responsible party in connection with the remediation of such pre-existing environmental condition would be materially increased or exacerbated by the proposed use of Hazardous Materials by such proposed assignee or sublessee, Landlord shall have the absolute right to refuse to consent to any assignment or subletting to any such party.

23. Estoppel Certificate. Tenant shall, within 10 business days of written notice from Landlord, execute, acknowledge and deliver a statement in writing in any form reasonably requested by a proposed lender or purchaser, (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (iii) setting forth such further information with respect to the status of this Lease or the Premises as may be reasonably requested thereon. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part. Tenant's failure to deliver such statement within such time shall, at the option of Landlord, constitute a Default under this Lease, and, in any event, shall be conclusive upon Tenant that the Lease is in full force and effect and without modification except as may be represented by Landlord in any certificate prepared by Landlord and delivered to Tenant for execution.

24. Quiet Enjoyment. So long as Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord.

25. Prorations. All prorations required or permitted to be made hereunder shall be made on the basis of a 360 day year and 30 day months.

26. Rules and Regulations. Tenant shall, at all times during the Term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by Landlord covering use of the Premises and the Project. The current rules and regulations are attached hereto as **Exhibit E**. If there is any conflict between said rules and regulations and the provisions of this Lease, the provisions of this Lease shall control. Landlord shall not have any liability or obligation for the breach of any rules or regulations by other tenants in the Project and shall not enforce such rules and regulations in a discriminatory manner.

27. Subordination. This Lease and Tenant's interest and rights hereunder are hereby made and shall be subject and subordinate at all times to the lien of any Mortgage now existing or hereafter created on or against the Project or the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant; provided, however, that so long as there is no Default hereunder, Tenant's right to possession of the Premises shall not be disturbed by the Holder of any such Mortgage. Tenant agrees, at the election of the Holder of any such Mortgage, to attorn to any such Holder. Tenant agrees upon demand to execute, acknowledge and deliver such instruments, confirming such subordination, and such instruments of attornment as shall be reasonably requested by any such Holder, provided any such instruments shall contain appropriate non-disturbance provisions assuring Tenant's quiet enjoyment of the Premises as set forth in Section 24 hereof. Notwithstanding the foregoing, any such Holder may at any time subordinate its Mortgage to this Lease, without Tenant's consent, by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such Mortgage without regard to their respective dates of execution, delivery or recording and in that event such Holder shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution, delivery and recording of such Mortgage and had been assigned to such Holder. The term **"Mortgage"** whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, and any reference to the **"Holder"** of a Mortgage shall be deemed to include the beneficiary under a deed of trust.

28. Surrender.

(a) Condition of Premises/Surrender Plan. Upon the expiration of the Term or earlier termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord in the same condition as received, subject to any Alterations or Installations permitted by Landlord to remain in the Premises, free of Hazardous Materials brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Premises by any person other than a Landlord Party (collectively, **"Tenant HazMat Operations")** and released of all Hazardous Materials Clearances, broom clean, ordinary wear and tear and casualty loss and condemnation covered by Sections 18 and 19 hereof excepted. At least 3 months prior to the surrender of the Premises, Tenant shall deliver to Landlord a narrative description of the actions proposed (or required by any Governmental Authority) to be taken by Tenant in order to surrender the Premises (including any Alterations or Installations permitted by Landlord to remain in the Premises) at the expiration or earlier termination of the Term, free from any residual impact from the Tenant HazMat Operations and otherwise released for unrestricted use and occupancy (the **"Surrender Plan").** Such Surrender Plan shall be accompanied by a current listing of (i) all Hazardous Materials licenses and permits held by or on behalf of any Tenant Party with respect to the Premises, and (ii) all Hazardous Materials used, stored, handled, treated, generated, released or disposed of from the Premises, and shall be subject to the review and approval of Landlord's environmental consultant. In connection with the review and approval of the Surrender Plan, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such additional non-proprietary information concerning Tenant HazMat Operations as Landlord shall request. On or before such surrender, Tenant shall deliver to Landlord evidence that the approved Surrender Plan shall have been satisfactorily completed and Landlord shall have the right, subject to reimbursement at Tenant's expense as set forth below, to cause Landlord's environmental consultant to inspect the Premises and perform such additional procedures as may be deemed reasonably necessary to confirm that the Premises are, as of the effective date of such surrender or early termination of the Lease, free from any residual impact from Tenant HazMat Operations. Tenant shall reimburse Landlord, as Additional Rent, for the actual out-of pocket expense incurred by Landlord for Landlord's environmental consultant to review and approve the Surrender Plan and to visit the Premises and verify satisfactory completion of the same, which cost shall not exceed $____. Landlord shall have the unrestricted right to deliver such Surrender Plan and any report by Landlord's environmental consultant with respect to the surrender of the Premises to third parties.

(b) Landlord's Rights. If Tenant shall fail to prepare or submit a Surrender Plan approved by Landlord, or if Tenant shall fail to complete the approved Surrender Plan, or if such Surrender Plan, whether or not approved by Landlord, shall fail to adequately address any residual effect of Tenant HazMat Operations in, on or about the Premises, Landlord shall have the right to take such actions as Landlord may deem reasonable or appropriate to assure that the Premises and the Project are surrendered free from any residual impact from Tenant HazMat Operations, the cost of which actions shall be reimbursed by Tenant as Additional Rent, without regard to the limitation set forth in Section 28(a).

(c) Keys, Access Cards and Tenant's Property. Tenant shall immediately return to Landlord all keys and/or access cards to parking, the Project, restrooms or all or any portion of the Premises furnished to or otherwise procured by Tenant. If any such access card or key is lost, Tenant shall pay to Landlord, at Landlord's election, either the cost of replacing any such lost access card or key that was furnished by Landlord or the cost of reprogramming the access security system in which such access card was used or changing the lock or locks opened by such lost key. Any Tenant's Property, Alterations and property not removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and/or disposition of such property. All obligations of Tenant hereunder not fully performed as of the termination of the Term, including the obligations of Tenant under Section 30 hereof, shall survive the expiration or earlier termination of the Term, including, without limitation, indemnity obligations, payment obligations with respect to Rent and obligations concerning the condition and repair of the Premises.

29. Waiver of Jury Trial. TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

30. Environmental Requirements.

(a) Prohibition/Compliance/Indemnity. Tenant shall not cause or permit any Hazardous Materials (as hereinafter defined) to be brought upon, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Premises or the Project in violation of applicable Environmental Requirements (as defined in Section 30(g) hereof) by Tenant or any Tenant Party. If Tenant breaches the obligation stated in the preceding sentence, or if the presence of Hazardous Materials in the Premises during the Term or any holding over results in contamination of the Premises, the Project or any adjacent property or if contamination of the Premises, the Project or any adjacent property by Hazardous Materials brought into, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Premises by anyone other than Landlord and Landlord's employees, agents and contractors otherwise occurs during the Term or any holding over, Tenant hereby indemnifies and shall defend and hold Landlord, its officers, directors, employees, agents and contractors harmless from any and all actions (including, without limitation, remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including, without limitation, punitive damages and damages based upon diminution in value of the Premises or the Project, or the loss of, or restriction on, use of the Premises or any portion of the Project), expenses (including, without limitation, attorneys', consultants' and experts' fees, court costs and amounts paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal injury, property damage, or contamination of, or adverse effects upon, the environment, water tables or natural resources), liabilities or losses (collectively, **"Environmental Claims"**) which arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, treatment, remedial, removal, or restoration work required by any federal, state or local Governmental Authority because of Hazardous Materials present in the air, soil or ground water above, on, or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Materials on the Premises, the Project or any adjacent property caused or permitted by Tenant or any Tenant Party results in any contamination of the Premises, the Project or any adjacent property, Tenant shall promptly take all actions at its sole expense and in accordance with applicable Environmental Requirements as are necessary to return the Premises, the Project or any adjacent property to the condition existing prior to the time of such contamination, provided that Landlord's approval of such action shall first be obtained, which approval shall not unreasonably be withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or the Project.

(b) **Business.** Landlord acknowledges that it is not the intent of this Section 30 to prohibit Tenant from using the Premises for the Permitted Use. Tenant may operate its business according to prudent industry practices so long as the use or presence of Hazardous Materials is strictly and properly monitored according to all then applicable Environmental Requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord prior to the Commencement Date a list identifying each type of Hazardous Materials to be brought upon, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Premises and setting forth any and all governmental approvals or permits required in connection with the presence, use, storage, handling, treatment, generation, release or disposal of such Hazardous Materials on or from the Premises **("Hazardous Materials List"**). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year and shall also deliver an updated list before any new Hazardous Material is brought onto, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Premises. Tenant shall deliver to Landlord true and correct copies of the following documents (the **"Haz Mat Documents"**) relating to the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials prior to the Commencement Date, or if unavailable at that time, concurrent with the receipt from or submission to a Governmental Authority: permits; approvals; reports and correspondence; storage and management plans, notice of violations of any Legal Requirements; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent may be withheld in Landlord's sole and absolute discretion); all closure plans or any other documents required by any and all federal, state and local Governmental Authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks; and a Surrender Plan (to the extent surrender in accordance with Section 28 cannot be accomplished in 3 months). Tenant is not required, however, to provide Landlord with any portion(s) of the Haz Mat Documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities. It is not the intent of this Section to provide Landlord with information which could be detrimental to Tenant's business should such information become possessed by Tenant's competitors.

(c) Tenant Representation and Warranty. Tenant hereby represents and warrants to Landlord that (i) neither Tenant nor any of its legal predecessors has been required by any prior landlord, lender or Governmental Authority at any time to take remedial action in connection with Hazardous Materials contaminating a property which contamination was permitted by Tenant of such predecessor or resulted from Tenant's or such predecessor's action or use of the property in question, and (ii) Tenant is not subject to any enforcement order issued by any Governmental Authority in connection with the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials (including, without limitation, any order related to the failure to make a required reporting to any Governmental Authority). If Landlord determines that this representation and warranty was not true as of the date of this Lease, Landlord shall have the right to terminate this Lease in Landlord's sole and absolute discretion.

(d) Testing. At any time, and from time to time, prior to the expiration or earlier termination of the Term, Landlord shall have the right to conduct appropriate tests of the Premises and the Project to determine if contamination has occurred as a result of Tenant's use of the Premises. In connection with such testing, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such non-proprietary information concerning the use of Hazardous Materials in or about the Premises by Tenant or any Tenant Party. If contamination has occurred for which Tenant is liable under this Section 30. Tenant shall pay all costs to conduct such tests. If no such contamination is found, Landlord shall pay the costs of such tests (which shall not constitute an Operating Expense). Landlord shall provide Tenant with a copy of all third party, non-confidential reports and tests of the Premises made by or on behalf of Landlord during the Term without representation or warranty and subject to a confidentiality agreement. Tenant shall, at its sole cost and expense, promptly and satisfactorily remediate any environmental conditions identified by such testing in accordance with all Environmental Requirements. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights which Landlord may have against Tenant.

(e) Underground Tanks. If underground or other storage tanks storing Hazardous Materials located on the Premises or the Project are used by Tenant or are hereafter placed on the Premises or the Project by Tenant, Tenant shall install, use, monitor, operate, maintain, upgrade and manage such storage tanks, maintain appropriate records, obtain and maintain appropriate insurance, implement reporting procedures, properly close any underground storage tanks, and take or cause to be taken all other actions necessary or required under applicable state and federal Legal Requirements, as such now exists or may hereafter be adopted or amended in connection with the installation, use, maintenance, management, operation, upgrading and closure of such storage tanks.

(f) Tenant's Obligations. Tenant's obligations under this Section 30 shall survive the expiration or earlier termination of the Lease. During any period of time after the expiration or earlier termination of this Lease required by Tenant or Landlord to complete the removal from the Premises of any Hazardous Materials (including, without limitation, the release and termination of any licenses or permits restricting the use of the Premises and the completion of the approved Surrender Plan), Tenant shall continue to pay the full Rent in accordance with this Lease for any portion of the Premises not relet by Landlord in Landlord's sole discretion, which Rent shall be prorated daily.

(g) **Definitions.** As used herein, the term "Environmental Requirements" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any Governmental Authority regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the Project, or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. As used herein, the term **"Hazardous Materials"** means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, or regulated by reason of its impact or potential impact on humans, animals and/or the environment under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, Tenant is and shall be deemed to be the **"operator"** of Tenant's **"facility"** and the **"owner"** of all Hazardous Materials brought on the Premises by Tenant or any Tenant Party, and the wastes, byproducts, or residues generated, resulting, or produced therefrom.

31. Tenant's Remedies/Limitation of Liability.

(a) Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within 30 days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 30 days, then after such period of time as is reasonably necessary). Upon any default by Landlord, Tenant shall give notice by registered or certified mail to any Holder of a Mortgage covering the Premises and to any landlord of any lease of property in or on which the Premises are located and Tenant shall offer such Holder and/or landlord a reasonable opportunity to cure the default, including time to obtain possession of the Project by power of sale or a judicial action if such should prove necessary to effect a cure; provided Landlord shall have furnished to Tenant in writing the names and addresses of all such persons who are to receive such notices. All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord's obligations hereunder.

(b) Notwithstanding the foregoing, if any claimed Landlord default hereunder will immediately, materially and adversely affect Tenant's ability to conduct its business in the Premises (a **"Material Landlord Default"**), Tenant shall, as soon as reasonably possible, but in any event within 5 business days of obtaining knowledge of such claimed Material Landlord Default, give Landlord written notice of such claim and telephonic notice to Tenant's principal contact with Landlord. Landlord shall then have 2 business days to commence cure of such claimed Material Landlord Default and shall diligently prosecute such cure to completion. If such claimed Material Landlord Default is not a default by Landlord hereunder, or if Tenant failed to give Landlord the notice required hereunder within 5 business days of learning of the conditions giving rise to the claimed Material Landlord Default, Landlord shall be entitled to recover from Tenant, as Additional Rent, any costs incurred by Landlord in connection with such cure in excess of the costs, if any, that Landlord would otherwise have been liable to pay hereunder. If Landlord fails to commence cure of any claimed Material Landlord Default as provided above, Tenant may commence and prosecute such cure to completion, and shall be entitled to recover the costs of such cure (but not any consequential or other damages) from Landlord, to the extent of Landlord's obligation to cure such claimed Material Landlord Default hereunder, subject to the limitations set forth in the immediately preceding sentence of this paragraph and the other provisions of this Lease.

(c) All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. The term **"Landlord"** in this Lease shall mean only the owner for the time being of the Premises. Upon the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, but such obligations shall be binding during the Term upon each new owner for the duration of such owner's ownership.

32. Inspection and Access. Landlord and its agents, representatives, and contractors may enter the Premises at any reasonable time to inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. Landlord and Landlord's representatives may enter the Premises during business hours on not less than 48 hours advance written notice (except in the case of emergencies in which case no such notice shall be required and such entry may be at any time) for the purpose of effecting any such repairs, inspecting the Premises, showing the Premises to prospective purchasers and, during the last year of the Term or after such time as Tenant has given Landlord a Termination Notice (as defined in Section 40), to prospective tenants or for any other business purpose; provided that Tenant shall be entitled to restrict third-party access to any portions of the Premises in which research or other operations of a confidential or potentially hazardous nature are being conducted. Landlord may erect a suitable sign on the Premises stating the Premises are available to let or that the Project is available for sale. Landlord may grant easements, make public dedications, designate Common Areas and create restrictions on or about the Premises, provided that no such easement, dedication, designation or restriction materially, adversely affects Tenant's use or occupancy of the Premises for the Permitted Use. At Landlord's request, Tenant shall execute such instruments as may be necessary for such easements, dedications or restrictions. Tenant shall at all times, except in the case of emergencies, have the right to escort Landlord or its agents, representatives, contractors or guests while the same are in the Premises, provided such escort does not materially and adversely affect Landlord's access rights hereunder except as provided herein.

33. Security.

(a) Tenant acknowledges and agrees that security devices and services, if any, while intended to deter crime may not in given instances prevent theft or other criminal acts and that Landlord is not providing any security services with respect to the Premises. Tenant agrees that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises unless caused by the willful misconduct or gross negligence of Landlord or a Landlord Party. Except as provided herein, Tenant shall be solely responsible for the personal safety of Tenant's officers, employees, agents, contractors, guests and invitees while any such person is in the Premises. Tenant shall at Tenant's cost obtain insurance coverage to the extent Tenant desires protection against such criminal acts.

(b) Notwithstanding the foregoing, access to the Building will be controlled by a card-key access control system. Landlord acknowledges that Tenant desires to explore utilizing a system that conforms with Tenant's existing security system installed on Tenant's campus. Landlord agrees to review any system presented by Tenant and shall approve or deny its use at the Building in Landlord's sole and absolute discretion. If Landlord approves such system, all costs associated with the installation of Tenant's system shall be borne by Tenant, including any costs associated with making changes to or replacing the existing system used by the Building and its tenants.

(c) Tenant shall have the right to install card readers in the stairwell doors of any floor which Tenant solely occupies and pays rent for, or which stairwell door services exclusively a portion of the Premises, subject to the requirements of applicable law, and provided that Landlord shall receive appropriate access cards in connection with any such card reader.

34. Force Majeure. Landlord shall not be held responsible for delays in the performance of its obligations hereunder when caused by strikes, lockouts, labor disputes, weather, natural disasters, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Landlord (**"Force Majeure"**).

35. Brokers, Entire Agreement, Amendment. Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person (collectively, **"Broker")** in connection with this transaction and that no Broker brought about this transaction other than GVA Kidder Matthews. Landlord and Tenant each hereby agree to indemnify and hold the other harmless from and against any claims by any Broker, other than the broker, if any named in this Section 35, claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this leasing transaction.

36. Limitation on Landlord's Liability. NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT TO THE CONTRARY: (A) LANDLORD SHALL NOT BE LIABLE TO TENANT OR ANY OTHER PERSON FOR (AND TENANT AND EACH SUCH OTHER PERSON ASSUME ALL RISK OF) LOSS, DAMAGE OR INJURY, WHETHER ACTUAL OR CONSEQUENTIAL TO: TENANT'S PERSONAL PROPERTY OF EVERY KIND AND DESCRIPTION, INCLUDING, WITHOUT LIMITATION TRADE FIXTURES, EQUIPMENT, INVENTORY, SCIENTIFIC RESEARCH, SCIENTIFIC EXPERIMENTS, LABORATORY ANIMALS, PRODUCT, SPECIMENS, SAMPLES, AND/OR SCIENTIFIC, BUSINESS, ACCOUNTING AND OTHER RECORDS OF EVERY KIND AND DESCRIPTION KEPT AT THE PREMISES AND ANY AND ALL INCOME DERIVED OR DERIVABLE THEREFROM IN EXCESS OF INSURANCE REQUIRED OF LANDLORD HEREUNDER; (B) THERE SHALL BE NO PERSONAL RECOURSE TO LANDLORD FOR ANY ACT OR OCCURRENCE IN, ON OR ABOUT THE PREMISES OR ARISING IN ANY WAY UNDER THIS LEASE OR ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT WITH RESPECT TO THE SUBJECT MATTER HEREOF AND ANY LIABILITY OF LANDLORD HEREUNDER SHALL BE STRICTLY LIMITED SOLELY TO LANDLORD'S INTEREST IN THE PROJECT OR ANY PROCEEDS FROM SALE OR CONDEMNATION THEREOF AND ANY INSURANCE PROCEEDS PAYABLE IN RESPECT OF LANDLORD'S INTEREST IN THE PROJECT OR IN CONNECTION WITH ANY SUCH LOSS; AND (C) IN NO EVENT SHALL ANY PERSONAL LIABILITY BE ASSERTED AGAINST LANDLORD IN CONNECTION WITH THIS LEASE NOR SHALL ANY RECOURSE BE HAD TO ANY OTHER PROPERTY OR ASSETS OF LANDLORD OR ANY OF LANDLORD'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS. UNDER NO CIRCUMSTANCES SHALL ANY OF LANDLORD'S OFFICERS, DIRECTORS OR EMPLOYEES BE LIABLE FOR INJURY TO TENANT'S BUSINESS OR FOR ANY LOSS OF INCOME OR PROFIT THEREFROM.

37. Severability. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in effect to such illegal, invalid or unenforceable clause or provision as shall be legal, valid and enforceable.

38. Signs; Exterior Appearance. Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld: (i) attach any awnings, exterior lights, decorations, balloons, flags, pennants, banners, painting or other projection to any outside wall of the Project, (ii) use any curtains, blinds, shades or screens other than Landlord's standard window coverings, (iii) coat or otherwise sunscreen the interior or exterior of any windows, (iv) place any bottles, parcels, or other articles on the window sills, (v) place any equipment, furniture or other items of personal property on any exterior balcony, or (vi) paint, affix or exhibit on any part of the Premises or the Project any signs, notices, window or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises. Interior signs on doors and the directory tablet may be inscribed, painted or affixed by Tenant, and shall be of a size, color and type acceptable to Landlord. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord's standard lettering. The directory tablet shall be provided exclusively for the display of the name and location of tenants. All signs of Tenant shall comply with any covenants, conditions or restrictions affecting the Project, and with all applicable laws. Tenant shall have the nonexclusive right to have Tenant's name listed on a monument sign to be installed by Landlord at the Project at Tenant's expense. Such monument sign, and any listing of Tenant's name thereupon, shall be in compliance with any covenants, conditions or restrictions affecting the Project, and with all applicable laws.

39. Right to Extend Term. Tenant shall have the right to extend the Term of the Lease upon the following terms and conditions:

(a) Extension Rights. Tenant shall have 4 consecutive rights (each, an **"Extension Right"**) to extend the term of this Lease for 5 years each (each, an **"Extension Term"**) on the same terms and conditions as this Lease (other than Base Rent and the provisions of the Work Letter) by giving Landlord written notice of its election to exercise each Extension Right at least 12 months, and no more than 18 months, prior to the expiration of the Base Term or any prior Extension Term.

(i) Upon the commencement of any Extension Term, Base Rent shall be payable at the greater of (i) 95% of the Market Rate (as defined below) or (ii) Base Rent during the last year of the expiring term; provided that Base Rent for the first year of any Extension Term shall not increase by more than 10% over Base Rent during the last year of the immediately preceding term. During any Extension Term, Base Rent shall be adjusted on each anniversary of the commencement of such Extension Term by the Rent Adjustment Percentage. As used herein, **"Market Rate"** shall mean the then market rental rate as determined by Landlord and agreed to by Tenant, which shall in no event be less than the Base Rent payable as of the date immediately preceding the commencement of such Extension Term. In addition, Landlord may impose a market rent for the parking rights provided hereunder.

(ii) If, on or before the date which is nine (9) months prior to the expiration of the Base Term of this Lease, or the expiration of any prior Extension Term, as the case may be, Tenant has not agreed with Landlord's determination of Market Rate after negotiating in good faith, Tenant may by written notice to Landlord not later than 30 days after the date which is 9 months prior to the expiration of such term, elect arbitration as described in Section 39(b) hereof. If Tenant has not agreed to a determination of Market Rate and does not elect such arbitration, Tenant shall be deemed to have waived any right to extend, or further extend, the Term of the Lease and all of the remaining Extension Rights shall terminate.

(b) Arbitration.

(i) Within 10 days of Tenant's notice to Landlord of its election to arbitrate Market Rate, each party shall deliver to the other a proposal containing the Market Rate that the submitting party believes to be correct **("Extension Proposal")**. If either party fails to timely submit an Extension Proposal, the other party's submitted proposal shall determine the Base Rent for the applicable Extension Term. If both parties submit Extension Proposals, then Landlord and Tenant shall, by written notice delivered to the other within 10 days after the meeting, select an Arbitrator. If either party fails to timely give notice of its selection for an Arbitrator, the other party's submitted proposal shall determine the Base Rent for the Extension Term. The 2 Arbitrators so appointed shall, within 5 business days after their appointment, appoint a third Arbitrator. If the 2 Arbitrators so selected cannot agree on the selection of the third Arbitrator within the time above specified, then either party, on behalf of both parties, may request such appointment of such third Arbitrator by application to any state court of general jurisdiction in the jurisdiction in which the Premises are located, upon 10 days prior written notice to the other party of such intent.

(ii) The decision of the Arbitrator(s) shall be made within 30 days after the appointment of a single Arbitrator or the third Arbitrator, as applicable. The decision of the single Arbitrator shall be final and binding upon the parties. The average of the two closest Arbitrators in a three Arbitrator panel shall be final and binding upon the parties. Each party shall pay the fees and expenses of the Arbitrator appointed by or on behalf of such party and the fees and expenses of the third Arbitrator shall be borne equally by both parties. If the Market Rate are not determined by the first day of the Extension Term, then Tenant shall pay Landlord Base Rent in an amount equal to the Base Rent in effect immediately prior to the Extension Term until such determination is made. After the determination of the Market Rate, the parties shall make any necessary adjustments to such payments made by Tenant. Landlord and Tenant shall then execute an amendment recognizing the Market Rate for the Extension Term.

(iii) An **"Arbitrator"** shall be any person appointed by or on behalf of either party or appointed pursuant to the provisions hereof and: (i) shall be (A) an MAI appraiser with not less than 10 years of experience in the appraisal of life sciences or wet laboratory properties in the greater Seattle metropolitan area, or (B)a licensed commercial real estate broker with not less than 15 years experience representing landlords and/or tenants in the leasing of life sciences or wet laboratory properties in the greater Seattle metropolitan area, (ii) devoting substantially all of his or her work time to professional appraisal or brokerage work, as applicable, at the time of appointment and (iii) be in all respects impartial and disinterested.

(c) **Rights Personal.** Extension Rights are personal to Tenant and are not assignable without Landlord's consent, which may be granted or withheld in Landlord's sole discretion separate and apart from any consent by Landlord to an assignment of Tenant's interest in the Lease.

(d) **Exceptions.** Notwithstanding anything set forth above to the contrary, Extension Rights shall not be in effect and Tenant may not exercise any of the Extension Rights:

(i) during any period of time that Tenant is in Default under any provision of this Lease; or

(ii) if Tenant has been in Default under any provision of this Lease 3 or more times, whether or not the Defaults are cured, during the 12 month period immediately prior to the date that Tenant intends to exercise an Extension Right, whether or not the Defaults are cured.

(e) **No Extensions.** The period of time within which any Extension Rights may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise the Extension Rights.

(f) **Termination.** The Extension Rights shall terminate and be of no further force or effect even after Tenant's due and timely exercise of an Extension Right, if, after such exercise, but prior to the commencement date of an Extension Term, (i) Tenant fails to timely cure any default by Tenant under this Lease; or (ii) Tenant has Defaulted 3 or more times during the period from the date of the exercise of an Extension Right to the date of the commencement of the Extension Term, whether or not such Defaults are cured.

40. Termination Option. Tenant may at its option (the **"Termination Option"**) terminate this Lease as to certain Termination Premises (defined below), effective as of the first day of the month which is 18 months after the date of written notice (the **"Termination Notice"**) from Tenant of its intent to terminate (the **"Termination Date"**). The Termination Notice may be given at any time after the 54th month following the Rent Commencement Date. The **"Termination Premises"** shall mean any portion of the Premises located on the fourth or fifth floor of the Building and identified in the Termination Notice**.** Tenant's right to exercise the Termination Option shall be subject to the following conditions precedent: (a) the Termination Premises shall be not less than 20,000 contiguous rentable square feet; (b)the Termination Premises shall have reasonable access to exits in order that Landlord shall be reasonably able to lease the Termination Premises to another tenant for use as laboratory space; (c) Tenant shall pay the reasonable cost of separating the Termination Premises from the remainder of the Premises; (d) Tenant shall agree to extend the term of the Lease with respect to all of that portion of the Premises located on the second floor of the Building for an additional period of not less than 5 years beyond the Termination Date; (e)the remaining portion of the Premises (after Tenant's surrender of the Termination Premises) located on the fifth floor of the Building shall be not less than 15,000 rentable square feet, and Tenant shall agree to extend the term of the Lease with respect to all of that remaining portion of the Premises located on the fifth floor for an additional period of not less than 5 years beyond the Termination Date. In addition, if Tenant exercises the Termination Option, the then applicable Base Rent per rentable square foot shall be increased as of the Termination Date by an amount per rentable square foot of the then remaining Premises equal to the product of (i) the then current rate of interest on ten-year U.S. Treasury obligations plus 500 basis points times (ii) the amount of the Laboratory Conversion Fund divided by the rentable square footage of the then remaining Premises. The **"Laboratory Conversion Fund"** shall mean an amount determined by amortizing Landlord's contribution in excess of $____ per rentable square foot for improvements to the Termination Premises at an annual interest rate of 12% over the period from the Rent Commencement Date for the Termination Premises to the expiration date of the Base Term of the Lease, and deducting therefrom that portion attributable to the period prior to the Termination Date. If Tenant effectively exercises the Termination Option, Landlord shall contribute an amount equal to the Laboratory Conversion Fund to be used to convert up to 15,000 rentable square feet of space located on the fifth floor into laboratory space**.** If there are any uncured defaults by Tenant as of the date Tenant delivers the Termination Notice or as of the Termination Date, the Termination Option shall be void, and the Lease shall remain in effect.

41. Right of First Negotiation. Tenant shall have an on-going right to negotiate first for the leasing of Available Space (**"Tenant's Right of First Negotiation"**), as follows**.** At least 10 days prior to Landlord submitting a proposal to a third party to lease any Available Space, Landlord shall notify Tenant that Landlord intends to lease the Available Space**.** Tenant shall have a period of 5 days after receipt of Landlord's notice to exercise Tenant's Right of First Negotiation, which Tenant may do by sending to Landlord written notice that Tenant wishes to lease the Available Space. Landlord and Tenant shall then negotiate in good faith for a period of 15 days in order to establish terms and conditions for the leasing of the Available Space to Tenant, which terms and conditions may be different than those set forth in this Lease. If the parties are unable to agree upon terms and conditions for the leasing of the Available Space within such period of 15 days (which agreement must be evidenced by a fully executed and delivered agreement either (i) amending this Lease and making the Available Space subject to the terms of this Lease and such other terms as Landlord and Tenant may have agreed upon, or (ii) a new Lease demising the Available Space to Tenant on terms as Landlord and Tenant may have agreed upon) then Tenant shall have no further right with respect to the leasing of the Available Space**. "Available Space"** shall mean any space in the Building other than the space shown on attached **Exhibit G**, which becomes available for leasing during the Term. If Tenant exercises the Termination Option (as defined in Section 40 hereof), then Tenant's Right of First Negotiation shall be null and void.

42. Miscellaneous.

(a) Notices. All notices or other communications between the parties shall be in writing and shall be deemed duly given upon delivery or refusal to accept delivery by the addressee thereof if delivered in person, or upon actual receipt if delivered by reputable overnight guaranty courier, addressed and sent to the parties at their addresses set forth above. Landlord and Tenant may from time to time by written notice to the other designate another address for receipt of future notices.

(b) Joint and Several Liability. If and when included within the term **"Tenant,"** as used in this instrument, there is more than one person or entity, each shall be jointly and severally liable for the obligations of Tenant.

(c) Financial Information. To the extent available, Tenant shall furnish Landlord with true and complete copies of (i) Tenant's most recent audited annual financial statements within 135 days of the end of each of Tenant's fiscal years during the Term, (ii) Tenant's most recent unaudited quarterly financial statements within 60 days of the end of each of Tenant's first 3 fiscal quarters of each of Tenant's fiscal years during the Term, and (iii) any other financial information or summaries that Tenant typically provides to its lenders or shareholders.

(d) Recordation. Landlord may prepare and record a mutually acceptable short form memorandum of this Lease. Neither party shall record this Lease.

(e) Interpretation. The language in all parts of this Lease shall be in all cases construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.

(f) Not Binding Until Executed. The submission by Landlord to Tenant of this Lease shall have no binding force or effect, shall not constitute an option for the leasing of the Premises, nor confer any right or impose any obligations upon either party until execution of this Lease by both parties.

(g) **Limitations on Interest.** It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

(h) **Choice of Law.** Construction and interpretation of this Lease shall be governed by the internal laws of the state in which the Premises are located, excluding any principles of conflicts of laws.

(i) **Time.** Time is of the essence as to the performance of Tenant's obligations under this Lease.

(j) **Incorporation by Reference.** All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. If there is any conflict between such exhibits or addenda and the terms of this Lease, such exhibits and addenda shall control.

(k) **Hazardous Activities.** Notwithstanding any other provision of this Lease, Landlord, for itself and its employees, agents and contractors, reserves the right to refuse to perform any repairs or services in any portion of the Premises which, pursuant to Tenant's routine safety guidelines, practices or custom or prudent industry practices, require any form of protective clothing or equipment other than safety glasses. In any such case, Tenant shall contract with parties who are acceptable to Landlord, in Landlord's reasonable discretion, for all such repairs and services, and Landlord shall, to the extent required, equitably adjust Tenant's Share of Operating Expenses in respect of such repairs or services to reflect that Landlord is not providing such repairs or services to Tenant.

(l) **Entire Agreement.** Tenant agrees and acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the Premises or the Project, and/or the suitability of the Premises or the Project for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises or the Project are suitable for the Permitted Use. This Lease constitutes the complete agreement of Landlord and Tenant with respect to the subject matter hereof and supersedes any and all prior representations, inducements, promises, agreements, understandings and negotiations which are not contained herein. Landlord in executing this Lease does so in reliance upon Tenant's representations, warranties, acknowledgments and agreements contained herein.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER,

a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: Vice President, Facilities & Operations

LANDLORD:

ARE – EASTLAKE AVENUE NO. 3,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, LP., a Delaware limited partnership, managing member

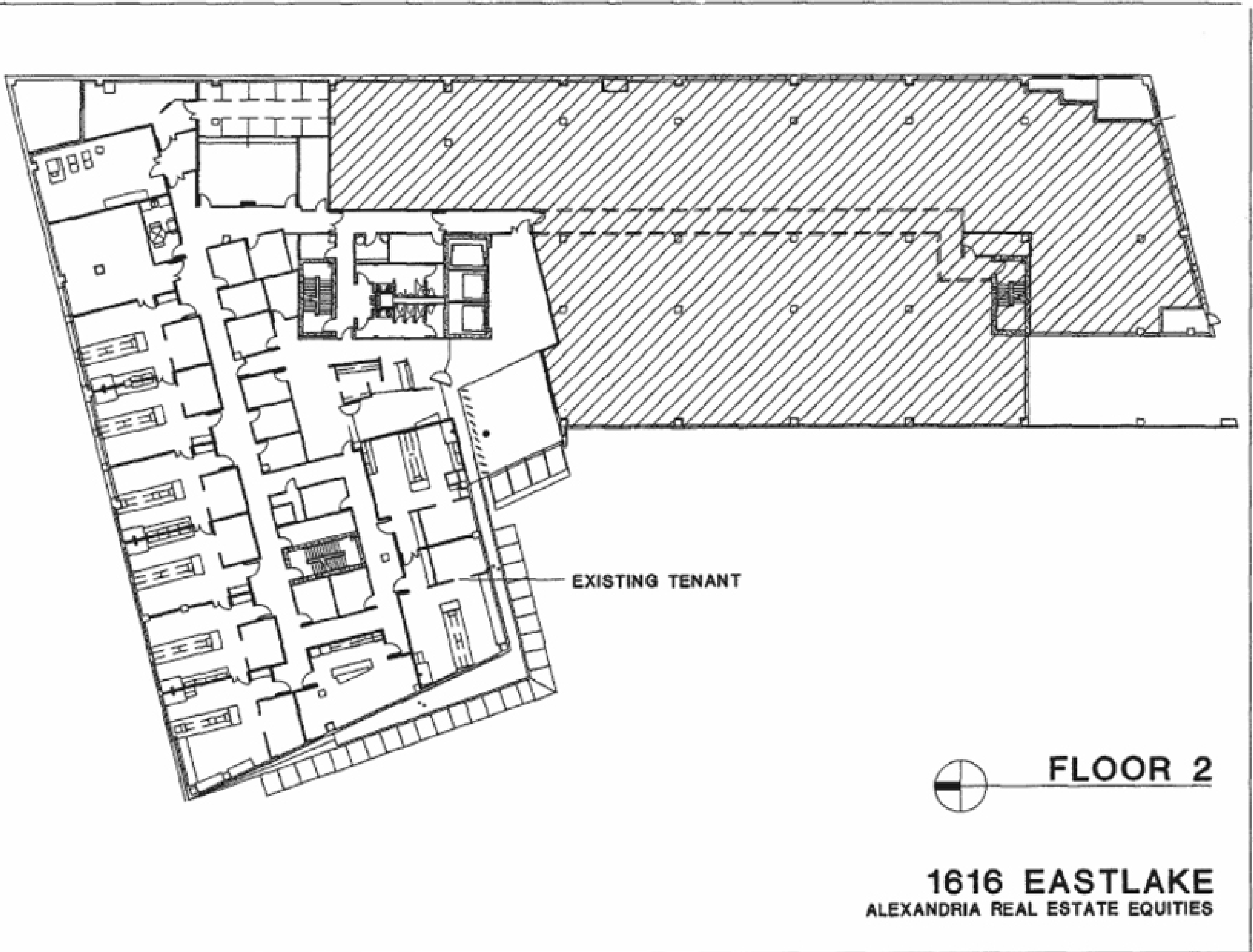
By: ARE-QRS CORP.,
a Maryland corporation, general partner

By: /s/ James H. Welch
Its: President

EXHIBIT A TO LEASE

DESCRIPTION OF PREMISES

(See attached)


EXISTING TENANT
FLOOR 2
1616 EASTLAKE
ALEXANDRIA REAL ESTATE EQUITIES

FLOOR 4

1616 EASTLAKE

ALEXANDRIA REAL ESTATE EQUITIES

FLOOR 5

1616 EASTLAKE

ALEXANDRIA REAL ESTATE EQUITIES

EXHIBIT A-1 TO LEASE

DESCRIPTION OF INITIAL PREMISES

(To be provided by Tenant)

EXHIBIT A-2 TO LEASE

DESCRIPTION OF ADDITIONAL OFFICE PREMISES AND ADDITIONAL LABORATORY PREMISES

(To be provided by Tenant)

EXHIBIT B TO LEASE

DESCRIPTION OF PROJECT

(See attached)

LEGAL DESCRIPTION

LOTS 1 THROUGH 12, BLOCK 5, HILTON ADDITION TO THE CITY OF SEATTLE, RECORDED IN VOLUME 3 OF PLATS, PAGE 157, RECORDS OF KING COUNTY, WASHINGTON STATE;

EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 7 OF SAID BLOCK 5, ALSO BEING THE POINT OF INTERSECTION OF THE NORTH MARGIN OF EAST GARFIELD STREET AND THE EAST MARGIN OF EASTLAKE AVENUE EAST;
THENCE NORTH 14°23’17” EAST, ALONG SAID EAST MARGIN AND WEST LINE OF LOTS 7 THROUGH 9, 158.37 FEET;
THENCE SOUTH 89°35’19” EAST, 86.49 FEET;
THENCE SOUTH 14°18’27” WEST 158.29 FEET TO A POINT ON SAID NORTH MARGIN AND THE SOUTH LINE OF SAID LOT 7;
THENCE NORTH 89°36’21” WEST, ALONG SAID NORTH MARGIN AND SAID SOUTH LINE, 86.72 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS PARCEL B OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 2008942, RECORDED UNDER RECORDING NUMBER 20010619900005 AND AMENDMENT THERETO RECORDED UNDER RECORDING NUMBER 20010730900001.)

TOGETHER WITH THOSE CERTAIN NON-EXCLUSIVE EASEMENT RIGHTS FOR UNDERGROUND UTILITIES, INCLUDING WITHOUT LIMITATION A STORM DRAINAGE EASEMENT FOR DISCHARGE OF STORMWATER, AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RECORDED UNDER RECORDING NUMBER 20010731001901.

EXHIBIT C TO LEASE

<u>WORK LETTER</u>

THIS WORK LETTER dated January 16, 2004 (this **"Work Letter"**) is made and entered into by and between ARE-Eastlake Avenue No. 3, a Delaware limited liability company (**"Landlord"**), and Fred Hutchison Cancer Research Center, a Washington nonprofit corporation (**"Tenant"**), and is attached to and made a part of the Lease of even date herewith (the **"Lease"**), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

1. **General Requirements.**

(a) **Tenant's Authorized Representative.** Tenant designates Scott Rusch and Scott Ingalls (either such individual acting alone, **"Tenant's Representative"**) as the only persons authorized to act for Tenant pursuant to this Work Letter. Landlord shall not be obligated to respond to or act upon any request, approval, inquiry or other communication **("Communication")** from or on behalf of Tenant in connection with this Work Letter unless such Communication is in writing from Tenant's Representative. Tenant may change either Tenant's Representative at any time upon not less than 5 business days advance written notice to Landlord. No period set forth herein for any approval of any matter by Tenant's Representative shall be extended by reason of any change in Tenant's Representative. Tenant and Tenant's Representative shall be the sole persons authorized to direct Tenant's contractors in the performance of Tenant's Work (as hereinafter defined).

(b) **Landlord's Authorized Representative.** Landlord designates Vin Ciruzzi, Greg Margritz and Peter Moglia (either such individual acting alone, **"Landlord's Representative"**) as the only persons authorized to act for Landlord pursuant to this Work Letter. Tenant shall not be obligated to respond to or act upon any request, approval, inquiry or other Communication from or on behalf of Landlord in connection with this Work Letter unless such Communication is in writing from Landlord's Representative. Landlord may change either Landlord's Representative at any time upon not less than 5 business days advance written notice to Tenant. No period set forth herein for any approval of any matter by Landlord's Representative shall be extended by reason of any change in Landlord's Representative. Neither Landlord nor Landlord's Representative shall be authorized to direct Tenant's contractors in the performance of Tenant's Work, except to the extent of any life-threatening or other emergency actions required.

(c) **Architects, Consultants and Contractors.** Landlord and Tenant shall mutually agree on the architect (the **"TI Architect"**) and the general contractor (**"General Contractor"**) for the Tenant Improvements. Any subcontractors for the Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Prior to the commencement of the work of the Tenant Improvements, Tenant shall cause to be delivered to Landlord (i) a correct copy of Tenant's contract with the General Contractor; (ii) evidence of the General Contractor's insurance, reasonably satisfactory to Landlord; and (iii) a copy of all necessary permits for the work of the Tenant Improvements. Tenant's contract with the General Contractor shall provide that Landlord shall be a beneficiary of any warranties or guarantees relating to the Tenant Improvements.

2. **Tenant Improvements.**

(a) **Tenant Improvements Defined.** As used herein, **"Tenant Improvements"** shall mean all improvements to the Premises desired by Tenant of a fixed and permanent nature. Other than funding the TI Allowance (as defined below) as provided herein, Landlord shall not have any obligation whatsoever with respect to the finishing of the Premises for Tenant's use and occupancy.

(b) **Tenant's Space Plans.** Tenant shall deliver to Landlord schematic drawings and outline specifications (the **"TI Design Drawings"**) detailing Tenant's requirements for the Tenant Improvements within 15 business days of the date hereof. Not more than ten 10 business days thereafter, Landlord shall deliver to Tenant the written objections, questions or comments of Landlord with regard to the TI Design Drawings. Tenant shall cause the TI Design Drawings to be revised to address such written comments and shall resubmit said drawings to Landlord for approval within 10 business days thereafter. Such process shall continue until Landlord has approved the TI Design Drawings, which approval shall not be unreasonably withheld, conditioned or delayed. Provided that if Landlord fails to respond to Tenant within 10 business days after delivery of the TI Design Drawings or revisions, Landlord shall be deemed to have approved the same.

(c) **Working Drawings.** Not later than 15 business days following the approval of the TI Design Drawings by Landlord, Tenant shall cause the TI Architect to prepare and deliver to Landlord for review and comment construction plans, specifications and drawings for the Tenant Improvements (**"TI Construction Drawings"**), which TI Construction Drawings shall be prepared substantially in accordance with the TI Design Drawings. Tenant shall be solely responsible for ensuring that the TI Construction Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Construction Drawings to Tenant not later than 10 business days after Landlord's receipt of the same; provided, however, that Landlord shall not disapprove any matter that is consistent with the TI Design Drawings, and provided further that if Landlord fails to respond to Tenant within 10 business days after Landlord's receipt of the TI Construction Drawings or revisions, Landlord shall be deemed to have approved the same. Tenant and the TI Architect shall consider all such comments in good faith and shall, within 10 business days after receipt, notify Landlord how Tenant proposes to respond to such comments. Any disputes in connection with such comments shall be resolved in accordance with Section 2(d) hereof. Provided that the design reflected in the TI Construction Drawings is consistent with the TI Design Drawings, Landlord shall approve the TI Construction Drawings submitted by Tenant. Once approved by Landlord, subject to the provisions of Section 2(d) hereof, Tenant shall not materially modify the TI Construction Drawings except as may be reasonably required in connection with the issuance of the TI Permit (as defined in Section 3(b) hereof). The TI Design Drawings and the TI Construction Drawings shall be prepared to account for vertical penetrations through to the roof to accommodate fixture air shafts, electrical pathways, plumbing sleeves and similar items for service to other floors of the Building, as directed by Landlord.

(d) **Approval and Completion.** Upon any dispute regarding the design of the Tenant Improvements, which is not settled within 10 business days after notice of such dispute is delivered by one party to the other, Tenant shall make the final decision regarding the design of the Tenant Improvements, provided Tenant acts reasonably and such final decision is either consistent with or a compromise between Landlord's and Tenant's positions with respect to such dispute, provided further that all costs and expenses resulting from any such decision by Tenant shall be payable out of the TI Fund (as defined in Section 5(d) hereof). Any changes to the TI Construction Drawings following Landlord's and Tenant's approval of same requested by Tenant shall be processed as provided in Section 4 hereof. Landlord shall make the final decision regarding any matter affecting the Building shell, base Building improvements and Building systems (collectively, **"Base Building Components")** in the event of any dispute.

3. **Performance of Tenant's Work.**

(a) **Definition of Tenant's Work.** As used herein, **"Tenant's Work"** shall mean the work of designing, permitting and constructing the Tenant Improvements.

(b) **Commencement and Permitting of Tenant's Work.** Tenant shall commence construction of the Tenant Improvements upon obtaining a building permit (the **"TI Permit")** authorizing the construction of the Tenant Improvements consistent with the TI Construction Drawings approved by Landlord. The cost of obtaining the TI Permit shall be payable from the TI Fund. Landlord shall cooperate with Tenant in obtaining the TI Permit.

(c) **Selection of Materials.** Where more than one type of material or structure is indicated on the TI Construction Drawings approved by Tenant and Landlord, the option will be within Tenant's reasonable discretion, unless such matter affects the Base Building Components, in which case the option will be within Landlord's reasonable discretion.

4. **Changes.** Any changes requested by Tenant to the Tenant Improvements after the delivery and approval by Landlord of the TI Design Drawings **("Changes"),** shall be requested and instituted in accordance with the provisions of this Section 4 and shall be subject to the written approval of Landlord, such approval not to be unreasonably withheld, conditioned or delayed.

(a) **Tenant's Right to Request Changes.** If Tenant shall request Changes, Tenant shall request such Changes by notifying Landlord in writing in substantially the same form as the AIA standard change order form, AIA Document G701, or such other form as Landlord may reasonably approve (a **"Change Request"),** which Change Request shall detail the nature and extent of any such Change. Such Change Request must be signed by Tenant's Representative. Landlord shall review and approve or disapprove such Change Request within 10 business days thereafter, provided that Landlord's approval shall not be unreasonably withheld, conditioned or delayed.

(b) **Implementation of Changes.** If Landlord approves such Change and Tenant deposits with Landlord any Excess TI Costs (as defined in Section 5(d) hereof) required in connection with such Change, Tenant may cause the approved Change to be instituted.

5. **Costs.**

(a) **Budget For Tenant Improvements.** Before the commencement of construction of the Tenant Improvements, Tenant shall obtain a detailed breakdown, by trade, of the costs incurred or which will be incurred, in connection with the design and construction of Tenant's Work (the **"Budget"**). The Budget shall be based upon the TI Construction Drawings approved by Landlord and shall include a payment to Landlord of administrative rent (**"Administrative Rent"**) of $_____ for monitoring and inspecting the construction of Tenant's Work, which sum shall be payable from the TI Fund. Such Administrative Rent shall include, without limitation, all out-of-pocket costs, expenses and fees incurred by or on behalf of Landlord arising from, out of, or in connection with, such monitoring of the construction of the Tenant Improvements, and shall be payable out of the TI Fund. If the Budget is greater than the TI Allowance, Tenant shall deposit with Landlord the difference, in cash, prior to the commencement of construction of the Tenant Improvements, for disbursement by Landlord as described in Section 5(d) hereof.

(b) **TI Allowance.**

(i) Landlord shall provide to Tenant a tenant improvement allowance (collectively, the **"TI Allowance")** as follows:

(A) a **"Tenant Improvement Allowance"** in the maximum amount of $_____ per rentable square foot in the Initial Premises, the Additional Office Premises and the Additional Laboratory Premises or $_____ in the aggregate, which is included in the Base Rent set forth in the Lease; and

(B) an **"Additional Tenant Improvement Allowance"** in the maximum amount of $_____ per rentable square foot in the Initial Laboratory Premises and in the Additional Laboratory Premises, or $_____ in the aggregate, which shall, to the extent used, result in adjustments to the Base Rent as set forth in the Lease. The Additional Tenant Improvement Allowance shall be used only for Tenant Improvements to the Initial Laboratory Premises and in the Additional Laboratory Premises.

(ii) Before commencing construction of any Tenant Improvements, Tenant shall notify Landlord how much Additional Tenant Improvement Allowance Tenant has elected to receive from Landlord. Such election shall be final and binding on Tenant, and may not thereafter be modified without Landlord's consent, which may be granted or withheld in Landlord's sole and absolute discretion.

(iii) The TI Allowance shall be disbursed in accordance with this Work Letter. Tenant shall have no right to the use or benefit (including any reduction to Base Rent) of any portion of the TI Allowance not required for the construction of (A) the Tenant Improvements described in the TI Construction Drawings approved pursuant to Section 2(d) hereof or (B) any Changes pursuant to Section 4 hereof.

(c) **Costs Includable in TI Fund.** The TI Fund (as defined below) shall be used solely for the payment of Tenant's Work, including, without limitation, the cost of preparing the TI Design Drawings and the TI Construction Drawings, all costs set forth in the Budget, including Landlord's Administrative Rent, any Washington State sales or use tax payable on Tenant's Work, and the cost of Changes (collectively, **"TI Costs").** Notwithstanding anything to the contrary contained herein, the TI Fund shall not be used to purchase any furniture, personal property or other non-Building System materials or equipment, including, but not be limited to, biological safety cabinets and other scientific equipment not incorporated into the Tenant Improvements.

(d) **Excess TI Costs.** It is understood and agreed that Landlord is under no obligation to bear any portion of the cost of any of the Tenant Improvements except to the extent of the TI Allowance. If at any time and from time-to-time, the remaining TI Costs under the Budget exceed the remaining unexpended TI Allowance, Tenant shall deposit with Landlord, as a condition precedent to Landlord's obligation to fond the TI Allowance, 100% of the then current TI Cost in excess of the remaining TI Allowance **("Excess TI Costs"**). If Tenant fails to deposit, or is late in depositing, any Excess TI Costs with Landlord, Landlord shall have not have any obligation to fond any further portion of the TI Allowance until such Excess TI Costs have been deposited with Landlord. Such Excess TI Costs, together with the remaining TI Allowance, is herein referred to as the **"TI Fund."** Funds so deposited by Tenant shall be the first thereafter disbursed to pay TI Costs. Notwithstanding anything to the contrary set forth in this Section 5(d). Tenant shall be fully and solely liable for TI Costs. If upon Substantial Completion of the Tenant Improvements and the payment of all sums due in connection therewith there remains any undisbursed TI Fund, Tenant shall be entitled to such undisbursed TI Fund solely to the extent of any Excess TI Costs actually deposited by Tenant with Landlord or for which Tenant is entitled to a credit hereunder.

(e) **Payment for TI Costs**. Landlord shall pay TI Costs once a month against a draw request using AIA standard forms, containing such certifications, lien waivers, inspection reports and other matters as Landlord customarily obtains, to the extent of Landlord's approval thereof for payment, no later than 30 days following receipt of such draw request; provided, however, that Landlord shall not disapprove a draw request that is consistent with the Budget and is submitted in proper form with all required supporting materials. Upon completion of the Tenant Improvements, Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and subcontractors who did the work and final unconditional lien waivers from all such contractors and subcontractors; (ii)"as built" plans for such Tenant Improvements; and (iii) such documents as Landlord reasonably requests.

(f) **Sales or Use Tax Abatement or Deferral.** Notwithstanding anything to the contrary contained herein or in the Lease, Tenant shall be entitled to receive any sales or use tax abatement or deferral on the cost of the Tenant Improvements available from the State of Washington based on the nature of Tenant's business. Prior to the commencement of installation of any Tenant Improvements, Tenant shall provide additional security in an amount acceptable to Landlord to secure any obligation or liability on the part of Landlord to repay any amount of the abatement or deferral and the liability of Landlord to satisfy any right of recapture of the abated or deferred tax by the Washington Department of Revenue.

6. **Miscellaneous.**

(a) **Consents.** Whenever consent or approval of either party is required under this Work Letter, that party shall not unreasonably withhold, condition or delay such consent or approval, except as may be expressly set forth herein to the contrary.

(b) **Modification.** No modification, waiver or amendment of this Work Letter or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless in writing signed by Landlord and Tenant.

(c) **Counterparts.** This Work Letter may be executed in any number of counterparts but all counterparts taken together shall constitute a single document.

(d) **Governing Law.** This Work Letter shall be governed by, construed and enforced in accordance with the internal laws of the state in which the Premises are located, without regard to choice of law principles of such State.

(e) **Time of the Essence.** Time is of the essence of this Work Letter and of each and all provisions thereof.

(f) **Default.** Notwithstanding anything set forth herein or in the Lease to the contrary, Landlord shall not have any obligation to perform any work hereunder or to fund any portion of the TI Fund during any period Tenant is in Default under the Lease.

(g) **Severability.** If any term or provision of this Work Letter is declared invalid or unenforceable, the remainder of this Work Letter shall not be affected by such determination and shall continue to be valid and enforceable.

(h) **Merger.** All understandings and agreements, oral or written, heretofore made between the parties hereto and relating to Tenant's Work are merged in this Work Letter, which alone (but inclusive of provisions of the Lease incorporated herein and the final approved constructions drawings and specifications prepared pursuant hereto) fully and completely expresses the agreement between Landlord and Tenant with regard to the matters set forth in this Work Letter.

(i) **Entire Agreement.** This Work Letter is made as a part of and pursuant to the Lease and, together with the Lease, constitutes the entire agreement of the parties with respect to the subject matter hereof. This Work Letter is subject to all of the terms and limitation set forth in the Lease, and neither party shall have any rights or remedies under this Work Letter separate and apart from their respective remedies pursuant to the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Work Letter to be effective on the date first above written.

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER
a

By: /s/ Scott Rusch
Its: V.P. Facilities & Operations

LANDLORD

ARE - EASTLAKE AVENUE NO. 3,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P,
a Delaware limited partnership, managing member

By: ARE-QRS CORP.,
a Maryland corporation, general partner

By: /s/ James H. Welch
Its: President

EXHIBIT D TO LEASE

ACKNOWLEDGMENT OF COMMENCEMENT DATE

This ACKNOWLEDGMENT OF COMMENCEMENT DATE is made this 20th day of January, 2004, between ARE-EASTLAKE AVENUE NO. 3, LLC, a Delaware limited liability company ("Landlord"), and FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation ("Tenant"), and is attached to and made a part of the Lease dated January 16, 2004 (the "Lease"), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Commencement Date of the Base Term of the Lease is January 20, 2004, the "Rent Commencement Date" is August 15, 2004, and the termination date of the Base Term of the Lease shall be midnight on August 14, 2014.

IN WITNESS WHEREOF, Landlord and Tenant have executed this ACKNOWLEDGMENT OF COMMENCEMENT DATE to be effective on the date first above written.

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER
a

By: /s/ Scott Rusch
Its: V.P. Facilities & Operations

LANDLORD:

ARE - EASTLAKE AVENUE NO. 3,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By: ARE-QRS CORP.,
a Maryland corporation,
general partner

By: Peter J. Nelson
PETER J. NELSON
SENIOR VICE PRESIDENT &
CHIEF FINANCIAL OFFICER

PROPERTY TAX BILL TRANSMITTAL

Deloitte & Touche LLP
2 California Plaza
350 South Grand Avenue, Suite 2000
Los Angeles, CA 90071-3462

To:

Alexandria Real Estate Equities, In
Ms. Helen Gibb
9820 Willow Creek Road
Suite 440
San Diego, CA 92131

COPY

Site: 04-041 1616 Eastlake Avenue
SubCompany: Alexandria Real Estate Equities, I
Property #: 04-041
Tax Year: 2003
Project #: Peter Moglia

ARE- Eastlake Avenue No. 3, LLC

Parcel # / Collector #	Property Type	Total FMV	Assessed Value	Amount Due
338390-0230-04	Real Estate	10,754,500	10,754,500	$55,991.50

9/30/03

RECEIVED
SEP 29 2003
Alexandria Real Estate Equities, Inc.
San Diego, CA

Remit All Payments Directly To Taxing Entity:
King County Treasury
500 Fourth Avenue #600
Seattle, WA 98104-2340

Total Amount Due:	$55,991.50
Payment Due:	10/31/2003
Payment Description:	Pmt #2of2

Payment Notes:

estions: Howard Klein (213)996-5649

Disclaimer: Refer to tax collecting entity's statute regarding tax payments received or mailed by due date as to timely payment of tax amount due.

Date Mailed: 09/24/2003

Page 1 of 1

01/15/04 THU 16:08 FAX 6195308181

ALEXANDRIA SND

2003 KING COUNTY, WA, REAL ESTATE TAX
RM 600 - 500 F[illegible]RTH AVE, SEATTLE WA 98104-2387

PROPERTY TAX
ACCOUNT NUMBER
338390-0230-04 RP10

09/16/2003

KEEP THIS PORTION

BRING ALL PARTS WHEN PAYING IN PERSON

CURRENT BILLING DISTRIBUTION	
State	31,153.60
Local School Support	25,753.83
County	14,512.96
City	33,983.15
Unincorporated/Road	
Port	2,784.89
Fire	
Sewer &/or Water	
Library	
Other	
Emergency Med Svc	2,596.47
* Other Charges	1,198.11
TOTAL CURRENT BILLING	[illegible]

CURRENT BILLING INFORMATION	
Land Value	3,754,5
Improvements	7,000,0
Less: Exempt Value	
TAXABLE VALUE	10,754,5
Levy Rate	10.301
General Tax	110,784.
*Other Charges	1,198.
TOTAL CURRENT BILLING	[illegible]
Omitted Taxes	
TOTAL CURRENT BILLING INCLUDING OMITS	[illegible]
VOTER APPROVED	35,703.

NSHE WAVERLY LLC 399999
135 N LOS ROBLES AV #250
PASADENA CA 91101

*OTHER CHARGES
NOX WEED 1.59
SWM 1,191.52

LESS PAID 55,991.
SOIL CON 5.00

LOT	BLOCK	CODE	SEC	TWP	RG
1 THRU 12	5	0010			

HILTON ADD
PCL B SEATTLE BLA #2008942
REC #20010619900005 & REVISED
UNDER REC #20010730900001

PROPERTY ADDRESS 1600 EASTLAKE AV E

First half must be paid or postmarked by April 30, or FULL AMOUNT BECOMES DELINQUENT and accrues interest and penalty as prescribed by law. If first half paid by April 30 second half must be paid by October 31 or it becomes delinquent and accrues interest and penalty.

FULL AMOUNT MAY BE PAID APRIL 30th

DELINQUENCY INFORMATION		
YEAR	INTEREST PENALTY	PRINCIPAL
DELINQUENT TOTAL		

GRAND TOTAL 55,991.5

MAIL WITH 2ND PAYMENT — 2003 REAL ESTATE TAX

PROPERTY TAX ACCOUNT NUMBER
338390-0230-04

TAX TYPE	TAX YEAR	OMIT YEAR	INTEREST TO:	PENALTY (SEE REVERSE)	PRINCIPAL AMOUNT	* HALF AMOUNT
Current	03					55,991.50
Omitted						
Delinquent						

NSHE WAVERLY LLC 399999
135 N LOS ROBLES AV #250
PASADENA CA 91101

PAY THIS AMOUNT — DUE OCTOBER 31 55,991.50

00000000000000000000000000000000000000000000000000000338390023004005599915009

EXHIBIT E TO LEASE

Rules and Regulations

1. The sidewalk, entries, and driveways of the Project shall not be obstructed by Tenant, or any Tenant Party, or used by them for any purpose other than ingress and egress to and from the Premises.

2. Tenant shall not place any objects, including outdoor furniture, etc., in the parking areas, landscaped areas or other areas outside of its Premises.

3. Except for animals assisting the disabled, no animals shall be allowed in the offices, halls, or corridors in the Project.

4. Tenant shall not disturb the occupants of the Project or adjoining buildings by the use of any radio or musical instrument or by the making of loud or improper noises.

5. If Tenant desires telegraphic, telephonic or other electric connections in the Premises, Landlord or its agent will direct the electrician as to where and how the wires may be introduced; and, without such direction, no boring or cutting of wires will be permitted. Any such installation or connection shall be made at Tenant's expense.

6. Parking any type of recreational vehicles is specifically prohibited on or about the Project. Except for the overnight parking of operative vehicles, no vehicle of any type shall be stored in the parking areas at any time. In the event that a vehicle is disabled, it shall be removed within 48 hours. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. All parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specified by Landlord.

7. Tenant shall maintain the Premises free from rodents, insects and other pests.

8. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs or who shall in any manner do any act in violation of the Rules and Regulations of the Project.

9. Tenant shall not cause any unnecessary labor by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of Tenant by the janitors or any other employee or person.

10. Tenant shall give Landlord prompt notice of any defects in the water, lawn sprinkler, sewage, gas pipes, electrical lights and fixtures, heating apparatus, or any other service equipment affecting the Premises.

11. Tenant shall not permit storage outside the Premises, including without limitation, outside storage of trucks and other vehicles, or dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.

12. All moveable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas, if any, provided for that purpose.

13. No auction, public or private, will be permitted on the Premises or the Project.

14. No awnings shall be placed over the windows in the Premises except with the prior written consent of Landlord.

15. The Premises shall not be used for lodging, sleeping or cooking or for any immoral or illegal purposes or for any purpose other than that specified in the Lease. No gaming devices shall be operated in the Premises.

16. Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Project and the Premises and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electric equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity.

17. Tenant assumes full responsibility for protecting the Premises from theft, robbery and pilferage.

18. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises and shall keep all such machinery free of vibration, noise and air waves which may be transmitted beyond the Premises.

EXHIBIT F TO LEASE

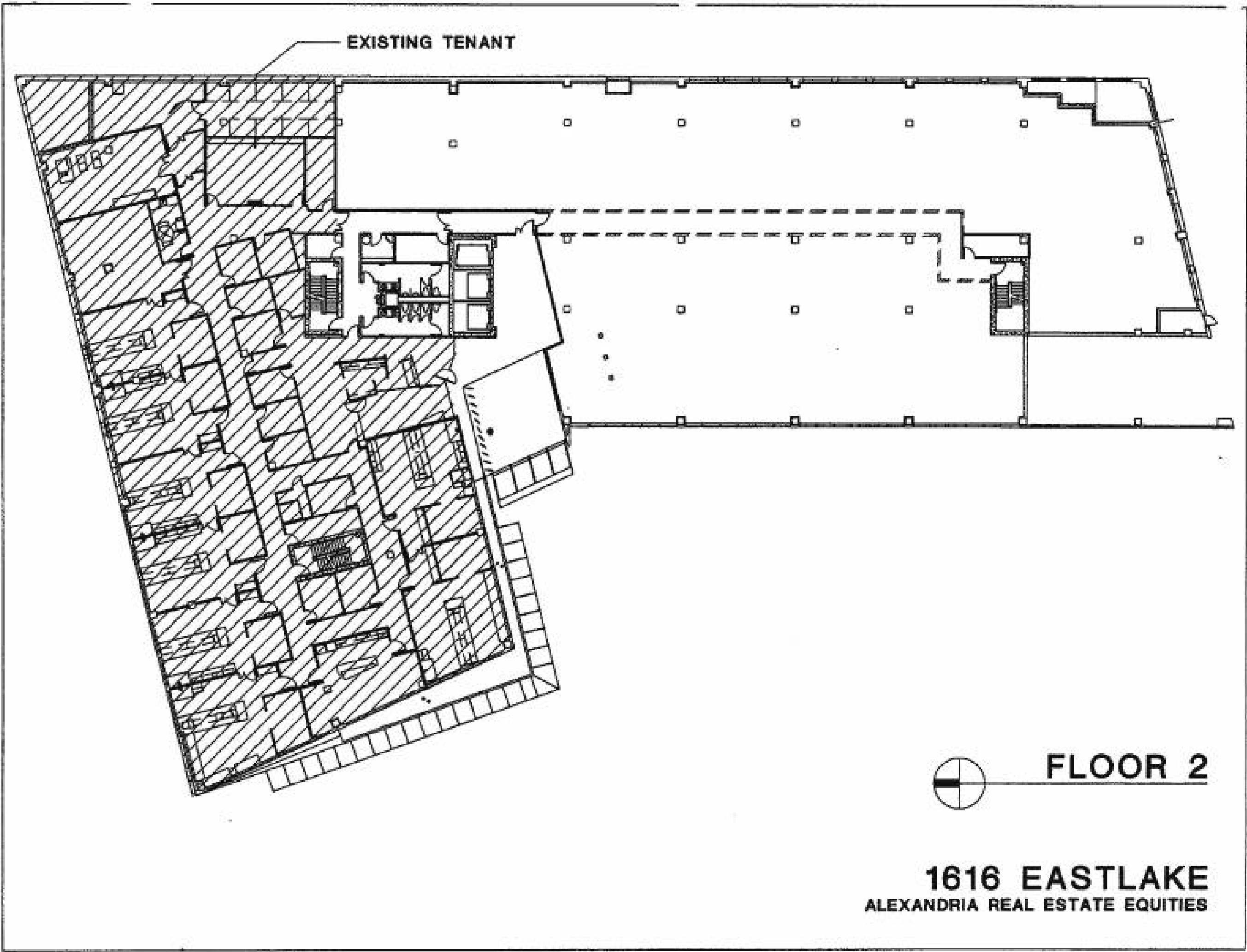
TENANT’S PERSONAL PROPERTY

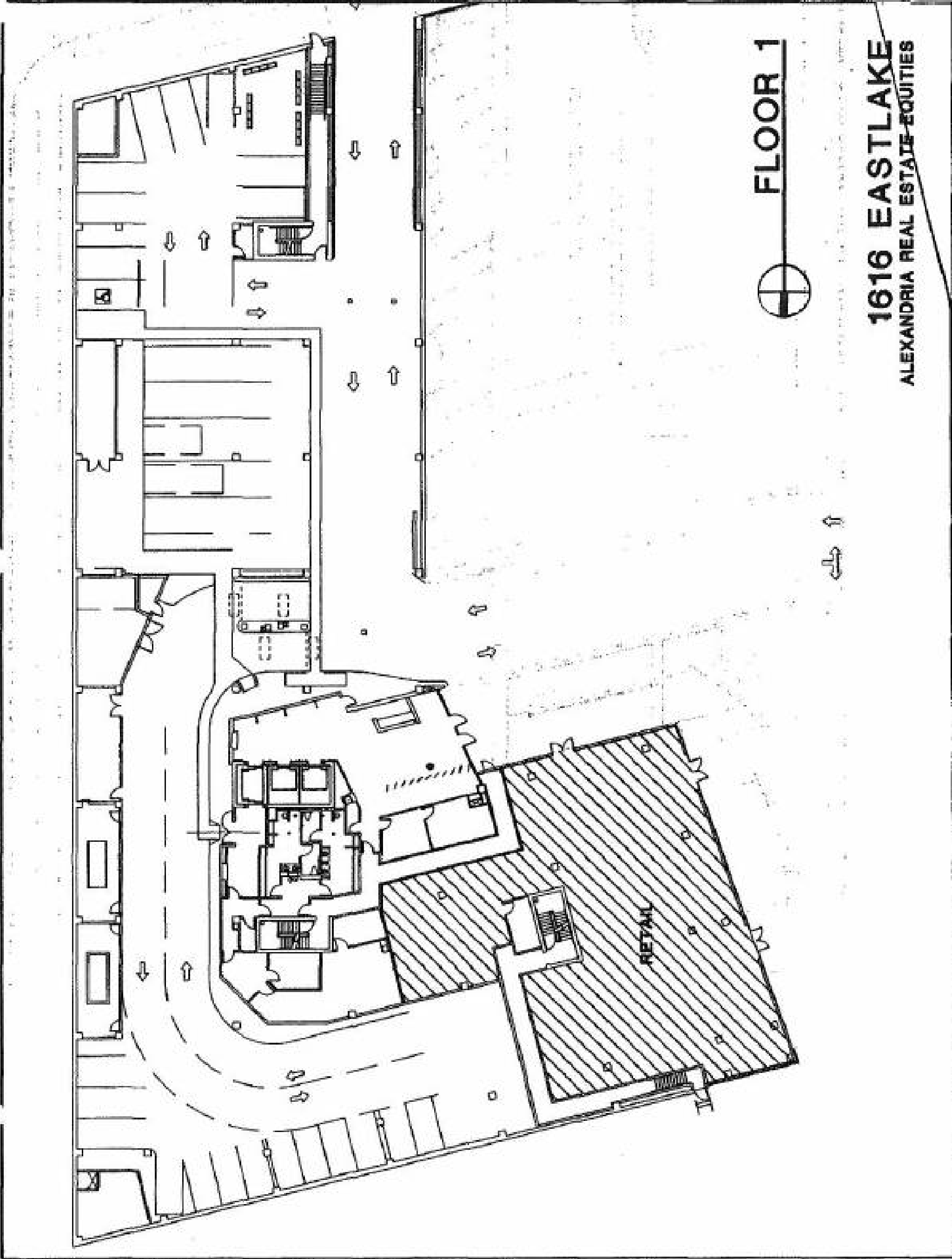
None except as set forth below:

EXHIBIT G TO LEASE

SPACE NOT SUBJECT TO RIGHT OF FIRST NEGOTIATION

(See attached)


EXISTING TENANT
FLOOR 2
1616 EASTLAKE
ALEXANDRIA REAL ESTATE EQUITIES


FLOOR 1
1616 EASTLAKE
ALEXANDRIA REAL ESTATE EQUITIES
RETAIL

ALEXANDRIA.

ARE-Eastlake Avenue No. 3, LLC
1616 EASTLAKE AVENUE EAST
SUITE 100
SEATTLE, WA 98102
TEL: 206-328-5516
FAX: 206-328-5810

Via Hand Delivery

January 20, 2004

Mr. Scott Rusch
Fred Hutchinson Cancer Research Center
1100 Fairview Ave. N., J5-100
PO Box 19024
Seattle, WA 98109-1024

Re: 1616 Eastlake Avenue East, Seattle, WA 98102

Dear Scott:

Enclosed for your files please find the following documents pertaining to 1616 Eastlake Avenue East:

- Declaration of Covenants, Conditions, Restrictions and Easements dated July 31, 2001.
- First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements dated March 1, 2003.
- Transportation Management Plan Acknowledgement Letter dated January 15, 2001.

If you have any questions, please don't hesitate to contact me at (206) 328-5516 extension 300.

Sincerely,

Erin Tice
Asset Services Coordinator
for ARE-Eastlake Avenue No. 3, LLC

cc: Peter Moglia (w/o enclosures)
Mary McGeough (w/ enclosures)

After Filing Return To:
Dennis E. McLean, Esq.
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

Grantor: Bank of America, N.A.

CHICAGO TITLE INS. CO.
REF# 1068078-6
6 75.

Grantee: Washington Real Estate Holdings, LLC

Abbreviated Legal Description:

Parcels A & B, City of Seattle Lot Boundary Adjustment No. 2008942, recorded under King County, Washington AFN 2001061990005, amended under AFN 20010730900001.

Assessor's Property Tax Parcel Account Numbers: 338390-0230-04
338390-0232-02

Reference Numbers of Documents Released:

King County, Washington AFN 20010731001901

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
(1616 Eastlake)

This First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements (“Amendment”) is made as of this 1st day of March, 2003 by and between Bank of America, N.A., a national banking association (“Bank”), and Washington Real Estate Holdings, LLC, a Washington limited liability company, successor in interest to Lowe Northwest Investor Properties L, L.L.C, a Washington limited liability company (“WREH”).

Bank and WREH’s predecessor in interest entered into that certain Declaration of Covenants, Conditions, Restrictions and Easements recorded on July 31, 2001 under King County, Washington Recording No. 20010731001901 (the “Declaration”). Terms not otherwise defined herein shall have the meaning set forth in the Declaration. For good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged. Bank and WREH hereby agree to amend the Declaration as follows:

1. Bank Access Easement: Substitute Exhibit C. The Bank Access Easement as defined in Section 1.1.2 of the Declaration is hereby amended to be exclusively within the area depicted as the “Bank Access Easement” on Exhibit C attached hereto, which exhibit hereby supercedes and replaces the Exhibit C attached to the Declaration.

2. Ratification. Except as amended herein, the Declaration is ratified and confirmed.

3. Successors and Assigns. This Amendment shall be binding upon the successors and assigns of the parties and shall attach to and run with the Office Property and the Bank Property.

DATED as of the day and year first above written.

BANK: BANK OF AMERICA, N.A., a national banking association

By: /s/ Thomas G. Ryan
Name: Thomas G. Ryan
Its: Senior Vice President

WREH:

WASHINGTON REAL ESTATE HOLDINGS, LLC, a Washington limited liability company

By: Lake Union Partners LLC, a Washington limited liability company, its managing member

By: /s/ Richard W. Anderson
Name: Richard W. Anderson
Its: EVP/CEO Authorized signatory

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Thomas G. Ryan is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Sr. Vice President of BANK OF AMERICA, N.A., a national banking association, to be the free and voluntary act of such national banking association for the uses and purposes mentioned in the instrument.

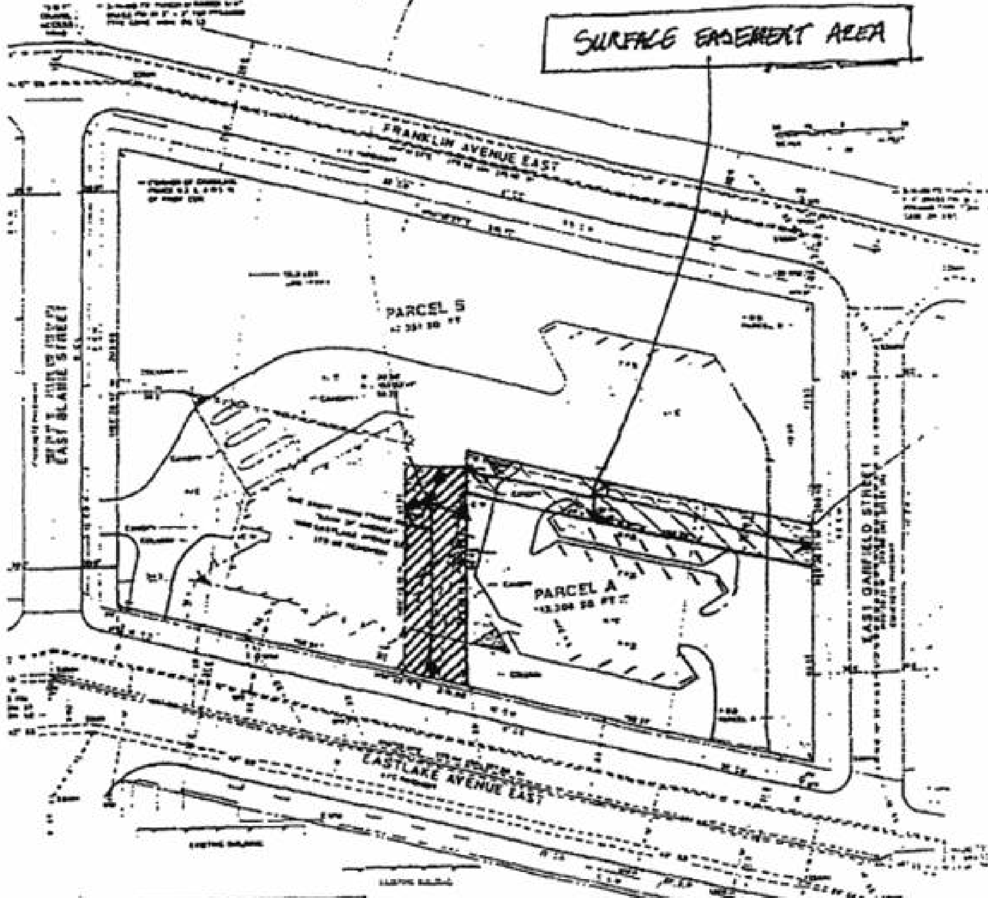
Dated this 20th day of March, 2003.

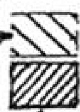
STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Richard W. Anderson is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Manager of Lake Union Partners LLC, a limited liability company, the managing member of WASHINGTON REAL ESTATE HOLDINGS, LLC, a limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 5th day of March, 2003.

EXHIBIT C





Sch B
G (#7)

When Recorded, Return to

Lowe Enterprises Northwest, Inc.
Attention Michael J Brooks
One Union Square
600 University Street
Suite 2820
Seattle, WA 98101

TMP ACKNOWLEDGEMENT LETTER

Grantor: 1) Lowe Enterprises Investment Management, Inc 2) ____________
☐ Additional on page ____

Grantee: 1) City of Seattle 2) ____________
☐ Additional on page ____

Legal Description (abbreviated) Lots 1 through 15, inclusive, Block 5, Hilton Addition to the City of Seattle, according to the plat thereof recorded in Volume 3 of Plats, Page 157, in King County, Washington

☐ Additional on ____________

Assessor's Tax Parcel ID #: 338390-0230-04

Reference Nos. of Documents Released or Assigned: N/A

The remainder of this page is intentionally left blank

January 15, 2001

Ms Malli Anderson
City of Seattle
Department of Design, Construction and Land Use
701 Second Avenue
Suite 200
Seattle, WA 98104-1703

Re TMP Acknowledgement Letter for Master Use Permit Number 2001384

Dear Ms Anderson

We, the undersigned, are the contract purchasers of a portion of certain property issued Master Use Permit Number 2001384 by the Department of Design, Construction and Land Use and more specifically described as

> Lots 1 through 12, inclusive, Block 5, Hilton Addition to the City of Seattle, according to the plat thereof recorded in Volume 3 of Plats, Page 157, in King County, Washington

We propose to develop an office building project, commonly referred to as 1600 Eastlake, within the described property. We understand that we are required to comply with the following conditions related to the Transportation Management Plan (TMP) imposed on Master Use Permit (MUP) number 2001384

1 Implement a Transportation Management Program (TMP) consistent with and including the Standard Implementation Requirements as described in DCLU Director's Rule 94-2 and SEATRAN Director's Rule 94-3, or their successors and shall include the following elements

2 Program Goal - The proportion of employee trips by non-single occupancy vehicles (SOV) shall attain and maintain a minimum of 30% lower than the existing rate within four years of occupancy

3 Implement all Standard Implementation Requirements set forth by the DCLU Director's Rule 94-2 or its successor

4 Implement the following additional program elements
- Tenant Participation - All office tenants and their employees to participate in the TMP program as a lease requirement
- Parking Rates - Parking rates to be no lower than the market rate of other office buildings in the vicinity Parking rates will not be linked to tenant lease rates
- Preferential Parking Location for HOVs - Provide those participating in carpools or van pools with parking spaces closest to office building elevators
- Vanpool Parking - Provided parking at no charge to all certified vanpools Include proper turning radii and height clearance for an eight-person vanpool
- Discounted Carpool Parking - Offer carpool parking spaces at a discounted rate of 25%
- Bicycle Racks - Provide a minimum of 40 weather protected lockable bicycle racks and/or hangers to be used by office building employees m addition to those intended for patron use
- Showers - Provide on-site showers for office building employees commuting by bicycle or foot

- Guaranteed Ride Home Program - Develop and implement a Guaranteed Ride Home Program for office building employees who are non-SOV travel commuters
- Truck Delivery - Schedule truck deliveries to avoid commuter peak hours
- Coordination of Efforts - Work with other nearby office building management to address traffic congestion and marketing of HOV programs
- Eastlake Cumulative transportation Management Committee (CTMC) - Join the CTMC to promote and coordinate HOV commute programs
- Transit Pass Subsidy - If DCLU determines that the SOV commute goal or any other provisions of this TMP have not been achieved within four years, provide a 100% transit pass subsidy to any office building employee that commutes to and from the site by any transit mode for at least 60% of his or her work shift

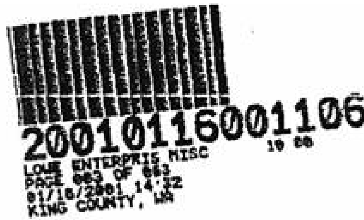
We fully understand that additional MUP conditions unrelated to the TMP may apply to the subject project as specified by the Director's decision We further understand that failure to achieve the goals specified in the TMP and/or comply with the mandatory requirements of the TMP, as set forth by Directorss' Rule 2-94, and specified in the conditions listed above shall be a violation of the permit conditions and will result in enforcement pursuant to the Seattle Land Use Code (SMC 23 90) and Master Use Permit Process (SMC 23 76) The conditions under which this project was approved runs with the life of the project and shall be complied with by us, or our successors and assigns

Sincerely,
Applicant

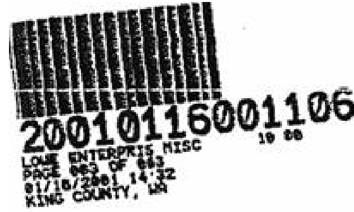
Lowe Enterprises Investment Management, Inc.,
a California corporation,

By: /s/ Craig Wrench
Name Craig Wrench
Title Senior Vice President

cc Gary Fluhrer, Foster Pepper & Shefelman



RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO
FOSTER PEPPER & SHEFELMAN PLLC
1111 Third Avenue, Suite
3400 Seattle, Washington 98101-3299
Attention: Krista J. Ayers



DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

Grantor: Bank of America, N.A., a national banking association

Grantee: Lowe Northwest Investor Properties 1, L.L.C., a Washington limited liability company

Legal Description of Grantor Property:

Parcel A of City of Seattle Lot Boundary Adjustment No 2008942, recorded under recording number 20010619900005 as amended by instrument recorded under recording No 20010730900001. Official legal description on Exhibit A

Legal Description of Grantee Property:

Parcel B of City of Seattle Lot Boundary Adjustment No. 2008942, recorded under recording number 20010619900005 as amended by instrument recorded under recording No. 20010730900001. Official legal description on Exhibit B

Assessor's Property Tax Parcel Account Number(s):

Grantor Property 338390-0230-04
Grantee Property

Reference Numbers of Documents Assigned or Released (if applicable): N/A

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "Declaration"), made this 31 day of July, 2001, by and between Lowe Northwest Investor Properties I, L.L.C, a Washington limited liability company and its successors and assigns in ownership of the Office Property, as hereinafter defined ("Lowe"), and Bank of America, N A, a national banking association, successor in interest to Seattle-First National Bank and its successors and assigns in ownership of the Bank Property, as hereinafter defined ("Bank").

RECITALS

A. Bank is the fee simple owner of that certain tract or parcel of land more particularly described on Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (the "Bank Property")

B. Lowe and Bank entered into that certain Amended and Restated Real Property Purchase and Sale Agreement, dated February 13, 2001 (the "Purchase Agreement"), pursuant to which, among other things, Lowe purchased from Bank that certain parcel of land more particularly described on Exhibit B attached hereto and by this reference incorporated herein and made a part hereof (the "Office Property"), which property is adjacent to the Bank Property

C. Lowe and Bank entered into that certain Amended and Restated Development Management Agreement, dated February 13, 2001 (the "Development Agreement"), pursuant to which, among other things, Bank agreed to design and develop an approximately Four Thousand (4,000) square foot banking center building on the Bank Property (the "Bank Improvements") and Lowe agreed to design and develop certain office improvements on the Office Property (the "Office Improvements").

D. The Bank Property and the Office Property have or will have certain common elements, including, without limitation, common driveways and curb cuts.

E. Bank and Lowe desire to develop, construct and operate the Bank Property and the Office Property as an integrated development with complementary and harmonious improvements

In consideration of the foregoing recitals, Bank and Lowe hereby declare and consent that the Bank Property and the Office Property will be held, transferred, sold, conveyed, leased, mortgaged, occupied, used and otherwise disposed of subject to the easements, covenants, conditions and restrictions hereinafter set forth.

ARTICLE I.
ACCESS, UTILITY AND SURFACE EASEMENTS

1.1. Access Easements

1.1.1 Intentionally Deleted.

1.1.2 Bank Access Easement Lowe hereby declares, establishes, creates and grants to Bank for itself, its successors and assigns, a perpetual, nonexclusive easement for vehicular and pedestrian access, ingress and egress on, over, across and through the paved roads, walkways, sidewalks, driveways and curb cuts located on the Office Property in the locations identified on Exhibit C. for the benefit of and as an appurtenance to the Bank Property and any part thereof ("Bank Access Easement")

1.1.3 Construction and Maintenance. In the event that Bank utilizes the Bank Access Easement for construction-related vehicular access, Bank shall be solely responsible for any repair, resurfacing or replacement costs resulting from any damage caused by such construction-related use Otherwise, the maintenance and repair of the Bank Access Easement shall be performed by and paid for by Lowe.

1 2 Utility Easements

12 1 Office Property Utility Easement. Bank hereby declares, establishes, creates and grants to Lowe for itself, its successors and assigns a perpetual, non-exclusive easement five (5) feet on either side of the center line thereof as placed during initial construction of the Office Property for such underground utility facilities as may be located from time to time on the Bank Property, in such locations as Lowe and Bank shall reasonably agree, and which serve the Office Property, for the benefit of and as an appurtenance to the Office Property and any part thereof ("Office Property Utility Easement") The parties acknowledge and agree that the Office Property Utility Easement shall include, without limitation, a storm drainage easement for the discharge of stormwater from the Office Property into the existing storm drain located on the northeast portion of the Bank Property. The Office Property Utility Easement shall include the right of reasonable access to make inspections and necessary repairs of such utility facilities at the expense of Lowe Any damage to the surface improvements caused by such maintenance and repair shall be restored by and at the expense of Lowe. Bank shall not place or permit buildings or other permanent structures (excluding driveways, walkways, sidewalks, parking surfaces or landscaping) to be placed over the Office Property Utility Easement

1.2.2 Bank Property Utility Easement Lowe hereby declares, establishes, creates and grants to Bank for itself, its successors and assigns a perpetual, non-exclusive easement five (5) feet on either side of the center line thereof as placed during initial construction of the Office Property for such underground utility facilities as may be located from time to time on the Office Property, in such locations as Lowe and Bank shall reasonably agree, and which serve the Bank Property, for the benefit of and as an appurtenance to the Bank Property and any part thereof ("Bank Property Utility Easement"). The Bank Property Utility Easement shall include the right of reasonable access to make inspections and necessary repairs of such utility facilities at the expense of Bank. Any damage to the surface improvements caused by such maintenance and repair shall be restored by and at the expense of Bank. Lowe shall not place or permit buildings or other permanent structures (excluding driveways, walkways, sidewalks, parking surfaces or landscaping) to be placed over the Bank Property Utility Easement

1.2.3 Location of Easements Bank and Lowe acknowledge that until building plans for construction of the Bank Improvements and the Office Improvements are complete and approved, the exact location of the underground utility facilities cannot reasonably be determined. Bank and Lowe shall be deemed to have agreed upon the location of underground utility facilities upon their approval of any plans, specifications, site plans, master use permits, or building permit requests submitted to the City of Seattle or other applicable governmental entity showing the proposed location of such underground utility facilities. Upon the request of either party, both parties will execute and record an amendment to this Declaration showing the actual placement of utility lines during initial construction of the Office Improvements and the Bank Improvements, together with the boundaries of the Bank Property Utility Easement and the Office Property Utility Easement.

1 3 Surface Easements.

1.3.1 Grant of Easement. Lowe hereby declares, establishes, creates and grants to Bank for itself, its successors and assigns, a perpetual, exclusive easement (the "Surface Area Easement") for vehicular parking and landscaping, on, over, and across the surface area of that portion of the Office Property legally described on Exhibit C, which shall be the same area as the Surface Easement Area defined in Section 1.1 of the Purchase Agreement

1.3.2 Construction of Improvements Lowe shall cause the surface parking improvements on the Surface Easement Area to be constructed and available for use by Bank on or before sixteen (16) months after Bank opens the Bank Improvements for business with the public (the "Parking Improvement Completion Date"); provided, however, that if Lowe is unable to cause the surface parking improvements to be constructed and available for use by the Parking Improvement Completion Date due to unforeseen delays or construction related issues, Lowe may extend the Parking Improvement Completion Date for up to four (4) months. The surface parking improvements on the Surface Easement Area will consist of a concrete deck on the Surface Easement Area, striped for not less than fourteen (14) parking spaces thereon. Lowe will cause the surface parking improvements including landscaping to be constructed at its expense in a good and workmanlike manner pursuant to plans and specifications approved by Bank, which approval shall not unreasonably be withheld, delayed or conditioned

1.3.3 Maintenance and Repairs Following completion of the surface parking improvements, Bank will be solely responsible for any maintenance, repairs, resurfacing or replacement of the improvements on the Surface Easement Area (except to the extent of damage caused by Lowe or its agents or resulting from defects in construction, which shall be the responsibility of Lowe), and will keep the Surface Easement Area in good order and repair free of debris, Lowe will be solely responsible for any maintenance or repairs of the improvements below the surface of the Surface Easement Area (except to the extent of damage caused by Bank or its agents, which shall be the responsibility of Bank), and will keep the subsurface improvements in such condition as to provide adequate support for the improvements on the Surface Easement Area. All landscaping on the Surface Easement Area shall be installed and maintained in accordance with the requirements set forth in the Master Use Permit for the Office Property. Lowe at its cost and expense shall have the right at all reasonable times, following written notice to Bank, to trim, maintain or replace any trees or other landscaping more than two (2) feet in height located on the Surface Easement Area which obstructs views from the Office Property

1.3.4 Use. Bank shall use the Surface Easement Area as an appurtenance to the Bank Property for landscaping and parking purposes for employees, customers and invitees utilizing or employed at the Bank Improvements, and Bank shall be entitled to use the Surface Easement Area at and above ground level for uses other than parking and landscaping so long as (i) such use does not materially impair the subsurface use or structure, (ii) such use does not cause Lowe to incur any additional cost, and (iii) any improvements made on the Surface Easement Area are completed pursuant to plans and specifications approved by Lowe, which approval shall not be unreasonably withheld, conditioned or delayed. If Bank does propose a use which would materially impair the subsurface use or structure, then, provided Lowe has approved the plans and specifications therefor, Bank may implement modifications to the subsurface structure at its sole cost and expense.

ARTICLE II
MAINTENANCE, PARKING AND SIGNAGE

2.1 Maintenance. Bank and Lowe shall each maintain the parking areas," driveways, walkways, sidewalks, signs, lighting, landscaping (including irrigation and sprinkler system), Bank Improvements, and Office Improvements located on the Bank Property and the Office Property, respectively, in a first class, well maintained, and orderly manner consistent with other first class office developments in the Seattle, Washington area

2.2 Offsite Parking. Lowe hereby grants Bank the right and privilege to lease from Lowe, at fair market rates, up to six (6) excess vehicle parking spaces (the "Excess Spaces") in a location to be determined by Lowe, provided, however that (i) the Excess Spaces shall be located on the Office Property or on any offsite parking lot owned, leased or controlled by Lowe and adjacent to or within a one block radius of the Office Property (but specifically excluding the property located at 1551 Eastlake Avenue as legally described on Exhibit E), (ii) the Excess Spaces shall be reasonably safe and well-lit, (iii) the Excess Spaces shall be for the exclusive use of employees of Bank, and (iv) if twenty (20) parking spaces are permitted on the Bank Property pursuant to the master use permit issued by the City of Seattle for the initial construction of the Bank Improvements, Bank shall have the right and privilege to lease up to four (4) Excess Spaces instead of six (6) as set forth above;

2.3 Signage Rights. In the event that the Office Property and the Bank Property are considered a single project for permitted total exterior signage under applicable government rules and regulations in effect from time to time, the Bank Property shall be allocated thirty percent (30%) by surface area of the aggregate permitted exterior signage, which shall be located on the Bank Property, and the Office Property shall be allocated seventy percent (70%) by surface area of the aggregate permitted exterior signage, which shall be located on the Office Property. All signage shall comply with applicable governmental rules and regulations, shall be consistent with first class office and banking center improvements or other uses permitted on the Bank Property, and shall be subject to the approval of Lowe and the Bank, which shall not unreasonably be withheld, delayed or conditioned. Pylon signs (signs elevated above the ground on a pole or other vertical device used substantially for signage purposes and expressly excluding monument signs), shall not be permitted on either the Bank Property or the Office Property without the written approval of Bank and Lowe, which approval may be withheld in each of their sole discretion.

2.4 Preservation of Views Other than the Bank Improvements (as the same may be restored or rebuilt following any casualty), no improvements shall be added to the Bank Property which unreasonably and materially block the views floors within the Office Improvements above the ground floor level. No improvements, modifications or alterations to the Bank Improvements (including, without limitation, any rooftop or penthouse mechanical equipment) shall exceed a height of twenty-seven (27) feet (measured from the ground level of the Bank Property), without the prior written consent of Lowe, which consent shall not be unreasonably withheld, delayed or conditioned, and any mechanical equipment or penthouse will be screened in an architecturally pleasing manner. The withholding of consent due to potential blockage of views as prohibited under the first sentence of this Section 2.4 shall not be deemed unreasonable.

ARTICLE III.
PERMITTED USES

3.1 Restriction on Use of Office Property. Until such time as a retail banking business is no longer operated on the Bank Property, neither Lowe nor any tenant, user or occupant of the Office Property shall (i) operate a retail banking business or retail brokerage office on the ground floor of the Office Improvements, (ii) provide drive-through banking services on the Office Property, (iii) permit the installation or use of automatic teller machines accessible from the exterior of the Office Improvements, or (iv) name the Office Improvements or the Office Property after any Competitor of Bank (as hereinafter defined) or display any exterior sign on the Office Property or the Office Improvements which has or includes the name, tradename or trademark of any Competitor of Bank (other than a tenant identification sign not exceeding in size, type or distinction the exterior tenant signage allowed other tenants of the Office Property on a building-standard tenant identification sign or monument); provided, however, that the foregoing restriction shall not prohibit the use of any floor of the Office Improvements other than the ground floor for purposes of banking (excluding a retail banking business), any other financial services, or any other use not prohibited by Section 3 2. For purposes of this Declaration: (A) the term “Competitor of Bank” means a company which, at the time Lowe proposes to name the Office Improvements or change such name, is engaged directly in financial services that Bank reasonably and in good faith views as competing with any of the principal lines of business then engaged in by Bank, and (B) the term “retail banking business” means the operation of a banking branch or banking center by any bank, credit union, or savings and loan association (including such institutions as may be chartered under federal or state law) which accepts deposits and permits withdrawals of deposits from customers on the premises

3 2 Prohibited Uses. Bank, Lowe, and any tenants, users or occupants of the Bank Property and the Office Property are hereby prohibited from using the Bank Property or the Office Property, or any portion thereof, for any of the following primary uses:

(i) sale or distribution of illegal drugs or drug paraphernalia or operation of any drug or alcohol rehabilitation center or program,

(ii) sale, distribution or production of pornographic, lewd, or “adult entertainment” materials;

(iii) operation of a recycling collection center;

(iv) operation of an automotive supplies or repair shop or automobile leasing or sales business;

(v) live non-human animal displays;

(vi) outdoor amusement rides;

(vii) gas stations or “quick mart” convenience stores (other than sundry retail shops common to first class office projects);

(viii) dry cleaning facilities with on-site cleaning operations;

(ix) any use not permitted by applicable zoning or other laws applicable to the Office Property or the Bank Property;

(x) any use which would constitute a nuisance;

(xi) operation of a liquor store; or

(xii) operation of a fast-food retail store

3.3 Business Use Lowe and its successors and assigns shall not be permitted to develop or operate the Office Improvements in a manner such that, at any given time: (i) less than sixty percent (60%) of the rentable square feet thereof is used for office or biotechnical or scientific uses and related purposes (including but not limited to those uses permitted as administrative office or customer service office under the Seattle Land Use and Zoning Code, as amended (the “Code”)); or (ii) more than ten percent (10%) of the rentable square feet thereof is used for “retail sales and service” or “retail shopping”, as defined in the Code

ARTICLE IV.
FAILURE TO CONSTRUCT OFFICE IMPROVEMENTS

4.1 Landscaping/Grading. In the event that Lowe fails to commence construction of the Office Improvements within twelve (12) months following the date the Office Property is conveyed to Lowe, Lowe shall be required at its expense to grade and landscape the Office Property, including, without limitation: (i) installation of visually pleasing screening of any pre-construction work from the Eastlake Avenue street grade and the Bank Property, and (ii) planting and maintaining ground cover on the Office Property to the extent reasonably practical.

4 2 Option to Repurchase. If Lowe has not commenced construction of the Office Improvements within two (2) years following the date the Office Property is conveyed to Lowe (the “Two Year Period”), Bank shall have the right, in its sole discretion, to repurchase the Office Property together with all of Lowe’s interest in all plans, specifications and permits relating to the Office improvements, to the extent transferable, on the terms and conditions contained in this Section 4.2 (“Repurchase Right”).

4 2.1 Purchase Price. The purchase price under the Repurchase Right shall be (i) the sum of $______ plus (ii) all reasonable and verifiable out-of-pocket expenses incurred by Lowe in connection with the Project, including, without limitation, those costs set forth in Section 9 3 of the Purchase Agreement incurred by Lowe (and not previously reimbursed) with respect to the design, development, permitting and site work on the Office Property, plus (iii) normal and customary management and development fees to the extent actually earned and paid or payable to Lowe, plus (iv) eleven percent (11%) per annum interest thereon, calculated from the date of each such expenditure until closing pursuant to Section 4 2.3. less (v) the Carry Cost Amount (as defined in the Purchase Agreement), if any, to the extent not refunded in accordance with the Purchase Agreement (collectively, the "Repurchase Price").

4.2.2 Exercise of Repurchase Right. If Lowe has not commenced construction of the Office improvements within the Two Year Period, then on or before expiration of the Two Year Period, Lowe shall notify Bank in writing of the Repurchase Price that would be due under Section 4.2 1 above if Bank exercises its right hereunder, and provide Bank simultaneously therewith with supporting invoices and materials to reasonably verify such costs and expenses Bank shall have sixty (60) days from the date of expiration of the Two Year Period within which to give Lowe written notice of its exercise of its Repurchase Right hereunder ("Repurchase Notice").

4.2.3 Closing. If Bank exercises its Repurchase Right hereunder, closing shall occur within sixty (60) days after receipt by Lowe of the Repurchase Notice Taxes and assessments for the current year, rents, interest, utilities constituting liens and other items of income and direct expense relating to the Office Property (including without limitation existing service or supply contracts assumed by the buyer, if any) shall be prorated as of the date of closing, the seller shall pay the premium for the title insurance policy in the amount allocable to an ALTA owners standard coverage title insurance policy, real estate excise taxes, and one-half (1/2) of any closing escrow fee and any applicable sales tax thereon; the buyer shall pay the cost of recording the deed, that portion, if any, of the premium for the title insurance policy, allocable to extended coverage or any endorsements requested by the buyer, and one-half of any closing escrow fee and any applicable sales tax thereon (hereinafter referred to as "Customary Closing Allocations") Title to the Office Property shall be conveyed by special warranty deed in the same condition of title as received by Lowe from Bank under the Purchase Agreement, together with such reasonable easements for utilities as may have been granted in contemplation of construction.

4 3 Termination. The Repurchase Right and the entirety of this Section 4 shall terminate upon the sooner to occur of (a) Commencement of Construction of the Office Improvements (as defined below), or (b) sixty (60) days after expiration of the Two Year Period For purposes of this Declaration, "Commencement of Construction of the Office Improvements" means the issuance of a building or excavation permit for construction of the Office Improvements and commencement of excavation work on the Office Property. Within five (5) days of a written request by the other party, both parties agree to execute a written confirmation of the status of the Repurchase Right

ARTICLE V.
BANK RIGHT OF FIRST OFFER

5.1 Bank Right of First Offer. If at any time after the date of this Declaration and prior to Commencement of Construction of the Office Improvements Lowe desires to sell all or any portion of the Office Property, Lowe shall first provide Bank the right of first offer to purchase the Office Property on the terms set forth below (the "Bank Right of First Offer")

5.2 Notice, Deal Terms. Before entering into any binding agreement to sell the Office Property to a third party, Lowe shall first give Bank written notice of the economic terms and purchase price upon which Lowe would be willing to sell the Office Property, together with all plans, specifications, permits and contract rights g relating thereto (the "Sale Notice"). The Sale Notice shall include the names of up to five (5) prospective buyers (the "Prospects") Bank will have sixty (60) days after its receipt of the Sale Notice to elect to purchase the Office Property on the economic terms and purchase price set forth in the Sale Notice.

5.3 Bank Veto. If Bank does not exercise the Bank Right of First Offer, and if Lowe proposes at least five (5) Prospects in the Sale Notice, Bank shall have the right to notify Lowe in writing prior to expiration of the sixty (60) day period in the last sentence of Section 5.2 that one (1) of the five (5) Prospects is unacceptable to Bank, and Lowe shall thereafter not sell the Office Property to such unacceptable Prospect (or any affiliates thereof or party related thereto, including principals or owners thereof) in connection with a sale pursuant to this Section 5. Bank's right to object to any Prospect shall be applicable only if Lowe proposed five (5) Prospects in the Sale Notice.

5.4 Closing. If Bank exercises the Bank Right of First Offer, the purchase sale shall close within sixty (60) days after delivery of the Sale Notice to Lowe at the purchase price and upon the terms set forth in the Sale Notice. If Bank does not so elect, Lowe may sell the Office Property to any of the Prospects (other than the Prospect objected to by Bank, if any, under Section 5 3 above, or any affiliate thereof or party related thereto, including principals or owners thereof), on the same terms set forth in the Sale Notice; provided, however, that the purchase price set forth in the Sale Notice may be reduced to a price which is no less than ninety-seven percent (97%) of the purchase price originally identified in the Sale Notice. Any sale made (i) at less than ninety-seven percent (97%) of the purchase price set forth on the Sale Notice or on other terms which taken as a whole are materially more favorable to the buyer, or (ii) to any purchaser other than a Prospect, shall be subject once again to the Bank Right of First Offer.

5.5 Term. This Bank Right of First Offer shall automatically terminate without further action by the parties upon Commencement of Construction of the Office Improvements Within five (5) days of a written request by the other party, both parties agree to execute a written confirmation of the status of the Bank Right of First Offer set forth herein

5.6 Excluded Transactions. The Bank Right of First Offer shall not apply to: (i) a transfer, assignment, or conveyance of the Office Property to a limited liability company, general or limited partnership, or corporation of which Lowe, its principal shareholders, or any entity or entities majority owned and controlled by Lowe or its principal shareholders, is a general partner, managing member or controlling shareholder, or (ii) a foreclosure sale, trustees sale or deed in lieu of foreclosure under any first lien deed of trust encumbering the Office Property and held by a third party not affiliated with Lowe. Notwithstanding the foregoing, in the event of a transaction described in clauses (i) or (ii) above, the Bank Right of First Offer shall continue to apply to the Office Property following such transfers and/or contributions until terminated pursuant to Section 5.5.

ARTICLE VI.
LOWE OPTION TO PURCHASE

6 1 Lowe Option to Purchase. If at any time after the date of this Declaration Bank desires to sell, transfer, license, franchise or lease the Bank Property to any party and the principal use thereof will no longer be a retail banking business (a “Transfer”), Bank shall first provide Lowe the option to purchase the Bank Property on the terms set forth below (the “Lowe Purchase Option”).

6.2 Notices. Before making or agreeing to make any Transfer, Bank shall first provide written notice to Lowe. If Lowe wishes to proceed with the exercise of the Lowe Purchase Option, it shall notify Bank in writing (the “Continuation Notice”) within ten (10) days after receipt of Bank’s notice

6 3 Appraisals. Upon delivery of the Continuation Notice, Lowe and Bank shall each select a qualified real estate appraiser with not less than ten (10) years experience appraising commercial real estate in King County, Washington to determine the fair market value of the Bank Property, which valuation shall not take into consideration (i) the Lowe Purchase Option or (ii) the height restriction applicable to the Bank Property pursuant to Section 2.4 of this Declaration, but shall take into consideration the prohibited uses set forth in Section 3.2 of this Declaration. Both appraisals shall be completed and delivered to both Lowe and Bank within thirty (30) days after delivery of the Continuation Notice. If one party fails to appoint its appraiser within the time period set forth herein, then the Sale Price shall be determined by the appraiser appointed by the other party If the appraised fair market values differ by ten percent or less, they shall be added together and the average of the two appraised fair market values shall be deemed the “Sale Price” hereunder. If the appraised fair market values differ by more than ten percent (10%) then the two appraisers within twenty (20) days thereafter shall select a third appraiser who shall also determine the appraised fair market value of the Bank Property (without considering the Lowe Purchase Option), with such third appraiser’s appraisal to be completed and delivered to both Lowe and Bank within thirty (30) days after such appraiser’s selection If the two appraisers are unable to agree upon the third appraiser within twenty (20) days, then either party may apply to the presiding judge of the King County Superior Court to appoint the third appraiser. The two appraised fair market values which are closest shall then be added together and the average of the two closest appraised fair market values shall be deemed the “Sale Price” hereunder. Each party shall pay for its own appraisal and both parties shall split equally the cost of the third appraiser, if necessary.

6 4 Election to Exercise Lowe shall have thirty (30) days after determination of the Sale Price in accordance with Section 6.3 above to elect to exercise the Lowe Purchase Option by giving written notice of its election to Bank (the “Exercise Notice”)

6 5 Closing. If Lowe timely elects to exercise the Lowe Purchase Option, closing shall occur within sixty (60) days after delivery of the Exercise Notice. The purchase price for the Bank Property shall be the Sale Price, payable in cash at closing Conveyance of the Bank Property shall be by special warranty deed free and clear of encumbrances securing the payment of money other than the current year's real estate taxes and assessments which shall be prorated to the closing date. Closing shall occur within sixty (60) days after delivery of the Exercise Notice. All closing costs shall be allocated and paid by the parties in accordance with the Customary Closing Allocations (as defined in Section 4.2.3).

6.6 Termination. If Lowe fails to deliver the Continuation Notice, fails to appoint its appraiser within the time period set forth herein, or fails to deliver the Exercise Notice within the time period provided herein, the Lowe Purchase Option shall automatically terminate and shall thereafter be of no further force or effect

ARTICLE VII
MISCELLANEOUS

7 1 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Lowe at:	Craig A. Wrench Lowe Enterprises Northwest, Inc. 600 University Street, Suite 2820 Seattle, Washington 98101 Telephone No. (206) 623-0200 Telecopier No. (206) 623-0600
with copies to.	Gary Fluhrer Foster Pepper & Shefelman 1111 Third Avenue, Suite 3400 Seattle, WA 98101 Telephone No (206) 447-8896 Telecopier No. (206) 447-9700
Bank at	Bank of America 1001 Fourth Avenue; Floor 16 Seattle, Washington 98124-1033 Attn: David K Stuyvenberg Telephone No. (206) 358-1032 Telecopier No. (206) 358-0197

with copies to

Dennis E McLean
Davis Wright Tremame LLP
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688
Telephone No. (206) 628-7723
Telecopier No. (206) 470-3623

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. Any such notice shall be deemed to be given on the date on which it is received or receipt thereof is refused.

7.2 Binding Effect. All of the limitations, covenants, conditions, easements, and restrictions contained herein shall attach to and run with the Office Property and the Bank Property and shall, except as otherwise set forth herein, benefit or be binding upon the successors and assigns of Lowe and Bank.

7 3 Enforcement In the event of a breach of any of the covenants or agreements set forth in this Declaration, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Declaration, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorney's fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Declaration with respect to obligations which arose during the term of this Declaration

7.4 Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Declaration shall entitle Bank or Lowe to cancel, rescind, or otherwise terminate this Declaration, and such limitations shall not affect in any manner any of the rights or remedies which Bank or Lowe may have by reason of any breach of this Declaration.

7 5 Breach Effect on Mortgagee and Right to Cure. Breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any deed of trust or mortgage made In good faith, but all of the foregoing provisions, restrictions, and covenants shall be binding and effective against any owner of the Office Property and the Bank Property, or any portion of either of them, who acquires title by foreclosure or trustee's sale or by deed in lieu of foreclosure or trustee's sale

Notwithstanding any other provision in this agreement for notices of default, the holder of any deed of trust or mortgage encumbering the Office Property or the Bank Property (a “Mortgagee”) shall be entitled to a notice of any default by the owner of the encumbered property (a “Defaulting Owner”) that is asserted by the owner of the other property encumbered by this Declaration (the “Notifying Owner”) in the same manner that other notices are required to be given under this Declaration; provided, however, that said Mortgagee shall have, prior to the time of the default, notified the Notifying Owner of the Mortgagee’s mailing address and right to notice of defaults. If the Defaulting Owner fails to cure or commence to cure such default as provided in this Declaration, then the Notifying Owner covenants to notify such Mortgagee of the Defaulting Owner’s failure and such Mortgagee shall thereafter -have thirty (30) days to cure any such default, or, if such default cannot be cured within thirty (30) days, diligently to commence curing within such time and diligently pursue such cure to completion within a reasonable time thereafter.

7.6 Effect on Third Parties. Except for Section 7.5 (which is solely for the benefit of a Mortgagee) the rights, privileges, or immunities conferred hereunder are for the benefit of Lowe and Bank, together with their successors and assigns, and not for any third party.

7 7 No Partnership. Neither this Declaration nor any acts of Bank or Lowe -shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between Bank and Lowe

7.8 Modification. No modification, waiver, amendment, discharge, or change of this Declaration shall be valid unless the same is in writing and signed by Bank and Lowe. Any change, modification, amendment or rescission which is made without the written consent of Bank and Lowe shall be null and void and of no effect.

7 9 Severability. In the event any term, covenant, condition, provision, or agreement contained herein is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding shall in no way affect the validity of enforceability of any other term, covenant, condition, provision, or agreement contained herein.

7.10 Governing Law. This Declaration and the obligations of Bank and Lowe hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Washington

7.11 Terminology. All personal pronouns used in this Declaration, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and vice versa.

7.12 Counterparts. This Declaration may be executed in multiple counterparts, each of which shall be deemed to be an original agreement, and all of which together shall constitute one agreement.

7 13 Captions Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Declaration or any provisions hereof.

7.14 Estoppel Certificate. Bank and Lowe each hereby covenant that within thirty (30) days of the written request of the other party it will issue to such other party or to any prospective Mortgagee or purchaser of such party's property, an estoppel certificate stating: (a) whether such party to whom the request has been directed knows of any default under this Declaration and if there are known defaults specifying the nature thereof, (b) whether to its knowledge this Declaration has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (c) whether to its knowledge this Declaration is in full force and effect as of the date thereof.

7 15 Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Bank Property or the Office Property to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Declaration shall be strictly limited to and for the purposes herein expressed.

7.16 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Declaration.

7.17 Entire Agreement. This Declaration and the Exhibits hereto contain all the representations and the entire agreement between Bank and Lowe with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements with respect to the subject matter of this Declaration are superseded in total by this Declaration and Exhibits hereto. The provisions of this Declaration shall be construed as a whole according to their common meaning and not strictly for or against party hereto

7.18 Duration All easements contained in Article I of this Declaration shall be perpetual All other terms, covenants, restrictions and undertakings of this Declaration shall remain in effect so long as the Office Improvements have not been demolished, but in no event less than sixty (60) years, except to the extent specific provisions hereof are terminated or expire as set forth herein

7 19 Waiver of Default No waiver of any default by Lowe or Bank shall be implied from any failure to take any action in respect of such default if such default continues or is repeated. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver One or more written waivers of any default in the performance of any term, provision or covenant contained in this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Declaration. The consent or approval to or of any act or request by any other party requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar acts or requests. The rights and remedies given by this Declaration shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or if any other right or remedy at law or in equity which any such Owner might otherwise have by virtue of a default under this Declaration, and the exercise of one such right or remedy shall not impair the right to exercise any other right or remedy.

IN WITNESS WHEREOF, the parties have executed and delivered this Declaration this 31 day of July, 2001

LOWE NORTHWEST INVESTOR PROPERTIES I, LLC, a Washington limited liability company

By: Lowe/Washington Corporation, a Washington corporation, Managing Member

By:	/s/ Richard W. Anderson
Name:	Richard W. Anderson
Title:	Vice President

BANK OF AMERICA, N A , a national banking association

By:	/s/ Thomas G Ryan
Name:	Thomas G Ryan
Title:	Senior Vice President

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 30th day of July, 2001, before me, a Notary Public in and for the State of Washington, personally appeared Thomas G. Ryan, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as Senior Vice President of BANK OF AMERICA, N.A., a national banking association, to the be the free and voluntary act and deed of said national banking association for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 30th day of July, 2001, before me, a Notary Public in and for the State of Washington, personally appeared Richard W. Anderson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as Vice President of Lowe/Washington Corporation, Managing Member of Lowe Northwest Investor Properties I, L.L.C., to the be the free and voluntary act and deed of said limited liability company for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written

EXHIBIT A
TO
TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION OF BANK PROPERTY

Parcel A of City 20010619900005 of Seattle Lot Boundary Adjustment No. 2008942, recorded under recording number 200J0619900005 as amended by instrument recorded under recording No. 20010730900001, also known as

That portion of Lots 7 through 9, Block 5, Hilton Addition to the City of Seattle recorded in Volume 3 of Plats, page 157, records of King County, Washington State, described as follows

Beginning at the southwest corner of Lot 7 of said Block 5, also being the point of intersection of the north margin of East Garfield Street and the east margin of Eastlake Avenue East;
thence north 14°23’ 17” east, along said east margin and west line of Lots 7 through 9,158 37 feet; thence south 89°35’19” east, 86.49 feet; thence south 14°18’27” west 158 29 feet to a point on said north margin and the south line of said Lot 7, thence north 89°36’21” west, along said north margin and said south line, 86.72 feet to the true point of beginning.

EXHIBIT B
TO
TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION OF OFFICE PROPERTY

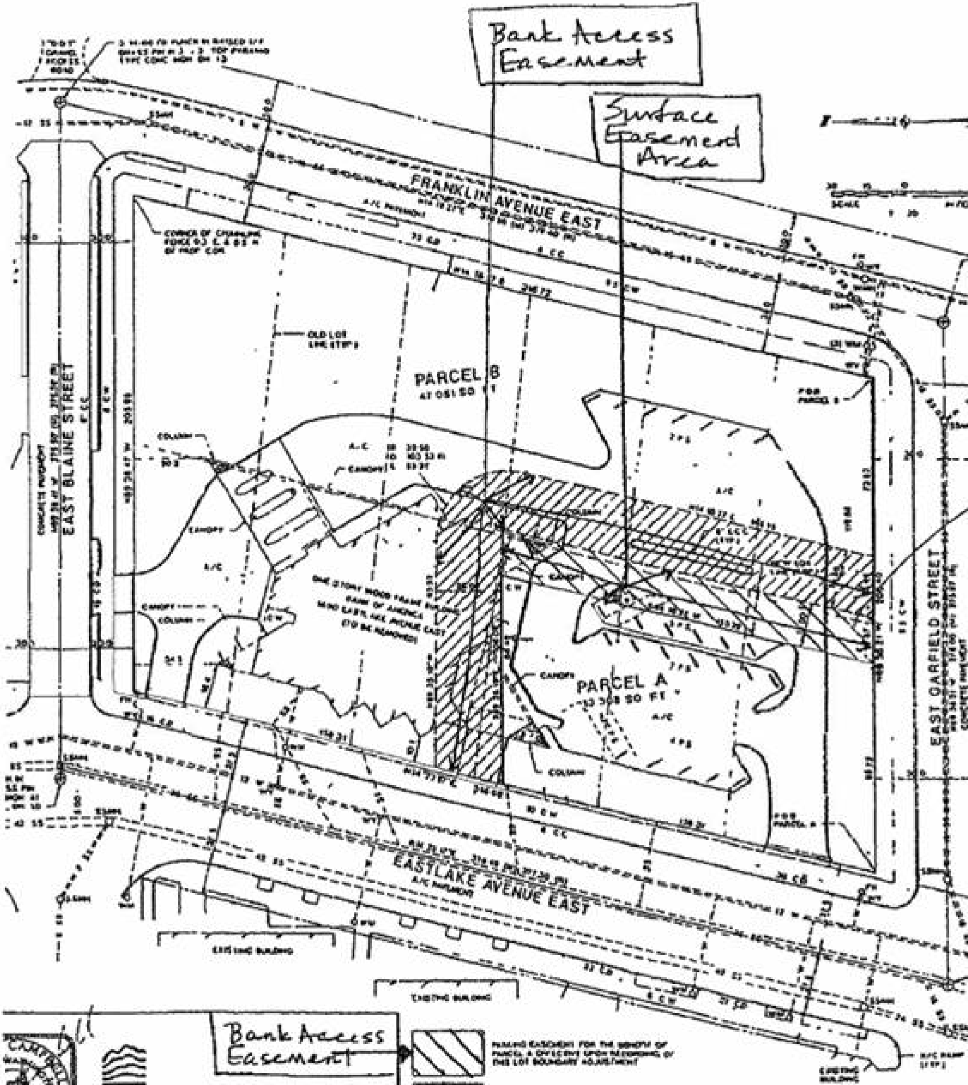
Parcel B of City of Seattle Lot Boundary Adjustment No 2008942, recorded under recording number 20010619900005 as amended by instrument recorded under recording No. 20010730900001, also known as:

Lots 1 through 12, Block 5, Hilton Addition to the City of Seattle, recorded in Volume 3 of Plats, Page 157, Records of King County, Washington State,

Except that portion described as follows:

Beginning at the southwest comer of Lot 7 of said Block 5, also being the point of intersection of the north margin of East Garfield Street and the east margin of Eastlake Avenue East;
thence north 14°23’17” east, along said east margin and west line of Lots 7 through 9,158 37 feet, thence south 89°35’19” east, 86 49 feet; thence south 14°18’27” west 158 29 feet to a point on said north margin and the south line of said Lot 7, thence north 89°36’21” west, along said north margin and said south line, 86.72 feet to the true point of beginning.

2001 073 1001901



FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this “First Amendment”) is dated as of March 31, 2004, between ARE-EASTLAKE NO. 3, LLC, a Delaware limited liability company (“Landlord”), and FRED HUTCHINSON CANCER RESEARCH CENTER, Washington nonprofit corporation (“Tenant”).

A. Landlord and Tenant entered into that certain Lease Agreement dated as of January 16, 2004, (the “Lease”), with respect to certain premises located at 1616 Eastlake Avenue, Seattle, Washington (the “Building”), pursuant to which Landlord leased to Tenant certain space in the Building more particularly described in the Lease (the “Premises”). Initially capitalized terms not specifically defined herein shall have the meanings set forth for such terms in the Lease.

B. Landlord and Tenant desire to amend the Lease in order to modify certain terms of the Lease, correct certain errors, and to otherwise amend the Lease upon the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree, and amend the Lease, as follows:

1. Name of Landlord. The name of Landlord under the Lease is ARE Eastlake Avenue No. 3, LLC, a Delaware limited liability company.

2. Rentable Area of Premises. The definition of “Rentable Area of Premises”, as set forth in the Basic Lease Provisions on the first page of the Lease, is hereby restated to be 100,295 rentable square feet. The description of Additional Premises set forth in Section 1(b)(ii) of the Lease is hereby restated so that the Additional Office Premises shall comprise 20,936 square feet, and the Additional Laboratory Premises shall comprise 14,360 square feet. Accordingly, Section l(b)(ii) of the Lease is modified and shall hereafter read as follows:

> (ii) Approximately 20,936 square feet of office space on the fourth and fifth floors (the “Additional Office Premises”) and approximately 14,360 square feet of laboratory space, which shall be an expansion of the Initial Laboratory Premises (the “Additional Laboratory Premises”), all as shown more particularly on attached Exhibit A-2 (collectively, the “Additional Premises”).

3. Tenant’s Share. The definition of “Tenant’s Share”, as set forth in the Basic Lease Provisions on the first page of the Lease, is hereby modified to “See Section 5(e) hereof.

4. Rent Commencement Date. The definition of “Rent Commencement Date”, as set forth in the Basic Lease Provisions on the first page of the Lease, is hereby modified to be November 15, 2004. The parties hereby agree to execute and deliver a new “Acknowledgment of Commencement Date” in the form attached to the Lease as Exhibit D, which shall supercede any previous Acknowledgment of Commencement Date, and shall indicate that the “Rent Commencement Date” is November 15, 2004, and the termination date of the Base Term of the Lease shall be midnight on November 30, 2014.

5. Other Dates. Because of the modification of the Rent Commencement Date, the parties intend to modify certain other dates set forth in the Lease to a date which is approximately 90 days after such dates. Accordingly, Section 3(a)(iii) of the Lease is hereby modified so that the date "September 1, 2005" is changed to "December 1, 2005". Section 3(a)(iii)(B) of the Lease is hereby modified so that the date "June 1, 2006" is changed to September 1, 2006. The modification of no other specific date set forth in the Lease is intended, unless expressly set forth in this First Amendment.

6. Governing Law. This First Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington.

7. Counterparts. This First Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this First Amendment to physically form one document.

8. Reaffirmation of Obligations. Landlord and Tenant hereby acknowledge and reaffirm all of their respective obligations under the Lease, as the Lease has been amended by this First Amendment, and each agrees that any reference made in any other document to the Lease shall mean the Lease as amended pursuant to this First Amendment. Except as expressly provided herein, the Lease remains unmodified and in full force and effect.

9. Time of Essence. Time is of the essence with respect to each provision of this First Amendment.

SIGNATURES APPEAR ON NEXT PAGE

IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be duly executed and delivered as of the date first above written.

"Landlord"

ARE-EASTLAKE AVENUE NO. 3, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By: ARE-QRS CORP.,
a Maryland corporation, general partner

By: /s/ Joel S. Marcus
Its: CEO

"Tenant"

FRED HUTCHINSON CANCER RESEARCH CENTER,

By: /s/ Scott Rusch
Its: Vice President, Facilities & Operations

EXHIBIT D TO LEASE

ACKNOWLEDGMENT OF COMMENCEMENT DATE

This **ACKNOWLEDGMENT OF COMMENCEMENT DATE** is made as of this 26th day of May 2004, between ARE-Eastlake Avenue No. 3, LLC, a ("**Landlord**"), and Fred Hutchinson Cancer Research Center, a Washington nonprofit corporation ("**Tenant**"), and is attached to and made a part of the Lease dated January 16, 2004, as amended by the First Amendment to Lease Agreement dated as of March 31, 2004 (as amended the "**Lease**"), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the First Amendment to Lease.

Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Commencement Date of the Base Term of the Lease is January 20, 2004, the "Rent Commencement Date is November 15, 2004, and the termination date of the Base Term of the Lease shall be midnight on November 30, 2014.

IN WITNESS WHEREOF, Landlord and Tenant have executed this ACKNOWLEDGMENT OF COMMENCEMENT DATE to be effective on the date first above written,

"Tenant"

FRED HUTCHINSON CANCER RESEARCH CENTER,
a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: Vice President, Facilities & Operations

"Landlord"

ARE-EASTLAKE AVENUE NO. 3, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P., a Delaware limited partnership, managing member

By: ARE-QRS CORP., a Maryland corporation, general partner

By: Peter J. Nelson
PETER J. NELSON
SENIOR VICE PRESIDENT &
CHIEF FINANCIAL OFFICER

ACKNOWLEDGMENT OF EXPANSION PREMISES COMMENCEMENT DATE

This **ACKNOWLEDGMENT OF EXPANSION PREMISES COMMENCEMENT DATE** is made as of this 19th day of April, 2006, between ARE-Eastlake Avenue No. 3, LLC, a Delaware limited liability company ("**Landlord**"), and Fred Hutchinson Cancer Research Center, a Washington nonprofit corporation ("**Tenant**"), and is attached to and made a part of the Lease dated as of January 16th, 2004, , (as amended from time to time, the "**Lease**"), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Expansion Premises Commencement Date for the Expansion Premises is March 26, 2006, and the expiration date of the Base Term of the Expansion Premises shall be midnight on November 20, 2014.

IN WITNESS WHEREOF, Landlord and Tenant have executed this ACKNOWLEDGMENT OF EXPANSION PREMISES COMMENCEMENT DATE to be effective on the date first above written.

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER,
a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: Vice President, Facilities & Operations

LANDLORD:

ARE-EASTLAKE AVENUE NO. 3, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES. LP.
a Delaware limited partnership,
managing member

By: ARE-QRS CORP.,
a Maryland corporation,
general partner

By: /s/ Jennifer Pappas
Jennifer Pappas
V.P. & Assistant Secretary

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (this **"Second Amendment")** is made as of December 23, 2005, by and between **ARE-EASTLAKE AVENUE NO. 3, LLC,** a Delaware limited liability company **("Landlord"),** and **FRED HUTCHINSON CANCER RESEARCH CENTER,** a Washington nonprofit corporation **("Tenant").**

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated as of January 16, 2004, as amended by that certain First Amendment to Lease Agreement dated March 31, 2004 (as amended, the **"Lease"**). Pursuant to the Lease, Tenant leases certain premises, consisting of 100,295 rentable square feet (the **"Original Premises"**), in a building (the **"Building"**) located at 1616 Eastlake Avenue East, Seattle, Washington. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. Tenant has requested and Landlord, subject to the terms and conditions set forth below, has agreed to amend the Lease to, among other things, effect an expansion of the Original Premises, as more particularly set forth in this Second Amendment

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Expansion Premises.** In addition to the Original Premises as described in the Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the southwestern portion of the third (3rd) floor, consisting of approximately 6,130 rentable square feet, as described in **Exhibit A** attached hereto (the "**Expansion Premises**"). Said space shall be subdivided (without walls) into the **"Initial Expansion Premises"** of approximately 3,057 rentable square feet and the **"Additional Expansion Premises"** of approximately 3,073 rentable square feet, as depicted in **Exhibit A.** For the purposes hereof, the Initial Expansion Premises and the Additional Expansion Premises are sometimes collectively referred to as the Expansion Premises. As of the Expansion Premises Commencement Date (as defined below), the term **"Premises"** shall be deemed to be the Original Premises and the Expansion Premises and the term **"Rentable Area of Premises"** as described in the Basic Lease Provisions to the Lease shall mean 106,425 rentable square feet Commencing on the Expansion Premises Commencement Date (as defined below) and continuing, subject to the terms of a license agreement prepared by Landlord to be entered into between Landlord and Tenant, during the Expansion Term (as defined below), Tenant shall have the non-exclusive right, at no additional cost to Tenant, to use the shared area depicted on **Exhibit D.**

2. **Term.** The term of the Lease for the Expansion Premises shall be for a period commencing on Substantial Completion (as such term is defined below) of the Initial Landlord's Work as described in Section 6 (the **"Expansion Premises Commencement Date"**), and terminating on November 30, 2014 (said period being the **"Expansion Term"**). The Extension Rights provided for in Section 39 of the Lease shall not apply with respect to the Expansion Premises. The targeted Expansion Premises Commencement Date **("Expansion Premises Target Commencement Date")** shall be March 15, 2006. As used in this Second Amendment and the Work Letter attached hereto, **"Substantial Completion"** or **"Substantially Complete"** shall mean that the Initial Landlord's Work or the Tenant Improvements (as the case may be) shall have been substantially completed in a good and workmanlike manner, in accordance with the TI Permit (in the case of the Tenant Improvements), subject, in each case, to Minor Variations and normal "punch list" items of a non-material nature that do not interfere with the use of the Expansion Premises; and **"Minor Variations"** shall mean any modifications reasonably required: (i) to comply with all applicable Legal Requirements and/or to obtain or to comply with any required permit (including the TI Permit, in the case of the Tenant Improvements); (ii) to comport with good design, engineering, and construction practices that are not material; or (iii) to make reasonable adjustments for field deviations or conditions encountered during the construction of the Initial Landlord's Work or the Tenant Improvements (as the case may be).

3. **Base Rent.** During the Expansion Term, Tenant shall pay the amounts described in this Section as Base Rent for the Expansion Premises which shall be payable in accordance with the provisions of the Lease:

    (a) **Initial Expansion Premises.** Base Rent for the Initial Expansion Premises shall be $____ per rentable square foot on an annual basis subject to adjustment by the Expansion Premises Rent Adjustment Percentage (as defined below) during the Expansion Term;

    (b) **Additional Expansion Premises.** Base Rent for the Additional Expansion Premises shall be (i) $____ per rentable square foot on an annual basis during the Initial Period (as defined below), and (ii) the same rate per rentable square foot on an annual basis as is then payable for the Initial Expansion Premises (which rate is subject to adjustment as provided in Section 3(d) below) commencing on the date following the date of expiration of the Initial Period and continuing throughout the then remainder of the Expansion Term;

    (c) **Initial Period.** As used herein, **"Initial Period"** shall mean that period from the Expansion Premises Commencement Date until the date of the earlier to occur of (x) Substantial Completion of the Tenant Improvements (as defined in Section 6(b) below), or (y) the first (1st) anniversary of the first (1st) full month after the Expansion Premises Commencement Date; and

(d) **Base Rent Adjustments.** Base Rent for the Expansion Premises shall be increased: (i) commencing on the date of each disbursement by Landlord of the Tenant Improvement Allowance (as defined in Section 6(c) below), by an amount equal to $____ per annum for each dollar or portion thereof disbursed by Landlord for the Tenant Improvements, and (ii) on each annual anniversary of the first day of the first full month during the Expansion Term of this Second Amendment (each an **"Expansion Premises Adjustment Date")** by multiplying the Base Rent payable immediately before such Expansion Premises Adjustment Date by the Expansion Premises Rent Adjustment Percentage and adding the resulting amount to the Base Rent payable immediately before such Expansion Premises Adjustment Date. Base Rent, as so adjusted, shall thereafter be due as provided herein. Base Rent adjustments for any fractional calendar month shall be prorated. **"Expansion Premises Rent Adjustment Percentage"** means (x) a fraction, stated as a percentage, the numerator of which shall be the Index for the calendar month 3 months before the month in which the Expansion Premises Adjustment Date occurs, and the denominator of which shall be the Index for the calendar month 3 months before the last Expansion Premises Adjustment Date or, if no prior Base Rent adjustment has been made, 3 months before the first day of the first full month during the Expansion Term of this Lease, less (y) 1.00. **"Index"** means the **"Consumer Price Index-All Urban Consumers, Seattle - Tacoma Bremerton, WA Metropolitan Area, All Items"** compiled by the U.S. Department of Labor, Bureau of Labor Statistics, (1982-84 = 100). If a substantial change is made in the Index, the revised Index shall be used, subject to such adjustments as Landlord may reasonably deem appropriate in order to make the revised Index comparable to the prior Index. If the Bureau of Labor Statistics ceases to publish the Index, then the successor or most nearly comparable index, as reasonably determined by Landlord, shall be used, subject to such adjustments as Landlord may reasonably deem appropriate in order to make the new index comparable to the Index. Landlord shall give Tenant written notice indicating the Base Rent, as adjusted pursuant to this Section, and the method of computation and Tenant shall pay to Landlord an amount equal to any underpayment of Base Rent by Tenant within 15 days of Landlord's notice to Tenant. Failure to deliver such notice shall not reduce, abate, waive or diminish Tenant's obligation to pay the adjusted Base Rent. Notwithstanding the foregoing, any increase in the Base Rent based upon the Expansion Premises Rent Adjustment Percentage shall not be less than a minimum of 3%, nor more than a maximum of 6% on an annual basis.

During the Base Term, Tenant shall continue to pay the full Base Rent with respect to the Original Premises as provided for in the Lease.

During the Expansion Term, Tenant shall pay, as Additional Rent, the amounts and charges provided in Section 5 and Section 9(a) and (b) of the Lease with respect to Tenant's Share of Expenses and Taxes for the Premises (including the Original Premises and the Expansion Premises), together with all other amounts and charges payable by Tenant to Landlord under the Lease.

4. **Tenant's Share.** Effective as of the Expansion Premises Commencement Date, and in addition to Base Rent and all amounts owing for the Original Premises under the Lease, Tenant's Share as described in the Basic Lease Provisions to the Lease for calculating Tenant's Share of Expenses and Taxes with respect to both the Original Premises and the Expansion Premises shall be 64.3%.

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5. **<u>Condition of Premises</u>.** Except as set forth in this Second Amendment and in the Work Letter: (i) Tenant shall accept the Expansion Premises in their condition as of the Expansion Premises Commencement Date, subject to all applicable Legal Requirements (as defined in <u>Section 7</u> of the Lease); (ii) Landlord shall have no liability to Tenant for any defects in the Expansion Premises, provided Landlord shall be responsible for enforcing rights under any applicable warranty and Landlord's repair obligations under <u>Section 18</u> of the Lease; and (iii) Tenant's taking possession of the Expansion Premises shall be conclusive evidence that Tenant accepts the Expansion Premises and that the Expansion Premises were in good condition at the time possession was taken. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Expansion Premises Commencement Date when such date is established in a form of the "Acknowledgment of Expansion Premises Commencement Date" to be presented to Tenant by Landlord; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder.

6. **<u>Tenant Improvements</u>.**

(a) **Initial Landlord's Work.** Landlord shall endeavor to deliver the Expansion Premises to Tenant on the Expansion Premises Target Commencement Date with the Initial Landlord's Work Substantially Complete. As used herein, the **"Initial Landlord's Work"** shall mean the construction of the improvements to the Initial Expansion Premises substantially in accordance with the plan described on **Exhibit B** attached hereto. Tenant's taking possession and acceptance of the Expansion Premises shall not constitute a waiver of: (i) any warranty with respect to workmanship (including installation of equipment) or material (exclusive of equipment provided directly by manufacturers), (ii) any non-compliance of Initial Landlord's Work with applicable Legal Requirements, or (iii) any claim that Initial Landlord's Work was not completed substantially in accordance with the plan described on **Exhibit B** attached hereto subject to Minor Variations (collectively, a **"Construction Defect"**). Tenant shall have one year after Substantial Completion of the Initial Landlord's Work within which to notify Landlord of any such Construction Defect discovered by Tenant, and Landlord shall use reasonable efforts to remedy or cause the responsible contractor to remedy any such Construction Defect within 30 days thereafter. Notwithstanding the foregoing, Landlord shall not be in default under the Second Amendment if the applicable contractor, despite Landlord's reasonable efforts, fails to remedy such Construction Defect within such 30-day period, in which case Landlord shall have no further obligation with respect to such Construction Defect other than (x) to cooperate, at no cost to Landlord, with Tenant should Tenant elect to pursue a claim against such contractor, and (y) to assign to Tenant all rights Landlord may have against such contractor with respect to such Construction Defect, but also reserving to Landlord any claims Landlord may have against such contractor. Tenant shall be entitled to receive the benefit of all construction warranties and manufacturer's equipment warranties relating to equipment installed in the Initial Expansion Premises, and Landlord shall assign to Tenant such warranty rights, and shall cooperate with Tenant, at no cost to Landlord, should Tenant elect to pursue a warranty claim, but also reserving to Landlord any warranty rights Landlord may have. Landlord shall promptly undertake and complete, or cause to be completed, all punch list items.

(b) **Other Improvements to the Expansion Premises.** Landlord shall provide Tenant an allowance in the amount of $______ **("Expansion Allowance")** for the construction of improvements to the Additional Expansion Premises **("Expansion Work**") substantially in accordance with a plan prepared by Tenant and approved by Landlord in the exercise of its sole and absolute discretion. Tenant acknowledges and agrees that the design and construction of the Expansion Work and any further tenant improvements desired by Tenant with respect to the Expansion Premises (collectively, the **"Tenant Improvements")** shall be undertaken in accordance with the Work Letter substantially in the form of **Exhibit C** attached hereto which shall be executed by Landlord and Tenant.

(c) **Adjustments to Base Rent Based on Tenant Improvements.** With a corresponding adjustment in Base Rent described in Section 3(d) above, Landlord shall make available to Tenant an allowance (the **"Tenant Improvement Allowance"**) in the maximum amount of $__ per rentable square foot of the Expansion Premises. If Tenant draws the full amount of the Tenant Improvement Allowance, Landlord shall provide an additional allowance of up to $__ per rentable square foot of the Expansion Premises **("Additional Tenant Improvement Allowance")** for use by Tenant without a rent adjustment. The Tenant Improvement Allowance and the Additional Tenant Improvement Allowance may only be utilized by Tenant for Tenant Improvements to the Expansion Premises. Tenant shall have no right to a disbursement of any portion of the Tenant Improvement Allowance or Additional Tenant Improvement Allowance after the date which is 18 months after Expansion Premises Commencement Date. For purposes hereof and of the Work Letter, the terms Expansion Allowance, Tenant Improvement Allowance and Additional Tenant Improvement Allowance shall collectively be referred to as the **"TI Allowance".**

(d) **General.** If Landlord fails to deliver the Expansion Premises on or before the Expansion Premises Target Commencement Date, Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and this Second Amendment shall not be void or voidable; provided, however, if Landlord has not delivered the Expansion Premises to Tenant within 90 days after the Expansion Premises Target Commencement Date, unless due to an event of Force Majeure, Tenant shall have the right, in Tenant's discretion, to cancel this Second Amendment by notice to Landlord, in which event neither Landlord nor Tenant shall have any further liability to the other with respect to this Second Amendment.

7. **Broker.** Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person (collectively, **"Broker"**) in connection with the transaction reflected in this Second Amendment and that no Broker brought about this transaction other than GVA Kidder Matthews. Landlord and Tenant each hereby agree to indemnify and hold the other harmless from and against any claims by any Broker, other than the broker named in this Section 7. claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this leasing transaction.

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8. Miscellaneous.

(a) This Second Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Second Amendment may be amended only by an agreement in writing, signed by the parties hereto.

(b) This Second Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

(c) This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Second Amendment attached thereto.

(d) Except as amended and/or modified by this Second Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this Second Amendment. In the event of any conflict between the provisions of this Second Amendment and the provisions of the Lease, the provisions of this Second Amendment shall prevail. Whether or not specifically amended by this Second Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this Second Amendment.

[Signatures are on the next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

LANDLORD:

ARE-EASTLAKE AVENUE NO. 3, LLC,
a Delaware limited liability company

By: **ALEXANDRIA REAL ESTATE EQUITIES. L.P.**
a Delaware limited partnership, managing member

By: ARE-QRS CORP.,
a Maryland corporation,
general partner

By: /s/ Jennifer Pappas
Jennifer Pappas
V.P. & Assistant Secretary

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: Vice President, Facilities & Operations

EXHIBIT A

DESCRIPTION OF EXPANSION PREMISES

[Attached]

Initial Expansion Premises

Additional Expansion Premises

SP-3

LAB 3 PLAN

OPT.3

1616 EASTLAKE AVE. E.

3RD FLOOR LAB 3 - OPTION 3

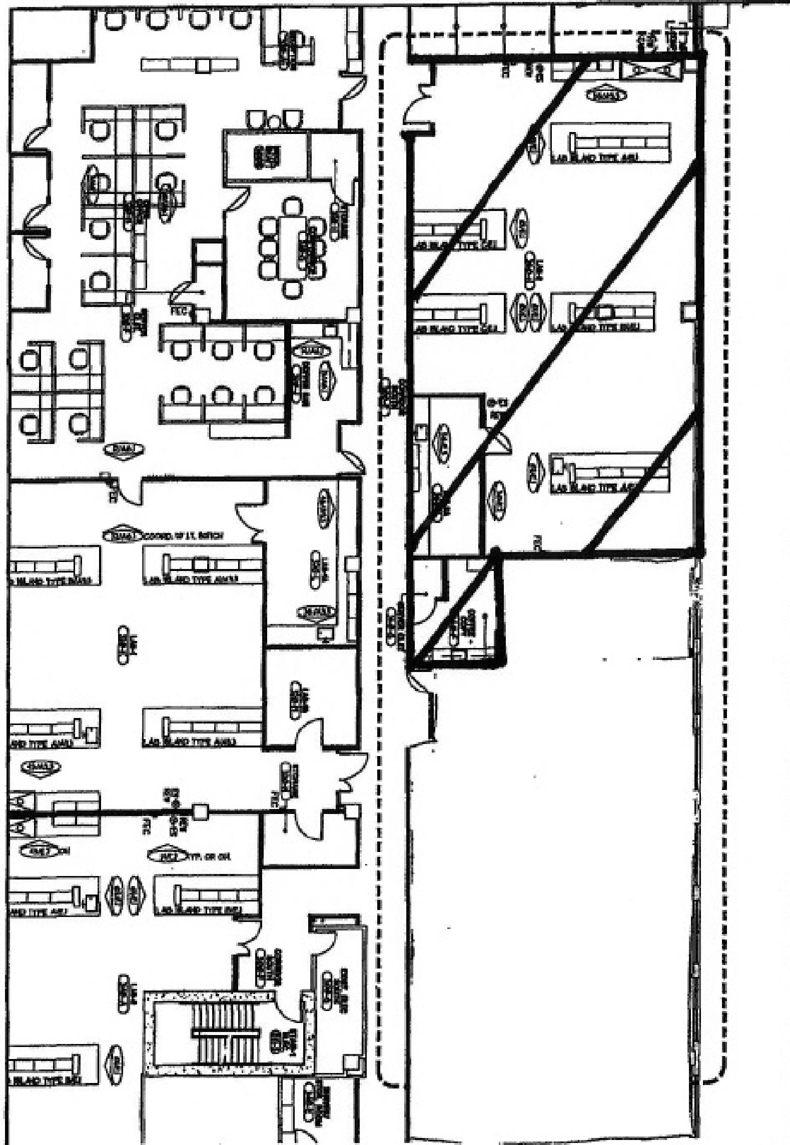
1616 EASTLAKE AVENUE EAST

SEATTLE, WA

25 OCT 05

EXHIBIT B

PLAN OF INITIAL LANDLORD'S WORK



1616 EASTLAKE AVE. E.
3RD FLOOR LAB 3 - OPTION 3
1616 EASTLAKE AVENUE EAST
SEATTLE, WA
26 OCT 05
LAB 3 PLAN
OPT.1
SP-3

ALEXANDRIA.

ARE-Eastlake Avenue No. 3, LLC
1616 EASTLAKE AVENUE EAST
SUITE 100
SEATTLE, WA 98102
TEL: 206-328-5516
FAX: 206-328-5810

June 9, 2006

Via Federal Express

Mr. Scott Rusch
Fred Hutchinson Cancer Research Center
823 Yale Avenue N.
Seattle, WA 98109

Re: 1616 Eastlake Avenue East, Suite 360 (Paulovich Lab)
Exhibit C to Second Amendment to Lease - "Work Letter"

Dear Scott:

Enclosed please find two (2) original copies of Exhibit "C" to Second Amendment, "Work Letter" for execution by Tenant for the above referenced Tenant Build Project. Please sign both sets where indicated and return to me for execution. I will forward one fully executed original to you for you files.

Also, at this time, pursuant to Section 5.(b) of the attached Work Letter, please notify us as to how much of the Tenant Improvement Allowance you elect to receive for the build-out of this space. Per the Second Amendment to Lease, dated December 23, 2005 you have the following Tenant Improvement Allowances available to you for your use.

A) **$** ______ - included in Base Rent
B) **$** ______ - ($ ____/psf) TI Allowance which will adjust Base Rent
C) **$** ______ - ($ ____/psf) Additional TI Allowance if B) is used in its entirety **
Note, option C does not increase Base Rent.

At the time you notify us of your intent to use any of the TI monies referenced herein, please also forward a copy of your Construction/Design budget. Please feel free to contact me with any questions.

Sincerely,

/s/ Erin Tice
Erin Tice
Asset Services Coordinator
For ARE-Eastlake Avenue No. 3, LLC
Landlord of Choice to the Life Science Industry

cc: Peter Moglia
Tim McBride

EXHIBIT C TO SECOND AMENDMENT

WORK LETTER

[Suite 360 - Paulovich Lab]

THIS WORK LETTER dated June *6*, 2006 (this **"Work Letter")** is made and entered into by and between **ARE-EASTLAKE AVENUE NO. 3**, **LLC,** a Delaware limited liability company **("Landlord"),** and **FRED HUTCHINSON CANCER RESEARCH CENTER,** a Washington nonprofit corporation **("Tenant"),** and is attached to and made a part of the Second Amendment dated December 23, 2005 (the **"Second Amendment"),** by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Second Amendment.

1. **General Requirements.**

(a) **Tenant's Authorized Representative.** Tenant designates Scott Rusch and Michael Carney (either such individual acting alone, **"Tenant's Representative")** as the only persons authorized to act for Tenant pursuant to this Work Letter. Landlord shall not be obligated to respond to or act upon any request, approval, inquiry or other communication **("Communication")** from or on behalf of Tenant in connection with this Work Letter unless such Communication is in writing from Tenant's Representative. Tenant may change either Tenant's Representative at any time upon not less than 5 business days advance written notice to Landlord.

(b) **Landlord's Authorized Representative.** Landlord designates Peter Moglia and Tim McBride (either such individual acting alone, **"Landlord's Representative")** as the only persons authorized to act for Landlord pursuant to this Work Letter. Tenant shall not be obligated to respond to or act upon any request, approval, inquiry or other Communication from or on behalf of Landlord in connection with this Work Letter unless such Communication is in writing from Landlord's Representative. Landlord may change either Landlord's Representative at any time upon not less than 5 business days advance written notice to Tenant.

(c) **Architects, Consultants and Contractors.** Landlord and Tenant hereby acknowledge and agree that (i) the architect (the **"TI Architect")** for the Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed, and (ii) and the general contractor shall be BN Builder unless Landlord advises Tenant otherwise in which case the general contractor and any subcontractors for the Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall be named a third party beneficiary of any contract entered into by Tenant with the TI Architect, any consultant, any contractor or any subcontractor, and of any warranty made by any contractor or any subcontractor.

2. Tenant Improvements.

(a) Tenant Improvements Defined. As used herein, **"Tenant Improvements"** shall mean all improvements to the Expansion Premises of a fixed and permanent nature as shown on the TI Construction Drawings, as defined in Section 2(c) below. Other than completion of the Initial Landlord's Work, as described in the Second Amendment, and funding the TI Allowance, Landlord shall not have any obligation whatsoever with respect to the finishing of the Expansion Premises for Tenant's use and occupancy.

(b) **Tenant's Space Plans**. Tenant shall deliver to Landlord schematic drawings and outline specifications (the **"TI Design Drawings")** detailing Tenant's requirements for the Tenant Improvements within June 6, 2006 hereof. Not more than 5 days thereafter, Landlord shall deliver to Tenant the written objections, questions or comments of Landlord and the TI Architect with regard to the TI Design Drawings. Tenant shall cause the TI Design Drawings to be revised to address such written comments and shall resubmit said drawings to Landlord for approval within 10 days thereafter. Such process shall continue until Landlord has approved the TI Design Drawings.

(c) **Working Drawings.** Not later than 10 business days following the approval of the TI Design Drawings, Tenant shall cause the TI Architect to prepare and deliver to Landlord for review and comment construction plans, specifications and drawings for the Tenant Improvements ("**TI Construction Drawings**"), which TI Construction Drawings shall be prepared substantially in accordance with the TI Design Drawings. Tenant shall be solely responsible for ensuring that the TI Construction Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Construction Drawings to Tenant not later than 10 business days after Landlord's receipt of the same; provided, however, that Landlord may not disapprove any matter that is consistent with the TI Design Drawings. Tenant and the TI Architect shall consider all such comments in good faith and shall, within 10 business days after receipt, notify Landlord how Tenant proposes to respond to such comments, but Landlord's review rights pursuant to the foregoing sentence shall not delay the design or construction schedule for the Tenant Improvements. Any disputes in connection with such comments shall be resolved in accordance with Section 2(d) hereof. Provided that the design reflected in the TI Construction Drawings is consistent with the TI Design Drawings, Landlord shall approve the TI Construction Drawings submitted by Tenant. Once approved by Landlord, subject to the provisions of Section 4 below, Tenant shall not materially modify the TI Construction Drawings except as may be reasonably required in connection with the issuance of the TI Permit (as defined in Section 3(b) below).

(d) **Approval and Completion.** If any dispute regarding the design of the Tenant Improvements is not settled within 10 business days after notice of such dispute is delivered by one party to the other, Tenant may make the final decision regarding the design of the Tenant Improvements, provided (i) Tenant acts reasonably and such final decision is either consistent with or a compromise between Landlord's and Tenant's positions with respect to such dispute, (ii) that all costs and expenses resulting from any such decision by Tenant shall be payable out of the TI Fund (as defined in Section 5(d) below), and (iii) Tenant's decision will not affect the base Building, structural components of the Building or any Building systems. Any changes to the TI Construction Drawings following Landlord's and Tenant's approval of same requested by Tenant shall be processed as provided in Section 4 hereof.

3. Performance of the Tenant Improvements.

(a) Intentionally Omitted.

(b) Commencement and Permitting of the Tenant Improvements. Tenant shall not commence construction of the Tenant Improvements prior to obtaining and delivering to Landlord a building permit (the **"TI Permit")** authorizing the construction of the Tenant Improvements consistent with the TI Construction Drawings approved by Landlord. The cost of obtaining the TI Permit shall be payable from the TI Fund. Landlord shall assist Tenant in obtaining the TI Permit. Prior to the commencement of the Tenant Improvements, Tenant shall deliver to Landlord a copy of any contract with Tenant's contractors (including the TI Architect), and certificates of insurance from any contractor performing any part of the Tenant Improvement evidencing industry standard commercial general liability, automotive liability, "builder's risk", and workers' compensation insurance. Tenant shall cause the general contractor to provide a certificate of insurance naming Landlord, Alexandria Real Estate Equities, Inc., and Landlord's lender (if any) as additional insureds for the general contractor's liability coverages required above.

(c) **Substantial Completion.** Tenant shall Substantially Complete or cause to be Substantially Completed the Tenant Improvements. Upon Substantial Completion of the Tenant Improvements, Tenant shall require the TI Architect and the general contractor to execute and deliver, for the benefit of Tenant and Landlord, a Certificate of Substantial Completion in the form of the American Institute of Architects ("**AIA**") document G704. Tenant shall be responsible for correcting any deficiencies or defects in the Tenant Improvements.

(d) **Selection** of **Materials.** Where more than one type of material or structure is indicated on the TI Construction Drawings approved by Tenant and Landlord, the option will be within Tenant's reasonable discretion if the matter concerns the Tenant Improvements, and within Landlord's sole and absolute subjective discretion if the matter concerns the structural components of the Building or any Building system..

(e) Intentionally Omitted.

(f) Intentionally Omitted.

4. **Changes.** Any changes requested by Tenant to the Tenant Improvements after the delivery and approval by Landlord of the TI Design Drawings ("Changes") shall be requested and instituted in accordance with the provisions of this Section 4 and shall be subject to the written approval of Landlord and the TI Architect, such approval not to be unreasonably withheld, conditioned or delayed.

(a) **Tenant's Request For Changes.** If Tenant shall desire any Changes, Tenant shall request such Changes by notifying Landlord in writing in substantially the same form as the AIA standard change order form (a **"Change Request"),** which Change Request shall detail the nature and extent of any such Change. Such Change Request must be signed by Tenant's Representative. Landlord shall review and approve or disapprove such Change Request within 10 business days thereafter, provided that Landlord's approval shall not be unreasonably withheld, conditioned or delayed.

(b) **Implementation of Changes.** If Landlord approves such Change and Tenant deposits with Landlord any Excess TI Costs (as defined in Section 5(d) below) required in connection with such Change, Tenant may cause the approved Change to be instituted. If any TI Permit modification or change is required as a result of such Change, Tenant shall promptly provide Landlord with a copy of such TI Permit modification or change.

5. **Costs.**

(a) **Budget For Tenant Improvements.** Before the commencement of construction of the Tenant Improvements, Tenant shall obtain a detailed breakdown by trade of the costs incurred or that will be incurred in connection with the design and construction of the Tenant Improvements (the **"Budget"),** and deliver a copy of the Budget to Landlord for Landlord's approval, which shall not be unreasonably withheld or delayed. The Budget shall be based upon the TI Construction Drawings approved by Landlord and shall include a payment to Landlord of administrative rent **("Administrative Rent")** equal to 2% of the TI Costs (as defined below) for monitoring and inspecting the construction of the Tenant Improvements and Changes, which sum shall be payable from the TI Fund (as defined in Section 5(d)). Administrative Rent shall include, without limitation, all out-of-pocket costs, expenses and fees incurred by or on behalf of Landlord arising from, out of, or in connection with monitoring the construction of the Tenant Improvements and Changes, and shall be payable out of the TI Fund. If the Budget is greater than the TI Allowance, Tenant shall deposit with Landlord the difference, in cash, prior to the commencement of construction of the Tenant Improvements or Changes, for disbursement by Landlord as described in Section 5(d).

(b) **TI Allowance.** Landlord shall make available for use by Tenant the Expansion Allowance, the Tenant Improvement Allowance and the Additional Tenant Improvement Allowance as such terms are defined in Section 6 of the Second Amendment.

Before commencing the Tenant Improvements (as defined in Section 6 below), Tenant shall notify Landlord how much Additional Tenant Improvement Allowance Tenant has elected to receive from Landlord. Such election shall be final and binding on Tenant, and may not thereafter be modified without Landlord's consent, which may be granted or withheld in Landlord's sole and absolute subjective discretion. The TI Allowance shall be disbursed in accordance with this Work Letter.

Tenant shall have no right to the use or benefit (including any reduction to or payment of Base Rent) of any portion of the TI Allowance not required for the construction of (i) the Tenant Improvements described in the TI Construction Drawings approved pursuant to Section 2(d) or (ii) any Changes pursuant to Section 4.

(c) **Costs Includable in TI Fund.** The TI Fund shall be used solely for the payment of design, permits and construction costs in connection with the construction of the Tenant Improvements, including, without limitation, the cost of electrical power and other utilities used in connection with the construction of the Tenant Improvements, the cost of preparing the TI Design Drawings and the TI Construction Drawings, all costs set forth in the Budget, including Landlord's Administrative Rent and the cost of Changes (collectively, **"TI Costs").** Notwithstanding anything to the contrary contained herein, the TI Fund shall not be used to purchase any furniture, personal property or other non-Building system materials or equipment, including, but not limited to, Tenant's voice or data cabling, non-ducted biological safety cabinets and other scientific equipment not incorporated into the Tenant Improvements.

(d) **Excess TI Costs.** Landlord shall have no obligation to bear any portion of the cost of any of the Tenant Improvements except to the extent of the TI Allowance. If at any time the remaining TI Costs under the Budget exceed the remaining unexpended TI Allowance, Tenant shall deposit with Landlord, as a condition precedent to Landlord's obligation to complete the Tenant Improvements, 100% of the then current TI Cost in excess of the remaining TI Allowance **("Excess TI Costs").** If Tenant fails to deposit any Excess TI Costs with Landlord, Landlord shall have all of the rights and remedies set forth in the Lease for nonpayment of Rent (including, but not limited to, the right to interest at the Default Rate and the right to assess a late charge). For purposes of any litigation instituted with regard to such amounts, those amounts will be deemed Rent under the Second Amendment. The TI Allowance and Excess TI Costs are herein referred to as the **"TI Fund."** Funds deposited by Tenant shall be the first disbursed to pay TI Costs. Notwithstanding anything to the contrary set forth in this Section 5(d). Tenant shall be fully and solely liable for TI Costs and the cost of Minor Variations in excess of the TI Allowance. If upon Substantial Completion of the Tenant Improvements and the payment of all sums due in connection therewith there remains any undisbursed portion of the TI Fund, Tenant shall be entitled to such undisbursed TI Fund solely to the extent of any Excess TI Costs deposit Tenant has actually made with Landlord

(e) **Payment for TI Costs.** During the course of design and construction of the Tenant Improvements, Landlord shall pay TI Costs once a month against a draw request in Landlord's standard form, containing such certifications, lien waivers (including a conditional lien release for each progress payment and unconditional lien releases for the prior month's progress payments), inspection reports and other matters as Landlord customarily obtains, to the extent of Landlord's approval thereof for payment, no later than 30 days following receipt of such draw request. Upon completion of the Tenant Improvements (and prior to any final disbursement of the TI Fund), Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and first tier subcontractors who did the work and final, unconditional lien waivers from all such contractors and first tier subcontractors; (ii) as-built plans (one copy in print format and two copies in electronic CAD format) for such Tenant Improvements; (iii) a certification of substantial completion in Form AIA G704, (iv) a certificate of occupancy for the Expansion Premises; and (v) copies of all operation and maintenance manuals and warranties affecting the Expansion Premises.

6. **Intentionally Omitted.**

7. **Miscellaneous.**

(a) **Consents**. Whenever consent or approval of either party is required under this Work Letter, that party shall not unreasonably withhold, condition or delay such consent or approval, unless expressly set forth herein to the contrary.

(b) **Modification**. No modification, waiver or amendment of this Work Letter or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless in writing signed by Landlord and Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Work Letter to be effective on the date first above written.

LANDLORD:

ARE-EASTLAKE AVENUE NO. 3, LLC, a Delaware limited liability company

By: **ALEXANDRIA REAL ESTATE EQUITIES, L.P.**, a Delaware limited partnership, managing member

By: **ARE-QRS CORP.**, a Maryland corporation, general partner

By: /s/ JENNIFER PAPPAS
Its: V.P.& ASSISTANT SECRETARY

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: V.P. FACILITIES & OPERATIONS

ALEXANDRIA.

ARE-Eastlake Avenue No. 3, LLC
1616 EASTLAKE AVENUE EAST
SUITE 100
SEATTLE, WA 98102
TEL: 206-328-5516
FAX: 206-328-5810

July 25, 2006

Via Federal Express

Mr. Scott Rusch
Fred Hutchinson Cancer Research Center
1100 Fairview Avenue N., J5-100
PO Box 19024
Seattle, WA 98109-1024

Re: 1616 Eastlake Avenue East, Seattle, WA 9S102
Paulovich Lab - Construction Documents

LEASE AGREEMENT DATED JANUARY 16,2004 BETWEEN ARE-EASTLAKE AVENUE NO. 3. LLC. ("LANDLORD"), AND FRED HUTCHINSON CANCER RESEARCH CENTER ("TENANT"), AS AMENDED, FOR THE PREMISES LOCATED AT 1616 Eastlake Avenue East, Seattle, WA 98102

Dear Scott:

Landlord has reviewed the Construction Set plans titled Paulovich Lab, Suite 360 dated June 5, 2006, and provided by SAB Architects.

Landlord hereby approves the plans and authorizes Tenant to proceed with construction of the above mentioned Paulovich Lab ("Improvements"); however, the foregoing consent is expressly subject to and conditioned upon the following:

1. The Improvements shall be constructed pursuant to the plans and specifications referenced above as they relate to the structural, mechanical and electrical portions of the work. A licensed, bonded and insured contractor shall construct all Improvements.

2. The Improvements shall be conducted by a licensed contractor, whose Washington state contractor's License Number must be provided prior to commencement of the Improvements.

3. The performance of the Improvements shall be conducted in compliance with all Applicable Laws (as that term is defined in the above-referenced Lease), including without limitation the provisions of the Americans with Disabilities Act ("ADA"), OSHA regulations, Washington State Labor & Industries rules, regulations & directives; and in a good and workmanlike manner.

4. All costs in connection with your performance of the Improvements consented to hereunder shall be fully paid by you, and you shall not permit any mechanic's, materialmen or other such liens to be filed against the Premises or any interest therein as a result of such work.

5. The performance of the Improvements shall otherwise conform with all conditions and requirements of the above-referenced Lease and all other terms, provisions, and requirements of said Lease.

6. You shall provide to Landlord prior to the start of construction, but in no event later than fifteen (15) days following the date of this letter, Certificate of Insurance and Endorsements for the general contractor naming ARE-Eastlake Avenue No. 3, LLC and Alexandria Real Estate Equities, Inc. as additionally insured.

7. Upon the completion of the Improvements, you will promptly provide to the undersigned, on behalf of Landlord, if applicable; (a) a hard and electronic (CAD) copy of the City-approved plans and specifications for the Improvements, (b) a copy of the City building permit for the Improvements, and (c) a copy of the signed-off City Inspection card for the Improvements.

8. All Improvements and additions that affect the building's exterior walls, roof line and/or floor slab must be constructed in accordance with the certifications and confirmations as provided by the structural engineer. Any Improvements or additions that deviate from these conditions or confirmations require the additional review and consent of Landlord.

9. All Improvements and additions that affect the building mechanical systems must be non-proprietary and must be made compatible with the existing system serving the building.

10. All underground drainage systems, if applicable, that are installed and tied to existing site drains will be installed in good workmanlike manner and will be provided with sufficient clean out locations such as to ensure ease of maintenance.

11. All proposed building and site signage, if applicable, described in the plans and specifications for which this Consent is issued requires the further written review and consent of Landlord prior to fabrication and installation upon the Premises and such signage is not made a part of this Consent package.

This consent has been given with the understanding that (i) you will comply with each and all of the conditions set forth in this letter, (ii) no Event of Default currently exists under the above-referenced Lease, and (iii) no Hazardous Materials (as that term is defined in said Lease), including but not limited to asbestos or asbestos-containing materials, shall be used by you or your agents or contractors in the construction of any of the Alterations permitted hereunder. Please note that it is the Landlord's intention to post and record a Notice of Non-Responsibility or other notice Landlord deems proper in connection with your construction and installation of the Improvements consented to hereunder.

Very truly yours,

ARE-Eastlake Avenue No. 3, LLC
a Delaware limited liability corporation

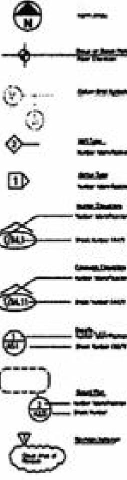
/s/ Timothy McBride

by: Timothy McBride
Senior Director - Lab Services & Operations

cc: Peter Moglia
Erin Tice

ABBREVIATIONS

GRAPHICS



PROJECT TEAM

TENANT	FRED HUTCHINSON CANCER RESEARCH CENTER
ARCHITECT	SABArchitects
GENERAL CONTRACTOR	LEASE CRUTCHER LEWIS
MECHANICAL ENGINEER + MECH. CONTR.	UNIVERSITY MECHANICAL
ELECTRICAL ENGINEER + CONTR.	SASCO ELECTRIC

LEGAL DESCRIPTION

PARCEL B, LBA ..., LOTS 1 THROUGH ..., INCLUSIVE, BLOCK ..., ... ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME ... OF PLATS, PAGE ..., IN KING COUNTY, WASHINGTON

TAX ASSESSOR'S NUMBER

CODE INFORMATION

DPD PROJECT #

PROJECT ADDRESS
SUITE 360
... EASTLAKE AVENUE EAST
SEATTLE, WA ...

JURISDICTION
CITY OF SEATTLE

CODES
2003 IBC W/ SEATTLE AMENDMENTS
2003 IFC W/ SEATTLE AMENDMENTS
2003 IPC W/ SEATTLE AMENDMENTS
2003 IPC W/ SEATTLE AMENDMENTS
SEATTLE ENERGY CODE
WASHINGTON STATE ENERGY CODE
NATIONAL ELECTRICAL CODE W/ SEATTLE ELECTRICAL CODE SUPPLEMENT
WASHINGTON STATE REGULATIONS FOR BARRIER FREE FACILITIES
WASHINGTON INDUSTRIAL SAFETY + HEALTH ACT
NATIONAL LIFE SAFETY CODE

PROJECT DESCRIPTION
TENANT IMPROVEMENT TO CONSTRUCT RESEARCH LABORATORIES AND ASSOCIATED OFFICES ON THIRD FLOOR OF EXISTING 3-STORY BUILDING

PROJECT AREA

ZONING

CONSTRUCTION TYPE

BUILDING DESCRIPTION
EXISTING 3-STORY R&D LAB/ OFFICE BUILDING WITH 2-STORY BELOW-GRADE PARKING GARAGE. BUILDING CONTAINS ...

FIRE-PROTECTION
FULLY SPRINKLERED AND FIRE-ALARMED.

OCCUPANCY
GROUP-B: RESEARCH + DEVELOPMENT LABORATORIES
GROUP-B: OFFICES
GROUP-M: RETAIL (1ST FLOOR)
GROUP-S2: PARKING

DRAWING INDEX

DPD COVERSHEET

ARCHITECTURAL
A0.1 GENERAL INFORMATION
A1 SITE PLAN
A2 FLOOR 3 - COORDINATION PLAN
A4.1 ENLARGED DEMOLITION PLAN
A4.2 ENLARGED CONSTRUCTION PLAN
A4.3 ENLARGED REFLECTED CEILING PLAN
A4.4 ENLARGED EQUIPMENT / FURNITURE PLAN
A4.5 ENLARGED SERVICES PLAN
A5.1 DETAILS
A6.1 INTERIOR ELEVATIONS
A6.2 INTERIOR ELEVATIONS
A6.3 INTERIOR ELEVATIONS
A6.4 INTERIOR ELEVATIONS
A6.5 INTERIOR ELEVATIONS
A6.6 SCHEDULES

VICINITY MAP

SABArchitects

CCD-001	05 JUN 06
CONST SET	24 MAY 06
REVIEW SET	09 MAY 06
PERMIT SET	05 MAY 06
REVIEW SET	01 MAY 06

FRED HUTCHINSON CANCER RESEARCH CENTER

PAULOVICH LAB
SUITE 360

THIRD FLOOR
EASTLAKE AVE E
SEATTLE, WASHINGTON

GENERAL INFORMATION

SCALE	NONE
DRAWN	SAF
CHECKED	
PROJECT NO.	

A0.1

ALEXANDRIA.

ARE-Eastlake Avenue No. 3, LLC
135 N. LOS ROBLES ANVENUE
SUITE 260
PASADENA, CA 91101
TEL: 626-578-0777
FAX: 626-578-0770

December 28,2004

BY FEDERAL EXPRESS

CONFIDENTIAL - FOR ADDRESSEE ONLY -
DO NOT DUPLICATE OR DISTRIBUTE

Fred Hutchinson Cancer Research Center
823 Yale Avenue N.
Seattle, WA 98109
Attention: Mr. Scott Rusch, Vice President, Facilities & Operations
Phone: (206) 667-4242
Facsimile: (206) 667-5104

Re: 1616 Eastlake Avenue East - Tenant Improvement Allowance Restated

Dear Scott:

Section 2 of the First Amendment to Lease Agreement dated March 31, 2004 restated the Rentable Square Footage in the Basic Lease Provisions to be 100,295 rentable square feet. Although other definitions relating to rentable square footage were also modified to account for this restatement (i.e. Additional Laboratory Premises) the TI Allowance amounts set forth in Exhibit C of the Lease Agreement were mistakenly not restated. All initially capitalized terms used herein but not otherwise defined shall have the respective meanings ascribed thereto in the Lease Agreement.

Therefore, this letter shall serve as an agreement between Landlord and Tenant that the nominal dollar amount set forth in section 5(b)(i)(A) is hereby restated to be $___ and the nominal dollar amount set forth in section 5(b)(i)(B) is hereby restated to be $___.

Very truly yours,

/s/ Peter M. Moglia

Peter M. Moglia
Vice President, Seattle
For ARE-Eastlake Avenue No. 3, LLC.

ACCEPTED AND AGREED TO

FRED HUTCHINSON CANCER RESEARCH CENTER,
a Washington nonprofit corporation

By: /s/ Scott Rusch
Its: V.P., Facilities & Operations

McGeough, Mary L

From: Ingalls, Scott D
ent: Thursday, December 30, 2004 12:00 PM
ïo: McGeough, Mary L
Subject: FW: 1616 Eastlake - FHCRC TI Allowance.xls

-----Original Message-----
From: **Bain, Curtis A**
Sent: Wednesday, October 27, 2004 2:58 PM
To: Ingalls, Scott D; Moran, Mark C
Subject: FW: 1616 Eastlake - FHCRC TI Allowance.xls

fyi. attached from ARE.

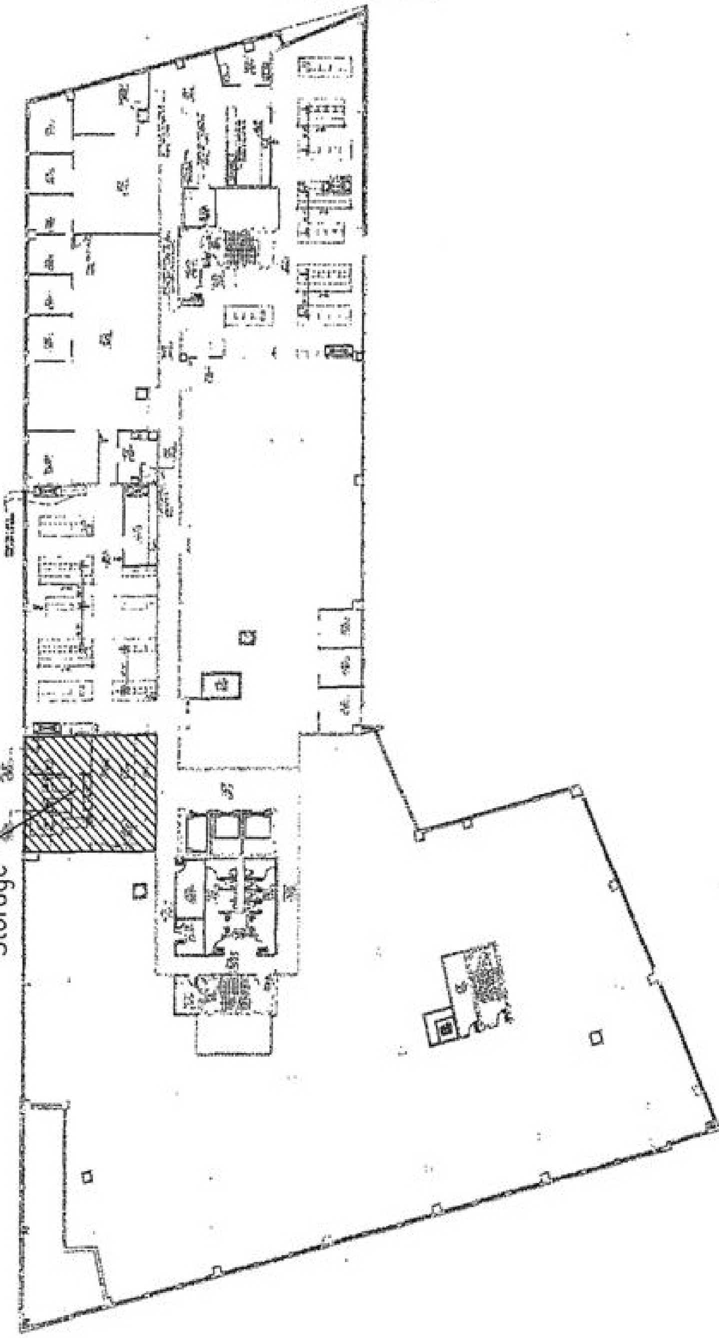
-----Original Message-----
From: Peter Moglia [mailto:pmoglia@labspace.com] <mailto:[mailto:pmoglia@labspace.com]>
Sent: Thursday, October 07, 2004 3:54 PM
To: Bain, Curtis A
Subject: 1616 Eastlake - FHCRC TI Allowance.xls

TI Allowance.xls

1616 Eastlake Avenue East Hutch Space and Allowances

Floor
2nd Floor - Initial
2nd Floor - Additional
4th & 5th Floor-Initial
4th & 5th Floor - Additional

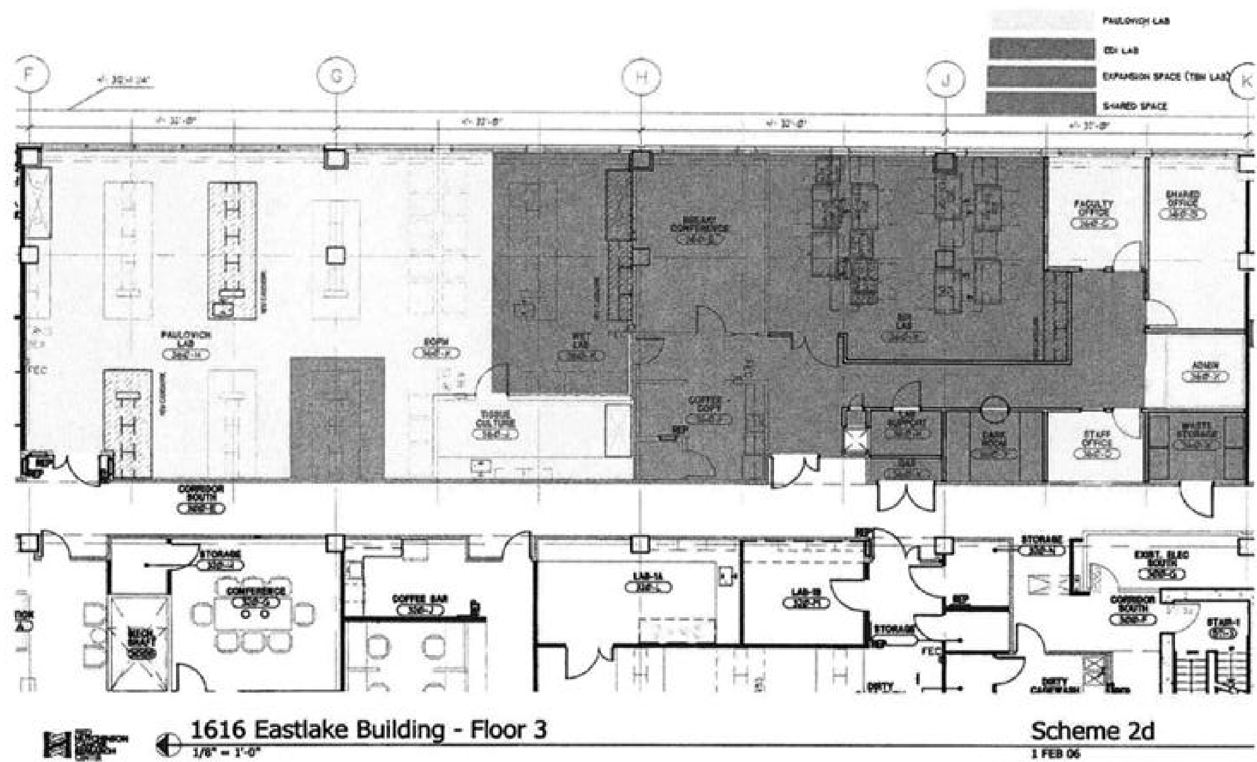
Exhibit D



1616 Eastlake Lab Programming

	Room Area (nsf)
Mandy Paulovich Lab	
Lab	1154
Lab Support	
TC	183
Equip	337
Office	
faculty	126
staff scientist	82
Shared office for 4	195
Admin	89
Subtotal, Paulovich	2,168
Common / Shared Space	
Conference/	265
dark room	82
mail/copy/work room	148
Waste staging / carts	82
Lab Support	38
Closet	4
Subtotal, Common	619
Proteomics: Early Detection	
Lab	
Mass Spec Lab*	665
Lab Support	
Wet Lab	410
Gas Closet	20
Subtotal. Proteomics EDI	1,095
Expansion Space (TBN)	
Lab	196
	4,078

3/20/2006


PAULOVICH LAB
EDI LAB
EXPANSION SPACE (TBH LAB)
SHARED SPACE
F
G
H
J
K
PAULOVICH LAB
EDPH
WET LAB
BREAK/ CONFERENCE
COFFEE COPY
EDI LAB
TISSUE CULTURE
FACULTY OFFICE
SHARED OFFICE
ADMIN
STAFF OFFICE
WASTE STORAGE
DARK ROOM
LAB SUPPORT
CORRIDOR SOUTH
STORAGE
CONFERENCE
COFFEE BAR
LAB-1A
LAB-1B
STORAGE
EXIST. ELEC ROOM
CORRIDOR SOUTH
STAIR-1
DIRTY CAGEWASH
FEC
1616 Eastlake Building - Floor 3
1/8" = 1'-0"
Scheme 2d
1 FEB 06

TOTAL ALLOWANCE =

ADDITIONAL PREMISES 3073 nrsf

T/I allowance

INITIAL PREMISES 3057 nrsf

ADDITIONAL T/I ALLOWANCE

70 + 20/sf

=

Scheme 2d
1 FEB 06

1616 Eastlake Building - Floor 3
1/16" = 1'-0"

T I cost allocation

ALEXANDRIA.

385 E. COLORADO BOULEVARD
SUITE 299
PASADENA, CA 91101
TEL: 626-578-0777
FAX: 626-578-0770

VIA FACSIMILE & HAND DELIVERY

November 29, 2005

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Fred Hutchinson Cancer Research Center
1100 Fairview Avenue N., J5-100
P.O. Box 19024
Seattle, WA 98109-1024
Telephone: (206) 667-4242
Facsimile: (206) 667-5104
Attention: Mr. Scott Rusch

Re: Revised Proposed Lease Transaction Terms for Laboratory and Office Space at 1616 Eastlake Avenue, Seattle, Washington

Dear Scott:

Pursuant to the notice exercising a Right of First Negotiation granted to the Fred Hutchinson Cancer Research Center **("Tenant")** in the Lease Agreement dated January 16, 2004 ("**Existing Lease**"), ARE-Eastlake Avenue No. 3, LLC **("Landlord")** is presenting this proposal to lease laboratory and office space at the approximately 165,493 square foot building known as 1616 Eastlake Avenue East **("Property")** in Seattle's South Lake Union/Eastlake submarket.

1 • Premises: Tenant shall lease a total of approximately 6,130 rentable square feet (RSF) on the southwestern portion of the 3rd floor ("**Premises**"). The space shall be subdivided (without walls) into the "**Initial Premises**" of approximately 3,057 RSF and the "**Expansion Premises**" of approximately 3,073 RSF as depicted in Exhibit A.

2. Lease Term & Commencement Dates: The term of the Lease (the **"Term")** shall commence on the Commencement Date, as defined below, and shall expire on November 30, 2014. The **"Commencement Date"** shall mean the date of substantial completion of the Tenant Improvements for the Initial Premises, as defined in Section 6 below. The targeted Commencement Date shall be February 15, 2006.

*Landlord of Choice to the Life Science Industry**

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3. Tenant Improvements: Landlord shall endeavor to deliver the Initial Premises to Tenant on the Commencement Date with Initial Landlord's Work substantially complete. As used herein, **"Initial Landlord's Work"** shall mean the management of the construction of the Tenant Improvements plan in substantial compliance with Initial Premises identified in the attached Exhibit A. Upon notice from Tenant, Landlord shall endeavor to deliver the Expansion Premises with Expansion Landlord's Work substantially complete within **a** mutually agreeable time period in substantial compliance to a floor plan to be provided by Tenant and approved by Landlord in its sole and absolute discretion. As used herein, **"Expansion Landlord's Work"** shall mean the management of the construction of the Tenant Improvements plan in substantial compliance with the floor plan of the Expansion Premises. Landlord shall provide Tenant an allowance of __[1] (**"Expansion Allowance"**) for the construction of Expansion Landlord's Work by the contractor retained by Landlord and approved by Tenant for the construction of the Expansion Landlord's Work. Substantial completion shall mean the completion of Initial Landlord's Work or Expansion Landlord's Work, subject only to punch list items which do not materially affect Tenant's use of the Premises.

   With a corresponding adjustment in Base Rent described below, Landlord shall make available to Tenant an allowance (the **"Tenant Improvement Allowance")** in the maximum amount of $__ per rentable square foot of the Premises. If Tenant draws the full amount of the Tenant Improvement Allowance, Landlord shall provide an additional allowance of up to $__ per rentable square foot of the Premises (**"Additional Tenant Improvement Allowance"**) for use by Tenant without a rent adjustment,

   The Expansion Allowance, Tenant Improvement Allowance, and the Additional Tenant Improvement Allowance may be used by Tenant only in connection with the design and construction of improvements to the Premises in accordance with designs and plans submitted by Tenant and approved by Landlord (the **"Tenant Improvements"**). The Tenant Improvements shall be designed and constructed by architects and contractors selected by Landlord and approved by Tenant. All disbursements of the Expansion Allowance, Tenant Improvement Allowance, and the Additional Tenant Improvement Allowance and the construction of the Tenant Improvements shall be in accordance with a work letter to be executed by Landlord and Tenant concurrently with the execution of the Lease. In addition to the other amounts payable by Tenant to Landlord under the Lease, Tenant shall pay to Landlord as administrative rent out of the Expansion Allowance, Tenant Improvement Allowance, and the Additional Tenant Improvement Allowance the amount of 5% of the total cost of the Tenant Improvements.

4. Base Rent: Initial Base Rent for the Initial Premises shall be $ __ per RSF absolute triple net (NNN). Initial Base Rent for the Expansion Premises shall be $ __ per RSF absolute triple net (NNN). Upon the earlier to occur of i) substantial completion of Expansion Landlord's Work, or ii) the first anniversary of the first full month after the Lease Commencement Date; Base Rent for the Expansion Premises shall equal the Base Rent of the Initial Premises as adjusted by the Rent Adjustment Percentage, defined below.

   For each dollar or portion thereof of the Tenant Improvement Allowance disbursed by Landlord, the Base Rent for the Premises shall increase by __ per year. All components of Base Rent shall be increased each year by the Rent Adjustment Percentage.

[1] This is based upon the attached schedule labeled Exhibit B and equates to $__ per rsf.

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Beginning on the 1st anniversary after the first foil month of the Lease Commencement Date, and annually thereafter, Base Rent shall increase by an amount equal to the CPI-Index "All Urban Consumers, Seattle-Tacoma-Bremerton, WA Area" during the previous period year. Any increase shall be no less than 3.0% and shall not exceed 6.0% regardless of changes in the CPI-Index measurement. Such adjustment shall be known as the **"Rent Adjustment Percentage".**

5. Operating Expenses: Per the Existing Lease.

6. Security Deposit: Per the Existing Lease.

7. Parking. Per the Existing Lease.

8. Subleasing. Per the Existing Lease.

9. Agency. Landlord shall cause to be paid to GVA Kidder Matthews **("Broker")** a commission in the amount agreed upon by Landlord and Broker pursuant to a separate agreement. Landlord and Tenant agree that there is no other broker, finder or intermediary with whom they have dealt in connection with this transaction, and agree to indemnify each other against all claims for fees, commissions or other compensation claimed to be due to any other broker, finder or intermediary with whom the indemnifying party may have dealt in connection with this transaction. Both parties acknowledge that said Broker from time to time represents Landlord, but in this contemplated transaction shall solely represent the Tenant.

10. Lease Form. Lease Amendment to the Existing Lease.

11. Expiration. This proposal shall expire at 5:00 PM PST on Monday, December 5,2005. If Tenant accepts this proposal, Tenant shall have until 5:00 PM PST on the day that is the fifteenth day following Tenant's receipt of the Lease Amendment **("Expiration Date")** to execute it. If the parties are unable to agree upon terms and conditions for the leasing the Premises (which agreement must be evidenced by a fully executed and delivered agreement pursuant to Section 41 of the Existing Lease) prior to the Expiration Date, then Tenant shall have no further right with respect to the leasing of the Premises and Landlord may proceed to negotiate for the leasing of the Premises with third-parties.

12. Confidentiality. Landlord and Tenant agree that this letter and all negotiations and related documentation will remain confidential and that no press or other publicity release or communication to the general public concerning the proposed transaction contemplated herein will be issued without the other party's prior written approval, unless applicable law requires such disclosure.

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This letter is intended for discussion purposes only and both Landlord and Tenant each acknowledge that a transaction of the type contemplated by this letter involves detailed terms and conditions, which have not yet been agreed upon. This letter is in no way intended to be a complete or definitive statement of all the terms and conditions of the proposed transaction, but contemplates and is subject to the negotiation and execution of a mutually satisfactory agreement. Neither Landlord nor Tenant will be legally bound in any manner unless and until both parties have executed an agreement except with respect to Section 12, the terms and provisions of which shall be binding upon each of Landlord and Tenant. Neither Landlord nor Tenant shall have any liability to the other party for damages arising from the termination of negotiations with respect to matters set forth herein prior to execution and delivery of a mutually satisfactory lease agreement.

[Remainder of page intentionally left blank.]

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I look forward to hearing from you and moving forward with the proposed transaction in an expeditious manner.

Sincerely,

/s/ Peter M. Moglia

Peter M. Moglia
Vice President, Seattle
For ARE-EASTLAKE AVENUE NO. 3, LLC

TENANT
ACKNOWLEDGED AND AGREED
Fred Hutchinson Cancer Research Center

By: /s/ Scott Rusch

Its: V.P. Facilities & Operation

Date: 12/5/05

LANDLORD
ACKNOWLEDGED AND AGREED
ARE-EASTLAKE AVENUE NO. 3, LLC,
a Delaware limited liability company

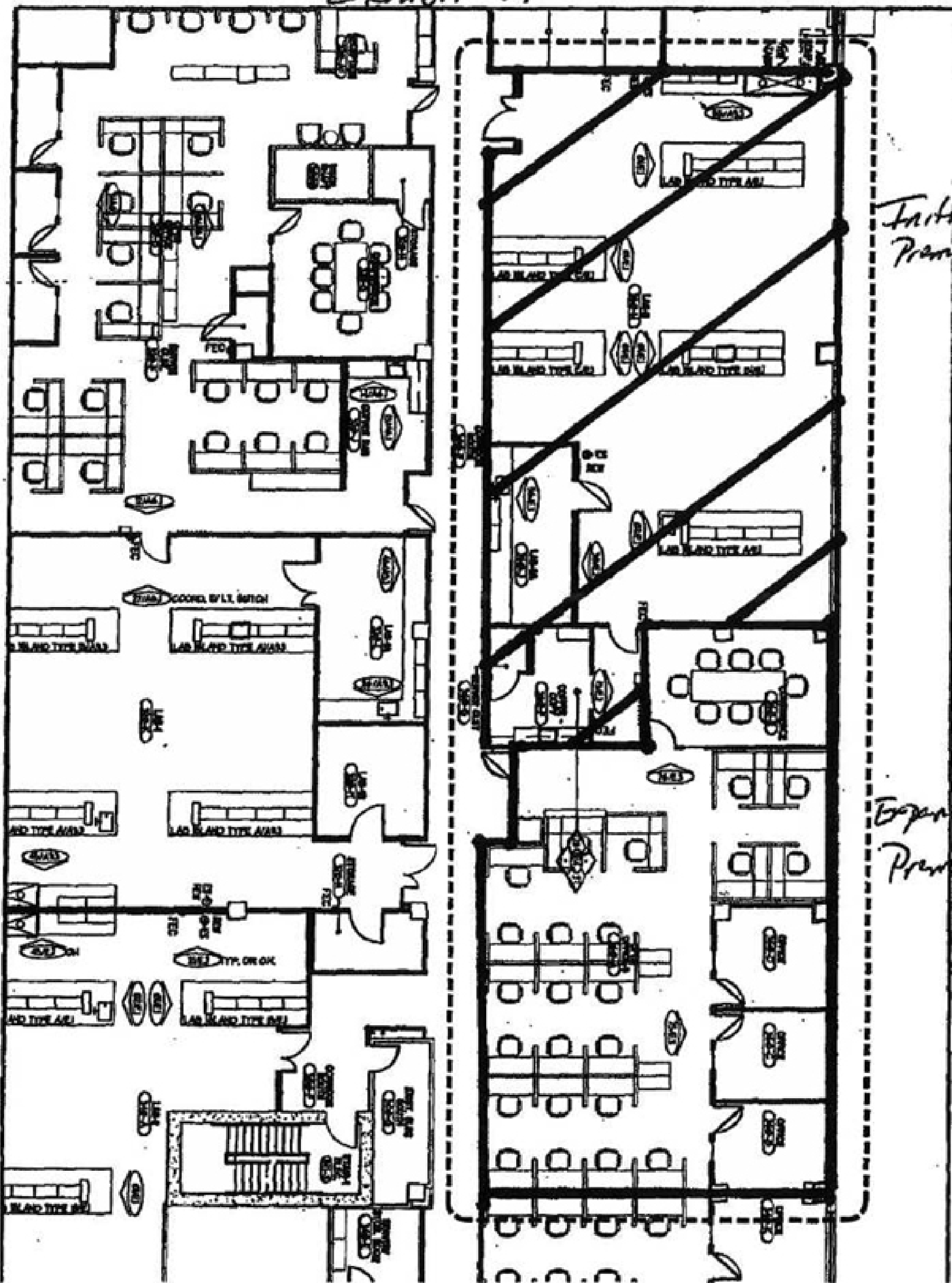
By: ALEXANDRIA REAL ESTATE EQUITIES, L.P., a Delaware limited partnership, managing member

By: ARE-QRS CORP.,
a Maryland corporation, general partner

By: ______________________

cc: Ms. Mary McGeough
Mr. Joel S. Marcus
Mr. James H. Richardson
Ms. Jennifer Pappas
Mr. Tim McBride
Ms. Erin Tice
Ms. Jessica Stephens

Mr. John Cox - Strictly Confidential



SP-3

LAB 3 PLAN
OPT. 3

1616 EASTLAKE AVE. E.
3RD FLOOR LAB 3 - OPTION 3

1616 EASTLAKE AVENUE EAST
SEATTLE, WA

26 OCT 05

EXHIBIT B

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1616 Eastlake 3rd Floor Labs Suite 3 ROM Costs

Total Useable Square Feet 15407

	Project Total	Weight / %	Suite 3 - Labs			Suite 3 - Office		
Square Feet			2394			2406		
% of Project			16%			16%		
			Total Cost	Cost Completed	Cost Remaining	Total Cost	Cost Completed	Cost Remaining
Roofing	$	1.00	$					
Interior Construction	$	1.00	$					
Equipment	$	1.90	$					
Mechanical	$	1.25	$					
Electrical	$	1.25	$					
3rd Floor Under slab Plumbing	$	1.35	$					-
GCs & Insurance.	$	17%	$					
Design	$	17%	$					
B & O and Fee	$	17%	$					
Permits & Fees	$	17%	$					
Sub-Total	$		$					
Sales Tax @ 8.8%		$ -	$					
Totals with Sales Tax	$		$					

Cost Not Included		
Contingency		10%
Autoclave / Glass wash / DI / Comp	$	

Add Contingency		15,141
Allowance	$	
Per RSF Office		54.20

Rentable office	3073	
Rentable lab	3057	
Usable Office	2406	50.13%
Usable lab	2394	49.87%
Total Rentable	6130	
Total Usable	4800	

<u>**THIRD AMENDMENT TO LEASE**</u>

THIS THIRD AMENDMENT TO LEASE (this "Third Amendment") is made as of September 27, 2006, by and between **ARE-EASTLAKE AVENUE NO.3, LLC,** a **Delaware** Limited **liability** company **("Landlord"),** and **FRED HUTCHINSON CANCER RESEARCH CENTER,** a Washington nonprofit corporation **("Tenant").**

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated as of January 16, 2004, as amended by that certain First Amendment, to Lease Agreement dated March 31, 2004, and as further amended by that certain Second Amendment to Lease dated December 23, 2005 **("Second Amendment")** (as **amended,** the **"Lease").** Pursuant to the **Lease,** Tenant leases certain premises in **a** building (the **"Building")** located at 1616 Eastlake Avenue East, Seattle, Washington. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease;

B. Pursuant to the terms of the Second Amendment, Landlord and Tenant amended the Lease to, among other things, effect an expansion of the Premises from 100,295 rentable square feet to 106,425 rentable square feet.

C. Landlord and Tenant now desire, subject to the terms and conditions set forth below, to the reduce the rentable square footage of the Additional Expansion Premises by 288 rentable square feet.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. <u>**Premises**</u>.

(a) <u>Section 1</u> of the Second Amendment is hereby deleted in its entirety and replaced with the following:

In addition to the Original Premises as described in the Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the southwestern portion of the third (3rd) floor, consisting of approximately 5,842 rentable square feet, as described in **Exhibit A** attached hereto (the **"Expansion Premises").** Said space shall be subdivided (without walls) into the **"Initial Expansion Premises"** of approximately 3,057 rentable square feet and the **"Additional Expansion Premises"** of approximately 2,785 rentable square feet, as depicted in **Exhibit A.** For the purposes hereof, the Initial Expansion Premises and the Additional Expansion Premises are sometimes collectively referred to as the Expansion Premises. As of the Expansion Premises Commencement Date (as defined below), the term **"Premises"** shall be deemed to be the Original Premises and the Expansion Premises and the term **"Rentable Area of Premises"** as described in the Basic Lease Provisions to the Lease shall mean 106,137 rentable square feet.

(b) **Exhibit A** to the Lease is hereby deleted in its entirety and replaced with **Exhibit A** attached to this Third Amendment. **Exhibit D** to the Second Amendment is hereby deleted in its entirety.

2. **<u>Tenant's Share</u>.** <u>Section 4</u> of the Second Amendment is hereby deleted in its entirety and replaced with the following:

Effective as of the Expansion Premises Commencement Date, and in addition to Base Rent and all amounts owing for the Premises under the Lease, Tenant's Share is amended to be 64.13%.

3. **<u>Definition of Operating Expenses</u>.** The definition of **"Operating Expenses"** set forth in <u>Section 5(b")</u> of the Lease is hereby amended to add the following new subsection:

(xxxvi) services provided and costs incurred in connection with the operation the glass wash and any other equipment or services provided by Landlord in the area depicted as the **"Shared Lab Space"** on attached <u>Exhibit A</u> including, without limitation, costs of Utilities for the Shared Lab Space.

4. **<u>Miscellaneous</u>.**

(a) This Third Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Third Amendment may be amended only by an agreement in writing, signed by the parties hereto.

(b) This Third Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

(c) This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Third Amendment attached thereto.

(d) Except as amended and/or modified by this Third Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this Third Amendment. In the event of any conflict between the provisions of this Third Amendment and the provisions of the Lease, the provisions of this Third Amendment shall prevail. Whether or not specifically amended by this Third Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this Third Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the day and year first above written.

LANDLORD

ARE-EASTLAKE AVENUE NO. 3 LLC,
a Delaware limited liability company

By: **ALEXANDRIA REAL ESTATE EQUITIES, L.P.,** a Delaware limited partnership, managing member

By: **ARE-QRS CORP.,** a Maryland corporation, general partner

By /s/ Gary Dean.
Its A.V.P – Real Estate Legal Affairs

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation

By /s/ Scott Rusch.
Its V.P. Facilities & Operations.

EXHIBIT A

THE PREMISES

[Attached]

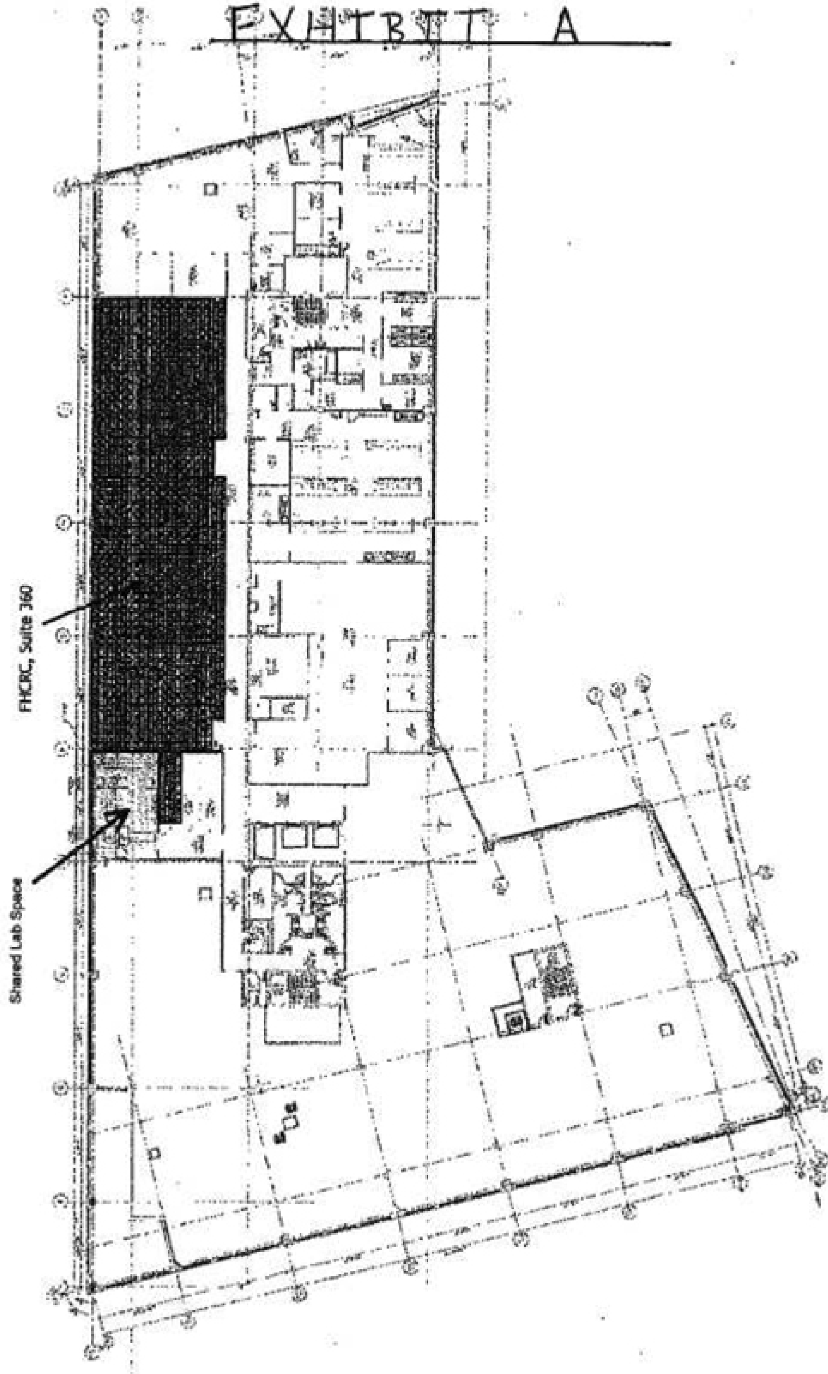
EXHIBIT A
FHCRC, Suite 360
Shared Lab Space

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE (this **"Fourth Amendment"**) is made as of Nov 13, 2007 **("Effective Date"),** by and between **ARE-EASTLAKE AVENUE NO. 3**, **LLC,** a Delaware limited liability company **("Landlord"),** and **FRED HUTCHINSON CANCER RESEARCH CENTER,** a Washington nonprofit corporation **("Tenant").**

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated as of January 16, 2004, as amended by that certain First Amendment to Lease Agreement dated March 31, 2004, as further amended by that certain Second Amendment to Lease dated December 23, 2005, and as further amended by that certain Third Amendment to Lease **("Third Amendment")** dated September 27, 2006 (as amended, the **"Lease"**). Pursuant to the Lease, Tenant leases certain premises in a building (the **"Building")** located at 1616 Eastlake Avenue East, Seattle, Washington. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. Pursuant to the terms of the Third Amendment, Landlord and Tenant amended the Lease to, among other things, reduce the rentable square footage of the Additional Expansion Premises by 288 rentable square feet.

C. Landlord and Tenant now desire, subject to the terms and conditions set forth below, to restore to the Additional Expansion Premises the 288 rentable square feet of space previously removed from of the Additional Expansion Premises (**"Restored Premises"**).

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Premises.**

(a) Notwithstanding anything to the contrary contained in the Lease, commencing as of the Effective Date:

(i) Expansion Premises shall include the Restored Premises, as depicted on **Exhibit A** attached hereto.

(ii) **"Additional Expansion Premises"** shall mean approximately 3,073 rentable square feet as depicted on **Exhibit A.**

(iii) The term **"Rentable Area of Premises"** as described in the Basic Lease Provisions to the Lease shall mean 106,425 rentable square feet.

(iv) Subject to the terms of a license agreement being entered concurrently herewith between Landlord and Tenant, during the Expansion Term, Tenant shall have the non-exclusive right, at no additional cost to Tenant, to use the shared area depicted on **Exhibit B** attached hereto.

(b) **Exhibit A** to the Lease is hereby deleted in its entirety and replaced with **Exhibit A** attached hereto.

2. **Base Rent.** Commencing as of the Effective Date, Base Rent for the Restored Premises shall be payable by Tenant at the same rate per rentable square foot on an annual basis as is payable by Tenant for the balance of the Additional Expansion Premises.

3. **Tenant's Share.** Notwithstanding anything to the contrary contained in the Lease, commencing as of the Effective Date, in addition to Base Rent and all amounts owing for the Premises under the Lease, Tenant's Share as described in the Basic Lease Provision of the Lease for calculating Tenant's Share of Expenses and Taxes with respect to both the Original Premises and the Expansion Premises shall be 64.3%.

4. **Definition of Operating Expenses.** Commencing as of the Effective Date, the definition of **"Operating Expenses"** set forth in Section 5(b) of the Lease is hereby amended to delete subsection **(xxxvi).**

5. **Miscellaneous.**

(a) This Fourth Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Fourth Amendment may be amended only by an agreement in writing, signed by the parties hereto.

(b) This Fourth Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

(c) This Fourth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Fourth Amendment attached thereto.

(d) Except as amended and/or modified by this Fourth Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this Fourth Amendment. In the event of any conflict between the provisions of this Fourth Amendment and the provisions of the Lease, the provisions of this Fourth Amendment shall prevail. Whether or not specifically amended by this Fourth Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this Fourth Amendment.

[Signatures are on the next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the day and year first above written.

LANDLORD

ARE-EASTLAKE AVENUE NO. 3 LLC,
a Delaware limited liability company

By: **ALEXANDRIA REAL ESTATE EQUITIES, L.P.,** a Delaware limited partnership, managing member

By: **ARE-QRS CORP.,** a Maryland corporation, general partner

By /s/ Gary Dean

Its VP – RE Legal Affairs

TENANT:

FRED HUTCHINSON CANCER RESEARCH CENTER, a Washington nonprofit corporation

By /s/ Scott Rusch

Its V.P. Facilities & Operations

[TENANT NOTARIAL ACKNOWLEDGMENT]

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On November 13, 2007 before me, Scott Rusch (here insert name and title of the officer), personally appeared ______________________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature /s/ Mary L. McGeough

[LANDLORD NOTARIAL ACKNOWLEDGMENT]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On November 27, 2007 before me, Elizabeth M. Aguilera, Notary Public (here insert name and title of the officer), personally appeared Gary Dean, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature /s/ Elizabeth M. Aguilera

EXHIBIT A

THE PREMSIS

[Attached]

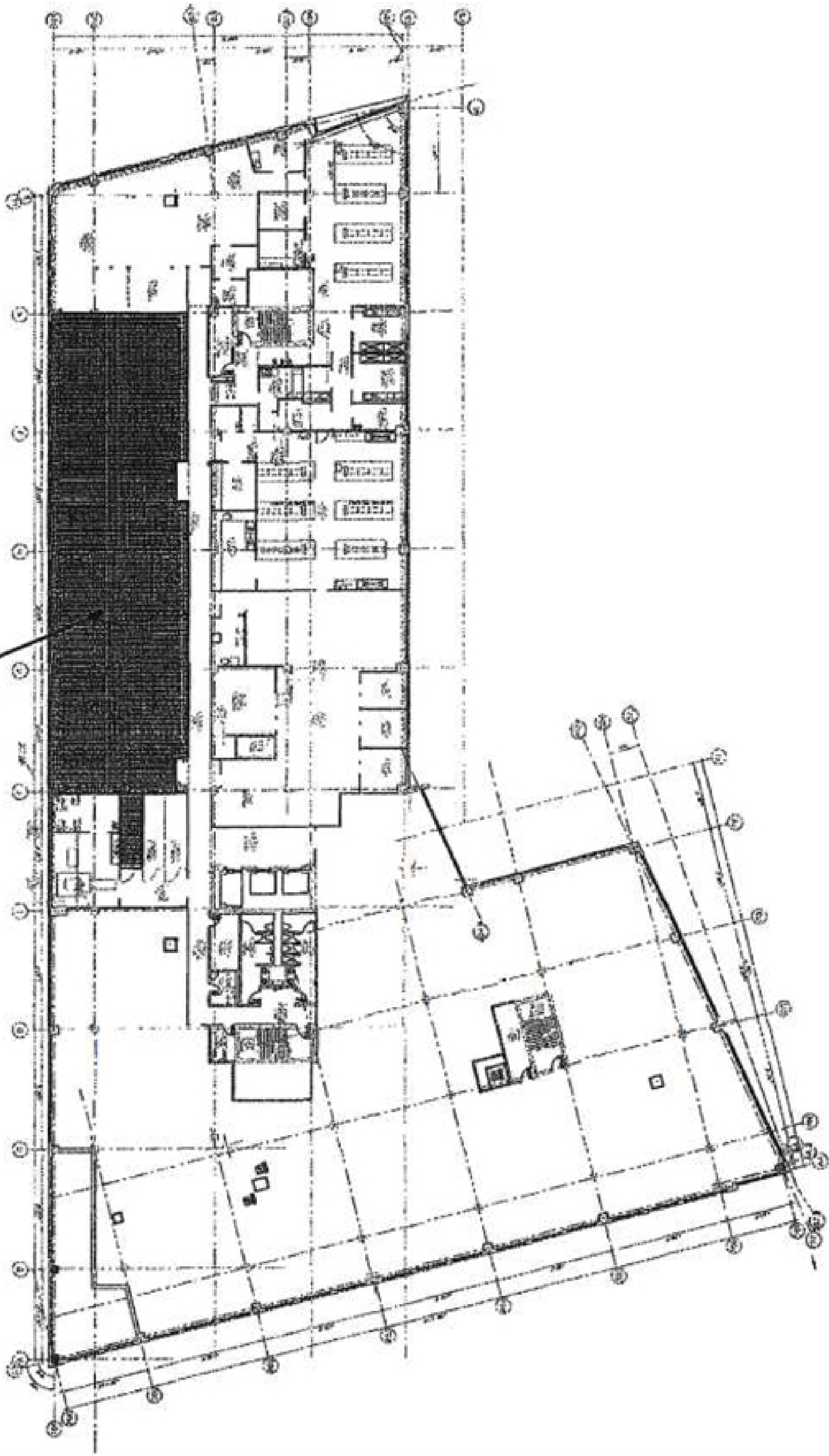
FHCRC, Suite 360

EXHIBIT B

SHARED AREA

[Attached]

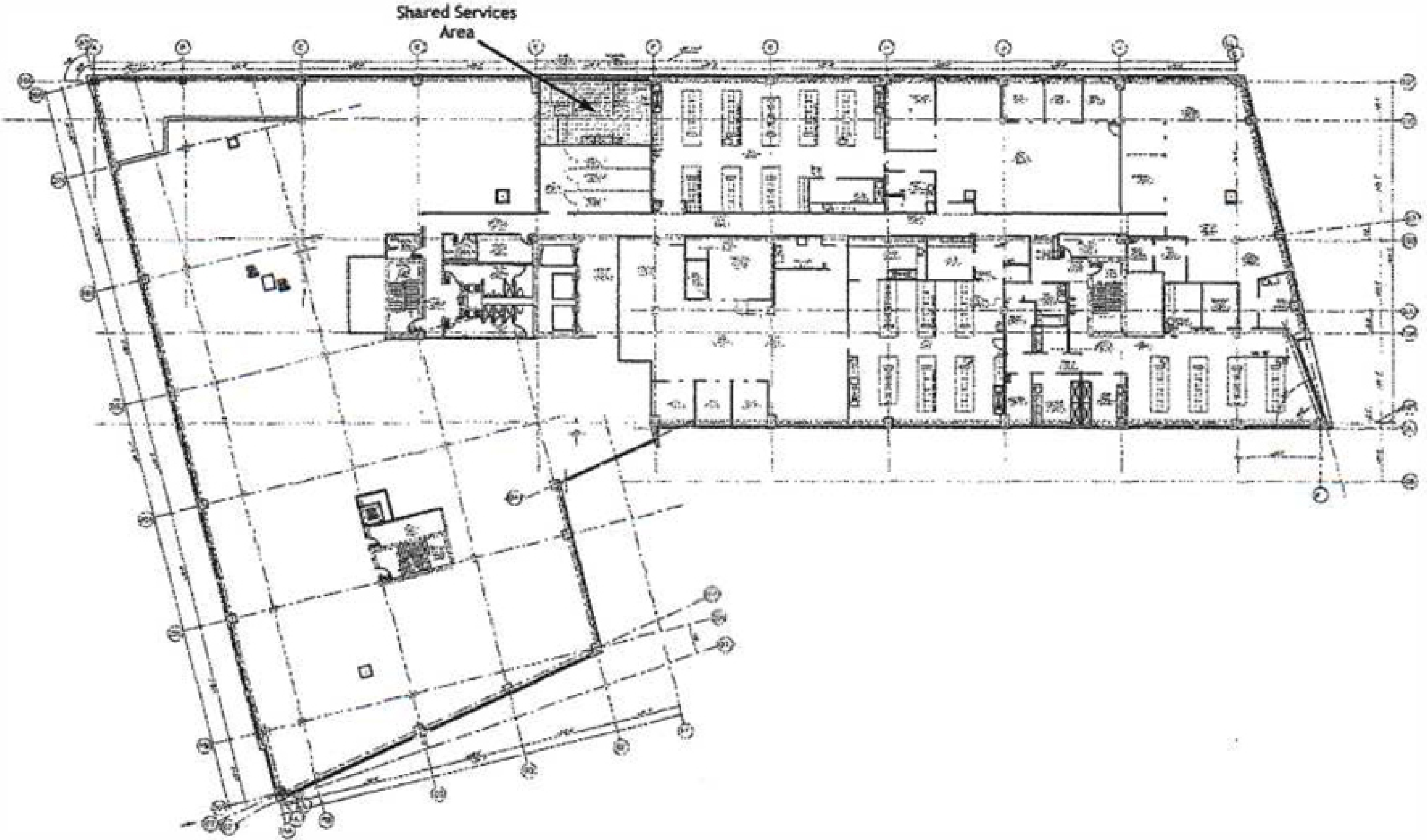
Shared Services
Area

Exhibit B

Temporary Lab Space

(Floor plan)

ATOSSA SUB LEASE
TEMPORARY LAB SPACE – 2ND FLOOR

5,474 RSF

2011 2501 2411 2521 2503 2507 2509 2513 2511 2653 2641 2651 2637 2634 2633 2631 2413 2001 2635 2402 2601 2603 2431 2433 2435 2421

Building Name: 1616 EASTLAK
Floor Number: FLOOR 2
File Name: 1616-BASE-2E
Prepared by: FHCRC
Plot date: 11-7-11

1616 EASTLAKE
FLOOR 2

FRED HUTCHINSON CANCER RESEARCH CENTER

Exhibit C

Temporary Office Space

(Floor plan)

ATOSSA SUB LEASE
TEMPORARY OFFICES – 4TH FLOOR

Building Name:	1616_EASTLAKE
Floor Number:	FLOOR_4
File Name:	ELAKE_04
Prepared by:	FHCRC
Plot date:	11-2-11

1616_EASTLAKE
FLOOR_4

Exhibit D

Permanent Lab Space

(Floor plan)

ATOSSA SUB LEASE
LAB SPACE – 3RD FLOOR

6,130 RSF
INCLUDES 288 S.F.
LAB SUPPORT AREA –
GLASSWASH FACILITY

300-P
360-K
360-U
360-H
360-J
360-G
360-M
360-F
360-L
360-E
360-N
360-R
360-A
360-D
360-S
360-C
360-T
360-B

Building Name: 1616 EASTLAKE Floor Number: FLOOR 3 File Name: 1616-BASE-3 Prepared by: FHCRC Plot date: 11-7-11		1616 EASTLAKE FLOOR 3	

Exhibit E

Permanent Office Space

(Floor plan)

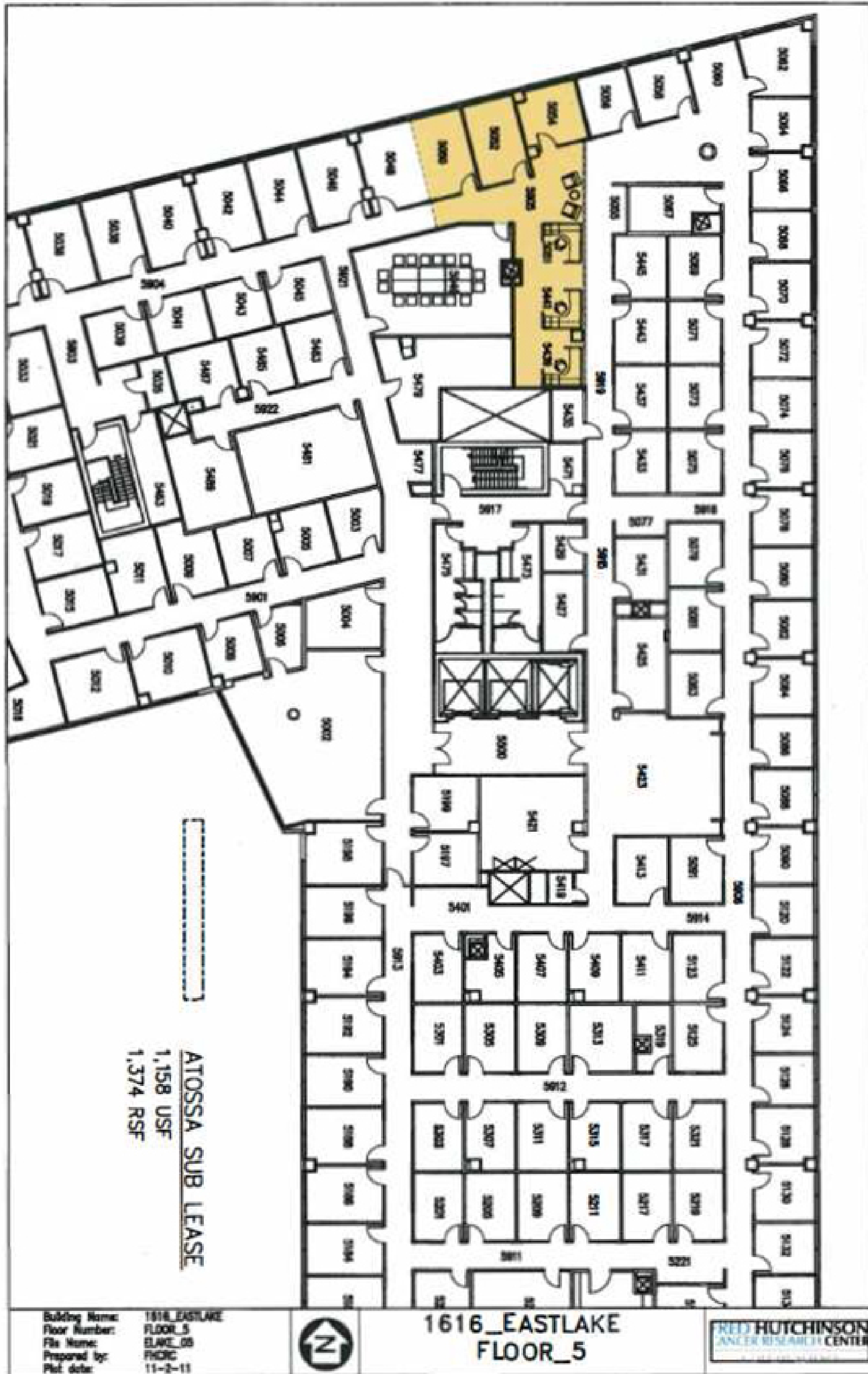
ATOSSA SUB LEASE
1,158 USF
1,374 RSF
Building Name: 1616_EASTLAKE
Floor Number: FLOOR_5
File Name: ELAKE_05
Prepared by: FHCRC
Plot date: 11-2-11
1616_EASTLAKE
FLOOR_5
FRED HUTCHINSON CANCER RESEARCH CENTER

Exhibit F

Temporary Premises FF&E

(to be completed upon delivery)

Exhibit G

Permanent Premises FF&E

(to be completed upon delivery)

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Amendment No. 1 to the Registration Statement on Form S-1 of Atossa Genetics Inc. (a development stage company) of our report dated March 22, 2012 relating to the consolidated financial statements as of and for the years ended December 31, 2011 and 2010 appearing in the Prospectus, which is part of this Registration Statement. We also consent to the reference to us under the heading “Experts” in such Prospectus.

/s/ KCCW Accountancy Corp.

Diamond Bar, California
April 5, 2012

April 5, 2012

Via EDGAR and Overnight Delivery

Allicia Lam
U.S. Securities and Exchange Commission
100 F Street, N.E.
Mail Stop 3030
Washington, DC 20549

Re: Atossa Genetics Inc.
Registration Statement on Form S-1
Filed February 14, 2012
File No. 333-179500

Dear Ms. Lam:

On behalf of Atossa Genetics, Inc. ("***Atossa***" or the "***Company***"), we are responding to the Staff's letter dated March 12, 2012 (the "***Comment Letter***"), relating to the above-referenced Registration Statement on Form S-1 (the "***Registration Statement***"). In response to the comments set forth in the Comment Letter, the Registration Statement has been amended and Atossa is filing pre-effective Amendment No. 1 to the Registration Statement ("***Amendment No. 1***") with this response letter. For your convenience, we have repeated the Staff's comments below in bold face type before each of our responses below. The numbered paragraphs of this letter correspond to the numbered paragraphs of the Comment Letter. References to "we," "our" or "us" mean the Company or its advisors, as the context indicates.

Prospectus

1. Please provide objective support for any unsubstantiated claims contained in the prospectus. With regard to third party data referenced throughout, please provide copies of these industry publications, studies, surveys, and other sources of statistics, clearly marking the relevant sections of these reports. Please also tell us whether any of this market data was commissioned by the company.

In response to the Staff's comment, the Company has provided objective support for unsubstantiated claims as requested. Concurrently with submitting this response letter, the Company has also submitted copies of the relevant industry publications, studies, surveys and other sources, marked as requested. The Company advises the Staff that none of the market data was commissioned by the Company.

<u>Prospectus Summary, page 1</u>

2. **Please revise this section to include the substance of your risk factor entitled "Currently Medicare and certain insurance carriers will not reimburse for the NAF collection procedure..." on page 9.**

   In response to the Staff's comment, the Company has revised its disclosure in the Prospectus Summary.

3. **We note that your summary emphasizes the positive aspects of your products. Please revise the prospectus to provide appropriate balancing disclosure regarding your products' weaknesses and potential obstacles to acceptance. Note that the list of risk factors appearing on page 4 does not provide sufficient balance. Make similar revision in the Business section, as well.**

   In response to the Staff's comment, the Company has revised the Prospectus Summary and Business sections of the registration statement to provide balancing disclosure.

The Company, page 1

4. **We note your statement in the last sentence in this section. Please specify the revenues generated. Please also revise this section to highlight the going concern language in your auditor's report and to disclose the amount of your accumulated deficit since inception.**

   In response to the Staff's comment, the Company has revised its disclosure under "The Company."

5. **We note your statement on page 1 that you launched your commercial operations in late 2011. Please clarify the extent to which you have launched your commercial operations. For example, we note the discussion under "Growth Strategy" on page 33 that you are currently conducting a field experience trial. Please discuss the number of MASCT Systems you have sold and how many diagnostic tests your laboratory has completed.**

   In response to the Staff's comment, the Company has revised its disclosure to clarify the extent to which it has launched commercial operations.

6. **Please revise to define "CLIA" and disclose whether a laboratory must be "CLIA registered" in order to operate. Additionally, please revise here and under "State Laboratory Licensure" on page 43 to clarify the states from which you may currently accept testing samples.**

   In response to the Staff's comment, the Company has defined "CLIA." Although the Company was simply registered with CLIA at the time of the initial filing of the Registration Statement, the Company has since passed an inspection from the federal and state licensing authorities and has become CLIA certified. The Staff comment with respect to a requirement for a laboratory to be CLIA-registered in order to operate is therefore moot. The Company has also revised its disclosure under "State Laboratory Licensure" to clarify the states from which it may currently accept testing samples.

Our Diagnostic, page 1

7. **Please revise to clarify when your diagnostic tests and related medical devices received FDA approval. In addition, please clarify which diagnostic tests have received FDA approval. For example, clarify if all of the diagnostic tests discussed on pages 1 and 2 have received FDA approval and if you have begun the process of applying for FDA approval for your Intraductal Treatment Research. Please also specify the current stage of development of the FullCYTE and NextCYTE tests.**

   In response to the Staff's comment, the Company has revised its disclosure accordingly.

Currently, Medicare and certain billing providers..., page 9

8. **We note your disclosure in the first sentence under the heading "Discriminatory Billing Prohibition" on page 42. Please expand your risk factor disclosure to more fully address the risk of discounted pricing arrangements and its effects on your profit margins and income.**

   In response to the Staff's comment, the Company has added a new risk factor regarding discounted pricing arrangements and their potential effects on the Company's business and results of operations.

Use of Proceeds, page 16

9. **We note your estimated use of proceeds appears to include considerable discretion. To the extent that you are reserving the right to change the uses of proceeds identified, please include a specific discussion of contingencies and alternatives. For guidance, please refer to Instruction 7 to Item 504 of Regulation S-K.**

   In response to the Staff's comment, the Company has revised its disclosure concerning use of proceeds.

Funding Requirements, page 23

10. **We note your statement that you would need between $5 million and $7 million of additional capital to fund your operations for at least the next 12 months under your current business plan. Please clarify how the amount of capital raised in this offering would affect the amount of capital needed to fund your operations for at least the next 12 months.**

    In response to the Staff's comment, the Company has revised its disclosure accordingly.

Billing and Reimbursement, page 33

11. **We note your statement here that Medicare and certain insurance carriers do not currently cover the cost of collecting the NAF sample. However, we also note your disclosure in the penultimate paragraph on page 2 and throughout the registration statement regarding applicable Medicare reimbursement rates. Please revise to reconcile. For example, revise the section "Reimbursement" on page 34 to clarify for which products and services the company expects to bill Medicare.**

The Company notes the Staff's comment and explains that although Medicare and certain insurance carriers do not currently cover the collection of the NAF sample, Medicare and certain insurance carriers do reimburse for the laboratory analysis of the collected NAF samples. The Company has revised its disclosure throughout the registration statement to clarify this distinction.

Competition, page 36

12. **We note your discussion of the competitive position of your MASCT System. However, it appears that your ArgusCYTE Breast Health Test does not involve use of your MASCT System. Please revise to include a discussion of the competitive position of your ArgusCYTE diagnostic test.**

In response to the Staff's comment, the Company has revised its disclosure to discuss the competitive position of ArgusCYTE.

Property, page 44

13. **We note your disclosure here regarding your office and laboratory space in Seattle, Washington. However, please tell us why you have not described the additional properties discussed under "Commercial Lease Agreements" on page 20.**

In response to the Staff's comment, the Company has revised its disclosure under the heading "Property" to clarify that the office and laboratory space referred to includes the leased spaces described under "Commercial Lease Agreements."

Management, page 45

14. **Please revise Dr. Quay's business description to describe the principal business of MDRNA, Inc. Please also revise Mr. Benjamin's business description to describe the principal businesses of Quantum Materials Corporation, Paradise Publishers, NexTec Group, Redfin Corporation and B square Corporation and the dates Mr. Benjamin served in these positions. In addition, revise Dr. Cross's business description to describe the principal businesses of Cytopharm, Inc. and NDA Partners, LLC and the dates Dr. Cross served on the boards of Marina Biotech, Inc. and Nastech Pharmaceutical Company, Inc.**

In response to the Staff's comment, the Company has revised its disclosure of the biographies of Dr. Quay, Mr. Benjamin and Dr. Cross accordingly.

Scientific Advisory Board, page 47

15. **Please revise the business descriptions of Dr. Sauter and Dr. Hunkapiller to provide the dates in which they served in the positions described.**

In response to the Staff's comment, the Company has revised the business descriptions of Dr. Sauter and Dr. Hunkapiller as requested.

16. **With a view to disclosure, please provide additional detail regarding the compensation paid to the advisory board (including annual compensation, if any). Please also tell us the role of the advisory board as well as the frequency of its meetings.**

In response to the Staff's comment, the Company has provided additional disclosure regarding the compensation and role of the advisory board.

Remuneration of Officers, page 50

17. **Please clarify how the amounts of the salary accruals paid in July 2011 were calculated. Add appropriate footnote disclosure to your summary compensation table as appropriate.**

In response to the Staff's comment, the Company has revised its disclosure to clarify how the salary accruals were calculated. The Company respectfully notifies the Staff that additional disclosure in the Summary Compensation Table is not required as the payment in July 2011 was for salary earned during fiscal 2010 and the Summary Compensation Table only covers compensation earned during fiscal 2011.

Certain Relationships and Related Transactions, page 55

18. **Please tell us why you have not discussed in this section the sales of unregistered securities to related parties, as described in Item 15.**

In response to the Staff's comment, the Company has disclosed the sales of unregistered securities to related parties described in Item 15 under "Certain Relationships and Related Transactions."

Loans from Officer, page 55

19. **Please revise to clarify the dollar amount of interest paid to Dr. Quay on the loan entered into on May 26, 2009 and June 30, 2010. With regard to the loan entered into on November 3, 2010, please revise to clarify the amount of the loan outstanding as of the latest practicable date and the amount of interest paid.**

In response to the Staff's comment, the Company has revised its disclosure under "Loans from Officer."

Exclusive License Agreement, page 56

20. **Please revise to describe the $16,250 in patent-related expenses the company incurred under the license agreement with Ensisheim and clarify whether the company paid these expenses. Please also revise to clarify the consideration Ensisheim Partners LLC and the company's Chief Executive Officer and Chief Scientific Officer received pursuant to the Assignment Agreement. We note for example the receipt of shares of common stock of the company noted in the penultimate paragraph on page 55.**

In response to the Staff's comment, the Company has revised its disclosure regarding the Exclusive License Agreement and the consideration received pursuant to the Assignment Agreement.

Commercial Lease Agreement, page 56

21. **Please revise to describe the basis upon which CompleGen, Inc. is a related party.**

The Company notes that CompleGen, Inc. is not a related party and reference to CompleGen in this section was erroneous. Accordingly, the Company has revised its disclosure to delete reference to the lease agreement with CompleGen.

Share Eligible for Future Sale, page 63

22. **Please revise to fill in the aggregate number of shares in the table.**

In response to the Staff's comment, the Company has filled in the aggregate number of shares in the table.

Financial Statements, page F-1

23. **Please update the financial statements as required by Rule 8-03 of Regulation S-X.**

In response to the Staff's comment, the financial statements have been updated.

Unaudited financial statements for the nine months ended September 30, 2011
Note 10. Stockholder's Equity, page F-9

24. **We see that you issued stock and warrants in a private placement in April through June 2011 for $1.25 per share. Please revise to disclose the significant assumptions, including stock price assumptions, for the valuation of the warrants at $0.906 per share.**

The significant assumptions for the valuation of the warrants issued relating to the private placement in April 2011 through June 2011 are disclosed on page F-11 of the Registration Statement. As disclosed on page F-11, the 5,256,800 Investor Warrants issued during the April 2011 through June 2011 timeframe were valued at $1,808,025 and the 1,577,040 Placement Agent Warrants issued in September 2011 were valued at $495,876.

As disclosed on pages F-11 and F-12, the stock price assumption was $0.906, which was determined implicitly from an iterative process based upon the assumption that the Private Placement was the result of an arm's length transaction, since the Company's common stock was not publicly traded at the time the warrants were issued.

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25. Please tell us why you classify expected volatility using the calculated value method as a Level 2 input in the fair value hierarchy. Under FASB ASC 820-10-35-37 the level in the fair value hierarchy should be determined based upon the lowest level input that is significant to the fair value measurement in its entirety. Please refer you to FASB ASC 820-10-55-22 which states that a Level 3 input would include historical volatility. We also note that you use the historical volatility of comparable public companies to calculate your expected volatility. Please also apply to the disclosure in Note 14.

In response to the Staff's comment, the Company has revised Notes 10 and 14 to classify expected volatility as a Level 3 input in the fair value hierarchy.

<u>**Note 14. Related Party Transactions, page F-13**</u>
<u>**Share Based Compensation, page F-15**</u>

26. Please revise to disclose how you determined the fair value of common stock at each stock option issue date. In addition, provide a specific discussion of each significant factor contributing to the significant difference between the estimated fair value of your stock and the estimated IPO price range of $5 - $7 for the 12 months prior to the contemplated IPO. Please also explain the factors that contributed to the decrease in the fair value of your stock from $2.756 in June 2010 to $0.906 during 2011.

The Company has revised the disclosure in Note 14 under Share-Based Compensation by adding descriptions of the Company's approach of determining the fair value of common stock at each stock option issuance date. In general, the estimated fair value of the Company's common stock has been derived implicitly from the most recent sale or offering of its common stock through an iterative approach, which applied a rate of variance in proportion to the square of the stock price. The $2.756 price per share of common stock used in the valuation of the July 2010 stock option issuance was derived from the offering price of $3.00 per share of common stock in the Registration Statement on Form S-1 filed in March 2010 and from the underwriter based on its perception obtained from an analysis of the market in May 2010 when it entered into a Letter Agreement with respect to a public offering of the Company's common stock. The $0.906 price per share of common stock used in the valuation of the April and September 2011 stock option issuances was derived from the sale price of $1.60 per share of common stock in the Private Placement from April 2011 through June 2011, which was determined by the Placement Agent based on its perception and analysis of the market and the per share price actually transacted at that point in time. The estimated IPO price range of $5-$7 per share of common stock was also determined by the underwriter based on its perception obtained from an analysis of the current market conditions.

27. Please tell us when you obtained estimated pricing information from the underwriters and indicate whether this was considered in determining the estimated fair value of the underlying stock during 2010 or 2011. We note that you previously filed registration statements on Form S-1 in March and October 2010.

The Company obtained estimated pricing information from the underwriters in January 2012. Accordingly, such pricing information was not considered in determining the estimated fair value of the underlying stock during 2010 or 2011. However, as mentioned in the Company's response to Comment 26, the Company considered the estimated pricing information from the underwriter for the Registration Statement on Form S-1 filed in March 2010 in determining the estimated fair value of the underlying stock for the July 2010 stock option issuance.

<u>**Audited Financial Statements for the year ended December 31, 2010**</u>
<u>**Statement of Stockholder's Equity, page F-23**</u>

28. Please revise to show for each stock issuance, the date and number of shares of stock issued, the dollar amount assigned to the consideration received for equity, the nature of any noncash consideration and the basis for assigning such amounts to the consideration. Refer to FASB ASC 915-215 for development stage entities.

The Company has revised the presentation of the Statements of Stockholders' Equity to disclose the date and the per share amount for each issuance of common stock for cash, and the nature of noncash consideration provided through stock issuance and the per share basis in accordance with FASB ASC 915-215 for development stage entities.

Note 4. Stockholder’s Equity, page F-26

29. **We see that you issued 13,256 shares of stock at $3.77 per share in April 2010 to a service provider for website development pursuant to an agreement executed on December 14, 2009. Under FASB ASC 505-50-30-2, share-based transactions with nonemployees should be measured at fair value of the consideration received or the fair value of the equity instruments issued, whichever is more reliably measurable. Please tell us why you believe that the $50,000 agreed upon value of services received was more reliably measurable than the fair value of your stock.**

According to FASB ASC 505-50-30-6 as referenced from FASB ASC 505-50-30-2, if the fair value of goods or services received in a share-based payment transaction with nonemployees is more reliably measurable than the fair value of the equity instruments issued, the fair value of the goods or services received shall be used to measure the transaction. Given that the Company was a nonpublic entity and its common stock was not actively traded in any circumstance when it entered into the agreement with the website developer on December 14, 2009, the Company believed that the $50,000 agreed upon value of the website developer’s services was more reliably measurable than the fair value of the Company’s common stock.

30. **Please also tell us how you considered FASB ASC 505-50-30-11 in determining the date that you should value the equity instruments issued to the website developer. Under that guidance, the fair value of the equity issued is determined on the earlier of the date that a commitment for performance is reached or the date that the counterparty’s performance is complete.**

The Company has properly considered FASB ASC 505-50-30-11 in determining the measurement date of the issuance of shares of common stock to the website developer. The date at which a commitment for performance by the website developer to earn the equity instrument was December 14, 2009, which was earlier than the date the website developer’s performance was complete. Therefore, December 14, 2009 was the measurement date for the issuance of 13,256 shares of common stock.

Note 7. Related Party Transactions, page F-28
Share-Based Compensation, page F-29

31. **Please revise to disclose how you determined the fair value of common stock as of July 22, 2010. We see that you valued the shares issued to the website developer at $3.77 per share in April 2010 and that you issued shares in a private placement in April 2011 at $1.25 per share.**

The Company has revised its disclosure to clarify that the $2.756 price per share of common stock used in the valuation of the July 2010 stock option issuance was derived from the offering price of $3.00 per share of common stock in the Registration Statement on Form S-1 filed in March 2010 and from the underwriter based on its perception obtained from an analysis of the market in May 2010. As mentioned in the Company’s responses to Comments 29 and 30, the fair value of the shares issued to the website developer was determined in December 2009, the measurement date, which was prior to the filing of the Registration Statement on Form S-1 in March 2010. The pricing of the Company’s common stock for the private placement in April 2011 was not obtained until immediately prior to the private placement.

Exhibits

32. **We note your discussion of your third-party suppliers on page 8 and your statement that you currently source the NAF collection device, patient collection kits and Microcatheter Systems from sole suppliers. We also note your disclosure that if your sole suppliers cannot produce these products in sufficient quantities, you will be unable to commercialize your products and services and generate revenues from their sales as planned. Please tell us why you have not filed the agreements with your third-party suppliers as exhibits, or alternatively, file these agreements as exhibits.**

The Company acknowledges the Staff’s comment and respectfully advises the Staff that the Company analyzed its agreements with suppliers in accordance with the requirements of Item 601 of Regulation S-K and determined that such agreements are not material contracts. The agreements with suppliers were entered into in the ordinary course of business and the Company’s business is not substantially dependent upon any of these agreements.

33. We note that it does not appear that you have filed all material agreements. As examples, please tell us why you have not filed all consulting agreements and why you have not filed all the lease agreements described on page 20 as exhibits. Note that these examples are not intended to be exhaustive.

The Company acknowledges the Staff's comment and respectfully advises the Staff that the Company analyzed its agreements with consultants in accordance with the requirements of Item 601 of Regulation S-K and determined that such agreements are not material contracts. The agreements with consultants were entered into in the ordinary course of business and the Company's business is not substantially dependent upon any of these agreements.

The Company has filed all lease agreements in response to the Staff's comment.

Exhibit 23.1. Consent of Independent Registered Public Accounting Firm

34. To the extent there is a delay in requesting effectiveness of your registration statement, or there is any change, other than typographical, made to the financial statements, or there have been intervening events since the prior filing that are material to the company, please provide a currently dated and signed consent from your independent accountant with your next amendment.

The Company acknowledges the Staff's comment.

Should you have any follow-up questions regarding the foregoing, please call me at (415) 315-6395.

Sincerely,

ROPES & GRAY LLP

Ryan A. Murr